

THE UNIVERSITY OF CHICAGO

DEVIL'S ADVOCATE:  
POLITICS AND MORALITY IN THE WORK OF CARL SCHMITT

A DISSERTATION SUBMITTED TO  
THE FACULTY OF THE DIVISION OF THE SOCIAL SCIENCES  
IN CANDIDACY FOR THE DEGREE OF  
DOCTOR OF PHILOSOPHY

JOHN U. NEF COMMITTEE ON SOCIAL THOUGHT

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JUNE 2010

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## Acknowledgements

I must first offer thanks to my extended family, who not only provided me with the time and peace of mind to think and write, but while doing so gave my daughter an education in the importance of a family's devotion. My parents, my parents-in-law, and my sister all made considerable efforts to take care of my daughter Elinor, as well as my household more generally, while I worked. Both of my grandmothers also opened their houses to my mess of books and papers. Without the astounding generosity of my extended family, I would have never completed this dissertation.

This dissertation was written under the auspices of the Committee on Social Thought, where my first years were marked by the influence of Nathan Tarcov, whose scrupulous attention to texts served as an example to my scholarship and for whose general stewardship of my studies I am truly grateful. My dissertation began to take shape when I read Gopal Balakrishan's book on Carl Schmitt; Gopal's book, and subsequently his generous, inexhaustible conversation, convinced me that Schmitt was worth studying and writing about. John P. McCormick courteously agreed to read my dissertation and provided an insightful critique. Mark Lilla, the chair of my dissertation committee, stood by me through what became a long process, replete with practical obstacles, and proved an effective long-distance mentor with his ability to provide well-timed and sharply accurate comments. Mr. Lilla's insistence that I give my reasons for studying Schmitt was the thread that eventually enabled me to return from the thicket of scholarly particulars. Although Mr. Lilla was a member of the Committee on Social Thought only a short while, in this respect he seems to me to represent well the broad-minded,

humanist ethic of this unusual place.

The John M. Olin Foundation and the Intercollegiate Studies Institute generously funded segments of my graduate school career, and the Furman University Political Science Department provided a welcoming environment in which to complete my work.

My husband Benjamin Storey, a former fellow student in the Committee on Social Thought, has generously shared his life with me for the past nine years. With respect to this dissertation, my greatest debt is to Ben's example of intellectual courage. Whereas I am often tempted to inch my way from one certainty to the next, Ben boldly makes an argument for his own point of view and remains standing under attack. Ben's example has helped me understand the importance of frankness with others, which keeps you honest with yourself, and of readiness to receive criticism, which encourages clarity about who you are and to what purposes you truly desire to dedicate your life.

For the last four years, Ben and I have been devoted to our daughter Elinor, who has made her own contribution to my self-understanding in many ways, among the most delightful being her earnest reenactments of "Mommy writing her chapters"—and finally finishing so we can play.

## Abbreviations of Schmitt's Works

- AN—"The Age of Neutralizations and Depoliticizations"  
[*"Das Zeitalter der Neutralisierungen und Entpolitisierungen"*]
- CP—*The Concept of the Political*  
[*Der Begriff des Politischen*] When date is not specified, notes refer to the 2007 English edition; other editions used are the German editions of 1927, 1932, 1933, and 1963.
- CR—"The Completed Reformation: on new Leviathan interpretations"  
[*"Die vollendete Reformation: zu neuen Leviathan-Interpretationen"*]
- ECS—*Ex Captivatae Salus, Erfahrungen der Zeit 1945-1947*  
[*Ex Captivatae Salus, experiences of 1945-1947*]
- GL—*Glossarium: Aufzeichnungen der Jahre 1947-1951*  
[*Glossarium: notes from the years 1947-1951*]
- GU—*Gesetz und Urteil* [*Statute and Judgment*]
- JT—*On the Three Types of Juristic Thought*  
[*Über die drei Arten des rechtswissenschaftlichen Denkens*]
- LS—*Land and Sea* [*Land und Meer*]
- MZ—*Macht und der Zugang zum Machthaber* [*Power and Access to the Power-Holder*]
- PT—*Political Theology: four chapters on the concept of sovereignty*  
[*Politische Theologie: vier Kapitel zur Lehre der Souveränität*]
- PTII—*Political Theology II: the legend of the completion of every political theology*  
[*Politische Theologie II: die Legende von der Erledigung jeder politischen Theologie*]
- RC—*Roman Catholicism and Political Form* [*Römischer Katholizismus und politische Form*]
- SMP—*State, Movement, People* [*Staat, Bewegung, Volk*]
- VC—"The Visibility of the Church" [*"Die Sichtbarkeit der Kirche"*]
- WS—*Der Wert des Staates und die Bedeutung des Einzelnen*  
[*The Value of the State and the Meaning of the Individual*]

*All translations are my own, except citations from the 1932 edition of The Concept of the Political (unless otherwise specified), On the Three Types of Juristic Thought, Political Theology, Roman Catholicism and Political Form, and "The Visibility of the Church."*



## Introduction

Those who write about Schmitt are, and should be, called upon to defend their interest in him. Schmitt is rightly a suspicious and even reprehensible character—he actively collaborated with the Nazis for three years, he took part in the effort to remove Jewish faculty members from his university, and he wrote an essay that essentially justified the episode of the Night of the Long Knives, despite the fact that it involved the murder of close friends and collaborators.<sup>1</sup> Anyone who has been drawn in by Schmitt’s books gets a rude awakening when made aware of these facts of his biography.

And yet, we continue to read and study Schmitt. In fact, to judge from the number of translations and manuscripts, interest in Schmitt’s ideas seems to have increased exponentially since 1990. Moreover, the study of Schmitt seems to have become more mainstream and uncontroversial. What should we think of this trend? We might be tempted to mitigate our concerns with a more nuanced account of Schmitt’s biography, which could point out that Schmitt’s defense of Hitler’s actions in the Night of Long Knives, though shameful and cowardly, was an act of self-defense.<sup>2</sup> We might mention that in 1932 Schmitt published an article exhorting the German populace to refrain from electing Hitler, that soon after 1933 he was attacked by the *Sicherheitsdienst* (an arm of the SS) for ideological deviation from the Nazi program, that these attacks forced him to resign from official positions in 1936, and that he

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<sup>1</sup> For an account of Schmitt’s particularly sordid refusal to sign a petition in favor of retaining Hans Kelsen at the University of Cologne, see Gopal Balakrishnan, *The Enemy: an intellectual portrait of Carl Schmitt*, 182. Schmitt’s essay “Der Führer schützt das Recht” defends Hitler’s actions in the Night of Long Knives (*Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles, 1923-1939*), 227-232. See also Balakrishnan, *The Enemy*, 201-202.

<sup>2</sup> Hitler’s purge was carried out not only against Ernst Röhm and his SA, but also against his former conservative opponents, whose then-current allegiance he distrusted, and with whom Schmitt was associated. General Kurt von Schleicher and his wife, close friends of the Schmitts, were murdered that night. See Balakrishnan, *The Enemy*, 201-202.

eventually wrote what some have interpreted as an esoteric critique of the Nazi regime.<sup>3</sup>

Alternatively, one could point out that Schmitt, despite his moral failings, was simply a brilliant thinker, one who attracted the conversation and admiration of some of the best minds of his time—thinkers as diverse as Walter Benjamin, Ernst Jünger, Leo Strauss—and that even after the war his devotees included Alexander Kojève and the French liberal Raymond Aron.<sup>4</sup> These kind of responses, however, do not adequately explain why growing numbers of scholars find the study of Schmitt not only acceptable but also uniquely illuminating. For they do not identify what is actually compelling to us in Schmitt’s work, what it is that drives our interest in reading Schmitt. In this dissertation, I hope to show that an inquiry that begins from an account of why one might be compelled by Schmitt’s work can lead to a more accurately critical view both of Schmitt’s thought and of one’s own concerns.

What constitutes the visceral attraction of Schmitt’s work? Where does the moral emphasis in his rhetoric lie? Some of the most striking passages in Schmitt’s writing are those in which Schmitt sets out to demolish the pretensions of those who proudly pursue what they believe is a ‘purely’ moral or spiritual aim, and who, Schmitt alleges, are often blindly or hypocritically pursuing naked, base self-interest. For example, in *The Concept of the Political*, Schmitt attacks liberal Westerners who talk about peace and humanity but who are willing to employ perhaps subtle but effectively deadly means against those who do not agree with

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<sup>3</sup> Carl Schmitt, “Der Missbrauch der Legalität,” *Tägliche Rundschau*, 19 July 1932, quoted in Balakrishnan, *The Enemy*, 156: “Anyone who allows the National Socialists to obtain the majority on 31 July, even if he is not a National Socialist and sees in this party only the lesser of evils, is acting foolishly. He gives this ideologically and politically immature movement the possibility of changing the Constitution... he hands Germany over to this group.” For an account of the attacks made on Schmitt by the SD, see Balakrishnan, 204-208. Schmitt’s 1938 book *Der Leviathan in der Staatslehre des Thomas Hobbes: Sinn und Fehlschlag eines politischen Symbols* has been called an esoteric critique of the Nazi regime. See Tracy B. Strong’s account of the debate on this issue in his forward to the 2008 edition of the English translation of this book, xxi-xxvi.

<sup>4</sup> See Jan Werner-Mueller, *A Dangerous Mind: Carl Schmitt in post-war European Thought*.

“humane” ends as they define them. He writes that “for the application of [modern means of annihilation], a new and essentially pacifist vocabulary has been created. War is condemned but executions, sanctions, punitive expeditions, pacifications, protection of treaties, international police, and measures to assure peace remain. The enemy is thereby designated to be an outlaw of humanity” (CP, 79). In this polemic, Schmitt seeks to strip away the pretensions of those ‘humanists’ who can maintain their pride in representing a universally valid moral point of view only by eradicating those who disagree with them, and, furthermore, by denying their victims the dignity of being called ‘human.’ The essence of the polemic Schmitt directs here against humanists and pacifists is echoed in Schmitt’s attacks on liberals, legal positivists, and Protestants—in short, against anyone who Schmitt thinks presents himself as morally pure and innocent for holding to a certain ideal while proudly disdaining to recognize political facts or realities.<sup>5</sup> The opponents Schmitt has in mind deny that they desire political power, and consequently feel free to criticize the current rulers without taking full responsibility for accepting rule themselves; they therefore effectively undermine the current political order without taking steps to put a new order in place. The rhetorical edge of Schmitt’s critique of such types, however, seems to be directed at the hypocritical *pride* of such idealists, at those who are proud of the thought that they have—allegedly—nothing to do with the nasty part of politics.

Schmitt counters the “system” built by these “allegedly non-political and apparently even antipolitical” types by insisting that it “cannot escape the logic of the political” (CP, 79). Even a system built on an antagonism to politics, Schmitt argues, cannot avoid serving “existing or newly emerging friend-and-enemy groupings,” and therefore becoming itself political (CP, 79). The reason that these idealists cannot remain consistently anti-political, Schmitt argues, is that

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<sup>5</sup> I will argue this point in Chapter 3.

every appeal to “justice, humanity, order, or peace” involves an implicit assertion of power, or the attempt, whether open or concealed, whether responsibly or irresponsibly, of one “concrete human group” to rule over another (CP, 67). In other words, in Schmitt’s view, no appeal to justice, humanity, or peace is uncontroversial; for him, this is because it is impossible to separate any specific articulation of these noble goods from the baser attempt to justify one’s own material or practical position and assert its dominance over others. As Schmitt writes in *The Age of Neutralizations and Depoliticizations*, “all concepts of the spiritual sphere... are pluralistic in themselves and can only be understood in terms of concrete political existence” (AN, 85). Moreover, Schmitt argues, the attempt to deny these material motives and consequences of one’s ‘spiritual’ ideals leads to a dangerous disregard for the value of political order.

It seems that Schmitt’s argument against the moral idealists, and his suspicion of those who deny the political character of human life and thought, appeals to a significant segment of scholars writing about Schmitt today. It unites those whom one might call leftist (or radical) and rightist (or conservative) Schmittians, to adopt Mark Lilla’s characterization of these two types. According to Lilla, leftist Schmittians direct their anger at the hypocrisy of liberal capitalists, who, they allege, pretend to represent human interests but in fact oppress or ignore large swaths of the population. Leftist Schmittians admire Schmitt for his “brutal realism” about the political and argue that attention to this aspect of Schmitt’s argument can “help us today to rediscover ‘the political’ and restore a sense of legitimacy through the popular will.”<sup>6</sup> Schmittians of the right or the conservative middle, by contrast, tend to more or less approve of the liberal status quo. They are drawn to Schmitt’s emphasis on the inextricably political character of human life as a

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<sup>6</sup> The leftist Schmittians Lilla names are Chantal Mouffe and Joachim Schickel. Mark Lilla, *The Reckless Mind: intellectuals in politics*, 63-64.

reminder that “the real foundations of national political life... are illiberal,” and therefore that the liberal status quo needs at times to be defended by political (that is, partisan and potentially violent) means.<sup>7</sup> Although these admirers of Schmitt have very different understandings of their substantive political goals, they both encourage us to read Schmitt for the same reason: to become more aware of the ‘hard fact’ of the political underlying every seemingly stable society.

This phenomenon in Schmitt scholarship—that people on very different, even opposing sides of the political spectrum believe that they can use Schmitt to focus attention on the fact of the political in the service of furthering their diverse political causes—points to an unusual feature of Schmitt’s work. Schmitt claims, most pronouncedly in *The Concept of the Political*, to draw attention to the political as an inescapable fact of human life (CP, 36, 67, 78-79). Critics who use Schmitt to point to the political as a ‘hard fact’ follow this view of what Schmitt is doing, and therefore find it acceptable to use Schmitt’s insight into the truth about ‘the political’ in the service of political goals Schmitt would not have pursued. As Chantal Mouffe, who has long maintained a leftist critique of the universalist tendencies of liberal rationalism based on Schmitt’s insights, puts it, in this way one might “think ‘with Schmitt against Schmitt.’”<sup>8</sup> In a similar vein, an influential new book by Andreas Kalyvas endeavors to “reconstruct” Schmitt, cleansing him of his “explicit political motivations and objectives,” and his “theological-philosophical assumptions,” and then to employ the ostensible core of Schmitt’s thought in Kalyvas’s own efforts to build a system of political thought conducive to “radical democracy.”<sup>9</sup> Kalyvas is well aware that Schmitt does not have a moral preference for “egalitarian[ism],” but,

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<sup>7</sup> Lilla cites here the historian Reinhart Koselleck and the jurist Ernst Wolfgang von Böckenforde, *The Reckless Mind*, 62-63.

<sup>8</sup> Mouffe explains that she intends to use Schmitt’s “critique of liberal individualism and rationalism to propose a new understanding of liberal democratic politics instead of following Schmitt in rejecting it” (*On the Political*, 14).

<sup>9</sup> Andreas Kalyvas, *Democracy and Politics of the Extraordinary: Max Weber, Carl Schmitt, and Hannah Arendt*, 11, 13, 85.

as he plausibly argues, Schmitt's understanding of the political is "structurally democratic," in the sense that, in Schmitt's view, the establishment of political form always requires the assent of the people.<sup>10</sup> Kalyvas's project is based upon the supposition that one can extract the *structure* of Schmitt's political thought from his moral commitments and political goals, and reorient Schmitt's insights concerning the political toward our own moral preference for egalitarianism.

Kalyvas's approach is compelling, particularly because it offers the possibility that one can share a common enemy with Schmitt, a common suspicion of prideful moral idealists for example, while avoiding the conclusion that one must follow Schmitt in his moral and political opinions. This approach, however, raises some difficult and important questions: is it a good idea to attempt to extract the 'structure' of Schmitt's thought about the political and apply it in the service of our own diverse moral and political preferences? In order to answer this question, we must gain a clear understanding of what the 'structure' of Schmitt's thought about the political is, which will allow us to determine what is worthwhile in Schmitt's understanding of the political and what is false or misleading. Second, we must discern the role that Schmitt's understanding of the structure of the political plays in Schmitt's own thought. What is the relation, if any, between Schmitt's understanding of the structure of the political and his own moral and political inclinations? The best argument for the soundness of Kalyvas's approach, which supposes the possibility of separating the structure of Schmitt's political thought from the substance of his political convictions, seems to come from Schmitt himself. Schmitt's articulation of the "concept of the political" entails what seems to be a radical divorce between the moral and the political and therefore the possibility of separating what is 'purely political' from any particular moral end (CP, 48-49). Indeed, it is plausible that Kalyvas is using Schmitt's

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<sup>10</sup> Kalyvas, *Politics of the Extraordinary*, 83, 96-100.

political thought as Schmitt intends it to be used. But in attempting to determine whether we want to follow Schmitt's approach to thinking about political matters, and whether we should be guided by approaches like Kalyvas's, we must confront a question that has proven to be one of the most difficult and debated aspects of Schmitt's thought: the relation between the moral and the political in Schmitt's work.

The problem of the relation of the moral and the political in Schmitt's thought is raised by one of the earliest commentaries on *The Concept of the Political*. In a 1932 review, Leo Strauss addresses this problem from several different angles. First, Strauss points out, in *The Concept of the Political*, Schmitt at times argues that the moral and the political must be considered as separate spheres, and moreover that judgments about political orders cannot be made on moral grounds.<sup>11</sup> As Strauss points out, Schmitt seems furthermore to be engaged in a "polemic against morals—against 'ideals' and 'normative prescriptions,'" to denigrate not only a particular understanding of the moral, but moral judgments as such, in favor of 'the political.' In arguing that the moral and the political spheres are conceptually distinct, and that the political is authoritative, Strauss writes, Schmitt is apparently arguing for an "affirmation of the political in disregard of the moral, [for] the primacy of the political over the moral." At the same time, as Strauss makes plain, Schmitt himself does not write as if the moral and the political are entirely separate matters. In fact, Schmitt clearly passes moral judgments on certain opinions about politics, attacking "humanitarian morals" and the "ideal of pacifism" with a ferocity that seems out of accord with his supposed *Realpolitik*. From this angle, Strauss argues, one could construe Schmitt's defense of the political as in fact an attempt to preserve an understanding of the

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<sup>11</sup> Strauss, "Notes on *The Concept of the Political*," 103-104. For helpful commentary on Strauss's "Notes," see Susan Shell, "Taking Evil Seriously;" Svetozar Minkov, "Natural Evil as Natural Goodness?;" and David Janssens, *Between Athens and Jerusalem*, 133-147.

importance of political argument, and ultimately of the “question of what is right.” Following this thread, we see, according to Strauss, that Schmitt’s “affirmation of the political is ultimately nothing other than the affirmation of the moral,” an attempt to defend “the seriousness of human life.”<sup>12</sup>

Strauss’s articulation of the two sides of the impression Schmitt makes in *The Concept of the Political* seems in fact to have provided the structure for the debate about Schmitt as it evolved over the twentieth century.<sup>13</sup> In 1935, Karl Löwith took up what seems to be one side of Strauss’s argument, elaborating the implications of affirming the political in disregard of the moral. Löwith concurs with Strauss that entirely separating moral from political judgments leads to the “affirmation of fighting as such, wholly irrespective of *what* is being fought *for*.”<sup>14</sup> Citing Schmitt’s emphasis on the necessity of the decision in politics, Löwith concludes that the affirmation of the political for Schmitt is the affirmation of the decision itself, regardless of the ‘content’ of the decision. Löwith argues that Schmitt opts for the political over the moral, and therefore that his “decision in favor of the political... is nothing other than a *decision in favor of decisiveness*.”<sup>15</sup> This understanding underpins Löwith’s characterization of Schmitt as a nihilistic “decisionist,” a label that has proven compelling to many interpreters.<sup>16</sup> Perhaps the most detailed elaboration of this thesis is made by William Scheuerman, who argues in *The End*

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<sup>12</sup> Strauss, “Notes on *The Concept of the Political*,” 117-120.

<sup>13</sup> In 1964, Hasso Hofmann described the lack of consensus on Schmitt in terms that are still relevant today: “Schmitt is called a relativist and a nihilist, but to his work is also attributed a tendency to the absolute... Some see in him a distanced observer and diagnostician, and others see him as a ‘thoroughgoing’ ideologue” (*Legitimität gegen Legalität*, 7-8).

<sup>14</sup> Löwith, “The Occasional Decisionism of Carl Schmitt,” 146; Strauss, “Notes on *The Concept of the Political*,” 105.

<sup>15</sup> Löwith, “The Occasional Decisionism of Carl Schmitt,” 146.

<sup>16</sup> See e.g., Holmes, *The Anatomy of Antiliberalism*, 47: “Schmitt’s own theory is justly described as ‘decisionism’. He scorns bargaining and the rule of law, while apotheosizing ‘hard’ political decisions—the choice of an enemy, for example, or the decision to suspend the constitution and rule by means of the *Reichswehr*... Schmitt is almost exclusively concerned with the emotional relief provided by authoritative fiats from above.”



of Law that Schmitt understands the “political condition” to be a “tragic quest to link two profoundly distinct facets of human existence, normativity and facticity” and therefore attempts to cleanse politics of any relation to the moral or normative in favor of the fact or decision.<sup>17</sup>

According to Scheuerman, this itself results in a tragic quest to derive a “norm-less will,” a pure decision, that could serve as the basis of a stable political order.<sup>18</sup>

The strength of the foregoing ‘decisionist’ views of Schmitt is that by insisting upon the separation of morality and politics in Schmitt’s thought, they emphasize Schmitt’s disturbing willingness to entertain the validity of several morally repugnant regimes, including fascist Italy and Nazi Germany. By regarding morality and politics as unrelated in Schmitt’s work, the decisionist thesis can explain Schmitt’s actions by arguing that Schmitt is not concerned with justice, and therefore is willing to accept whatever political form presents itself as ‘decisive.’ This provides a plausible answer to the important question of why Schmitt admired fascism and worked with Nazism, since both regimes gave authority to leaders who were willing and able to demand obedience to their personal decisions.<sup>19</sup>

The decisionist account of Schmitt has, however, some obvious weaknesses. For one, it rests on the assumption that Schmitt completely agrees and identifies himself with the counter-revolutionary thinkers that Schmitt presents as models of decisionist thinking. Löwith argues that Schmitt’s characterization of Juan Donoso Cortés’s understanding that the state is “‘created from out of Nothing’” more aptly applies to Schmitt than to Cortés himself, and Scheuerman

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<sup>17</sup> Scheuerman, *The End of Law*, 26-27.

<sup>18</sup> Scheuerman, *The End of Law*, 74 ff. Scheuerman adopts the phrase “norm-less will” from Hermann Heller’s critique of Schmitt in *Die Souveränität* (Berlin: de Gruyter, 1927). Balakrishnan similarly argues that Schmitt attempts to articulate an account of the political that is divorced from the moral, but that he fails in this attempt (*The Enemy*, 107-109). Balakrishnan plausibly maintains that Schmitt nonetheless succeeds in exposing the fact that our perspective of political things is to some degree “structured by a partisan schema which divided people into friends and enemies, and that this division is rarely made on the basis of pure human rights criteria, or truly impartial criteria of utility” (*The Enemy*, 268).

<sup>19</sup> Scheuerman, *The End of Law*, 102.

repeatedly cites Schmitt's analysis of Joseph de Maistre's argument, that the state is based on "pure decision not based on reason and discussion and not justifying itself," as if it were Schmitt's statement of his own opinion.<sup>20</sup> Schmitt's understanding of his relation to the counter-revolutionaries is, however, more problematic than it appears in these accounts, as John P. McCormick suggests and as I will argue at greater length in Chapter 1.<sup>21</sup>

The second weakness in the decisionist account of Schmitt is that, in concentrating on the opposition Schmitt poses between "normativity and facticity," it overlooks or misinterprets the dimension of Schmitt's thought that, as Strauss recognized, relates the moral and the political.<sup>22</sup> Scheuerman's analysis is premised on the contention that Schmitt intended to create a politics oriented around a 'norm-less will,' one based solely on 'facticity.' Similarly, Richard Wolin argues that Schmitt separates "politics from morality in the name of a bellicose, social Darwinist ethos of existential self-preservation," attempting to compel us to "relinquish all claims to 'the good life' and instead to rest content with 'mere life.'"<sup>23</sup> In the course of his analysis, though, Scheuerman comes to question whether a politics without norms is even possible, or whether it is "not the case that the human will *always* and *inevitably* expresses itself in accordance with some type of 'normativistic' outlook." Scheuerman's contention that Schmitt's main purpose is to articulate the conditions for a norm-less politics, though, leads him to interpret the inevitable "overlap" of "facticity and normativity" in Schmitt's work to a lapse in Schmitt's logic. According to Scheuerman, Schmitt "repeatedly *concedes* that the will... and the norm... are

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<sup>20</sup> Löwith, 145-146. Scheuerman, 33, 45, 71, 79, 81, 91, 102. Both quote from Schmitt, *Political Theology*, 66.

<sup>21</sup> McCormick, "Irrational Choice and Mortal Combat as Political Destiny," 322-324.

<sup>22</sup> Scheuerman, *The End of Law*, 26-27.

<sup>23</sup> Wolin, "The Conservative Revolutionary Habitus and the Aesthetics of Horror," 443. By contrast, Hugo Ball points out that the concept of decision in Schmitt's work must be distinguished from domination or force, as decision implies an appeal to a "supra-political realm" ("Carl Schmitts Politische Theologie," 279).

unavoidably fused in concrete political reality.”<sup>24</sup> However, as we will see in Chapter 2, it is misleading to describe this fusion of the ‘will’ and the ‘norm’ as a *concession* or aberration from Schmitt’s understanding of politics. Rather, the coincidence of norm and fact constitutes at times the very definition of political order for Schmitt: in his early essay on the value of the state, for example, he writes that the state can only be understood as the bridge between “the realm of ideas and the world of real, empirical appearance” (WS, 2). In other words, contrary to the decisionist interpretation, which argues that Schmitt favors a politics divorced from morality and based as much as possible on brute power or arbitrary decision, Schmitt at times explicitly claims that the political is precisely the sphere in which ‘normativity and facticity’ mysteriously overlap.<sup>25</sup>

The third deficiency in the decisionist account of Schmitt is its dismissal of the importance of theology in his work, a weakness that, as we will see, is related to the misinterpretation of the relation of the political and the moral for Schmitt. The fact that one of Schmitt’s most important books is entitled *Political Theology*, that his last full-length work is called *Political Theology II*, and that he scatters numerous theological references and allusions throughout his writing forces any commentator at least to address the question of the relation of politics and theology in Schmitt’s thought. Proponents of the decisionist interpretation, however, tend to downplay this issue: Löwith takes pains to argue that Schmitt’s work betrays a “profane decisionism,” and that Schmitt cannot be considered a good Christian or a true believer as were

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<sup>24</sup> Scheuerman, *The End of Law*, 79-81, my emphasis.

<sup>25</sup> This is obviously the case in Schmitt’s 1914 work, *Der Wert des Staates und die Bedeutung des Einzelnen*. While interpreters such as Scheuerman and Balakrishnan are well aware of this, they argue either that Schmitt’s thought undergoes a decisive change (Scheuerman) or that Schmitt’s thought is not “of a piece,” but that he is a “figure who is moulting with astonishing frequency” (Balakrishnan, *The Enemy*, 5). By contrast, I make a case that Schmitt’s understanding of political order remains essentially constant by showing that in later works such as *The Concept of the Political* he does not fundamentally depart from the view he presents in *Wert des Staates* (see Chapter 5).

Schmitt's heroes Søren Kierkegaard and Donoso Cortés.<sup>26</sup> Scheuerman likewise denies the importance of political theology to Schmitt, arguing that “for most of his career, Schmitt was a relatively secular-minded jurist, not a ‘political theologian.’”<sup>27</sup> Citing Schmitt's admiration for Machiavelli and Hobbes, Scheuerman comments that “if this *is* political theology, it is a strange one indeed: some of the most influential high priests of Schmitt's political theology were precisely those political thinkers who played a pivotal role in the secularization of modern political life.”<sup>28</sup> While Scheuerman makes a good point that an understanding of Schmitt's political theology would have to account for the apparent idiosyncrasy of his position, simply excluding the consideration of the potential import of Schmitt's theology because he does not fit the typical mold of a ‘religious thinker’ cannot allow for a complete picture of Schmitt's work.<sup>29</sup>

In opposition to this view of Schmitt as a decisionist and a theoretician of ‘pure politics,’ Heinrich Meier has spearheaded an interpretation that focuses on the importance of Schmitt's understanding of the moral and the theological. Meier argues that political theology is central to Schmitt's thought by tracing, in effect, the line of Strauss's critique opposite of the one on which Löwith fastens.<sup>30</sup> In contrast to Löwith, Meier emphasizes the moral impulse behind Schmitt's defense of ‘the political,’ agreeing with Strauss's comment that Schmitt is interested in politics because he honors moral seriousness above all and desires to promote it.<sup>31</sup> Meier connects Schmitt's moral interest to a theological root—going further than Strauss explicitly does—by

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<sup>26</sup> Löwith, “The Occasional Decisionism of Carl Schmitt,” 142-145.

<sup>27</sup> Scheuerman, *The End of Law*, 3.

<sup>28</sup> Scheuerman, *The End of Law*, 232-233.

<sup>29</sup> Indeed, we see here that the decisionist interpretation tends to exclude both Schmitt's moral and his theological arguments because they do not fit with the model of ‘pure politics’ to which these interpreters believe Schmitt hews. Scheuerman's lack of attention to Schmitt's theology is particularly puzzling, since Scheuerman justly concentrates on the significance of Schmitt's legal thought, and Schmitt draws an explicit parallel between his theological and juristic reasoning (PTII, 42).

<sup>30</sup> For Meier's critique of Löwith see *The Hidden Dialogue*, xvii, 65.

<sup>31</sup> Meier, *The Hidden Dialogue*, 44-49; Strauss, “Notes on *The Concept of the Political*,” 117-118.

arguing that moral seriousness itself is inseparably intertwined with the desire for revelation, for only “the certainty of the God who demands obedience, rules absolutely, and judges in accordance with his own law” can guarantee the absolute primacy of the moral.<sup>32</sup> Discerning Schmitt’s intention to defend moral seriousness in apparently amoral works like *The Concept of the Political* therefore leads one to see, Meier claims, that Schmitt’s position has an ultimately theological basis: the belief in an omnipotent and unfathomable God. Meier furthermore connects Schmitt’s moral concern and his theology to his focus on politics by arguing that Schmitt understands Providence to have a hand in human history; indeed, Meier argues that Schmitt sees history as a covert battle between God and Satan. Politics therefore becomes for Schmitt, in Meier’s view, the realm in which the human individual takes sides in this great battle, the realm in which “one is required to make the right distinction between friend and enemy as the absolute decision about his own life.”<sup>33</sup> In other words, Meier argues that the political is central to Schmitt because the question “on which everything ultimately depends” is “whether [one] will obey God or Satan,” and “the political finds its ultimate foundation in the inevitability of this question.”<sup>34</sup>

Meier’s argument has proven a helpful corrective to the decisionist interpretation, as it suggests a way to connect Schmitt’s moral purpose and his theological conviction to his emphasis on ‘the political.’ Oddly enough, though, Meier’s account of Schmitt shares something with the more typical decisionist accounts in that it also ends up concluding that Schmitt’s specific moral or theological view is separable from his specific understanding of what the political is. In Meier’s account, Schmitt believes that ‘being political’ is theologically justified

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<sup>32</sup> Meier, *The Lesson of Carl Schmitt*, 11. A helpful analytic summary of Meier’s *Lesson of Carl Schmitt* can be found in J. Harvey Lomax, “Carl Schmitt, Heinrich Meier, and the End of Philosophy.”

<sup>33</sup> Meier, *The Lesson of Carl Schmitt*, 34-35.

<sup>34</sup> Meier, *The Hidden Dialogue*, 42.

because politics requires moral seriousness and finally the commitment to obey God, but neither Schmitt's moral view nor his understanding of 'the political' have a firm or specific character: according to Meier, Schmitt's position cannot finally be identified with any particular political recommendation or view, but is reduced to a blanket insistence on faith, belief, and "obedience" to a mysterious authority.<sup>35</sup> Since God's will is ultimately unfathomable, Meier argues, "the imponderabilities sink with which the historical agent sees himself confronted," and "Schmitt's talk and thought, which want to be nothing but 'historical,' 'concrete,' 'situational,' evidently get lost in a generality that can no longer be distinguished from subjective arbitrariness."<sup>36</sup> Therefore, in the end, it is fair to say that Schmitt also becomes for Meier a kind of decisionistic nihilist: because Schmitt's view is grounded in faith rather than reason, Meier finds that Schmitt's thought has no determinate content and no basis other than a blind decision to believe.<sup>37</sup> While Meier's analysis is powerful, and should be taken more seriously in the English literature on Schmitt than it has been,<sup>38</sup> it does not result in a plausible account of Schmitt's self-understanding, as can be seen by the following three issues on which Meier's interpretation of Schmitt diverges from Schmitt's own presentation of his thought.<sup>39</sup>

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<sup>35</sup> The distance between Meier's and Strauss's interpretations of Schmitt can be most clearly seen by comparing Strauss's insight that Schmitt is strangely unwilling to rest his argument on an appeal to "obligation" or "duty," whereas Meier contends that Schmitt self-consciously and consistently bases his position on God's demand for "obedience" (Strauss, "Notes on the Concept of the Political," 119-120; Meier, *The Lesson of Carl Schmitt*, 170-171.)

<sup>36</sup> Meier, *The Lesson of Carl Schmitt*, 167, 161-162.

<sup>37</sup> Meier asks, "Is one to suppose that the decision born of the obedience of faith in the supreme authority cannot, in the end, be distinguished from the decision that bases one's commitment on nothing? In the case of Carl Schmitt, everything depends on the answer to this question" (*The Hidden Dialogue*, 80).

<sup>38</sup> Meier's work is unfortunately rarely engaged in the English literature on Schmitt, and even in otherwise worthwhile analyses often dismissed with a short remark. David Bates, "Political Theology and the Nazi State: Carl Schmitt's Concept of the Institution," 416; McCormick, "Irrational Choice and Mortal Combat as Political Destiny," 325; Scheuerman, *The End of Law*, 3.

<sup>39</sup> Meier distinguishes his work with the claim that he attempts to "think Schmitt himself," and argues that his analysis, which focuses on the contrast of political theology and political philosophy, adequately represents Schmitt's self-understanding because this contrast "preserves a conceptual symmetry" between the two approaches "without fostering any discrimination" (*The Lesson of Carl Schmitt*, xiii, xv).

First, Meier emphasizes Schmitt's scathing critiques of those who think they can subject God to a "system of accountability and calculation," and tame His illimitable demands by relegating religion to a "private matter." Meier argues that Schmitt poses himself against these "givers of meaning and big planners" by encouraging above all an attitude of obedience to the divine.<sup>40</sup> While one indeed finds that Schmitt's work is full of polemic against those who dare to think that they can subject God to calculation and measure, Meier does not account for Schmitt's seemingly contrary argument that "God is *subordinated*" to theology because "his all-powerful will cannot desire anything evil or unreasonable" (WS, 96, my emphasis). Schmitt's statement implies that God's will, while theoretically unbounded, is in fact constrained by the necessity of producing the good. It is true that Schmitt's attempts to answer the question of "whether God commands something because it is good or whether something is good because God commands it" are far from straightforward (JT, 59).<sup>41</sup> But Meier reduces the complexity of Schmitt's response to a simple affirmation of God's impenetrability and omnipotence, assuring us that "Schmitt's answer leaves no room for doubt."<sup>42</sup> Meier's account of Schmitt's understanding of God does not accurately capture Schmitt's theological position, I will argue, and moreover mischaracterizes Schmitt's opinion on precisely the question crucial to Meier's interpretation, the question of whether Schmitt consistently maintains that God's will is omnipotent and unfathomable.<sup>43</sup>

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<sup>40</sup> Meier, *The Lesson of Carl Schmitt*, 6-11.

<sup>41</sup> Schmitt's immediate answer to this question is: "Indeed, Heraclitus told us that to follow the will of an individual man is likewise a *Nomos*" (JT, 59).

<sup>42</sup> Meier, *The Lesson of Carl Schmitt*, 93. Meier refers here to the arguably obscure passage quoted in the previous footnote.

<sup>43</sup> In an argument worthy of further consideration, Jianhong Chen writes that Meier "surreptitiously replaces Schmitt's own explanation of political theology by Strauss's definition, and assumes that Strauss's understanding precisely explains how Schmitt understands himself and how Strauss understands Schmitt." Chen points out that the accuracy of Meier's interpretation rests on "whether Strauss understands Schmitt, as Meier believes he does, as a political theologian in the sense of political theology as Strauss explains it, and whether Schmitt understands the

Second, based on the argument that Schmitt understands the logic of divine providence to be entirely beyond human comprehension, Meier concludes that Schmitt's call to obedience must be in essence detachable from any particular revelation. As confirmation of this, Meier notes that Schmitt's revival of the term 'political theology' has been taken up by all manner of believers, "political theologians whose basic attitude is conservative or liberal, who have revolutionary or counterrevolutionary convictions, who profess Christianity, Judaism, or Islam."<sup>44</sup> According to Meier, we understand Schmitt best if we view him as standing for political theology as such—that is, a political argument based on belief, any belief, about the divine—rather than a particular political theology.<sup>45</sup> Meier does not, however, address the fact that Schmitt makes an explicit argument to the contrary, that Schmitt indeed claims to stake the coherence of his political-theological argument on the "question of the interchangeability or non-interchangeability of the sentence, *that Jesus is the Christ*" (CP1963, endnote to pages 59-66).<sup>46</sup> Meier does not investigate the meaning or logic of that statement for Schmitt, insisting rather on

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tension between theology and philosophy so strictly as does Strauss" ("What is Carl Schmitt's Political Theology?," 167). For Chen's case that Strauss understands political theology to be more accurately characterized by orthodox Judaism, see 163-166. In my opinion, Chen is right to question whether Schmitt understands the tension between theology and philosophy as strictly as Strauss, as will become clear in my argument below. Meier's most direct case that Schmitt defines his position in opposition to philosophy is based on the argument that thinkers as diverse as Martin Heidegger and Ernst Jünger should be understood as philosophers, and that Schmitt's opposition to them should be understood as opposition to philosophy (although Schmitt himself does not use that term consistently) (Meier, "The Philosopher as Enemy: on Carl Schmitt's *Glossarium*," 330). See also Miguel Vatter's essay, which seconds Chen's doubts with an argument that Strauss and Schmitt engage in an "intramural contest over the sense of political theology" ("Strauss and Schmitt as Readers of Hobbes and Spinoza," 182).

<sup>44</sup> Meier, *The Lesson of Carl Schmitt*, 171.

<sup>45</sup> Meier, *The Lesson of Carl Schmitt*, 172-173.

<sup>46</sup> Vatter suggests that one see the crucial difference between Schmitt's and Strauss's understandings of modernity to revolve around the question of whether Hobbes understands "Jesus is the Christ" to be a neutral formula or not ("Strauss and Schmitt as Readers of Hobbes and Spinoza," 189).



understanding ‘political theology’ as a placeholder for any position that cannot be rationally confirmed.<sup>47</sup>

Third, Meier’s disregard of Schmitt’s specific theological conviction causes him to overlook Schmitt’s concern that what he understands to be the orthodox interpretation of ‘Jesus is the Christ’ not devolve into false opinions. Meier’s determination that all beliefs are essentially interchangeable mischaracterizes Schmitt’s position by conflating the Catholic and Protestant interpretations of Christianity, whereas the distinction between these two positions, I will argue, is central to Schmitt’s work.<sup>48</sup> Whereas Meier argues that Schmitt affirms Hobbes’s articulation of the relation of church and state because Protestant nationalism is “likewise... a Christian possibility,”<sup>49</sup> Schmitt proclaims that the “secret keyword of my entire spiritual and public existence [is] the struggle for the *peculiarly Catholic* sharpening” (GL, 6.16.48, my emphasis). Though what Schmitt means by “Catholic” here is not immediately apparent, one should inquire into what Schmitt understands Catholicism to signify rather than dismissing the importance of this “confessional classification” at the outset.<sup>50</sup> In Chapter 3, I will begin to make clear what Schmitt understands to be the essence of Catholicism by showing how he defines his position in opposition to the Protestant view, which he sees as archetypical of both logical and moral error. In his critique of Protestantism, I will argue, Schmitt in fact anticipates Meier’s

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<sup>47</sup> Meier considers the lynchpin of his argument that Schmitt’s political theology can ultimately be used to support any position based on faith to be his analysis of Schmitt’s interpretation of Hobbes. I will argue for an alternative reading of Schmitt’s interpretation of Hobbes in Chapter 4.

<sup>48</sup> Meier asserts that Catholicism logically resolves into Protestantism by claiming that the Catholic attempt to reason about God’s goodness while maintaining humility concerning the human ability to fathom divine will is a “dilatatory intermediate step” on the path to Luther’s bold statement that God makes just decisions because “*he* wanted it that way and it has pleased *him* that way for all eternity” (*The Lesson of Carl Schmitt*, 90-91). In other words, for Meier, Aquinas’s attempt to harmonize reason and revelation to some degree is a hesitation or confusion that must logically resolve into the clearer, Protestant opposition of God’s will and human reason. Whether or not Meier is correct about Aquinas and Luther, one must raise the question of whether Schmitt concurs in Meier’s judgment.

<sup>49</sup> Meier, *The Lesson of Carl Schmitt*, 128.

<sup>50</sup> Meier, *The Lesson of Carl Schmitt*, xiii.

adumbrated account of the devolution of religious belief into nihilism, but attempts to pull back from this nihilistic consequence of the Christian view by reformulating a “Catholic” position that can claim to know something in particular about the character of divine order on earth. In accusing Schmitt of falling down the same slippery slope that Schmitt in fact aims to avoid, Meier mischaracterizes the position Schmitt understands himself to be fighting against, and therefore the position Schmitt believes himself to defend.<sup>51</sup> This remains true even if we conclude that Schmitt’s position is ultimately untenable.

Even if Meier’s account of Schmitt’s particular theology is distorting, Meier’s insistence on the importance of theology and morality in Schmitt’s work has helpfully reopened the question of how politics, morality, and theology relate for Schmitt. In Meier’s wake, several German scholars have taken up the issue of Schmitt’s theology by studying Schmitt’s ties to the Catholic community and scrutinizing the relation of Schmitt’s political thought to traditional Catholic doctrine.<sup>52</sup> Meier justly concludes that these historically-oriented works do not reach the core of the philosophical problem raised by Schmitt’s theology.<sup>53</sup> More compelling in this respect is John P. McCormick’s work, which is sensitive to the possible range of meanings of Schmitt’s Catholicism and thereby offers a more satisfying interpretation of the significance of this confessional identification to Schmitt’s work.

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<sup>51</sup> According to Meier, Schmitt is focused on the “antagonism” between “authority and anarchy, faith in revelation and atheism, obedience to and rebellion against the supreme sovereign”—the ultimate rebels being on Meier’s understanding political philosophers, who claim to seek knowledge on human understanding alone (*The Lesson of Carl Schmitt*, 171). It seems, rather, that open rebellion against God is not as interesting to Schmitt as the danger of self-deception among believers (as Meier himself at times recognizes, *The Lesson of Carl Schmitt*, 167). This implies that Schmitt is not so concerned with whether or not to believe in God or obey Him, but rather preoccupied with the question of how to discern what is truly from God and what stems from the “malicious aping” of the divine, or how one can prevent oneself from accepting an “arrogant caricature of divine order” in place of the real thing (VC, 58). In other words, Schmitt is more focused on the challenge of heretical interpretations of Christianity than the more radical challenge of political philosophy.

<sup>52</sup> Manfred Dahlheimer, *Carl Schmitt und der deutsche Katholizismus, 1888-1936*; Andreas Koenen, *Der Fall Carl Schmitt*.

<sup>53</sup> Meier, *The Lesson of Carl Schmitt*, xi-xiii.

In McCormick's interpretation, "the moral, the religious, and the political" are necessarily connected because Schmitt understands politics and jurisprudence to require a "quasi-theological" decision.<sup>54</sup> Decisions are necessary to politics and jurisprudence on Schmitt's account, McCormick points out, because Schmitt believes that reason and law cannot rule directly. McCormick then argues that the decision should be considered 'quasi-theological' for Schmitt because "the process of adjudication affirms the sanctity of the human being in much the same way as does God becoming man through incarnation."<sup>55</sup> In particular, McCormick argues that "for Schmitt, the incarnation signifies that humanity can never be reduced to mere matter for technical or economic manipulation."<sup>56</sup> In other words, according to McCormick, Schmitt believes the necessity of decision in politics to betray the presence of something other than matter in human life, just as Christ proves the presence of the divine in the human. For McCormick, theology, morality, and politics are connected for Schmitt because the necessity of decisions in politics ratifies Schmitt's conviction in a God who is in part human, and therefore Schmitt's belief in the presence of an element of the divine in human life.

McCormick articulates a plausible connection between Schmitt's politics and his theology by arguing that a particular understanding of human nature—that which Schmitt describes as "the entire earthly existence of this spiritual-worldly, spiritual-temporal, double-creature called a *human being*"—is central to both (PTII, 115). Indeed, I argue that this understanding of the relation of the divine and the human has even more extensive relevance to Schmitt's work than McCormick allows; it seems to me that the main drawback of McCormick's account is that he does not extend this interpretation of the theological significance of politics to

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<sup>54</sup> McCormick, "Irrational Choice and Mortal Combat as Political Destiny," 317, 325.

<sup>55</sup> McCormick, "Irrational Choice and Mortal Combat as Political Destiny," 321.

<sup>56</sup> McCormick, "Irrational Choice and Mortal Combat as Political Destiny," 324.

all of Schmitt's works. Rather, McCormick divides Schmitt's career into two periods, the Catholic and the Hobbesian—a division apparently intended to respond to the problem of the contradictory accounts Schmitt gives of the relation of politics and morality, the problem to which Strauss first drew our attention. McCormick addresses that problem by maintaining that Schmitt initially sympathized with Catholic moral reasoning, and therefore understood politics and morality to be bound inextricably together, but that eventually Schmitt fell under Hobbes's influence and adopted a nihilistic view in which politics has nothing to do with moral questions.<sup>57</sup> As I will argue below, this division is problematic and serves to obscure the character of Schmitt's theology and ultimately its relation to Schmitt's political thought.

McCormick's case for the division of Schmitt's thought into two periods is based on his argument that Schmitt initially pursues a laudable attempt to argue against a purely technical understanding of human life by drawing on the resources of Catholic understanding, but that this endeavor is abandoned when Schmitt breaks with the Roman Catholic Church in the mid 1920s; McCormick attributes this break to Schmitt's divorce and to his growing awareness of the consequences of Allied "humanitarianism" for Germany.<sup>58</sup> Roman Catholicism, McCormick argues, is initially significant for Schmitt because it is "perfectly willing to provide the rules 'for the normative guidance for human life,'" thereby bridging the problematic relation in modernity between "ethics and social reality."<sup>59</sup> According to McCormick, Schmitt favors Catholic moral thinking because it can provide the means to distinguish between the rationality of different

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<sup>57</sup> McCormick, "Irrational Choice and Mortal Combat as Political Destiny," 336.

<sup>58</sup> McCormick, "Irrational Choice and Mortal Combat as Political Destiny," 334.

<sup>59</sup> McCormick, *Carl Schmitt's Critique of Liberalism*, 72-73. McCormick quotes from RC, 12. McCormick's book argues that Schmitt intends above all to respond the problems of the centripetal forces of rationality and irrationality that Horkheimer and Adorno see in modern thought. According to McCormick, "the point of [Schmitt's] early theoretical endeavor is to formulate a rationality that can overcome both" the "technoscientific aspect of modernity" and the "opposite side of this rationality that arbitrarily infuses all objects with aesthetic meaning" (53).

ends—to see the difference, which economic-technical thinking cannot, between a “silk blouse and poison gas.”<sup>60</sup> McCormick argues that, after the break with the Roman Catholic Church, Schmitt begins to draw from Hobbes’s amoral understanding of politics, and in this latter period (exemplified by *The Concept of the Political*) strongly dissociates the moral and the political. McCormick’s periodization becomes problematic, however, when we see, first of all, that there is a significant common thread in what Schmitt admires in Hobbes’s thought and in Roman Catholic reasoning: they both exemplify, according to Schmitt, a particularly juridical way of thinking.<sup>61</sup> Furthermore, as I will show in Chapter 4, Schmitt does not understand Hobbes’s political thought to be anti-theological, but rather maintains that Hobbes rescued the essence of Catholic thought from the “roman church” (CR, 167).

In obscuring the commonalities of Schmitt’s Catholic and Hobbesian periods, McCormick mischaracterizes Schmitt’s theological position and its relation to his understanding of politics. Citing Schmitt’s criticism that economical-technical reasoning cannot distinguish between a ‘silk blouse and poison gas,’ McCormick insinuates, along with Schmitt, that Catholic rationality provides a view by which to make these distinctions. However, it is not evident that the peculiar rationality that Schmitt understands Catholicism to exemplify entails reasoning about ends. Although Schmitt refers to the Church’s “substantive interest [in] the normative guidance of human social life” in *Roman Catholicism and Political Form*, he does not, contrary

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<sup>60</sup> McCormick, *Carl Schmitt’s Critique of Liberalism*, 59. Quoted from RC, 14. McCormick writes that Schmitt believes that Catholic thinking “is able to maintain the claim that material reality, especially as manifested in human life, is more than quantitatively apprehended material, without at the same time slipping into the romantic and irrationalist random ascription of transcendent meaning to particular objects” (162).

<sup>61</sup> “Catholic argumentation is based on a particular mode of thinking whose method of proof is a specific juridical logic;” Roman Catholic “rationalism resides in institutions and is essentially juridical” (RC, 12, 14). “A specifically juristic personalism distinguishes Hobbes... it is not possible to sort out the confusion of the conflicting interpretations of the Leviathan without keeping an eye on the key question, which is a question of practical philosophy, and indeed a *juristic* question” (CR, 168-169).

to what McCormick insinuates, consider and weigh the different ends to which a polity might devote itself, whether by traditionally Catholic reasoning or otherwise (RC, 12). Moreover, although McCormick presents Schmitt as essentially revolving around the Catholic view until his official break with the Church in the mid-1920s, in fact Schmitt in 1914 already offers an assessment of the value of the Roman Catholic Church, and its tension with key tenets of Christian moral thought, typical of his stance toward Catholicism throughout his career. In his 1914 book *The Value of the State*, Schmitt makes clear that he admires the Roman Catholic Church as a preeminent example of political form and of juridical rationality, due to its understanding of the problems of decision and of political authority. For Schmitt, the Roman Catholic Church demonstrates the necessity and worth of positive law against those who see “the mortal enemy of life in legal clauses” (WS, 80). And yet, as Schmitt makes clear, an essential Christian moral tenet such as “love your neighbor” is “not a positive law and can never become one” (WS, 80). In other words, Schmitt sees a conflict between the values that he thinks the Roman Catholic Church best represents, the values of positive law, legal rationality, and political form, and the substance of what would typically be considered Christian moral thought.<sup>62</sup>

In my view, the key reason behind the contradictory accounts of the relation of the political and the moral in Schmitt’s work is indicated by precisely this idiosyncratic interpretation of the value of Catholicism. On the one hand, Schmitt understands political form to be modeled on the Roman Catholic Church, which itself, as a worldly institution claiming authority over both body and spirit, claims to model itself on Christ.<sup>63</sup> Not only the worth, but

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<sup>62</sup> Dahlheimer offers an extended contrast of nineteenth- and twentieth century Catholic moral thought and Schmitt’s political theory that emphasizes this point (*Carl Schmitt und der deutsche Katholizismus*, 51-55). Balakrishnan concurs in this opinion (*The Enemy: an intellectual portrait of Carl Schmitt*, 15).

<sup>63</sup> Schmitt argues that “just as Christ had a real body, so must the Church have a real body. This often repeated metaphor assumes an argument of the highest dignity because it refers to an identity in the logical structure of both

also the nature of ‘the political’ is in Schmitt’s view ultimately based on a theological conviction. On the other hand, Schmitt seems to understand the value of the Church’s example of political form to be essentially detachable and even at odds with the value of Christian moral thought as commonly understood. As we will see in Chapter 2, Schmitt views the Pope’s assertion of the right to interpret natural law authoritatively as a hindrance to the establishment of other political forms, and therefore in contradiction with what Schmitt sees as the true essence and value of Catholicism (WS, 82-83). In this case, when the Pope’s claim to speak on behalf of the ‘purely moral’ conflicts with ‘the political,’ Schmitt appears to assert the primacy of the political. Within Schmitt’s understanding of the worth and the limits of the Roman Catholic Church, then, we can discern two contradictory accounts of the relation of the political and the moral.

Since we have seen, though, that Schmitt’s evaluation of the worth of the political is based on a moral and theological view, it would be inaccurate to portray Schmitt’s argument about the limits on the Pope’s jurisdiction in matters of natural law as simply an argument for the primacy of the political; it seems more exact to say that Schmitt asserts the superiority of the moral conviction that supports his evaluation of the worth of the political over every other moral claim—in other words, that Schmitt essentially defends the normative value of the political. It remains, however, significant that Schmitt does not present his argument as an argument for the value of political order, or for any particular moral point of view. As we will see, the reason for the favor Schmitt seems to show for the political over the moral becomes clear when we understand the particular theology behind Schmitt’s double-edged evaluation of the Roman Catholic Church.

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processes and concretely manifests the marvelous structure of this same ‘mediation,’ which constitutes the essence of the Church” (VC, 52).

For Schmitt, as I will show in more detail below, Christ, who proves the conjunction of the divine and the human, the spiritual and the bodily, serves as a model for the Church as well as every other true political form. Schmitt's argument against the justice of the attempt to exercise moral authority outside of political form is consequently based on his understanding of what it would mean to deny the need for Christ's mediation. This claim is for Schmitt, I argue, most pointedly represented by the devil, who by his "malicious aping" of God seduces people into believing that they can imitate God directly rather than imitate Christ—in other words, that they can relate to God as gods, that is, as purely spiritual beings (VC, 52, 57-58). This diabolical argument has in Schmitt's view two important implications. One, it encourages the belief that "concepts of the spiritual sphere" can be divorced from their "concrete political existence," that one is justified in making a purely normative claim based in private conviction (AN, 85). Two, it tempts one to indulge in what Schmitt portrays as a typically Protestant endeavor: the effort to attain a direct relation with God, or enter into "purely spiritual communion" (VC, 48-49, 52). As Schmitt argues, this position at once denies the necessity of Christ's mediation and of any form of political rule, beginning of course with the Roman Catholic Church. As will become clear, Schmitt does not think that this Protestant view is "likewise... a Christian possibility," as Meier claims, but argues rather that the attempt to connect directly with God implies a denial of the real relation that we have to God through Christ and moreover courts a dangerous subjectivism and a hypocritical pride (VC, 49).<sup>64</sup>

We can now see that Schmitt's opposition to the Protestant appeal to private conviction puts him in an awkward position to defend the morality of the political—for in defending the morality of the political as such, Schmitt must take a position whose claim is itself private and

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<sup>64</sup> Meier, *The Lesson of Carl Schmitt*, 128.



‘purely spiritual’ in the sense of independent of any particular political order (VC, 49).<sup>65</sup> Schmitt therefore seeks to conceal the moral presupposition at the root of his argument about the political, for according to Schmitt’s theological understanding of the alternatives, an argument based on purely moral or spiritual grounds would counter his own contention for the necessity and primacy of politics. Understanding the particular theology behind Schmitt’s position and the position he intends to oppose, then, allows us to see that Schmitt’s obscuring of his own moral position is more than a “diversion and detoxification” intended to win a broader and more sympathetic audience for his work.<sup>66</sup> It seems, rather, a necessary consequence of the position that Schmitt attempts to oppose, the Protestant claim for the sufficiency of private conviction.

Schmitt’s particular theology, in other words, puts him in the predicament of being forced to present his own understanding of the political as ‘objective,’ or simply an account of “*what is*,”<sup>67</sup> because acknowledging that his own view of the political is rooted in a private opinion would make it, on Schmitt’s own terms, suspect. Schmitt’s wavering with regard to the relation of the political and the moral is therefore more than a matter of presentation: in the effort to escape what he sees as the subjective arbitrariness and the anti-Christian pride inherent in the Protestant claim, Schmitt must attempt to prove the inescapable reality of the political or the inevitable renewal of political form, to show that the political is a fact which we must recognize, rather than a good he believes we should accept.<sup>68</sup> To put it most accurately, one would have to

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<sup>65</sup> Schmitt uses the term “spirit” [*Geist*] interchangeably with a variety of terms, including “right,” “justice,” “norm” and the “moral.” See for example *State, Movement, People*, where Schmitt lists what are in his opinion parallel oppositions: “right and might, justice and state, justice and politics, spirit and power, spirit and state, individual and community, society and state, etc. etc.” (22). I follow Schmitt’s usage of these terms in this work.

<sup>66</sup> Though it may also be that. Meier, *The Lesson of Carl Schmitt*, xvi.

<sup>67</sup> Strauss, “Notes on *The Concept of the Political*,” 108.

<sup>68</sup> As has been noted, Schmitt closes several books with the affirmation “*Ab integro nascitur ordo*” [Order is born anew], expressing his faith that even in times when “many people see but absurd chaos” “a new meaning seeks to impress itself... relentlessly, the new *nomos* installs itself upon the ruins of the old” (LS, 59). See a discussion of this phrase in Meier, *The Lesson of Carl Schmitt*, 169.

say that Schmitt is torn between these two positions—that the political is an inevitable fact, and that it is a fragile good to be desired and sought—that this constitutes a real contradiction in his thought.<sup>69</sup>

In what follows, I will argue that Schmitt’s work is formed by the endeavor to argue for the moral worth of the political without making an argument that is based upon a moral presupposition, on a private conviction. First, I will show how Schmitt’s approach in his early ‘secular’ work is defined by his intention to avoid making an argument for the value of legal form or political order based on a normative claim. As we will see, Schmitt attempts in his early work to articulate a position that avoids claiming direct knowledge of justice or morality while demonstrating for certain that political form is just. In other words, Schmitt’s attempt to avoid the Protestant reliance on private conviction leads him to try to forge an admittedly tension-filled “Catholic” alternative based on an argument that the only good we can know for certain is the good of submitting oneself to political order.<sup>70</sup> The form that this endeavor takes in Schmitt’s work is effort to derive a certain, partial account of what is just while refusing to address the question of what constitutes justice as such. This peculiar endeavor characterizes Schmitt’s work, and gives the impression that Holmes nicely captures: that Schmitt alternates between the “cold and feverish, the academic and the prophetic, the analytical and mythical,” or in other

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<sup>69</sup> Strauss seems to see Schmitt’s argument as containing a crucial, but illuminating, contradiction or “*aporia*” (“Notes on the Concept of the Political,” 119, 121-122). As Minkov puts it, “Perhaps *the* question of Strauss’s comments is why Schmitt conceals, or half-conceals, even to himself, the moral character of his greatest concern” (“Natural Evil or Natural Goodness?,” 281). Shell, following Strauss, suggests that this wavering has something to do with Schmitt’s tacit acceptance of the Enlightenment view that only “the known” is truly “obligatory,” which complicates or confuses Schmitt’s understanding of faith (“Taking Evil Seriously,” 192-193). Meier, by contrast, portrays Schmitt as a thoroughly consistent believer and model political theologian, arguing that it is important to read Schmitt to attain “clarity about the cause of political theology” (*The Lesson of Carl Schmitt*, xvii).

<sup>70</sup> In this respect, it seems that Schmitt’s position corresponds closely to what Meier claims is typical of the contradictory perspective of Catholicism (Meier, *The Lesson of Carl Schmitt*, 90-91).

words between the morally passionate and the coolly objective.<sup>71</sup> These two faces of Schmitt's work, I argue, are the consequence of his attempt to establish the value of the political 'objectively,' or independent of any moral assumption. By following Schmitt's attempt to prove the normative worth of the political while avoiding an argument based on private conviction, therefore, we can explain the contradictory accounts Schmitt offers of the relation of politics and morality.

In the first two chapters of this work, I argue that Schmitt's endeavor to elaborate these partial but certain standards for just action should be seen as the unifying theme of Schmitt's early work in jurisprudence (Chapter 1) and politics (Chapter 2). In Chapter 3, I will show how Schmitt understands these seemingly 'scientific' endeavors to be based on certain theological presuppositions and to aim toward the justification of a particular moral view. In Chapters 4 and 5, we will examine some of Schmitt's more famous, apparently secular or 'Hobbesian' works, in order to demonstrate that his theological understanding of the nature and the importance of the political continues to inform his "concept of the political."

In the effort to show what I believe is the key problem in Schmitt's thought, and to show how his widely-varying works in many different fields relate, I do not present Schmitt's arguments in a strictly chronological fashion. I am therefore open to the charge of obscuring some of the difference in Schmitt's thought as it develops over time.<sup>72</sup> My mode of presentation corresponds to my view, however, that Schmitt was consistently preoccupied with a specific problem over the course of his career, and moreover that he repeatedly offered a basically consistent answer to this problem. I do not propose to disregard chronology altogether, though:

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<sup>71</sup> Holmes, *The Anatomy of Antiliberalism*, 39.

<sup>72</sup> For a well-argued intellectual biography of Schmitt, see Balakrishnan's *The Enemy: an intellectual portrait of Carl Schmitt*.

my first three chapters examine three successive early works of Schmitt's—in Chapter 1, I consider *Gesetz und Urteil* (1912) to examine Schmitt's early jurisprudential view; in Chapter 2, I look at *Wert des Staates und die Bedeutung der Einzelnen* (1914) to see Schmitt's early formulation of the political problem, and in Chapter 3, I examine “The Visibility of the Church: a scholastic consideration” (1917) to consider Schmitt's most explicit statement on his understanding of Catholic theology. These early works are often dismissed as unrelated to Schmitt's later thought,<sup>73</sup> a view I hope to dispel by showing the similarities between the conclusions I find in them and Schmitt's later, more familiar works, which I deal with more thoroughly in Chapters 4 and 5.

I take up Schmitt's work on jurisprudence first, in Chapter 1, partly because this is the field in which Schmitt published his first scholarly works, but more significantly because Schmitt encourages his readers to view him as primarily a jurist (PTII, 32). Understanding the predicament of a jurist that Schmitt depicts in *Gesetz und Urteil* will help us understand the deeper meaning of this request. According to Schmitt, the jurist is faced with the problem of the gulf between abstract legal norms and the demand to act with reference to a concrete situation, and must determine how these abstract norms figure in the concrete necessity of a judgment. In other words, in this jurisprudential work, we find a specific articulation of what I argue is Schmitt's attempt to demonstrate what we can know about concrete just or moral action without basing one's argument on a private conviction. In this chapter, I also argue against the “decisionist” interpretation of Schmitt's work, examining Schmitt's understanding of his relation

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<sup>73</sup> For example, Ellen Kennedy offers a careful analysis of Schmitt's early work, but then asserts that there is “an historical and intellectual abyss” between it and Schmitt's mature work. (*Constitutional Failure: Carl Schmitt in Weimar*, 75).

to the counter-revolutionary decisionists and pinpointing the aspect of their perspective Schmitt admires as well as the grounds on which he intends to depart from their view.

In Chapter 2, I show how the conclusions at which Schmitt arrives in his jurisprudential investigations concerning what we can know about just action relate to the argument of his early political work. Schmitt's focus on what we can know about just action without relying on private conviction translates in *Wert des Staates und die Bedeutung des Einzelnen* into a focus on the state as the just and intelligible entity that exists between the unintelligible poles of the norm of justice and the facts of power. While Schmitt insists in this work that the state can never live up to its official task of representing the norm of justice on earth, he also argues that we can know that it is just for the individual to submit to the state because the endeavor to make and enforce precise laws is a necessary part of justice. We see here Schmitt's attempt to articulate a defense of the justice of political order in the face of his deep suspicion of private conviction.

In Chapter 3, I turn to Schmitt's theology to show how the foregoing legal and political arguments are rooted in Schmitt's particular understanding of Christianity. Here we see exactly how Schmitt's basic political position is connected to what he characterizes as a particularly Catholic interpretation of Christianity, one which recognizes the necessarily political nature of man and interprets that nature not primarily as a sign of fallenness but as an indication of and path to redemption. We will also examine here Schmitt's characterization of the typically Protestant position as the attempt to realize justice more purely by escaping from the political and relying on private conviction. According to Schmitt, this results in a prideful and hypocritical stance that I argue serves Schmitt as the model for the various opponents he will take on over the course of his career.

The next two chapters show that Schmitt's theologically-based definition and defense of the political is not limited to a passing phase, but remains relevant in his more famous, apparently secular works. In Chapter 4, I examine the particular 'science' that Schmitt claims can most adequately grasp the phenomenon of the political, the "sociology of concepts" (PT, 45). Working through the implications of this method demonstrates that it has a direct relation to Schmitt's political theology. As we will see by examining Schmitt's political-theological analysis of Hobbes, this science leads one to the particularly Catholic interpretation of Christianity that we saw Schmitt defend in the last chapter. While this chapter intends to connect Schmitt's ostensibly scientific arguments to his particular theology, it also aims to demonstrate that Schmitt attaches importance to the endeavor to ground his belief in an objective argument, in particular, the argument for the inescapability of the political. I therefore argue that one must consider both Schmitt's Christian faith and his attempt to ground this faith in the objectively "known" in order to gain an accurate picture of Schmitt's thought.

In Chapter 5, I turn to Schmitt's most familiar work, *The Concept of the Political*, to revisit the supposedly amoral view of politics that Schmitt offers there. I argue to the contrary that Schmitt's criterion of the political, the possibility of discerning an enemy, is animated by the same moral concerns and intentions as the rest of his work. This understanding comes into view once one has understood the relation of Schmitt's understanding of political form and his particular theology (as explicated in the two preceding chapters). Seeing that Schmitt's moral and theological presuppositions animate his 'concept of the political' prepares us to see how Schmitt intends his argument about the political to have an effect on political practice. We will see more clearly what Schmitt aims to accomplish with his political theory by comparing

Schmitt's analysis of the problem inherent in liberalism in *The Concept of the Political* with his view of the Nazi response to this problem as explicated in *State, Movement, People*.

In attempting to show the coherence of Schmitt's legal, political, and theological thought, and by showing how his view of 'the political' is underpinned by a certain, consistent moral position, I do not intend to imply that Schmitt's view of justice is adequate or that the standards for just action he elaborates should be adopted. As I have made clear, the position that Schmitt attempts to hold begins from two presuppositions that are at odds with each other; in Chapter 6, I will show how this tension results in a typically recurring problem in Schmitt's overall understanding of justice. I think, however, that the view of Schmitt's crucial fault as being seduced by the irrational decision, having unwittingly succumbed to the temptation to mythologize, or having become perplexed by the demands of an unfathomable God, does not allow us to see the core of Schmitt. It is rather Schmitt's attempt to demonstrate the normative value of the political, combined with his deep suspicion of positions based on private conviction, that characterizes his peculiar position.

## Chapter 1: Jurisprudence

Schmitt's early works are often overlooked, perhaps because they seem to pertain to narrow and technical legal issues. In fact, I will argue, they can serve as a good introduction to Schmitt's understanding of the general human situation, as well as a good illustration of Schmitt's distinctive approach to the question of how man, given the characteristic problem he faces, should act. In this chapter, I will suggest that the problem the jurist faces is for Schmitt analogous to the general human problem.

A reading of *Gesetz und Urteil* [1912] reveals that Schmitt considers the basic problem of jurisprudence to be the development of a standard of correctness by which to be guided in making judicial decisions. This is a problem for Schmitt because the jurist is in his view two layers removed from a direct connection to justice in its full sense: one, because the jurist cannot appeal to justice simply but is subordinated to the community's laws (GU, 51), and two, because the jurist cannot apply those laws directly but must make a decision in order to bring about justice in a particular case. In *Gesetz und Urteil*, Schmitt aims to make clear the nature of the decision by isolating it and emphasizing the difficulty of attaining a standard of correctness by which judicial decisions can be made. For Schmitt, as I will argue throughout the course of this work, human beings as such are faced with an analogous problem: the necessity to act justly in a world in which the standards for moral action are opaque and ultimately not fully intelligible to the human mind.

Despite the difficulties Schmitt sees in attaining a standard of correctness for judicial decisions, he insists that such a standard must be sought. It is therefore a mistake to conclude, as do those who interpret Schmitt as a nihilistic decisionist, that because Schmitt believes a full



understanding of justice is inaccessible to the human mind, he disregards the question of justice altogether, or believes that there are no standards for justice. In other words, Schmitt's isolation of the moment of the decision and his emphasis on its unique character are not meant simply to establish the *fact* that decisions must be made (in law as well as in politics and in human life generally), but to stress the need for *finding a standard* by which to judge those decisions as "correct" or incorrect (GU, 1). The fact of decisions poses a problem for Schmitt; 'decision' is not an answer.<sup>1</sup> To show more precisely Schmitt's relation to 'decisionism,' in the third section of this chapter I will address Schmitt's analysis of the counter-revolutionary decisionists, seeking to make precise the points on which Schmitt sympathizes with them as well as the points on which he aims to depart from their view.

*The jurist's predicament: the problem of the correct decision*

It is clear from the outset of *Gesetz und Urteil* that Schmitt seeks a standard for decisions; in the first sentence of the first chapter, Schmitt announces that his essay will address the question: "when is a judicial decision correct?" (GU, 1). Schmitt seems to understand that his investigation of this question will be shocking, for people want to believe that the answer to this question is simple—that a decision is correct when a judge follows the law. Common opinion has it, Schmitt writes, that a judicial decision is correct when it is considered to be "legal," that is, an application of the accepted positive law (GU, 5). Yet there are very few situations, Schmitt

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<sup>1</sup> In the preface to the 1969 reprint of *Gesetz und Urteil*, Schmitt suggests that in this work one can examine his interest in decisions—which he claims had in the course of polemic become a "clichéd curse word"—in the condition of its "original simplicity." While one must be wary of Schmitt's insistent and sometimes dishonest attempts to rehabilitate his reputation after WWII (Meier, *The Hidden Dialogue*, 3-4), looking carefully at this early work, I will argue, in fact sheds new light on Schmitt's understanding of the importance of decision.

remarks, in which a judge can simply ‘apply’ the letter of the law; most of the time, the law in its generality does not dictate specifically what must be done in a particular case. It is therefore apparent, Schmitt argues, that the activity of a judge cannot well be described as subjection to and application of the letter of the law, and, however startling this may be to common opinion, a more accurate standard for the correctness of judicial decisions must be sought.

Schmitt works toward his presentation of this standard by revealing and ridiculing what he discerns as the modern German “fetish” for law (GU, 25). Schmitt explains that his contemporaries’ opinion that the correctness of a decision should be determined by inquiring whether the judge has followed the law derives from a mistaken interpretation of the first clause of the *Grundverfassungsgesetz* [Basic Constitutional Law]: ““Judicial power is exercised only by independent courts, subjected only to the law”” (GU, 7). The meaning of this ‘subjection,’ Schmitt argues, cannot be understood literally, as if judges were foot-soldiers of the ‘law,’ but must be understood in its nineteenth-century political context: its intention was to separate the judicial power from the executive, to free judges from the influence of the prince (GU, 7). If it were indeed the case that the task of a judge was simply to ‘apply’ a law, Schmitt points out, judges would not in fact be independent, but as simple enforcers, more than ever subservient to the ruling power. The literal reading of this basic constitutional clause that legal theorists who isolate their thinking from legal practice have perpetuated has however led jurists, Schmitt argues, to develop the “vending machine” theory of judicial practice: judges are to dispense judgments like cash or candy (GU, 9).<sup>2</sup>

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<sup>2</sup> One of Schmitt’s main intentions in this work is to “bring out the differences of the interests of [legal] theory and practice,” and to develop a criterion specifically for legal practice (GU, 1912 Preface). Schmitt argues that the question of the correct decision and the question of whether a law is correctly interpreted are distinct (GU, 11).

By the time of Schmitt's writing, Schmitt acknowledges, this automat-theory had become discredited, and legal theorists had begun to search anew for criteria by which to evaluate legal decisions. The first suggestion to gain traction was the effort to judge the correctness of legal decisions by measuring them against the "will of the lawgiver." Schmitt questions both the desirability of this standard—for couldn't a man with corrupt intentions pass a law that was in fact good for the community?—as well as the applicability of the standard—for, he asks, how can we know a private man's intentions? (GU, 27). In fact, Schmitt remarks, we do not usually actually desire to know what the lawgiver as a private man thought; still less are we willing to submit ourselves to whatever we may eventually determine his private thoughts might have been. What actually happens when one references the "will of the lawgiver," Schmitt contends, is that "one constructs an ideal lawgiver who only wills what is reasonable, and shunts aside the actual lawgiver" (GU, 26). If one is not clear about this, Schmitt argues, the idea of the 'lawgiver' will serve to obscure rather than clarify one's understanding of the correct interpretation of the law.

As some of the difficulties with this approach to deriving standards for judicial decision have become apparent, some legal theorists, Schmitt writes, have decided to forego speculating about the lawgiver and seek directly the "will of the law" (GU, 26). Aside from the added problem of attributing a "will" to a law, Schmitt remarks, there is no important difference between the way a jurist claims to determine the will of the law and the will of the lawgiver (GU, 27, 30). This fact makes it more evident, Schmitt points out, that both the will of the law and the will of the lawgiver are fictions created by the theorists. Schmitt does concede that legal theory always works with "fictions," and this is not in itself objectionable (GU, 26). The problem with the particular trend of legal theory that aims to uncover the will of the law or of the lawgiver,

Schmitt argues, is that it springs from the desire to subordinate the judge to a law, and therefore tends to encourage the view that the fictions of the ‘will’ of the law or the lawgiver are legal facts (GU, 37). If it is acknowledged, however, that the judge must construct this standard of the ‘will of the law’ from his own sense of what is reasonable, one can no longer rightly say that a judge who submits his decision to this fiction submits them to an objective, external law (GU, 37).

Schmitt discerns in the attempts to seek the will of the law, the will of the lawgiver, or any another standard, the desire to subordinate the judge to a “‘super-positive’ norm,” and therefore evidence of a continued German fetish for law (GU, 20). According to Schmitt, all contemporary attempts to derive new standards for judicial decisions dispense with the fiction of the automat-judge in order to account for the independence required for a judge to derive his decisions—and then become preoccupied with the attempt to put a new rule in the place of the dethroned positive law (GU, 20). Although these new theories intend to “critique... the old legal hermeneutic” of positivism, according to Schmitt they all essentially posit “legality” as the criterion of correctness, differing only in what they consider to be “law” (GU, 20-21).

According to Schmitt, contemporary legal theory mirrors common opinion in wanting more than anything “to apply the law... it wants to think that there is a single source of the correctness of the law and of the decision” (GU, 22). The sole criterion of correctness that contemporary legal theory recognizes, in Schmitt’s analysis, is that of “subsumption” (GU, 38).<sup>3</sup> Schmitt sees his fellow legal theorists as so enamored of this principle of correctness that they are paradoxically willing to extend the definition of ‘law’ in order to save this legitimating

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<sup>3</sup> With this legal term, Schmitt describes the effort to subsume a case under a rule.

principle. But, Schmitt argues, extending the idea of law to include the fictions of the ‘will of the law’ and the ‘will of the lawgiver’ robs the idea of subsumption of any worth (GU, 40).

Schmitt’s review of the contemporary German attempts to overcome the understanding of the judge as an automat, subservient to the positive law, points toward the conclusion that all previous efforts try to derive a new standard by essentially extending the notion of ‘norm’ so that it includes material outside the letter of the law. But the attempt to subordinate the judge to these ‘super-positive norms,’ Schmitt argues, necessarily falls subject to the same critique that set in motion the quest for these new standards. Judges will be expected to dispense the justice inherent in whatever super-positive norms are articulated; moreover, the indeterminacy of the origin or the worth of these new norms means that the standard they set for jurisprudence even is less clear and stable than that of the positive law (GU, 40).

The real root of the problem, Schmitt argues, is that judges logically cannot derive decisions from norms, whether positive or super-positive. In fact, Schmitt argues, an insuperable gulf exists between decisions and norms; norms exist in “an entirely different sphere” than decisions (GU, 19). Schmitt makes clear that what separates his understanding from that of the legal theorists busily elaborating new norms is his contention that norms neither chronologically nor logically exist as standards for decision-making before the decision is made. As Schmitt writes, “that by which the decision legitimates itself does not stand before it (as a positive law, a cultural norm, or a norm of ‘free law’), but is first produced through it (with the *help* of the positive law or the cultural norm, or the norm of ‘free law’)” (GU, 97). In other words, Schmitt claims here that the standard by which the judicial decision can be judged as correct or incorrect does not exist in full before the moment of the act of that decision itself. Since, for Schmitt,

submitting decisions to norms is logically impossible, the attempt to escape from legal positivism by articulating super-positive norms will only drive the problem deeper.

From the insistent baldness with which Schmitt asserts the impossibility of subsuming decisions to norms, some conclude that Schmitt thinks that every judicial decision is a “fantastic act of the will” that cannot be held to any objective standard, that Schmitt offers no criterion for decisions other than decisiveness (GU, 1968 Preface).<sup>4</sup> Yet this is not apparently the case in *Gesetz und Urteil*. In fact, Schmitt embarks there on a scathing critique of the contemporary legal argument for “free-law,” a school of thought that reacted to legal positivism by celebrating the unencumbered will of the judge. According to Schmitt, the free-law movement argues that what is decisive “in reality” for the judge “are intuitive and irrational factors rather than careful deductions and constructions oriented around the letter of the law” (GU, 12). Free-law theorists claim to argue for greater “honesty” and transparency in that they plead that, rather than being asked to pretend, *post facto*, to derive their opinions from legal norms, judges should be allowed to give an explanation that draws on their personal sense of what is right, which is according to the free-law theorists the true source of judicial decisions (GU, 17). Schmitt argues to the contrary that it is ludicrous to consider the “personality” of the judge as a standard for a correct decision (GU, 17-18). Moreover, he points out that, when pushed, the proponents of the free-law movement, despite their scorn for norms, in fact do give a normative answer to the question of how to measure the worth of a decision. In explaining that a judge optimally decides out of “a healthy common sense and a feeling for the law,” free-law theorists fall into the same trap as all the other attempts to overcome legal positivism (GU, 17). Free-law theorists, Schmitt finds, take

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<sup>4</sup> Löwith, “The Occasional Decisionism of Carl Schmitt,” 146.

recourse in a norm that is even less determinate than those who make self-aware attempts to discover super-positive norms by which to judge decisions.

Schmitt agrees with the initial insight of the free-law theorists that the decision and the norm exist, speaking strictly logically, in ‘entirely different spheres.’ But, in Schmitt’s analysis, this is precisely what makes the “psychological genesis” of the decision, upon which the free-law theorists focus, irrelevant (GU, 17). Decisions cannot be weighed, Schmitt argues, by trying to figure out how they were made and by subjecting elements of that mysterious process to standards such as common sense and legal feeling. Schmitt insistently differs from those who promote free-law in asserting that the often murky genesis of a decision does not prevent it from being evaluated according to an objective standard of correctness. Yet even if we acknowledge that the purpose of *Gesetz und Urteil* is to seek a standard by which to weigh judicial decisions, its first few chapters seem to bring us to an impasse. Schmitt insists that norms cannot serve as standards for decisions, and yet he is unwilling to argue that decisions justify themselves. What, then, does Schmitt consider capable of becoming a standard for judicial decisions?

### *Schmitt’s standard for judicial decision*

Schmitt makes what seems to be a modest claim for the status of the answer he will give to the question of standards for judicial decisions. From the outset, he states that he seeks to discover what principle is inherent in the usual, current “practice of law,” that he is not interested in “an answer to the question of the absolute, timeless correctness of a decision, something derived from the ‘idea’ of judicial decision-making” (GU, 1-2). Schmitt’s aim, he argues later, is

simply to help make judges “become more aware of what they do” [*zur Selbstbesinnung verhelfen*] (GU, 117).

It becomes clear that Schmitt believes that it is precisely his focus on thinking about legal practice, rather than reasoning within the confines of legal theory, that allows him to consider it possible to attain an objective standard for judicial decisions. For whereas Schmitt insistently maintains that norms and decisions are logically unrelated, he fastens on the fact that they seem to exist in some kind of practical relation to each other in the exercise of jurisprudence, however difficult this relation is to pin down. Schmitt’s narrowing of his view to legal practice, to the relation of norm and decision implied in what judges do, allows him, he believes, to see something that is strictly speaking not visible from the point of view of pure legal theory.<sup>5</sup> In other words, in Schmitt’s view, it is possible to attain a standard for judicial decisions because in legal *practice* norms and decisions seem to come into relation, because judges typically act as if these two logically separate realms in fact touch. The question for Schmitt becomes, then, how to grasp the relation of norms and decisions implied by legal practice.<sup>6</sup>

Schmitt begins by putting his finger on the crucial moment in which norms and decisions seem to come into relation in practice: it is in the activity of legal reasoning. The hook by which a decision can be submitted to objective judgment is, according to Schmitt, found in the fact that the judge is obliged to give a reasoning for his decision. The reasonings with which a judge

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<sup>5</sup> Schmitt writes that the “usual remarks” found in law books set forth the following two presuppositions as “self-evident: 1. that their various interpretative strategies will bring forth the ‘true’ content of the law, 2. that a judicial decision is correct if the law is correctly interpreted.” Schmitt argues to the contrary that “one must not identify the question: when is a decision correct? with the question: when is an interpretation correct?” (GU, 11). According to Schmitt, legal practice is, “so to speak, its own master (GU, 1912 Preface).

<sup>6</sup> As will become clearer below, I do not intend to portray Schmitt as an Aristotelian. As Catherine Colliot-Thélène points out, Schmitt’s “unusual references” to “*philosophia practica*” point “to Catholicism rather than ancient philosophy.” Colliot-Thélène argues that Schmitt fights “in his own way to save practical philosophy, threatened with extinction by scientific ideology” (“Carl Schmitt versus Max Weber,” 151).



presents his decision, according to Schmitt, “submit [his decision] to certain *norms*” (GU, 19). While Schmitt agrees with the free-law theorists that decisions cannot be generated from, or traced back to, norms, he argues that the legal reasoning that accompanies the decision necessarily places the decision in the context of accepted norms, positive or super-positive. The norms appealed to in the legal reasoning, Schmitt argues against the free-law theorists, “have nothing to do with the psychological genesis of the decision” (GU, 19). Indeed, it seems that Schmitt’s fierce opposition to the free-law camp stems from his view that their understanding, by insisting on the absolute lack of relation between norms and decisions not only in theory but also in practice, must dismiss legal reasoning as a “subterfuge” (GU, 12). Schmitt, by contrast, concentrates on the moment of legal reasoning because it is the one activity in which the judge must refer to both general norms and his particular decision; legal reasoning is on those grounds the activity from which Schmitt hopes to gain an objective standard by which to measure judicial decisions.

Because a judge must explain his decision by referring to commonly accepted norms, the correctness of the decision *is* in a way dependent, Schmitt argues, on positive legal clauses—the important question, he contests, is rather in what manner the decision is related to these legal clauses (GU, 69). Schmitt maintains that the decision is not derived from the norms that the judge uses to buttress it, and that the decision remains even “independent from its reasoning” (GU, 69). And yet the judge’s need to connect his individual judgment in a particular case to the legal practice common in his time and place requires that he look at his decision in the light of legal statutes and other commonly accepted norms. So what standard does the judge in the moment of legal reasoning obey?

In Schmitt's perspective, the crucial importance of legal reasoning is that it is the activity in which the judge makes his decision public by attempting to make it understandable and acceptable to his fellow judges.<sup>7</sup> The norms to which the judge appeals are norms (whether statutes, precedents, or cultural values) that he thinks other judges will find compelling. Schmitt therefore divines the standard by which judges in practice hold their decisions: "that decision is correct that one can presuppose another judge would make" (GU, 41). Schmitt argues that when judges make a decision, they must concern themselves with the question of whether their decision will stand; given the possibility of appeal, a judge—whose task is to further the realization of justice—is professionally obliged to have in mind the opinions of other judges sitting at the time (GU, 77). Schmitt begins, then, to uncover the criterion by which legal decision can be judged by proclaiming: "judicial practice itself decides when the decision is correct" (GU, 1912 Preface).

The blatant, apparent relativism of this statement, which Schmitt repeats several times over the course of his book, is shocking in a typically Schmittian fashion, and causes one to wonder what exactly Schmitt intends to accomplish with such remarks. Schmitt states that he seeks a standard for judicial decisions, but the course of his analysis seems to intend to disabuse us of our assumption that it is possible for justice to be done at all. That 'judicial practice itself decides when the decision is correct' seems to imply that justice does not have an enduring standard, but is whatever an elite group decides it should be at a particular time and place. In the context of *Gesetz und Urteil*, however, it seems that Schmitt's bold formulations have a constructive purpose. By pointedly revealing what our actions and practices seem to tell us about what we want judges to consider as a standard of justice, Schmitt prompts us to consider

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<sup>7</sup> For Schmitt's discussion of to whom legal reasoning is addressed, see GU, 83-84.

and question the sources of our opinion more thoroughly, in fact furthering his stated intention to make us ‘aware’ of what we think about justice, to expose the principles at the basis of common opinion in judicial practice.

When we consider it closely, we see that Schmitt’s first formulation of the criterion of correctness in judicial decisions—that ‘judicial practice itself decides when the decision is correct’—does not in fact disregard the rule of law that has become customarily desirable. In fact, Schmitt claims his formulation is derived from the striving of ‘modern legal practice’ toward positive law. Schmitt’s argument is that the rule of law, to be meaningful, requires legal reasoning, and that at the root of the custom of legal reasoning is the demand that judges consider the opinion of other judges. Uncovering yet another layer, Schmitt determines that the normative principle at the basis of this demand is in fact the same one striven after by all of the schools of legal theory that tirelessly but fruitlessly attempt to subordinate the decision to the norm: all of these strategies aim, Schmitt claims, to articulate the standard of legal certainty (GU, 60).

Schmitt claims that at the bottom of our desire for the ‘rule of law’ is in fact the desire for legal certainty. This can be seen, he argues, by thinking through what it would mean for judges to attempt to make a “strict appeal to the law,” and how the results of this attempt would not satisfy our intentions (GU, 90). If one ignores the meaning that a law has in the context of judicial practice, and looks only at the supposedly unchangeable content of the law, Schmitt warns, a dangerous arbitrariness will enter into the explication of the law (GU, 95). Schmitt contends that fanatical adherence to the letter of the law can actually produce great legal uncertainty, citing as an example the case of Portia’s decision in *The Merchant of Venice* (GU,

112n). Particularly in modern times of “rapidly changing relations,” Schmitt adds, we cannot expect that the judge serve simply as the “mouth of the law,” for the attempt to apply the letter of the law without regard to current conditions would lead to randomness in judicial interpretation and eventually destroy legal practice as such (GU, 90).

Schmitt argues that the whole modern legal system of positive law is in fact based on the criterion of legal certainty. He offers the insight of the nineteenth-century jurist Rudolph Sohm to further his argument: “Law fundamentally depends on form, and it must depend on form, because only so can it arrive at a decision that stands above persons” (GU, 51n). The demand that judges have respect for the opinions of other judges is ingrained in the core of modern legal practice, Schmitt implies, because equality before the law requires that judicial decisions achieve a high degree of formality and regularity. Schmitt’s insistence that judges recognize the criterion of legal certainty—the criterion of what other judges would decide—as the standard for the correctness of a decision is therefore not intended to unfetter decisions from any control, but to make them more calculable by exposing the true normative principle that guides modern judicial practice (GU, 95). ‘Legal certainty’ is the more precise understanding Schmitt offers of what we want when we desire the ‘rule of law.’

How exactly does Schmitt intend ‘legal certainty’ to serve as a standard for judicial decisions? Schmitt insists that legal certainty is not another, super-positive norm to which a judge is obliged to subsume his decisions. Schmitt argues against this interpretation of his criterion of legal certainty by pointing out that legal certainty is a flexible concept rather than a doctrine to be applied: the judge can actually depart from the current standards, Schmitt claims, as long as he makes arguments adequate to sway other judges to accept his decision as normative

(GU, 78). Schmitt also argues that the criterion of legal certainty does not allow a decision to be derived empirically (i.e., not from a statistical analysis of what other judges have already determined to be correct), nor does it constitute an ideal from which decisions can be logically derived (GU, 79). Moreover, Schmitt claims that he is not presenting legal certainty as a value that he personally holds dear, but simply explaining the standard to which modern legal practice looks (GU, 67).

Schmitt is most clear about his intentions in pursuing the meaning of the standard of legal certainty when he compares his purpose with that of thinkers who consider legal certainty to be a useful means in the service of particular communal ends. Schmitt insists that one should not confuse his argument with the exhortations of someone like Jeremy Bentham, who stands up for legal certainty on the basis that without it, “everything would dissolve into war and conflict, no one could enjoy the fruits of their labor, diligence and enterprise would disappear, and a society founded on the division of labor would become impossible” (GU, 63). Bentham values legal certainty because it contributes, practically, to peace and prosperity. Schmitt, on the other hand, claims he is interested in legal certainty for what it reveals about the nature of law: in particular, he dwells on the fact that the standard of legal certainty implies that there is a “moment of content-indifference” in every law, an aspect of each law that does not refer to natural feelings of justice or to distributive justice (GU, 48, 67). Understanding that legal certainty is the normative principle at which modern legal practice aims, Schmitt argues, reveals that, to “a certain degree” that varies with the kind of law promulgated, “it is always more important that there is a law than that a specific content has become law” (GU, 48). The importance of legal certainty for Schmitt,

it seems, is that it emphasizes the normative value of the conclusion of a law or a decision, that it draws attention to the value of a law or decision that is independent of any particular content.

Schmitt's interest in legal certainty is more obscure than the common-sense argument offered by Bentham. What does Schmitt intend to accomplish by arguing that legal certainty is a normative principle, but one that does not refer to the particular content of the law? We can begin to see Schmitt's point when we recognize the importance of the fact that for Schmitt, in contrast to Bentham, legal certainty is emphatically not a means to another end, but an end in itself. This is made most plain in the following statement: "between substantial justice... and its realization in daily life steps the requirement of legal certainty, which is essential to legal order—and legal certainty proves its superiority in appealing directly to justice, because one can indeed locate the postulate of legal certainty as a postulate of justice" (GU, 51). This sentence makes clear that Schmitt understands legal certainty to be an aspect of justice itself, and moreover an understanding of justice 'superior' to the 'substantial' aspect of justice. Furthermore, it explains Schmitt's interest in the moment of 'content-indifference' in every law and decision as an expression of his intention to focus upon the instance that, in Schmitt's analysis, actually contains a 'direct appeal to justice.'<sup>8</sup>

In the context of Schmitt's understanding of the predicament of the jurist, Schmitt's focus on legal certainty takes on additional significance. Recall Schmitt's argument that judges must always deal with an approximation of justice in the form of the community's positive laws and

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<sup>8</sup> The difference that Schmitt raises between Hegel's position and his own is instructive in this regard: Schmitt writes that, while Hegel thinks that "formal certainty" stands in a "non-rational" relation to justice, Schmitt thinks that the formal aspect, which is a part of every law, can be isolated and used to extrapolate an answer to his question about the standard for the correctness of judicial decisions (GU, 50n).

super-positive norms, that the judge must deal with a “second-hand justice” [*“eine Gerechtigkeit aus zweiter Hand, etwas Umgestaltetes”*] (GU, 51). It appears, then, that the only way in which a judge can appeal to justice directly, on Schmitt’s understanding, is by being attentive to the requirements of legal certainty. Indeed, Schmitt avers, judges do look directly to legal certainty as a standard of justice itself: “a judge with conscience does not lightly deny the obvious meaning of a clear law” (GU, 52).

On the basis of *Gesetz und Urteil*, we see that on the surface of things Schmitt does not offer ‘decision’ as an answer to the problem of jurisprudence, but as part of a question: the question of what constitutes a correct decision in modern legal practice. The normative standard Schmitt sees at the basis of the modern system of the rule of law is legal certainty. And yet the normative standard of legal certainty may itself seem only to emphasize the impossibility for decisions to be held to any external, universal, meaningful standard—for the standard of legal certainty that Schmitt proposes seems to imply that all sets of consistent judicial decisions must be considered equally just. In other words, in setting forth legal certainty as the standard for judicial decisions, Schmitt seems to be asserting that we cannot judge between the variety of ends at which different communities aim, that what is just as such is not examinable, and that therefore the only measure we have by which to weigh judicial decisions is how ‘decisive’ they are in the sense of how well they contribute to a stable and solid system of laws and judgments.

Although the portrayal of Schmitt as a ‘decisionist’ in this sense captures something important in Schmitt’s thought,<sup>9</sup> understanding Schmitt as simply a promoter or admirer of difficult decisions overlooks three important aspects of Schmitt’s jurisprudential theory. First,

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<sup>9</sup> I will return to this in Chapter 6.

Schmitt presents legal certainty as a normative standard; decisions are not celebrated at the expense of norms, but rather, Schmitt seeks to establish, as he puts it elsewhere, the “normative character of the legal decision” (PT, 33). In *Gesetz und Urteil*, this is manifest as Schmitt’s desire to articulate a standard of *correctness* for judicial decisions and his interest in legal reasoning as the moment where norms and decisions intersect in practice. In other words, Schmitt does not try to prove norms irrelevant to judicial decisions, but rather attempts to show where they do become significant in the course of judicial decision making. Second, legal certainty is not, strictly speaking, the only normative standard at which judicial decisions aim in Schmitt’s account: in presenting their legal reasoning, judges must reckon with substantive norms that other judges would find compelling. Since Schmitt has argued that the substantive norms appealed to in a law are significant only “to a certain degree,” dependent upon the kind of law promulgated, it follows that the standard of legal certainty must also be significant to different degrees depending on the law in question (GU, 48). In other words, legal certainty is presented as a partial, though objectively certain account of what is necessary for the justice of a legal decision. The importance to Schmitt of maintaining legal certainty as a partial or limited account of the just will become clearer as we examine his theological position in more detail in Chapter 3. Third, as we will see in the course of the next two chapters, Schmitt’s account of legal certainty as an objectively knowable standard for judicial decisions is not as free from moral presuppositions as it is presented in *Gesetz und Urteil*. Schmitt’s seemingly sober or scientific account of what is necessary for a just decision in this early work is in fact based, as we will see, on a moral and theological position that Schmitt conceals there.



The decisionistic interpretation of Schmitt, in refusing to take seriously the problem Schmitt poses concerning the relation of norms and decisions, fails to attain an accurate view of Schmitt's true concerns and therefore offers an incomplete picture of what Schmitt aims to accomplish. Specifically, the view of Schmitt as an admirer of the difficult decisions tends to cut short an investigation of the potential moral and theological claims at the basis of Schmitt's analysis of judicial decision. Moreover, as we will see in the next section, it is clear that, while Schmitt's thought may not ultimately escape the consequences of decisionism that are attributed to it, Schmitt himself is critical of what he defines as the 'decisionist' position, a position he considers to be typified by the counter-revolutionaries Joseph de Maistre and Juan Donoso Cortés. Understanding the reason behind both Schmitt's admiration for and his quarrel with these counter-revolutionary thinkers will give us greater insight into what Schmitt is trying to accomplish with his particular emphasis on decision and its problematic relation to the norm of justice.

### *The relation of Schmitt's thought to decisionism*

Schmitt has long been characterized as not only an admirer but a follower of the nineteenth-century counter-revolutionaries Joseph de Maistre and Donoso Cortés, who, according to Schmitt, "thrust the notion of the decision to the center of their thinking" (PT, 53).<sup>10</sup> However, I will argue that reconsidering Schmitt's analysis of these thinkers in the concluding chapter of *Political Theology* in the light of what we have learned about the importance of

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<sup>10</sup> Löwith, "The Occasional Decisionism of Carl Schmitt," 143-145; Wolin, "The Conservative Revolutionary Habitus and the Aesthetics of Horror," 435, 437.

decisions to Schmitt in *Gesetz und Urteil*—that decisions are the locus of the problem rather than the solution to the problem—reveals a more complicated picture of Schmitt’s relation to these thinkers. Indeed, while some careful readers have acknowledged that Schmitt’s statements on the counter-revolutionaries in *Political Theology* hardly seem to be unblemished praise,<sup>11</sup> understanding the precise reasons for both Schmitt’s admiration and his criticism of the counter-revolutionaries will sharpen our understanding of how Schmitt attempts to approach what he sees as the human problem: the need to act, and the obligation to act justly, despite incomplete knowledge of what justice is. Additionally, once one sees that Schmitt’s relation to the counter-revolutionaries can be better understood in the light of insights gained from *Gesetz und Urteil*, one may concede that this essay deserves to be considered as seriously as Schmitt’s later work.

Although one of Schmitt’s main points in *Political Theology* is to argue for the importance of considering ‘decision’ a necessary aspect of political order—it is in this book that Schmitt coins the word “decisionist” and famously defines the sovereign as “he who decides on the exception” (PT, 33, 5)—it should be obvious from Schmitt’s concluding characterization of de Maistre that he is aware of the problems of focusing exclusively on the aspect of the political that is the decision. According to Schmitt, de Maistre is so focused on decision that he sanctions “a reduction of the state to the moment of the decision, to a pure decision not based on reason and discussion and not justifying itself, that is, to an absolute decision created out of nothingness” (PT, 66).<sup>12</sup> Schmitt points out that this conclusion undermined de Maistre’s own goal, which was to seek a concept of sovereign legitimacy (PT, 65). As Schmitt remarks, “this decisionism is essentially dictatorship, not legitimacy” (PT, 66). Similarly, Schmitt judges that

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<sup>11</sup> McCormick, “Irrational Choice and Mortal Combat as Political Destiny,” 322-324.

<sup>12</sup> Several commentators cite this sentence as if it were Schmitt’s own opinion; see Scheuerman, *The End of Law*, 33, 35, 45; Wolin, “The Conservative Revolutionary Habitus and the Aesthetics of Horror,” 437.

in Donoso Cortés’s articulation, “the legitimist principle of succession becomes...empty dogmatism” (PT, 66). Although it is often believed that Schmitt follows the counter-revolutionaries in their exclusive emphasis on decision, it is hard to see this description of the logical consequence of counter-revolutionary thought as praise.

Looking at Schmitt’s characterization of de Maistre in light of what we have learned from *Gesetz und Urteil*, we can begin to distinguish Schmitt’s position from the exclusive emphasis that the counter-revolutionaries place on decision. As we have seen, Schmitt remarks that de Maistre emphasizes that the decision is “not based on reason” (PT, 66). To the contrary, we have seen in *Gesetz und Urteil* that it is essential to Schmitt that the decision be justified by legal reasoning. In fact, the most important moment in jurisprudence for Schmitt is the justification of the decision. The particular criticism Schmitt makes of de Maistre in *Political Theology* makes clearer that judicial decisions as such are not important to Schmitt—for the decision that is rejected by the generality of judges has no meaningful existence for jurisprudence—but only those decisions which successfully justify themselves, which are accompanied by legal reasoning that successfully convinces other judges that the decision in question will contribute to legal certainty.<sup>13</sup> Schmitt’s criticism of de Maistre for undermining his own goal of seeking a concept of legitimacy reminds us that Schmitt too seeks a concept of legitimacy—of a standard for the correctness of decisions—and indicates that Schmitt is aware of the danger that an overemphasis on decision poses to this.

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<sup>13</sup> Likewise, in Schmitt’s understanding of the political, the sovereign decision is not self-justifying, but is ‘legitimated’ by the people’s acceptance and obedience. “To the political belongs the idea, because there is no politics without authority and no authority without an ethos of belief” (RC, 17). This is not just an early opinion: see GL, 3.6.48, “all power stems from God or from the people (from the people in the sense of the identity of power and lack of power, in the sense of the legitimation of the command through obedience).” Kalyvas’s use of Schmitt for a program of ‘radical democracy’ is built on this point.

With this in mind, it is possible to look ahead and see an analogy between the problem Schmitt sees in articulating a standard for judicial decisions and the problem he sees in elaborating a concept of political legitimacy. In one view, Schmitt seems to accord both the judge in *Gesetz und Urteil* and the sovereign in *Political Theology* entirely free reign in the making of decisions: Schmitt insists that the sovereign has “unlimited authority” in the moment of exception, during which the “decision frees itself from all normative ties” (PT, 12). And yet, as we have seen with the judge, who must reckon with norms not to *derive* his decision but in order to present the *reasoning* for his decision, the sovereign too must have an eye on norms: for Schmitt, the purpose of the sovereign decision in a “state of exception” is to re-create a “normal condition” in which decision recedes to a minimum and allows the established norms to rule more directly (PT, 13).<sup>14</sup> Schmitt’s understanding of the relation of sovereign decision and normal order makes clearer one of the more obscure statements of *Gesetz und Urteil*—that the judicial decision does not derive from norms, but creates norms with the help of norms.<sup>15</sup> Similarly, in his political argument, Schmitt claims that sovereign authority “proves that to produce law it need not be based on law” (PT, 13). By comparing Schmitt’s formulation of the same problem in two different disciplines, we see more clearly the particular problem on which he is focusing: in more familiar political terms, how the state can both create law and be subject

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<sup>14</sup> Kalyvas emphasizes the importance of the norm as well as the decision to Schmitt’s understanding of sovereignty, arguing that for Schmitt “while dictatorship is *norm-breaking*, sovereignty is *norm-founding*... [it] represents the genesis of a new legality” (*Politics of the Extraordinary*, 91-92). Giorgio Agamben also focuses on the relation Schmitt attempts to draw between the norm and decision with his definition of sovereignty, pointing out that for Schmitt “the suspension of the norm does not mean its abolition, and the zone of anomie that it establishes is not (or at least claims not to be) unrelated to the juridical order” (*State of Exception*, 23). (Agamben is concerned about this kind of legal thinking.)

<sup>15</sup> “That by which the decision legitimates itself does not stand before it (as a positive law, a cultural norm, or a norm of ‘free law’), but is first produced through it (with the *help* of the positive law or the cultural norm, or the norm of ‘free law’)” (GU, 97).

to it.<sup>16</sup> In the next chapter, I will develop these parallels between Schmitt's jurisprudential and political arguments at greater length. For now, it is important to notice that a reading of *Gesetz und Urteil* suggests that an accurate interpretation of both Schmitt's jurisprudential and political concerns would put emphasis not solely on the fact of decisions, but on the question of how decisions can create legal certainty or normal order. The fact of decisions seems to pose a problem—rather than serve as an answer—for Schmitt in the realm of political order as well as in the realm of jurisprudence.<sup>17</sup>

Why, then, does Schmitt express admiration for the counter-revolutionaries, with their allegedly exclusive emphasis on decision, at all? The first thing one must remark upon is that Schmitt writes about the counter-revolutionaries in *Political Theology* explicitly in order to defend them from being labeled “Romantics” (PT, 53). In order to understand Schmitt's admiration for the counter-revolutionaries, then, we must understand why he wants to distinguish them from the Romantics.<sup>18</sup> Our understanding of Schmitt's position on the counter-revolutionaries must therefore take into account his view of the Romantics, and attempt to

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<sup>16</sup> As Schmitt puts it in *Political Theology*, “although [the sovereign] stands outside the normally valid legal system, he nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its entirety” (7). Or as Schmitt writes elsewhere, “through his likeness to the divine, which the monarch attains by being a “living law,” he becomes immediately subordinated to the law, just like the God of theology, whose all-powerful will cannot will anything evil or unreasonable” (WS, 96). See Peter Caldwell, *Popular Sovereignty and the Crisis of German Constitutional Law*, especially Chapter 2, for a discussion of how and why this problem was important in German jurisprudence at the time of Schmitt's writing. In jurisprudential terms, one could see this problem as: how is it possible for a judge both to assist in the creation of law through the establishment of precedent and yet to be subject to law in his judgments.

<sup>17</sup> It is worth noting that the definition of decisionism that Schmitt offers in *Political Theology* is of more limited scope than usually recognized: decisionists are those who have an “awareness of the normative character of the legal decision” (PT, 33).

<sup>18</sup> As McCormick has pointed out, involved in this assessment is Schmitt's endeavor to expose the hollowness of the Romantic's typical ‘conversion’ to Catholicism, and to combat the popular identification of Romanticism and Catholicism. Schmitt's distinction between the Romantics and the counter-revolutionaries, therefore, seems to have to do with his understanding of Catholicism. As McCormick also remarks, while Schmitt seems to have thought that the counter-revolutionaries were better Catholics than the Romantics, he ultimately finds fault with Cortés on Catholic grounds (*Carl Schmitt's Critique of Liberalism*, 63). In the *Glossarium*, Schmitt goes so far as to state that Cortés “failed theologically” (because he did not know the concept of the *katechon*) (19.12.47).

discern how Schmitt intends to use the discussion of the counter-revolutionaries to address the larger problem he sees at stake in the Romantic/ counter-revolutionary distinction.

In Schmitt's analysis, the difference between the Romantics and the counter-revolutionaries centers on the opposition between the Romantic attempt to resolve problems by finding "a synthesis and a 'higher third'" and the counter-revolutionary insistence that "there was now a great alternative that no longer allowed of synthesis" (PT, 53). (Or, in Schmitt's more derisive formulation of the counter-revolutionary position: "wherever Catholic philosophy of the nineteenth century was engaged...everyone formulated a big either-or" (PT, 53). What is at stake between the Romantics and the counter-revolutionaries, in Schmitt's view, then, is whether 'synthesis' is possible. Schmitt makes clear that the counter-revolutionaries did not consider synthesis impossible in every respect by emphasizing that Cortés, who was a diplomat, not only understood that practical compromises had to be made but in fact regularly orchestrated them (PT, 61). In making this remark, Schmitt makes clear that the issue concerning 'synthesis' between the Romantics and the counter-revolutionaries does not revolve around a practical question, such as whether negotiation between two political positions is possible or desirable.

What seems significant for Schmitt is that Cortés did not confuse these practical compromises with a true, theoretical synthesis of the opposing positions.<sup>19</sup> By contrast, it appears that in Schmitt's view the Romantics are not simply triangulators in practice, but much more significantly, that they understand their 'higher thirds' to be true theoretical resolutions of the problems (PT, 60-61). Whereas counter-revolutionaries, according to Schmitt, make

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<sup>19</sup> "Both [de Maistre and Cortés] were diplomats and politicians with much experience and practice and had concluded sufficiently sensible compromises. But a systematic and metaphysical compromise was to them inconceivable" (PT, 61).

necessary practical compromises while remaining aware that their negotiations do not constitute an ultimate solution to the underlying problem, Romantics confuse practical compromises with theoretical solutions. The difference between the counter-revolutionaries and the Romantics that Schmitt focuses on, therefore, concerns the issue of the relation of theory and practice (as we have seen, an important matter for Schmitt in *Gesetz und Urteil*)—and more specifically the matter of one’s awareness of the difference between ‘solutions’ in practice and ‘solutions’ in theory.

Seeing this allows us to rephrase the terms of the debate concerning where Schmitt stands in relation to the counter-revolutionaries and the Romantics, as well as gain insight into the larger issue of Schmitt’s approach to the question raised by the necessity of decision in human life. What is at stake for Schmitt in his discussion of the Romantics and the counter-revolutionaries, I argue, is how these two camps conceive of and respond to problems.<sup>20</sup> Schmitt portrays the dichotomy thus: when Romantics confront a polarity, they seek a synthesis, but when the counter-revolutionaries confront a polarity, they emphasize the difference of the two poles and insist upon the necessity of a decision between them (a ‘big either-or’). What is Schmitt’s position on each of these approaches, and how does Schmitt himself attempt to address this problem? We have seen that Schmitt seems to admire the counter-revolutionary determination to remain aware of the theoretical problem even as a practical solution is devised. We should therefore look next at Schmitt’s critique of the Romantic position to discover

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<sup>20</sup> In this respect, I depart from McCormick, who thinks that Schmitt distinguishes the counter-revolutionaries from the Romantics because of their resolution to act. I will argue that Schmitt’s favoring the counter-revolutionaries over the Romantics has more to do with what the counter-revolutionary approach to action reveals about their thought (*Carl Schmitt’s Critique of Liberalism*, 52-53, 75).

precisely why he considers Romantics to be incapable of remaining aware of the theoretical problem that Schmitt sees at the core of the human predicament.

Romantic thought, according to Schmitt, obscures polarities in the course of seeking ‘higher thirds.’ In his satirical essay *Political Romanticism*, Schmitt explains that the Romantics seek these higher thirds in order to avoid making a decision; indeed, a marked characteristic of a Romantic as Schmitt presents him is the unwillingness to or incapability to make a decision (PR, 116). This characterization has misled readers into thinking that Schmitt, against the Romantics, intends to stand up for the goodness of decisions as such, and to propose ‘decisiveness’ as a standard for action. That this is a misperception becomes clear once one recognizes the reason for which Schmitt understands the Romantic to be adverse to decisions. In Schmitt’s characterization, the Romantic prides himself on responding subjectively and spontaneously to each situation, on reacting uniquely to each occasion. As Schmitt explains, this resolute subjectivism is anathema to any “concept of what is normal and what is right,” for the discovery of an objective standard would make the idiosyncratic reflections of the Romantic irrelevant (PR, 161). As Schmitt points out, “the normal is unromantic because every norm destroys the occasional license of the Romantic” (PR, 161). It appears that Schmitt’s analysis ultimately concludes that Romantics are most threatened *not by decisions but by norms*.

It therefore appears that Schmitt’s quarrel with the Romantics does not primarily concern their passivity—for in the end, they do in fact make a decision and act—but focuses more on his allegation that Romantics find it impossible to act with conscious reference to norms. In other words, the crucial Romantic fault for Schmitt is that they cannot grasp theoretically the relation of norms and decisions in practice. Several commentators argue that Schmitt lapses into



Romanticism despite himself because, in the attempt to counteract the Romantics, he makes an ungrounded stand for action and decision.<sup>21</sup> Schmitt's criticism of the Romantics, however, focuses neither on their passivity, nor on the intermittent action resulting from that passive stance. Schmitt's critique centers on the way in which the Romantics think, the way they conceive of the human problem. Schmitt discerns the flaw in Romantic thought in their characteristic inability to distinguish between theory and practice—because they see norm and decision as absolutely theoretically opposed, they assume that in practice decisions cannot be made with reference to norms. When the need to act arises, Romantics who want to justify their action believe themselves to be required to articulate a *theoretical* synthesis between their particular decision and an objective norm, in other words, to justify their action absolutely. The counter-revolutionary way of thought is, in Schmitt's view, importantly different and significantly better than the Romantic because counter-revolutionaries distinguish between the theoretical impasse between norms and decisions and the practical demand that decisions be made with reference to norms. Counter-revolutionaries are therefore, according to Schmitt, able to remain aware of the theoretical problem at the core of the human predicament even while pursuing practical compromises.

However, as we have seen, Schmitt is not uncritical of the counter-revolutionary position. In fact, we can distinguish Schmitt's own approach to what he sees as the human predicament most clearly by looking at what he believes to be the crucial weakness in the counter-revolutionary conception of the problem. We have seen that Schmitt rejects the counter-revolutionaries' exclusive emphasis on decision in politics; in fact, we discover upon closer

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<sup>21</sup> Victoria Kahn, "Hamlet or Hecuba: Carl Schmitt's Decision," 68; Löwith, "The Occasional Decisionism of Carl Schmitt," 140. McCormick asks: "what makes [Schmitt's] theoretical-political moves any less random aesthetic 'occasions' for Schmitt's own romantic 'despair' than the passive and pessimistic enrapture of Weimar intellectuals with technology?" (*Carl Schmitt's Critique of Liberalism*, 110, 18).

examination that he distances himself even more determinatively from their method of thinking. In Chapter 3 of *Political Theology*, Schmitt discusses the counter-revolutionary tactic of turning the argument of the socialist revolutionaries on its head. As Schmitt portrays it, counter-revolutionaries argue against the Marxist contention that material conditions create a superstructure of thought by retorting that, in fact, a “change in thought” causes “a change in the political and social conditions” (PT, 43). As Schmitt points out, this response, while clever, in the end amounts to a simple inversion of materialism. Upon closer analysis, Schmitt argues, the counter-revolutionaries actually accept the Marxist analysis of the polarity between the spiritual and the material, and simply choose to emphasize and admire the opposite pole. Schmitt explains why he is dissatisfied with this strategy:

Both the spiritualist [counter-revolutionary] explanation of material processes and the material explanation of spiritual phenomena seek causal relations. At first they construct a contrast between two spheres, and then they dissolve this contrast into nothing by reducing one to the other. This method must necessarily culminate in a caricature (PT, 43).<sup>22</sup>

The radical ‘spiritualism’ of the counter-revolutionaries is unsatisfactory to Schmitt because it ultimately proves unable to distinguish between the material and the spiritual, dissolving the ‘contrast into nothing,’ that is, making everything into spirit. In other words, what Schmitt attacks here is the excessive polemicizing of the counter-revolutionaries, in that he points out that it is impossible to maintain two conceptually distinct poles (a condition for the decision that according to him the counter-revolutionaries admire above all) if one is determined to prove the

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<sup>22</sup> Those who believe that the spiritual and the material are in utter contradiction are among Schmitt’s chief opponents, as we will see in Chapter 3.

self-sufficiency of the pole one considers most important. Exclusive emphasis on one pole dissolves the polarity.<sup>23</sup>

In the final analysis, it seems that Schmitt thinks that the counter-revolutionaries' emphasis on the inevitability of decision is such that it becomes impossible to decide against their position. Schmitt's analysis of the contradictions inherent in the counter-revolutionary mode of thought should cause one to recognize that the seeming 'caricature' of the counter-revolutionary political position in Chapter 4 of *Political Theology* is in Schmitt's opinion nothing more than an accurate depiction of the 'necessary' consequence of the counter-revolutionary 'method' of thought, the way that they approach problems.<sup>24</sup> While Schmitt admires the counter-revolutionaries for attempting to remain aware of the theoretical problem of the relation of norms and decisions, his critique implies that their particular way of understanding this problem does not allow them to give a coherent account of the necessity of decision in practical life; in other words, the counter-revolutionary method of conceiving the problem of the relation of norms and decisions, in Schmitt's analysis, does not in the end sufficiently account for the theoretical dilemma these two elements pose.

It appears that Schmitt intends to depart from the counter-revolutionary way of thinking in order to give a more accurate account of the relation of the material and the spiritual, the

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<sup>23</sup> One could level this same critique at the counter-revolutionaries' approach to politics. As Schmitt presents it, the polarity that de Maistre detects in political matters of his time was the struggle between the conception of politics as an "everlasting conversation" and as a moment of decision; de Maistre focuses his understanding of the state on the moment of decision to the exclusion of all else, thereby in essence deciding for the decision (PT, 53). In the light of Schmitt's analysis, then, de Maistre seems to pose a false antithesis by having 'decision' serve as both one of the poles and his answer to the political dichotomy he confronts.

<sup>24</sup> Schmitt distances himself definitively from the counter-revolutionaries in *Political Theology* by asserting that it would be "erroneous to believe" that he means to pursue a "spiritualist philosophy of history," as they have (PT, 42). Schmitt's assessment of the shortcomings of counter-revolutionary thought in fact becomes even more pronounced in his later works. In *Political Theology II*, Schmitt remarks: "there is a dangerous parallel between the Counter-Reformation and the Counter-Revolution" (51).

problem of decision and norm than the counter-revolutionaries do. It seems, therefore, that Schmitt will not follow the counter-revolutionaries entirely—neither in making ‘decision’ an answer to the human problem, nor in polarizing the material and the spiritual, the norm and the decision, to the extent that the significance of their practical relation is obscured. As we have seen in *Gesetz und Urteil*, Schmitt in fact focuses most keenly on the moment in which norm and decision meet in practice, and attempts to derive from that instance a standard for the correct decision.

Our reading of Schmitt’s later work on the basis of insights opened up by *Gesetz und Urteil* has allowed us to draw some new conclusions: first, that he intends to criticize both the Romantics and the counter-revolutionaries, second, that he considers an articulation of the relation of norms and decisions, rather than a celebration of decisions, to be of foremost importance; third, that he appears to favor the counter-revolutionaries over the Romantics because counter-revolutionaries refuse to see their political compromises, while at times necessary, as final answers to the question of what is right. Romantics, on the contrary, in Schmitt’s view do not understand the problematic character of their compromises; the ‘higher third’ is for the Romantic an absolutely correct answer to the problem of justice, a complete view of what is right. In other words, Schmitt favors the counter-revolutionaries because they maintain a humbler view of the ultimate justice of their actions.

Understanding this also reveals more clearly *why* Schmitt finally sides *neither* with the Romantics nor with the counter-revolutionaries. Schmitt concentrates on the moment in which norm and decision in practice exist with reference to each other because he wants to articulate a standard for correct decisions without losing sight of the difficulty of the problem of just action, that is, while remaining aware of the ultimately unbridgeable gap between the norm of justice

and the act of decision, which is for Schmitt the condition in which human beings find themselves. According to Schmitt, both the Romantics and the counter-revolutionaries ultimately fail at this task.

*The jurist as exemplary of the human situation*

In *Gesetz und Urteil*, we see that Schmitt attempts to derive a standard for just action from an examination of the moment in which norm and decision attain a relation in practice, arguing, first, that a purely theoretical view of the law derives *different* standards than a theoretical examination of the justice implied in and required for a correct judicial decision (GU, 11). It becomes clear, however, that the theoretical view of justice and the view gained from the examination of practice are not simply two equally valid views of justice, in Schmitt's opinion. In fact, Schmitt makes plain that he considers the aspect of justice that he elaborates by focusing on judicial practice constitutes a *superior* criterion by which to measure judicial decisions (GU, 51). Why does Schmitt consider legal certainty a superior criterion of justice?

Our reading of Schmitt's critique of the Romantics and the counter-revolutionaries suggests that the criterion of legal certainty is superior for Schmitt precisely because it is obviously partial, and therefore contains in itself an acknowledgment of what Schmitt sees as the intractable problem of just action. On Schmitt's view, it seems that the divide between theory and practice—between the limits on our knowledge and what we are obliged to do—requires that we act on a partial understanding of justice. By distinguishing as he does between the counter-revolutionaries and the Romantics, Schmitt makes clear that the awareness of the intractable problem of just action is in his view already a mark of the superiority of one's position. Elaborating the implications of legal certainty as a partial criterion of justice is therefore

‘superior’ in his view to investigating the truth of substantial views of justice that present themselves as complete understandings of the just.

This suggestion serves to explain an otherwise puzzling aspect of Schmitt’s thought: why he is silent concerning the part of justice that is not explained by legal certainty, why he does not examine the various other substantive understandings of justice that would have to complement the requirement of legal certainty.<sup>25</sup> By differentiating his aims from Bentham’s, Schmitt makes clear that he does not intend to consider the different ends to which a community could devote itself. Rather, Schmitt claims to think about the problem of just action *juristically*—within the context of a given law. Legal certainty then appears to be what justice looks like from the perspective of a judge, from the perspective of someone who is professionally obliged to act to further the realization of justice on the basis of a given law that he did not create and cannot change. The human situation is well represented by the position of the judge, it seems for Schmitt, because human beings generally are faced with an analogous problem: like the judge, they are forced to act and to attempt to act justly, without however having direct access to a full understanding of justice or morality. Like the judge, we are faced with the problem that there is a gap between the given and therefore mysterious law and the aspect of justice that is “in our own power” to know (GL, 22.6.48).

Understanding the significance of the judge’s perspective to Schmitt allows us to discern a possible explanation for Schmitt’s focus on the standard of legal certainty to the exclusion of all other accounts of justice. Legal certainty clearly attains its special status in Schmitt’s thought because it is, at least according to Schmitt’s presentation, a standard of justice that can be

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<sup>25</sup> As we noted above, Schmitt presents the aspect of a decision or law that is indifferent to content (the aspect that can be held to the standard of ‘legal certainty’) as necessarily only a part of the decision or law, dependent “to a certain degree” on the kind of law in question (GU, 48).

objectively determined and recognized. In other words, Schmitt claims that legal certainty is a valid standard for just decisions, regardless of the law in question; legal certainty also holds as an objective standard of justice across varied communities. Therefore, Schmitt presents the justice of legal certainty as independent of the various substantive understandings of justice with which it must be found in practice. Regardless of the content of the full, mysterious moral law, then, legal certainty remains for Schmitt a certain standard for just action.

It seems that legal certainty occupies a place in Schmitt's thought similar to 'the political' in the sense that Schmitt claims legal certainty has a moral value and yet presents his understanding of this moral criterion as itself not based on a moral position. In other words, Schmitt seems to intend to present legal certainty, like the political, as both an objectively recognizable fact *and* a good to be desired and sought. Moreover, as we will see in more detail later, Schmitt's seemingly scientific standard of legal certainty, like his view of 'the political,' is not as free of moral presupposition as it appears in his presentation. In the context of *Gesetz und Urteil*, we might pursue this question by noticing that Schmitt's argument about legal certainty is based on the assumption that norms and decisions relate in practice, and wondering on what basis Schmitt claims to know that this is the case, especially given that he claims to know absolutely that norms and facts cannot relate in theory. Indeed, Schmitt sidesteps this question in *Gesetz und Urteil* by claiming to limit his focus to the perspective of a judge, to the understanding of justice implicit in judicial practice. In other words, in *Gesetz und Urteil* Schmitt attempts to reveal what the realization of justice would require if the ends of judicial practice—to further the realization of justice in the community—were possible. Underlying Schmitt's discussion of legal certainty in *Gesetz und Urteil*, then, is the presupposition that, if justice can exist in the world, some kind of coincidence of norm and decision must be possible.

It therefore appears that Schmitt's search for the standard of correct judicial decision is an investigation of what would be necessary if it is possible for justice to be done in the world. As we will see, this presupposition has for Schmitt an important moral and theological basis; like the political, the standard of legal certainty is in fact based on a moral position.

This chapter intended to show that in *Gesetz und Urteil*, which I argue contains an early articulation of the overall problem that characterizes Schmitt's work, decisiveness does not serve as a standard for correctness; within the realm of jurisprudence, decisions are part of the problem for Schmitt rather than the answer. A brief look at *Political Theology* indicated that this might be a fruitful perspective with which to approach Schmitt's more directly political work. While I have suggested an analogical understanding of the relation of legal decision to sovereign decision and legal certainty to normal order, it remains to be seen exactly how Schmitt understands the link between jurisprudence and politics, and how he sees the problem of decision to appear in these two fields. In the next chapter, I will turn to *Der Wert des Staates und die Bedeutung des Einzelnen* [*The Value of the State and the Meaning of the Individual*], which Schmitt published in 1914, shortly after *Gesetz und Urteil*. In this later work, Schmitt turns his focus to political rather than strictly jurisprudential problems.

A reading of *Wert des Staates* will also give us a more detailed picture of the method Schmitt elaborates in distinction to the Romantics and the counter-revolutionaries, the particular way in which he attempts to think about the polarities of norm and decision, the spiritual and the material. The answer that Schmitt proposed in *Gesetz und Urteil* for the relation of norm and decision was both clear—they are logically opposites; they reach their point of closest contact in legal reasoning—and puzzling, since the meaning of the fact that judicial reasoning naturally



aims at legal certainty is not entirely obvious. In *Wert des Staates*, as we see the jurisprudential problem on which Schmitt concentrates mirrored and amplified into a political problem, we can begin to grasp the greater significance of both the problem and Schmitt's indication that 'legal certainty' can serve as an answer.

## Chapter 2: Politics

The purpose of this chapter is to examine how Schmitt defines and evaluates ‘the political’ in his first explicitly political treatise, *Der Wert des Staates und die Bedeutung des Einzelnen* [*The Value of the State and the Meaning of the Individual*, 1914]. We will find that Schmitt poses ‘the political’ as a problem in this early work, indeed, as a problem analogous to the problem of the correct decision on which we focused in *Gesetz und Urteil*. Schmitt’s manner of approaching the problem of the political in this work leads him to insist, on the one hand, that political authority is absolutely morally justified, while on the other characterizing every actual state as necessarily doing harm to justice. In this chapter we will examine how Schmitt reaches this peculiar position.

In the first section of this chapter we will see that the structural problem Schmitt discerns behind the issue of the correct decision—the logically unbridgeable gap between norm and decision—is similar, in Schmitt’s view, to the problem of the nature and purpose of the state, which in his analysis exists between the logically irreconcilable realms of justice and power. Furthermore, we find that just as Schmitt overcomes the impasse that arises from the theoretical view of jurisprudence by turning to judicial practice to derive standards for judicial decisions, so he argues that the problems revealed by a theoretical perspective of the state can be addressed by discovering what the state must take as its guiding standard in practice if justice is to be possible. In both cases, we see, pure theory poses a problem that Schmitt argues can be answered only by an elaboration of the standards implicit in practice.

In the second section of this chapter, we will see how the perspective Schmitt takes leads him to argue for a peculiar relation of the political and the moral, one that will give insight into

the contradictory accounts of the political and the moral in his later works. On the one hand, Schmitt claims that an objective definition of the state requires one to presume that there must be a “harmony” between the state and justice, and on the other hand, Schmitt insists that the state’s act of attempting to realize justice necessarily betrays the norm of justice (WS, 47). In the third section we will examine how this view of the relation of politics and morality that Schmitt sets out in his articulation of the problem of the state in *Wert des Staates* issues in his insistence that the individual must submit to the state, though the state is necessarily an inadequate representative of justice. In this section, we will also see how Schmitt’s attitude toward the political in this early work is echoed in his later writings.

In the final section of this chapter, we will turn back to *Wert des Staates* to examine Schmitt’s discussion of the Roman Catholic Church, since the contradictory accounts that Schmitt gives of the relation of politics and morality can be found in condensed form in his analysis of the chief strength and the greatest fault of the Roman Catholic Church. Looking closely at this example will show us why Schmitt presents ‘the political’ both as an absolute good to which the individual should submit, and as necessarily only partially definitive of justice.

#### *Parallels in the jurisprudential and the political problems*

A reading of *Gesetz und Urteil* and *Wert des Staates* reveals remarkable parallels between the jurisprudential and the political problems as Schmitt sees them. In order to discern these, we should first review what we learned in the last chapter about Schmitt’s understanding of the problem of the correct decision, and about the standard for judicial decisions that Schmitt

believes can be derived from an accurate understanding of this problem. The problem of the correct decision in Schmitt's view stems from the difficulty posed by the fact that norms and decisions are theoretically unrelated, that they belong to 'entirely different spheres.' Schmitt concludes from this insight that decisions cannot be derived from norms. However, as he explains in that jurisprudential tract, decisions and norms do become related in a specific kind of practice, in the act of legal reasoning, in which the judge attempts to justify his decision to other judges by showing how it relates to commonly accepted or potentially acceptable norms.

Since every act of judicial reasoning puts both the decision and the norms in question, Schmitt argues, one cannot weigh the judge's argument by measuring it against any norm. The only standard by which the judge's decision can be measured consistently and objectively is that of legal certainty, a standard exemplified by the question of whether another judge would view the decision in question as correct, as a legitimate part of the normal order. Schmitt argues, moreover, that legal certainty is not only an instrumental requirement for the realization of justice, but an aspect of justice itself; indeed, legal certainty appears to be particularly significant for Schmitt as the only aspect of justice to which a judge can directly appeal. The problem of the correct decision, which arises for Schmitt because of the theoretical polarity of norms and decisions, can therefore be addressed, Schmitt argues, by looking at the normative principle implied in judicial practice. From this we discern, Schmitt concludes, that a judge acts justly when he strives for legal certainty.

The problem Schmitt addresses *Wert des Staates* bears a remarkable structural similarity to the problem he discerns in jurisprudence. Schmitt begins *Wert des Staates* by examining, on a purely theoretical level, the problem of the relation of justice and power, or right and might

[*Recht* and *Macht*]. The essay opens with a remark that points to the difficulty Schmitt sees in determining what is right:

If the opinion that all right results only from the factual relations of power ... could be analogously transferred to the realm of scientific opinions, then the question concerning the relationship of right and might would already be decided. Because the number of those... who consider right as having a solely factual basis is so great, that they certainly possess the overwhelming power. ...But as soon as we inquire into reasons and their correctness [*Richtigkeit*], the matter can only be decided by argument (WS, 15).

The problem Schmitt raises here is that what is right (whether in the sense of ‘correct’ or ‘just’) cannot be determined by majority vote; indeed, Schmitt points out, while the political thinkers of his day were apparently converging around the opinion that ‘might makes right,’ they would never think of applying that principle as a standard to judge their own theoretical endeavors. With this remark, Schmitt seems to mean to expose the theoretical gap between the domain of ‘right’ and the domain of ‘might.’ Specifically, he seems to intend to make us aware of this contradiction in the thesis that ‘might makes right:’ if everything is might, by definition might cannot generate something other than more of itself, therefore, it cannot generate ‘right.’ As Schmitt remarks, the theory that ‘all is power’ can explain, but it cannot justify (WS, 18). The reliance on “causal explanations,” typical of “power-theory” [*Machttheorie*], Schmitt argues, dissolves “all right into a playing out of forces, in which a judgment about sanctioned and unsanctioned (right) is without meaning” (WS, P9).

Schmitt sees a similar problem, however, in normatively-oriented legal theory [*Rechtstheorie*], which attempts to derive all ‘might’ from ‘right,’ or to account for what has attained power from the perspective of the norm of justice. Against this view, Schmitt argues that a norm cannot “desire,” that justice does not have a will (WS, 34). In Schmitt’s perspective, one cannot understand the norm of justice as having a “purpose,” because “purpose” is an

attribute only of “realities” like people or collectivities (WS, 34). While it is conceivable that a person or a state might understand its task to be the ‘realization’ of justice, precisely in this desire or striving, Schmitt argues, it distinguishes itself from justice strictly speaking. Schmitt concludes that there is a “boundary that divides justice and reality... justice cannot desire to realize itself,” and therefore that the attempt to comprehend what has attained power from the point of view of what is just—to derive ‘might’ from ‘right’—is equally mistaken as the attempt to view all as power (WS, 35).

The conclusion Schmitt draws from his exercise of taking on the perspectives of the *Machtstheoretiker* and the *Rechtstheoretiker* is that, “strictly speaking—and philosophy can only speak strictly—the two worlds of right and of might must stand next to each other in incompatible independence” (WS, 22). In theory, it seems, right and might are each incomprehensible from the perspective of the other. There is an obvious parallel here to Schmitt’s argument in *Gesetz und Urteil* that norm and decision belong to ‘entirely different spheres;’ in *Wert des Staates*, Schmitt concludes that, if justice cannot be derived from facts, one must acknowledge the “opposition of two worlds,” a “duality that corresponds to the antithesis of is and ought, of normative and genetic, critical and scientific views” (WS, 20).

In *Gesetz und Urteil*, the problem posed for Schmitt by the theoretical incompatibility of norm and decision concerns the difficulty of deriving a standard for correct decisions. In the context of *Wert des Staates*, the theoretical incompatibility of might and right poses a problem for Schmitt in understanding the proper task of the state. The question of *Wert des Staates* contains an implicit parallel to that of *Gesetz und Urteil*, in that in both works a purely theoretical view reveals problems that Schmitt determines are insoluble from that perspective.

Moreover, it is not simply that the judicial decision and the state cannot be *evaluated* from a purely theoretical perspective; Schmitt in fact argues, as we will see below, that their essences cannot be *grasped* from the point of view of pure theory.

Neither *Machttheorie* nor *Rechtstheorie* provide, according to Schmitt, a perspective sufficient to understand the nature of the state. On the one hand, Schmitt writes, power-theorists argue that the state is the empirically “highest power,” but, Schmitt claims, this explanation falters when trying to explain how there are many ‘highest powers’ coexistent in the world at the same time (WS, 44). Exploiting this fault, Schmitt argues that the ‘highest power’ of a state cannot be understood as purely physical dominance, something that can be measured empirically (WS, 47). Rather, Schmitt claims, the ‘highest power’ that a state exercises is not simply a matter of physical force, but must also include a claim to justice: “the ‘highest power’ that the state exercises is in its essence a unity that only can be won by criteria of value” (WS, 47-48). In other words, the particular power of the state in Schmitt’s view consists in its ability to constitute a group of people around a particular ‘value,’ or view of what is right. On the other hand, however, Schmitt argues that the state cannot be understood simply as a manifestation of a certain criterion of justice, for the state, as a ‘reality,’ cannot be a direct emanation of justice, even in the best case. The problem as Schmitt sees it is that, since *Machttheorie* cannot take right into account, but dissolves everything into power, and *Rechtstheorie* cannot take ‘realities’ into account, neither approach is sufficient to grasp what the state is.

As in *Gesetz und Urteil*, Schmitt finds that the most promising approach to these questions requires a departure from ‘pure theory.’ Schmitt therefore turns his attention to how the state appears in practice, or what must be true about the state in order for it to function. In

particular, Schmitt proceeds by inquiring how the state must be understood in order for jurisprudence to be possible; he states at the outset of his book that he will offer a “jurisprudential theory of the state” (WS, 14). Schmitt then argues that “the most elementary points of departure of all juristic activity, the simple possibility of a law or an interpretation, involve the recognition of a coherence, they require a legitimacy which cannot proceed from a fact but only from a norm” (WS, 49-50). Jurisprudence requires that a state appeal to something other than physical security; for law and judgment to make any sense, Schmitt implies, the state must claim to stand for what is right. Jurists must act on the supposition that the law to which they are bound has a root in justice; as Schmitt argues in *Gesetz und Urteil*, legal reasoning must contend with a set of laws and norms that are considered by a particular community to be just.

On this basis, Schmitt argues that it is necessary to “presuppose a transcendental, pre-established harmony” between the state and justice (WS, 47). As tenuous as this suggestion might seem, Schmitt comments, the only alternative is to be driven back to the argument that the state derives its claim to justice from its superior factual power. This would not only have the undesirable effect of turning judges into simple extensions of earthly powers, the arms of princes, but is (as we have seen) according to Schmitt logically implausible, since might cannot create right (WS, 18). Considering what the state would have to be in order for jurisprudence to be possible, then, Schmitt concludes that one is obliged to understand the state mysteriously touching upon both the norm of justice and the facts of power. The state, according to the understanding Schmitt presents here, is perched between “the realm of ideas and the world of real, empirical appearance” (WS, 2). Via the state, Schmitt argues, “justice goes from pure thought to worldly phenomenon” (WS, 52).



In evaluating Schmitt's view of the state and its relation to justice, it is crucial to remember and account for the perspective from which he claims to derive his understanding of the state: the perspective of a jurist. Taking this perspective, Schmitt argues that his view of the state is based simply on an objective consideration of what is necessary for legal life. In support of his approach, Schmitt cites Kant's remark—if justice is to lead to happiness, there must be a God—commenting that “this is important to no one more than jurists,” who it seems, analogically, must insist upon the reality and the value of the state (WS, 21). Schmitt later explains that “the concept of the state attains an exactly analogous position *vis à vis* justice as the concept of God, which arises from the necessity of realizing the moral in the real world, attains for ethics” (WS, 55). In these remarks, Schmitt attempts to argue that his claim about the state does not involve a claim to know what justice is or whether any particular state embodies or approaches it. Rather, Schmitt presents his view of the state as determined by the necessary presuppositions for jurisprudence.

Yet it would be mistaken to think that Schmitt's argument is confined to an elaboration of a particular, professional standpoint. In fact, we see that in explaining what would have to be true about politics for jurisprudence to be possible, Schmitt implicitly argues for the *value* of the jurisprudential view for an adequate understanding of political things. On Schmitt's account, the jurisprudential view appears necessary to distinguish political power from the force exercised by a band of robbers (WS, 58). Moreover, as I will argue in more detail below, Schmitt's jurisprudential argument entails a particular understanding of human things that Schmitt implicitly promotes: in articulating the view of the state he thinks necessary for jurisprudence to be possible, Schmitt implies an understanding of justice—that is, what he thinks the nature of

justice would have to be in order to be realizable, to have any relation to the individual, to life on earth. Schmitt presents this perspective as one of objectivity and scientific neutrality, but, as we will see more explicitly in the next chapter, it in fact is based for him on a crucial moral and theological premise.

In comparing Schmitt's early legal and political works, we see that the problems with which Schmitt is concerned in these two books—how to understand the possibility of the relation of norm and decision, justice and power, right and might—are parallel. Likewise, we find that Schmitt seeks the answers to these different but analogous problems in the same manner: by seeking to elaborate and justify the activities that claim to bring these two logically incompatible elements together in some way. For while Schmitt believes in the theoretical incompatibility of norm and decision, or justice and power, he also observes that—if justice is to be done at all, if life on earth is to have any normative meaning—they must relate practically at some point.

### *The state and its relation to justice*

Schmitt argues that, from the perspective required for jurisprudence to be possible, one must assume that the state has a “pre-established harmony” with justice (WS, 47). Yet, as we will see in this section, Schmitt does not intend to imply with this statement that any particular state in fact realizes justice; on the contrary, Schmitt insists that it is impossible for any actual state to accurately represent or embody the norm of justice. Schmitt's position, as we will see, prompts him to attempt to draw a distinction between the necessary injustice of every concrete state and the aspect of the idea of the state that remains absolutely just.

In the course of *Wert des Staates*, Schmitt openly recognizes that his argument for the harmonious relation that one must posit between justice and the state seems to point to the conclusion that every “critique of the state is empty reasoning” (WS, 96). However, Schmitt stresses that this conclusion would be mistaken, since, in the instance of the “empirical” or “concrete” state, it is “always possible, and a reasonable critique to scrutinize the extent to which the idea is brought into reality” (WS, 96-97). Schmitt makes clear that his argument that the state is in harmony with justice concerns the idea of the state in general, not any particular state (WS, 41), and that individual states are always open to legitimate critique. This is a position consistent with his later writings, as we will see in the next section.

On what basis does Schmitt argue that, though every particular state necessarily betrays justice, states in general are absolutely just? In a strategy similar to that employed in *Gesetz und Urteil*, Schmitt grounds his argument about the justice of the state in general by in fact beginning from the contention that every real state betrays the norm of justice. Schmitt’s reasoning is as follows: the “striving of the state to become actual” in the face of the “unbridgeable gap” between right and might gives rise, Schmitt argues, to a moment of “content-indifference,” in which it is “more important that something becomes a positive clause than what concrete content that clause has” (WS, 79). This moment of content-indifference is necessary for the establishment of a state, Schmitt argues, because the state requires “abstract thoughts about justice [to] become positive laws before [it] can be responsible for a realization [*Verwirklichung*], that is, a settling of its disciplinary apparatus into motion in order to create a condition correspondent to the norm” (WS, 79). In other words, Schmitt argues that the establishment of precise and particular laws is a prerequisite of the state’s attempt to “transform

reality” so that it approaches the normative ideal (WS, 78). This moment of content-indifference in the law is an aspect of the idea of the state in general; it is impossible, according to Schmitt, to imagine the task of the state without acknowledging this need for laws whose precision comes at the price of a fully adequate expression of justice.

Schmitt does not confine his argument to the contention that states require precise and positive laws, and therefore that positive laws, however imperfectly representative of justice, must be considered a qualified good, or that content-indifference must be viewed as a necessary evil. Rather, Schmitt attempts to make the case that precision in law is itself an aspect of justice. In this argument, we see that Schmitt follows reasoning similar to that presented in *Gesetz und Urteil* to argue that legal certainty is part of justice itself. Schmitt’s argument is based on his claim that there is an “unbridgeable gap” between norm and the fact, but that, if justice is to have any meaning on earth, something must mediate between these two irreconcilable spheres (WS, 79). In criticizing the Lutheran jurist Rudolph Sohm’s attempt to address this conundrum, Schmitt lays out his own approach. According to Schmitt, Sohm attempts to solve this puzzle by suggesting that “justice, while it indeed does not conceptually encourage force, however strives for coercive realization” (WS, 80). As indicated by Schmitt’s insistent account of justice as a pure norm, Schmitt does not agree with this statement in full, but argues for a “more precise” version of Sohm’s insight (WS, 80). While one cannot conceive of justice itself as being capable of striving for actuality, Schmitt argues, justice does seem to lend itself to the “exact” and “certain” formulation that is necessary for “concrete realization” (WS, 80). It appears that Schmitt’s correction of Sohm attempts to preserve the norm of justice in its purity by positing an intermediary between the norm and the fact that is not simply an expression of the norm, but may

be more accurately described as an aspect of justice.<sup>1</sup> This intermediary (the precise law) is not itself a concrete fact, but in its exactitude is like enough to the realm of facts of power that it can serve to relate justice and power. On the basis of this speculation, Schmitt proposes that one see a “duality in justice,” one face of which is an immovable abstract norm and the other of which permits itself to be concretely and precisely formulated (WS, 82).

Schmitt’s argument about the duality in justice is a speculation about what must have to be if it is indeed true that the norm of justice and the facts of power exist in two irreconcilable worlds, and yet that life on earth can have normative meaning. Schmitt does not offer an explanation of why precise laws should be considered just, rather accounting for his understanding of the justice of precise laws by referring to their ostensible function. As Schmitt describes it, “the renunciation of timeless correctness and the reception of a moment of content-indifference are the consequences of the *enanthropesis* of justice, the victim that must be sacrificed because a pact has been made with the powers of the actual world [*Erscheinungswelt*]” (WS, 80). This passage gestures toward a theological analogy: the precise ‘word’ is portrayed as the innocent victim as well as the mediator between the otherworldly norm and the facts of human politics. Schmitt thereby suggests that precision in law may be considered in itself perfectly and absolutely just, though every actual positive law betrays the norm of justice.

Schmitt’s focus on content-indifference in *Wert des Staates* is similar to that in *Gesetz und Urteil* in that in both works, Schmitt portrays the moment in which the law is indifferent to the substance of its content not as simply a neutral means in the effort to realize justice, but as itself just. In other words, the content of any positive law is for Schmitt a betrayal of the norm of

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<sup>1</sup> I will take up the significance of Schmitt’s disagreement with Sohm in the next chapter.

justice, since justice must be sacrificed as it passes through the “transition point” to reality: as Schmitt writes, “the dictum ‘love your neighbor’ is not a positive law and can never become one” (WS, 80). However, according to Schmitt, precisely this indifference to the content of divine justice indicates most clearly the aspect of the positive law that does remain just, and indeed is everywhere and always just: “form,” or precision (WS, 79). Just as Schmitt argues in *Gesetz und Urteil* that focusing on the significance of content-indifference in law reveals the absolute justice of legal certainty, so he argues in *Wert des Staates* that this moment of content-indifference discloses the absolute justice of precise laws.<sup>2</sup>

The justice of aiming at legal certainty or of making precise laws seems to be for Schmitt the only thing that we can know for certain about justice. Schmitt portrays the content of the norm of justice as otherworldly and mysterious; correspondingly, Schmitt does not engage in argument about the various normative ends to which polities might devote themselves.<sup>3</sup> But it would be a mistake to understand Schmitt’s restriction of our knowledge about justice to such formal aspects as precise laws and legal certainty as intended to affirm a nihilistic view, a claim that the norm of justice has no relation to life on earth and that law stems from nothing other than a “*norm-less will*,” or an expression of “pure power.”<sup>4</sup> Rather, Schmitt’s account validates our striving to realize justice, or the striving of the state to make a situation that corresponds more closely to the norm of justice, by arguing that there is an aspect of justice that is amenable to life on earth. Schmitt’s supposition that justice itself must contain a duality implies that our striving

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<sup>2</sup> That Schmitt believes the fact of content-indifference to indicate a dimension of law that is absolutely just, rather than a dimension that is due to the influence of unjustified power, is not recognized by the typical decisionist account of Schmitt. Scheuerman, for example, argues that Schmitt believes content-indifference to be an “unavoidable concession that the sphere of normativity is forced to make to the realm of facticity,” a “compromise [of] its normative virginity” (*The End of Law*, 26).

<sup>3</sup> In the introduction, Schmitt remarks that he will only enter into the “countless questions that pertain to a definition of justice” insofar as they “further the explication of the essence of the state” (WS, 14).

<sup>4</sup> Scheuerman, *The End of Law*, 74, 26.

for justice will find a response, since justice allows itself to be formulated concretely, even though this formulation will not ‘do justice’ to the norm of justice as such.

Nonetheless, the decisionist account of Schmitt has a point: Schmitt’s understanding of justice makes it impossible to judge between different accounts of what justice is, for Schmitt’s understanding of justice seems to imply that every idea of justice, as long as it is expressed precisely, is equally just. However proper this may be as an ultimate critique of the consequences of Schmitt’s thought, we should not allow the effort to point out the relativistic or nihilistic implications of Schmitt’s work to obscure Schmitt’s intention to articulate an understanding of justice that has relevance for the “powers of the actual world,” since examining this endeavor will lead us to see most clearly the moral and theological aims that lie behind Schmitt’s conception of the just (WS, 80).

### *The meaning of politics to the individual*

Schmitt’s argument that precision in law is a facet of justice, though every actual positive law betrays justice, or that the state in general must be considered to be in harmony with justice, though no actual state embodies justice, gives rise to Schmitt’s peculiar stance on the proper attitude of the individual toward political authority. In this section, we will focus on the last chapter of *Der Wert des Staates und die Bedeutung des Einzelnen* [The Value of the State and the Meaning of the Individual] to examine the two sides of Schmitt’s opinion concerning the relation of the individual to political order. On the one hand, we will see that Schmitt’s argument that a political power must have a moral purpose to justify its authority forms the basis of his claim that the individual should, in his own best interest, understand himself as devoted to

the state. On the other, however, the individual who accepts Schmitt's analysis knows that justice can never be realized, and moreover that every conception of justice betrays the norm of justice. It therefore appears that Schmitt must justify the state by arguing that it fulfills its purpose in *striving* to a moral end, rather than in taking any particular moral stance or achieving any particular result. Examining Schmitt's counsel to the individual will therefore shed light on his understanding of the relation of the political to the moral.

Schmitt begins to reason about the proper relation of the individual to the state by insisting that the purpose or "meaning" of the state "consists solely in the task of realizing justice" (WS, 52). This purpose is not set by any particular state itself, Schmitt explains; according to his analysis of the requirements for the relation of the norm of justice and the facts of power we examined above, the realization of justice must be the purpose of the state as such: it is what "constitutes [the state] as a particular form [*Gebilde*]" (WS, 53). States are therefore defined for Schmitt as entities that exist to realize justice; every state, he argues, "recognizes a duty to be responsible, at least 'officially'" (WS, 54). Since nothing can serve two masters, Schmitt reasons, the state cannot be the "servant" of the "individual as well as of justice" (WS, 85). Therefore, Schmitt concludes, it is impossible to imagine that the state exists to serve the individual. Schmitt goes so far as to proclaim that human purpose is just as little "the creator of justice or of the state, as the sun can be defined to be a fire lit by wild animals in order to warm their limbs" (WS, 93). On this account, Schmitt claims that the state and its aims are prior to and more 'natural' than the individual and his desires.

As such, Schmitt argues, the state justly exercises a moral claim on the individual: "for the state, the individual as such is the accidental agent of the only essential task, the decisive



function that the state has to fulfill” (WS, 86). This passage implies that for Schmitt, the individual, properly understood, is simply a tool that the state can take up at will for its own purposes. In typical fashion, Schmitt does not obscure, but rather emphasizes, the threatening nature of his claim: “to fulfill the objectively valid norm means, from the point of view of the individual, the negation of his own subjective, empirical reality” (WS, 88). In Schmitt’s analysis, it seems that the ‘meaning of the individual’ can be seen only in relation to the ‘valid norm’—in the face of which the particular individual seems to mean nothing. Drawing a provocative conclusion from this analysis, Schmitt approvingly cites Lao-tze’s saying that “the individual only has meaning insofar as he is an official [*Beamter*]” (WS, 91).

Yet Schmitt does not intend to argue that the state’s purposes simply trump the purposes and interests of the individual, as it may at first seem. Rather, Schmitt will argue that it is in the individual’s best interest to understand himself as ‘an official,’ that this duty will point him toward his true meaning. To be an official, Schmitt argues, need not mean to be chained to a mindless task. Rather, what we must understand, according to Schmitt, is that the position of the individual in a state like “Plato’s ideal-state” may be “uncomfortable,” but it is not a “degradation” (WS, 92). A state in which everyone must do “what is proper to him [*das Seinige*]” while being forbidden to look after “his needs [*seine Nutzen*]”, is a state, Schmitt insists, that aims to allow the individual to seek his greatest possible meaning (WS, 92). For an individual’s meaning can never be found in his particularity, according to Schmitt: “The corporeal concrete individual is, if one’s view does not rise above material corporality, an entirely accidental unity, a heap of atoms blown together, whose form, individuality, and uniqueness is nothing other than that of dust made into a column by a whirlwind” (WS, 102).

Rather, Schmitt insists, “every value, with which the individual man can be connected, exists in the devotion to a supra-individual rhythm of a legality [*Gesetzlichkeit*]” (WS, 93). To be a state official according to Schmitt’s interpretation is not to be a functionary, like a cog in a wheel. It is ultimately to devote oneself to the task that is most clearly exemplified by the state (since it is what defines the state as a distinctive form), the realization of justice.

In the final analysis, the value of the state for Schmitt is that it directs the individual toward his true meaning; moreover, the purpose of the individual and of the state is the same: to participate in the effort to realize justice. Schmitt denies that this ‘instrumental’ view of an individual degrades him in any way: “by tracing the worth of the individual to his task [*Aufgabe*] and its fulfillment, this worth is not destroyed, but shown the way to a legitimate worth” (WS, 108). In fact, Schmitt argues that he means to oppose his view of the individual to the view of man promoted by the “theoreticians of power,” who see man as fundamentally egoistic and oriented around base, material interests (WS, 108). Schmitt’s argument in this work is that individuals will not be ennobled or honored by a political theory that claims to put the individual first but which interprets him in the light of supposed material interests. Schmitt’s statement that man ‘has meaning only insofar as he is an official’ is rather meant to call attention to what Schmitt believes is the only possible non-instrumental interpretation of the meaning of the individual in politics.

Schmitt’s encouragement of the view that an individual should understand himself primarily as an ‘official,’ as a servant of the state and thereby of justice, seems to present submission to the political authority as a solution to the human problem of how one might serve justice without being capable of attaining a complete understanding of justice. In the light of

Schmitt's analysis, it seems that submitting oneself to the state, which by definition must be aiming to realize justice, ensures that one will be devoted to this noble goal. One might notice that Schmitt's understanding of the importance of politics to human life sounds in this respect like a typically fascist understanding; indeed, *Wert des Staates* resonates with what Mussolini later expressed as the "doctrine of fascism."<sup>5</sup> Indeed, I will argue, Schmitt shares significant ground with Mussolini, but his understanding of the state departs in an important and illuminating way from the understanding Mussolini presents in his essay on fascism.

Fascism, as Mussolini expresses it, shares with Schmitt first of all a polemic "against the materialistic positivism of the nineteenth-century," against the view which sees "in the world... only those superficial, material aspects in which man appears as an individual, standing by himself, self-centered." Against this materialistic form of individualism, Mussolini, like Schmitt, argues that "the Fascist conception of life stresses the importance of the State and accepts the individual only in so far as his interests coincide with those of the State." Moreover, the reassertion of the "rights of the State" entails, on Mussolini's view, seeing "individuals and generations bound together by a moral law, with common traditions and a mission which, suppressing the instinct for life closed in a brief circle of pleasure, builds up a higher life, founded on duty."<sup>6</sup> Mussolini's insistence that the true meaning of the individual is found in the context of politics, and that the purpose of the state is not to serve as an agnostic arbiter but to stand up for a 'moral law,' dovetails with Schmitt's view as presented in *Wert des Staates* and

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<sup>5</sup> Benito Mussolini [with Giovanni Gentile], *Fascism: Doctrine and Institutions*, 7-42.

<sup>6</sup> Mussolini, *Fascism: Doctrine and Institutions*, 8-10.

indicates why Schmitt was in the 1920s sympathetic to the fascist movement and to Mussolini in particular.<sup>7</sup>

To understand Schmitt's assessment of the significance of politics to human life, however, it is crucial to recognize that Schmitt's view differs from that expressed by Mussolini in a crucial respect. While Mussolini's essay on the 'doctrine of fascism' resonates with the chapter in *Wert des Staates* concerning the meaning of the individual, there is nothing in Mussolini's article to correspond to Schmitt's analysis of the problematic nature of justice and power, or the problem of the state as an entity that seems to exist between the two. In fact, I will argue, Schmitt's meditations on the theoretical incompatibility of right and might, and on the way that this understanding requires one to view the state, causes his argument about the meaning and task of the individual to differ from Mussolini's in a respect that is illuminating of Schmitt's purpose.

In setting out the problem of the value of the state, Schmitt strongly emphasizes that the state strictly speaking *cannot* embody justice, that it is impossible for justice to be realized in, or even defined by, any particular state. The unbridgeable gap between right and might means, as Schmitt draws out, that every attempt to realize justice 'makes a victim' out of it in some respect. An individual who accepts Schmitt's account is therefore placed in the position of having to decide willingly to submit to a state that he cannot look up to as an accurate representation or embodiment of the just. The individual, according to Schmitt's understanding as presented in *Wert des Staates*, must assent to participation in the realization of the aspect of justice found in the state while being aware that precisely this justified activity betrays the norm of justice.

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<sup>7</sup> See Balakrishnan, *The Enemy: an intellectual portrait of Carl Schmitt*, 186-188.

Discerning this difference between Mussolini's essay, which does not emphasize the failure of his own state to live up to an ideal of justice, and Schmitt's account of the meaning of the state in general to the individual, allows us to see more clearly the particular character of the demands that Schmitt makes on the individual. It also indicates a more precise understanding of Schmitt's opinion on the importance of politics to human life. Looking at Schmitt's later works in the light of this understanding of *Wert des Staates*, we see that it would be a mistake to assume that Schmitt simply glorifies politics. In fact, we see that Schmitt seems to be acutely aware of the betrayal of justice involved in political practice, which according to him must necessarily contain a mixture of right and might. Schmitt's defense of the political, then, is not the defense of the achievement of any particular state, but is rather a defense of the nobility of the political activity of striving to realize the moral.

The view of politics Schmitt offers in *Roman Catholicism and Political Form* echoes the understanding he promotes in *Wert des Staates* in that political order is also portrayed in this later work as both a means to direct the individual to his true worth and as necessarily inadequate to the realization of justice. In *Roman Catholicism*, Schmitt argues that the essence of political authority is the decisive representation of an idea. According to Schmitt in this work, political power derives its authority by appealing to a higher norm in a compelling way: "to the political belongs the idea, because there is no politics without authority and no authority without an ethos of belief" (RC, 17). As in *Wert des Staates*, in which political power was distinguished by its appeal to a norm of justice, so the appeal to something transcending material life (the idea, as Schmitt defines it) appears in *Roman Catholicism* as the necessary basis for all properly political authority.

As in *Wert des Staates*, Schmitt maintains in *Roman Catholicism* that the individual is pointed toward his nobler aspect by becoming part of a political order. Moreover, Schmitt offers a similar reason for this contention, arguing for the superiority of political logic over “economic thinking” precisely because the political view must consider a human being as something more than a conglomeration of material desires (RC, 13). According to Schmitt in this later work also, politics appeals to the aspect of the individual that is capable of apprehending and submitting to norms. As Schmitt argues, the individuals addressed by the political authority, who is the “representative” of the idea, “require a value,” because “one cannot represent oneself to automatons and machines, anymore than they can represent or be represented” (RC, 21). Politics ennobles, according to Schmitt, by emphasizing the aspect of human life that is not exhausted in the exercise of pure power, by implying that human life transcends the material world. As McCormick has noted, in Schmitt’s analysis, representation, including personal rule by a political authority, “affirms the sanctity of the human being” by emphasizing and speaking to his spiritual aspect.<sup>8</sup>

In Schmitt’s argument, the political points the individual toward the higher aspect of human life, and thereby toward his true worth. This does not necessarily entail, however, that the purposes of human life are fulfilled in submission to the state. In fact, the very reason that Schmitt considers political power to be ennobling—the need for it to appeal to something above and beyond itself for justification—leads to the conclusion that the horizon of the state is not for Schmitt finally the highest horizon. Schmitt makes clear, both in *Wert des Staates* and in *Roman Catholicism*, that individual states are always open to legitimate critique; the actual individual, then, experiences the state to which he belongs as limited. In *Roman Catholicism*, Schmitt

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<sup>8</sup> McCormick, “Irrational Choice and Mortal Combat as Political Destiny,” 321.

portrays this view as exemplified by the jurist, who according to Schmitt always takes an odd position *vis à vis* the state, as he embodies “a curious mixture of traditional conservatism and revolutionary resistance” (RC 29). The peculiarity of the jurist, as Schmitt depicts him, is that he is at once an official dedicated to implementing the idea of justice as given by the state—a “theologian of the existing order”—and a reminder, not only of the imperfect realization of the particular idea of justice promoted by the state, but also of the harm done by the attempt to realize the norms of justice (RC, 29). Jurists, as Schmitt portrays them in *Roman Catholicism*, stand as reminders of the permanent justice of revolution, as they have one eye on “the rights of the oppressed and offended,” in other words, on the justice of the claims of those ill-served by the narrowing of justice required for the realization of the state (RC, 29-30). In this work, the jurist seems to exemplify the position of the individual for Schmitt, since the jurist must understand that his proper ‘task’ requires that he submit himself to the endeavor to realize an imperfect understanding of justice, while remaining aware of the ‘harm’ every attempt to realize justice does to justice itself.

Schmitt seems to believe that submission to the state will point the individual toward his proper good, and yet he insists that politics necessarily implies a harmful limitation of justice. In *Roman Catholicism* we find Schmitt emphasizing the enormity of the harm that can be done by human power; he urges the understanding that “in the temporal sphere, the temptation to evil inherent in every power is certainly unceasing” (RC, 32). Even the Roman Catholic Church, which serves Schmitt as the model for political form, does not escape this criticism: in an essay appended to the English edition of *Roman Catholicism*, Schmitt asserts that there is always an aspect of the Church that is “concrete and accidental,” and suggests that one understand this as a

“punishment for the evil of man” (VC, 55). Politics, while it points the individual toward the highest good on Schmitt’s understanding, is not an unmixed good; in fact it necessarily contains an element of evil.

Although Schmitt’s emphasis on the injustice necessarily done by the attempt to realize justice by political means may seem to become less insistent in his later works, one should not thereby conclude that Schmitt becomes less wary or critical of power, or thinks that his earlier critique had been adequately countered: for one finds such references to the evil of political power even in Schmitt’s Nazi-era and post-war works. In *Macht und der Zugang zum Machthaber* [*Power and Access to the Power-Holder*], a dialogue Schmitt began to write while imprisoned in Nuremberg, Schmitt argues with a “young man of the next generation” who talks excitedly of the prospects for human power, via “technological innovation,” to “change everything,” righting all the previous wrongs (MZ, 26). Schmitt counters this hope with his understanding that “the internal dynamic of human power is to make men more dangerous to other men,” particularly by means of technology, which Schmitt argues tends most of all to increase military might (MZ, 24-26). In this post-war dialogue, Schmitt affirms the understanding of power evinced in earlier works such as *Wert des Staates* and *Roman Catholicism*: “the reality of power rides roughshod over the reality of man” (MZ, 27). One might of course object that Schmitt’s distaste for political power in this dialogue could be attributed to his situation: having just emerged from the experience of the Nazi years, and being in fact in the custody of the conquering Allies. Yet we find that Schmitt in 1933 had not forgotten the dangers of political power, and seems in fact to have been both hopeful and



trepidatious about the advent of the new form of power he believed Adolf Hitler's movement to represent.<sup>9</sup>

In *State, Movement, People* [*Staat, Bewegung, Volk*, 1934], an essay that attempts to systematize and explain the new form of political power suggested by the Nazi movement, Schmitt concludes his mostly positive account with a strong warning about the dangers inherent in political power. Perhaps surprisingly, Schmitt warns twice in the last pages about the potential for “tyranny and caprice” inherent in the concept of the *Führer* as a leader who claims to embody rather than represent the idea (according to Schmitt, the concept of the *Führer* eschews representation in favor of “real presence”) (SMP, 42). In particular, Schmitt argues that Hitler's movement will prove to be a “particularly bad source of political danger” unless it proves to respect the “independence of judges” (SMP, 46).<sup>10</sup> To those unfamiliar with *Gesetz und Urteil*, the ‘independence of judges’ may seem a minor matter for complaint in the face of the radical changes proposed by the Nazi movement. Once one understands the significance of the independence of judges to Schmitt, however, his critique makes more sense.

Being aware of the need for judicial independence, as we have seen in Chapter 1, requires that one recognize that there is a standard to which judges can hold their decisions that is independent from the particular laws with which they contend; that standard is legal certainty. As we have seen, for Schmitt, looking to legal certainty as a standard of justice serves the purpose of allowing the individual to follow through on his obligation to act in the service of justice while remaining aware of the impossibility of knowing or realizing justice completely.

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<sup>9</sup> David Bates, “Political Theology and the Nazi State: Carl Schmitt's concept of the institution,” 437.

<sup>10</sup> As Bates remarks, uncanny as it may seem, “it is hard not to read [these passages] as a warning about the inherent instability of the new regime's concept of power” (“Political Theology and the Nazi State,” 437).

Once we have understood this, it becomes clear that Schmitt urges the Nazis to respect the independence of judges because this points directly to Schmitt's concern: the awareness that justice cannot be known or realized in full is precisely what is threatened by the *Führer's* self-presentation as the embodiment or 'real presence' of the idea of justice. In other words, Schmitt seems concerned in 1934 that the *Führerstaat* will obscure the problematic relation of might and right in politics, and therefore the awareness of the horizon above the political that is necessary for the individual to understand his true purpose. Schmitt's repeated exhortations to the Nazis to respect the independence of judges at the end of *State, Movement, People* indicate that he has not forgotten his critique of political power as in part a 'punishment for the evil of man' even as a regime in which he was implicated came to power.<sup>11</sup>

It seems that Schmitt is both wary of the evils inherent in political power and insistent that we have no better option than to submit ourselves to authority. Indeed, Schmitt's wariness about the political may serve to strengthen, rather than qualify, his recommendation that the individual should submit to the state, for Schmitt's argument for the worth of the political is made with an awareness of the evils that political power entails. Schmitt's insistence that, despite the grave injustices *necessarily* committed by political practice, one should submit to political authority—moreover, for one's own good—seems to be based on his understanding that the alternative is worse: as he writes in *Roman Catholicism*: "the desire to escape this conflict [between power and good] by rejecting every earthly power would lead to the worst inhumanity" (RC, 32). In the next section, we will examine what Schmitt considers to be the alternative to

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<sup>11</sup> I will treat this passage at greater length in Chapter 6; for now, I intend it simply to indicate Schmitt's enduring wariness of political power and his intention to insist that it serve a goal higher than its own perpetuation.

submission to the political authority, which will help us understand more fully why Schmitt insists so vehemently on the goodness of the political.

Our examination of Schmitt's argument for the individual's devotion to the state in this section has shown that, though Schmitt believes that submission to the state is justified because the state by definition serves a moral end, his understanding of the harm done to justice by political power points toward the conclusion that the state must justify itself to the individual by its *striving* to a moral end, rather than any particular moral stance or achievement. This results in a peculiar account of the relation of the political to the moral: while the political is defined by its devotion to the moral, it seems on Schmitt's account to be separable from any particular moral end, since every law posited by the state betrays the norm of justice, and all states derive their justification from the same striving toward precision in law.

#### *The double-edged example of the Roman Catholic Church*

Schmitt's account of the moral value of the individual's submission to political authority can be better understood by determining what he understands to be the alternative. Within *Wert des Staates*, the alternatives Schmitt sees are exemplified in Schmitt's double-edged analysis of the Roman Catholic Church. According to Schmitt, the Roman Catholic Church provides an example of "typical clarity" concerning possible responses to the insight into the problem of right and might he has exposed (WS, 81). On the one hand, Schmitt portrays the Church's political structure as an ideal response to the insight that there must be a duality in justice, an aspect of justice that is amenable to precision. On the other, Schmitt makes the Church's efforts

to transcend the political serve as an example of the characteristically unjust response to the awareness of the dualistic nature of justice. Examining the two respects in which Schmitt sees the Church responding to his claim about the nature of justice allows us to understand more clearly the value Schmitt sees in submitting to political authority and the injustice he finds inherent in the alternative.

For the jurist, Schmitt writes, the Roman Catholic Church serves on the one hand as a particularly clear example of the claim to embody the otherworldly in the world, transcendent justice in an “institutionalized church capable of a constitution by means of a juridical order” (WS, 81). The problem that the Church claims to solve, that of bringing abstract right into concrete appearance, thus mirrors the problem of the state in Schmitt’s conception. In *Wert des Staates*, Schmitt writes that the Church serves as such a clear example for political problems because it perfectly understands and embodies, in his view, the fact that “as soon as the striving for a realization of thoughts” appears, there inexorably arises the “need for a concrete decision” as well as “the striving for an authority that is in the same manner certain and infallible” (WS, 81). In other words, the teaching and practice of the Church, in Schmitt’s view, conform to his understanding that for justice to appear in the physical world, it must be limited and confined by a decision that is in some degree indifferent to content, and furthermore that this decision needs to be enforced by a sovereign authority. The Church serves Schmitt here as a validation of his view that precision is both necessary and justified, though it aids in the unjust confinement of the norm of justice. The Church’s willingness to insist upon the necessity of the concrete decision and on an infallible authority to exercise direct power on its behalf, even in the face of the

awesomeness of the idea it claims to represent (and therefore betray), is for Schmitt exemplary of what political activity requires.

The Roman Catholic Church also serves Schmitt as a negative example, however. Schmitt comments that once “the duality in justice is accepted and recognized,” there arises a powerful temptation to “subject the process of realization, that is, the institutionalization of justice, to a supervisor [*Kontrolle*] for the protection of the abstract norm” (WS, 82). In other words, once one realizes that it is just to make precise laws, that precision is an aspect of justice itself, it becomes tempting to think that these precise laws can rule over or ‘supervise’ the realization of justice so that the ‘abstract norm’ can be more adequately institutionalized. As an example of this temptation, Schmitt cites the Pope’s intervention in matters outside the institution of the Church, in particular his claim to have the authority to declare certain state laws “in contradiction with the natural moral law or with divine-natural right” and therefore not binding on the consciences of believers (WS, 82). In doing so, Schmitt implies, the Pope attempts to secure the realization of the abstract ‘natural moral law’ by supervising how it is interpreted all over the world.

The problem that Schmitt sees with this action becomes clear when we find that he does not dispute the Pope’s authority to provide an “infallible interpretation” of the natural moral law—for in conceding this to the Pope, Schmitt emphasizes that his critique of the Church focuses not on the Pope’s authority concerning natural law, but solely on the Pope’s attempts to use his decrees concerning this natural law to supervise or control the activity of other institutions (WS, 82). In other words, crucial to Schmitt’s critique is the difference between the Pope’s actions inside and outside his own institution. The Pope is just, Schmitt implies, when he

presents his interpretation of natural law as a decision that aims at realizing justice within the particular, concrete institution of the Church; this same claim to offer an authoritative interpretation of natural law, Schmitt implies, changes character when the Pope attempts to interfere in other institutions.<sup>12</sup> In those cases, the Pope no longer acts out of an acknowledgment of the responsibility to conclude a necessary decision, according to Schmitt's logic, but rather acts on the basis of the desire to realize justice more perfectly by submitting other institutions to his interpretation of natural law. When the Pope acts outside his own institution, he no longer represents the justice of asserting precise laws; in fact, he begins to represent in Schmitt's eyes the opinion that events, if they were subjected to his own precise laws, would actually realize justice. Whereas the Pope is for Schmitt on the one hand the most illustrious defender of the justice of precise laws, on the other he most pointedly evidences the mistaken belief that it is possible to 'protect the abstract norm' with these precise laws.

Schmitt sees the error made by the Pope to be representative of a common human temptation, one that "appears always in new clothing" (WS, 82). This characteristic error, Schmitt remarks, derives from a "fear of a misuse of the actual power of the state," or, more essentially, "a mistrust of the factual evilness or weakness of men" (WS, 82). As we have seen, Schmitt neither denies that man has a weak and evil aspect, nor is blind to the threat that state power will be misused. Schmitt states that he is concerned, rather, with the "methodological error" that he sees at the root of this attempt (WS, 82). According to Schmitt, the Pope's decision about natural law takes on a fundamentally different character inside and outside the institution of the Church. In proclaiming an authoritative interpretation of natural law outside

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<sup>12</sup> The implications of this critique for the modern Catholic Church—whose members also belong to other political institutions—will be taken up in Chapter 4.

the Church, the Pope, in Schmitt's opinion, does not bring the norm of justice to bear more directly in the world, but only attempts to "assert yet another authority between justice and the state," rendering justice and the state further apart rather than bringing them closer together (WS, 82).

Referring to the Pope's actions, Schmitt reminds us that "no law can enact itself; it is always a man who must become the protector of the law" (WS, 83). Since the law itself can never serve as an authority or a regulator, in other words, it is always a human being who will serve as the ultimate authority. Schmitt exposes what he sees as the absurd position into which someone who attempts to regulate human behavior by norms or laws is forced by depicting the folly of pinning one's extravagant hopes for justice always on new men. As Schmitt writes, "he who does not trust the protector cannot be helped by being given ever new protectors" (WS, 83). The logical problem inherent in the realization of justice can never, Schmitt insists, be overcome by regulatory laws or agencies, or by the addition of supervisors: "the unbridgeable gap between the pure norm and its realization cannot be filled up by any number of intermediaries" (WS, 83).

The crucial fault exhibited by the Pope, according to Schmitt, is that, precisely because of his 'mistrust of the factual evilness or weakness of men,' he pins his hopes for the more adequate realization of justice on his own articulation of natural law. In doing so, the Pope forgets that in his exhortations to others, he does not embody natural law fully or perfectly, but rather his own decision about the content of natural law, which is originally necessitated and finally legitimated by his office within the Church. When the Pope attempts to proclaim natural law authoritatively outside of the context of his own institution, Schmitt implies, he blurs his own imperfect decision with the true, necessarily abstract norm. The human error that Schmitt exposes here is the

temptation, stemming from the zeal for justice, to lose sight of the *impossibility* of the institutionalization or realization of the abstract norm. The Pope, in Schmitt's analysis, seems in the end to confuse the justice of making a precise law with the justice of the material result or institutionalization of that decision. According to Schmitt, even the Pope, who most perfectly realizes and embodies the necessity for an authority to decide upon the definition of justice, is guilty of allowing his passion for justice to lead him into this self-contradictory position.

In presenting the double-edged example of the Roman Catholic Church, Schmitt portrays two alternative responses to the understanding of justice he has offered in *Wert des Staates*. One can accept the necessity of exercising direct power with all of its necessary faults and limitations, as the Pope does when he confines his representation of Christ and his interpretation of natural law within concrete decisions, and claims infallible authority within the institution of the Church. Or one can strive for what one believes will be a more secure institutionalization of justice through what amounts to indirect power, by presenting a precise understanding of the norm of justice as authoritative outside of the particular institution in which one exercises actual authority. The choice between direct power and indirect power is for Schmitt, however, not really a choice. Direct power is inherently just, and indirect power inherently unjust, though an understandable and permanent human temptation. The attempt to exercise indirect power is always mistaken for Schmitt—not primarily because it ultimately does nothing to assist in a more adequate realization of justice, but because the will to indirect power leads one to a characteristic act of pride, the equation of one's own decision with justice itself, and perhaps most importantly because it blinds one to the truth about justice and power and obscures the justice of precision in law.



We can relate what we have learned in the course of Schmitt's discussion of the two alternatives exemplified by the Roman Catholic Church to Schmitt's opinion concerning the just and unjust response of the individual to political authority. Based on Schmitt's argument in *Wert des Staates* that the individual must seek his good through the state, it appears that Schmitt understands the individual to face a similar choice between the acceptance of direct power and the effort to exercise indirect power. It seems, therefore, that Schmitt considers it just for the individual to submit to the state because the alternative to this would be for the individual to assert his own, private understanding of justice over the claims about justice that are constitutive of the political power. The individual is thereby faced with the choice between the acceptance of the direct power of the state or the pretension to indirect power, the attempt to "insert yet another authority between justice and the state" with his own opinion (WS, 82). In other words, Schmitt does not argue that any given state necessarily possesses a grasp of the true nature of justice superior to that of any given individual. The individual's submission to the political authorities is rather for Schmitt a sign of that individual's awareness of the irreconcilable gap between decisions and the norm of justice, as well as the justice inherent in the precise formulations of justice that underpin political powers. In other words, the individual's acceptance of the justice of the power of the state is an indication of his recognition of the impossibility of understanding or grasping justice in the full sense, as well as an affirmation that precise formulations of justice, because they are the only possible means of connecting the norm of justice with the facts of the world, must themselves be an aspect of justice.

Schmitt's defense of the political in this early essay bears the marks of the contradictory accounts of politics and morality that will become evident in his later work. On the one hand,

Schmitt's definition of political authority, or of the state, seems to be defined by an objective consideration of what must be necessary for justice to be possible on earth, as we saw in the first section of this chapter. Schmitt's account of the political, then, seems to be divorced from moral considerations. Moreover, as we saw most clearly in Schmitt's double-edged assessment of the Roman Catholic Church, Schmitt understands the value of the political to be separable from the content of the norm that is expressed in the precise law or decree. In other words, Schmitt's affirmation of the political appears to be an affirmation of political form rather than of any particular moral end to which a community might devote itself. On the other hand, however, the political seems to have for Schmitt itself a moral value. Schmitt argues that the state is morally justified as the only entity that can serve as a locus of the norm of justice and the facts of power. Moreover, Schmitt argues for the justice of the individual's submission to political power on the basis that the individual's own good is best served by the connection with the moral that the political affords. In this early work, Schmitt portrays the precision in law that makes political form possible as an absolute good, as part of justice itself, and moreover as the only certainly definable aspect of justice. This effort to depict what is necessary for the establishment of 'the political' as an objectively knowable put only partial aspect of justice is echoed, as we will see, in Schmitt's later accounts of the justice of the political.

### Chapter 3: Theology

Schmitt's account of what is just, as we have seen, is based on an examination of what our actions reveal about what we implicitly think about justice; it is an elaboration of our assumptions about justice as evidenced by common practice. In Chapter 1, we found that Schmitt examines modern legal practice to see what judges presume in their efforts to make correct decisions, and found that Schmitt determines that, if the judge is to be able to appeal to justice, legal certainty must be an aspect of justice itself. In Chapter 2, we saw that Schmitt, in his effort to determine the nature of the state, looks at political practice to see what is presumed necessary to establish a justifiable political power, which is a prerequisite for jurisprudence. There we found that Schmitt argues that since a state requires precise laws to realize justice, justice itself must have an aspect that is amenable to precise formulation. Schmitt's argument about justice in both of these cases, in other words, is an account of what justice would have to be if it were what we assume it is when we attempt to act justly.

In the two works we examined most closely, *Gesetz und Urteil* and *Wert des Staates und die Bedeutung des Einzelnen*, Schmitt limits his claims about justice to the hypothetical, arguing that he investigates only what justice would have to be if it were realizable to any degree. In those works, Schmitt does not address the question of whether justice is real or whether it has any actual relation to life on earth. In fact, given the great obstacles Schmitt emphasizes that human beings face in attempting to understand or to realize the norm of justice, one might be led to think that Schmitt did not believe in the possibility of justice. This impression has likely contributed to Schmitt's reputation as a nihilistic decisionist. But then, as we saw in both chapters, Schmitt takes pains to elaborate an understanding of justice that has relevance to life on

earth; indeed, Schmitt's account of what is just seems to be premised upon what he thinks would have to be necessary about justice for it to be realizable on earth. Does Schmitt believe that there can be justice on earth? If so, on what basis?

*The relation of the legal, political, and theological arguments*

This question, as I will argue below, is best dealt with the context of an investigation of Schmitt's theology and its relation to his jurisprudential and political thought. Theological and ecclesiastical matters have indirectly arisen in the course of the last two chapters; in this chapter we will tackle Schmitt's most unapologetically theological essay, "The Visibility of the Church: a Scholastic Consideration" [1917]. As the title indicates, this is one of the rare pieces in which Schmitt is not simply engaged in making analogies to theological arguments, but rather addresses them directly.

Because the question of whether Schmitt's theology has any meaningful or lasting influence on his thought is such a hotly contested matter,<sup>1</sup> it is worth remembering at the outset of the discussion that Schmitt was hardly alone in the world of early twentieth-century German jurisprudence in drawing analogies to theological reasoning. Two of Schmitt's most important interlocutors—Hans Kelsen and Rudolph Sohm—draw explicit theological parallels in their jurisprudential works.<sup>2</sup> As we will see in more detail below, the intersection of Sohm's legal and theological thought seems particularly important for Schmitt. We have already found that in both *Gesetz und Urteil* and *Wert des Staates*, Schmitt cites Sohm favorably, though critically, at

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<sup>1</sup> See my introduction.

<sup>2</sup> See, for example, Hans Kelsen, *What is Justice?*, 1-13.

crucial moments.<sup>3</sup> Moreover, Sohm's attack on the "visible church" seems to serve as the instigation for both of Schmitt's essays "The Visibility of the Church" and *Roman Catholicism and Political Form*.<sup>4</sup> Furthermore, Sohm remains important in Schmitt's estimation even in his later life: in his diaries of the late 1940s, Schmitt emphasizes that Sohm was a "key figure of the intellectual history of the last century," and includes a letter he has written to a younger jurist arguing that anyone who seeks to comprehend or practice contemporary German law must tangle with Sohm (GL, 20.4.48, 23.5.48).<sup>5</sup> Indeed, Schmitt writes, anyone wishing to grasp the current jurisprudential situation must recognize that "the whole German university" is "of Protestant descent" (GL, 20.4.48). It appears, therefore, that Schmitt's own 'scholastic considerations' are not extraneous to his attempts to influence the development of German jurisprudence, but at the very least one of the angles by which he attempts to make his point in a field attuned to exactly this kind of multi-layered argument.

The fact that Schmitt regards his engagement with Sohm as simultaneously legal, political, and theological means that sidelining Schmitt's theological arguments would not allow one to develop a complete picture of his thought. To see the full context and implication of Schmitt's argument, one might begin with Schmitt's apparently modest claim that political theology means for him the elaboration of an analogy between jurisprudential and theological

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<sup>3</sup> Many commentators emphasize Schmitt's admiration for Sohm, which I do not mean to deny. It seems, however, that Schmitt admires Sohm as one of his most important opponents, in part because, as I will suggest below, Schmitt thinks Sohm's argument demonstrates most clearly the impasse to which Protestant thinking comes. By contrast, Meier argues that Sohm is Schmitt's "most important witness" that Protestantism is "likewise... a Christian possibility" (*The Lesson of Carl Schmitt*, 128, 128n15).

<sup>4</sup> Meier, *The Lesson of Carl Schmitt*, 8n19. For an account of the Catholic-Protestant quarrel over the issue of the visible and the invisible Church, see "Visibility of the Church," in *New Catholic Encyclopedia*, 558-559; see also Pope Pius XII, *Mystici Corporis Christi* and John Calvin, *Institutes*, 4.1.3-4, 7.

<sup>5</sup> Schmitt later complains that this jurist has not taken up his "hint" about Rudolph Sohm, which he thinks reflects negatively on "his very own existence as a scientific jurist" (GL, 23.5.48). Schmitt refers the young jurist to Sohm, *Kirchenrecht*, especially volume two.

reasoning (PT II, 42). Although several critics have questioned and even scorned this definition of political theology, the analogies between theology and jurisprudence that Schmitt draws out, at first quietly and surreptitiously, and then with increasing boldness, do seem to form a key part of his thought and have not yet been explicated extensively enough to weigh their true importance.<sup>6</sup> Even if one concludes that Schmitt's political theology is not limited to an explication of the analogy between jurisprudential and theological reasoning, it seems overhasty to explain this recurring motif in Schmitt's work as an intentional distraction from his real concerns.<sup>7</sup> I will argue below that Schmitt's engagement with theological questions is both analogical to his legal and political argument, as well as interlocking with his legal and political concerns.

In this chapter I will examine "The Visibility of the Church" to see what light it can shed on the presuppositions of Schmitt's legal and political work that we have examined so far, particularly his understanding of justice and the relation of politics and morality. As we have seen in Chapter 2, Schmitt makes an argument for the morality of the political in asserting that it is just or moral for the individual to submit himself to the state. The individual, according to Schmitt, must accept the rule of direct power, because the alternative—"rejecting every earthly power"—would "lead to the worst inhumanity" (RC, 32). But, given the obstacles that Schmitt sees to either understanding or realizing justice on earth, one might rightly inquire why this would be the case. Even if we accept Schmitt's point that injustices are an unavoidable aspect of establishing or maintaining political order, one may question whether injustices are for this reason justified. If we follow Schmitt's understanding that power is "strictly speaking...

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<sup>6</sup> Two short treatments of this topic can be found in Colliot-Thélène, "Carl Schmitt versus Max Weber," 143-144, 149-150, and Chen, "What is Carl Schmitt's Political Theology?," 154-159.

<sup>7</sup> Meier, *The Lesson of Carl Schmitt*, xvi.

incompatible” with justice, we might conclude that the individual, rather than finding his meaning in devotion to the state, should avoid tangling with power at all (WS, 22). If Schmitt is sure that justice can never be realized, why does he think people are obliged to try? Why is it just to strive to realize justice in the world? In asking this question, we get to the heart of Schmitt’s argument, the source of his deepest convictions and polemics.

Whereas Schmitt avoids this question in the two works we have considered so far, he raises it explicitly in “The Visibility of the Church.” As he puts it there, the question that drives the essay is “whether it is right to let mundane things take their own course” (VC, 47). The question of the proper attitude toward things of this world turns for Schmitt in this scholastic essay on the proper interpretation of the meaning of Christ. At the beginning of the essay, Schmitt makes clear that he thinks the most significant challenge to his point of view—that it is just to strive to realize justice in this world—comes from “historians of early Christianity who have concluded that the first Christians and even Christ himself were indifferent to the things of this world because they expected the end of the world tomorrow or the day after” (VC, 47).<sup>8</sup> Imitating Christ, on this account, would encourage one to turn one’s back on the things that were simply worldly or material, destined to pass away, perhaps very soon. By contrast, Schmitt argues that the appearance of God on earth in the form of Christ justifies man’s continuing involvement with the world: “Since God actually became visible man, no visible man should leave the visible world to its own devices. To do so would be to cut the thread that ties God to the world at its center: visible man” (VC, 57). The question of ‘whether it is right to let mundane things take their course’ becomes for Schmitt in this essay a question of the relation or lack of relation of the world with the divine.

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<sup>8</sup> As mentioned, Schmitt likely takes aim here at Sohm. See Sohm, *Outlines of Church History*, 11.

*The theological justification of political institutions*

As should be clear, in this essay Schmitt views the debate about whether it is just to strive to realize justice in the world as an intra-Christian quarrel, one that hinges on a question of theological interpretation. But the theological question quickly becomes a question about the justification of institutions and politics, and so takes on a broader significance. Schmitt portrays the intra-Christian quarrel that he addresses as sprung from an argument about the possibility of institutionalizing Christianity, for “what was not admissible with Christ—to bring the human into conflict with the divine and concrete-factual reality into opposition with the idea—is possible on the next level of mediation—in the Church, which is exposed to the means it wants to influence” (VC, 54). In other words, whereas Christians agree that Christ was at once human and divine, the meaning of the Church has become a disputed issue among those believers because its ‘human’ aspect includes humanity in all its sinfulness; therefore in what respect the Church is divine, if any, is a matter of contention. The core of the disagreement between Catholics and Protestants, as Schmitt portrays it, concerns the sacred character of the Church—and thereby the nature of the relation between the human and the divine.<sup>9</sup>

Schmitt’s essay is a vigorous defense of the Roman Catholic Church and polemic against the Protestant view, which is for Schmitt typified by the belief in the possibility of what Schmitt calls a “*corpus mere mysticum*,” a purely spiritual community (VC, 52). Schmitt acknowledges

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<sup>9</sup> In this dissertation, I use the terms “Catholic” and “Protestant” as Schmitt intends them; I do not put these terms in quotes in the text even when their usage is not standard. In doing so, I do not mean to imply that Schmitt’s understanding of Protestantism and Catholicism is orthodox. It may be intended, as Colliot-Thélène suggests, as a critique of the “dominant tendencies of Catholicism at the time” (“Carl Schmitt versus Max Weber,” 146.) It certainly departs from traditional Catholic teaching on several important issues, including natural law (Dahlheimer *Carl Schmitt und der deutsche Katholizismus*, 51-55).



that the Protestant argument is predicated upon the very justifiable discernment of an unbridgeable gap between might and right, the human and the divine, or as he puts it here, “concrete-factual reality” and the “idea” (VC, 52, 54). Schmitt therefore credits his Protestant opponents who argue that community with God requires the renunciation of the material world with a powerful objection, one that he admits allows for a perennially valid critique of the Roman Catholic Church. Christianity depends, Schmitt points out, on “the maxim that one must obey God more than man” and therefore on the possibility of hearing God’s commandments unfiltered by secondary mediation, in other words, of direct revelation (VC, 55). The very possibility of *purely spiritual* communion with God—and the need for a Christian to admit this—calls into question Schmitt’s case for the necessity of a worldly institution to serve as a mediator between God and man. In fact, the Protestant “postulate of immediacy,” Schmitt admits, can make the Roman Catholic Church seem like an obstacle to man’s relation with God, an unnecessary complication or obfuscation of the spiritual by the material, rather than a necessary mediator of the two elements (VC, 52).

Schmitt does not deny the importance of this Protestant argument for ‘immediacy,’ claiming rather that—as he puts it in *Wert des Staates*—the argument for “immediate” access to the truth and the argument for the necessity of mediation, if properly understood, ultimately do not conflict (WS, 109-110). Schmitt concurs with the Protestants that there is, theoretically speaking, an absolute divide between the visible and the concrete; he differs with them, however, by defending the Catholic Church against “division” by arguing that it can contain both the concrete *and* “the protest against what is wickedly concrete and merely historical” (VC, 54). In other words, for Schmitt, the Catholic Church mysteriously contains the sinful and the divine,

and “does not require any other new Church of its own for this protest” (VC, 54). Schmitt does not dispute that there exists a real division between the divine and the world, the spiritual and the material, pure right and pure might, but argues that one institution can justly contain both elements.

We see here that once again the distinction between theory and practice plays a crucial role in Schmitt’s argument. While Schmitt admits that Protestants are correct to see, strictly speaking, an irreconcilable division in theory between body and spirit, things of this world and things of the next, he objects to the conclusions they draw from this theoretical understanding. Schmitt argues to the contrary that, in practice, one institution (in this case, the Church) can contain these opposite elements—an argument that mirrors the argument Schmitt makes about political institutions in *Wert des Staates*. In the last chapter, we examined Schmitt’s argument that, if justice can be realized, the state must somehow contain the logically irreconcilable elements of might and right, though how exactly they coincide is somewhat mysterious. Here too, as we will see, Schmitt argues that the basic supposition of Christian doctrine (the reality of Christ) requires that the Church be both divine and human, as difficult as that may be to understand or accept.

In this theological essay, Schmitt takes a step further in explaining how the practical coincidence of these two logically opposite elements might be understood. The possibility of the Church legitimately containing the divine as well as the ‘wickedly concrete’ seems to be predicated upon the possibility of distinguishing, as Schmitt does, between two aspects of material reality: “true visibility” and “factual concreteness” (VC, 53). The “visible” aspect of the Church, Schmitt argues, is “rooted in the invisible,” ultimately in that God “descends” to become

man, proving that materiality has a relation with the divine (VC, 52). The “concrete” aspect of the Church, on the other hand, as thoroughly evil, “is the result of the sin of man” and is the aspect against which one justly “protests” and should continually attempt to “negate” (VC, 47, 54).<sup>10</sup> In Schmitt’s analysis, the purely theoretical view represented by Protestantism, which insists on an absolute distinction between the material and the spiritual, leads Protestants to associate all materiality with the evil world, and all spirituality with divine goodness. According to Schmitt, they do not acknowledge the possibility that Schmitt proposes: that there can be a “mediator... from above” which redeems the visible aspect of the material, that makes the actual world a mixture of good and evil (VC, 52).

As Schmitt makes plain, according to his analysis the Protestant denial of the possibility of the mediation of the spiritual and the material implies that they “basically have doubts about the humanity of the Son of God” (VC, 52). In other words, while the common Christian doctrine professes what is according to Schmitt the correct belief—that the spiritual and the material can mix, as is evidenced by Christ—Protestants depart from this in their quest for a purely spiritual church. The theoretical understanding on which Protestants base their religious practice, therefore undermines, in Schmitt’s view, the Christian belief they profess is at the core of their thought. Schmitt cannot prove that the Roman Catholic Church, or any other institution, actually contains a spark of divine justice; his strategy is to try to show instead that accounts about the nature of institutions that begin from a purely theoretical analysis of justice and power rather than an examination of practice fall into contradiction. In other words, in “The Visibility of the Church,” Schmitt argues that the Protestant understanding of the unbridgeable gap between

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<sup>10</sup> One might see an analogy between Schmitt’s distinction here of the visible from the concrete and the distinction he suggests in *Wert des Staates* of precision in law (which is part of justice itself) from every particular law (which necessarily harms justice).

justice and the world conflicts with the Christian understanding of the mysterious appearance of Christ in history, which makes the Protestant view a self-contradictory position.

Schmitt justifies the Roman Catholic Church in this essay by arguing that, if one accepts that God became man, one must also affirm the argument that “just as Christ had a real body, so must the Church have a real body”—in other words, Christ’s actual material existence not only proves the possibility of the conjunction of spirituality and materiality but moreover stands as a model for the mixed institution of the Church, which will shepherd the people in his absence (VC, 52). As Schmitt writes, “this often repeated metaphor assumes an argument of the highest dignity because it refers to an identity in the logical structure of both processes and concretely manifests the marvelous structure of this same ‘mediation,’ which constitutes the essence of the Church” (VC, 52). In other words: as God mediates via Christ, Christ mediates via the Church—and this dynamic is itself, in Schmitt’s words, ‘marvelous,’ in part because it is at once ‘logical’ and ‘concrete,’ in other words, because the metaphor itself enacts the process to which it points: the union of the intelligible with the physical, the universal with the particular. This is precisely what is at stake in Schmitt’s articulation of the Protestant-Catholic quarrel: the possibility of mediation in practice—the relation, however mysterious, between the spiritual and the material, between justice and power. Schmitt’s position in this argument is that a Christian must believe in the possibility of mediation between the spiritual and the material, and therefore that one cannot turn one’s back on the ‘visible’ world in the hopes of communing more directly or completely with the spiritual world without denying the Christian God. The justice of striving to realize justice in the world—of refusing to let mundane things ‘take their own course’—is in other words ratified for Schmitt by God’s participation in the material world.

In other words, Schmitt does not seem to believe that, since God showed his care for the world through Christ, we should imitate the divine by also caring for human things. Schmitt does not refer to God's intervention in the world to make an argument that human beings should devote themselves to improving life on earth by attempting to enact any specific Christian norm, such as charity or mercy. The implication Schmitt draws from the "historical reality of the incarnation of Christ" is rather a confirmation that the world itself is essentially good and therefore that it is right to be involved in mundane matters (VC, 52). Just as in the legal and political works we examined previously, here also Schmitt affirms the morality of involving oneself in worldly institutions without specifying the moral ends to which these institutions should aim. Striving to enact justice in the world, regardless of one's understanding of justice, then, in itself testifies for Schmitt to the correctness of one's theological opinion and therefore the moral worth or justice of one's own position.

Schmitt seems to consider it of primary importance in "The Visibility of the Church" to establish that the world is good. Indeed, Schmitt argues, from the point of view of a Christian, it could not be otherwise: "whoever recognizes how deep is the sin of man is compelled by the incarnation of God to believe that man and the world are 'by nature good,' because God can will no evil" (VC, 56). According to Schmitt, it is precisely those who most deeply recognize human sinfulness that are, at first glance paradoxically, those who most firmly believe in the goodness of human nature. Schmitt implies that an intense awareness of the profound evil committed by human sin allows one to see that God cannot be implicated in this evil; the incarnation of God then reassures one of God's connection with human life and therefore of an aspect of man that is worth saving, that is 'good.' In short: God can will no evil, but His creation has become sinful,

therefore God *must* will the salvation of His creation. The awareness of human sinfulness and the belief in the goodness of God entail, Schmitt argues, the understanding that the material is not entirely evil. It allows one to see clearly, as Schmitt sets out as one of the two central “tenets” of his essay, that ““the world is good, and what evil there is in the world is the result of the sin of man”” (VC, 47).

With this in mind, we can attain a more precise understanding of the grounding of Schmitt’s justification of the Roman Catholic Church. For Schmitt, the Church’s worth does not depend upon the goodness of its actual effects in the world, or even on the ‘value’ of the idea it claims to represent. For Schmitt, the Church is justified precisely because it self-consciously and defiantly presents itself as a worldly institution; its purpose is to assert the connection of the divine and the world.<sup>11</sup> Seeing this, we can understand why Schmitt proves willing to stand by this argument for the justice of the Roman Catholic Church, even when his argument is pushed to an extreme: Schmitt claims that even if “in times of the utmost confusion the Antichrist would become pope... [although] he would be no legitimate pope... the few true believers would remain even then the visible Church, would hold to the unbroken chain of the imitation of Christ in the priestly, educational and pastoral offices in a visible, that is, juridical continuity” (VC, 55).<sup>12</sup> Even in times when the tension between the concrete and the visible aspects of the Church becomes most extreme and apparent, one should, Schmitt argues, hold to the validity of the

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<sup>11</sup> The other tenet on which Schmitt bases his argument in “The Visibility of the Church” is: “Man is not alone in the world” (VC, 47). Schmitt understands this tenet to have equal theological and political significance, explicating it thus: “Man is not alone in the world. God stands by him. Thus the world cannot destroy him. But man is not alone in the world also in the original sense, that is, he is in the company of other men. Thus he remains in his relation to God in the community and its mediation” (VC, 51).

<sup>12</sup> With the mention of the juridical, we might be reminded of Schmitt’s discussion in *Gesetz und Urteil* of content-indifference and legal certainty, in which he argues that it is precisely in moments when the content of the law is most indifferent that one can see most clearly that legal certainty itself is an aspect of justice. Similarly, here he argues that in moments of great tension between the sins of the factual officers and the office do we see most clearly the divine aspect of the office itself.

offices, of the institution. Schmitt's argument that the justice of the office of the Church outweighs any injustices its particular officers might commit is meant to defend, even in the extreme case, the justice of mediation against the Protestant claim. Furthermore, Schmitt's speculation about the possibility of the Antichrist becoming pope puts emphasis on the justice of the Church *as an institution*. The juridical form of the Church is what justifies it.

Once we have understood the reason for Schmitt's justification of the Church, we can see why he insists that, though Christianity perpetually leaves open the possibility of legitimately critiquing the Church from the point of view of an individual who claims to have received divine revelation, the critique, to be just, must remain within the Church—that is, it must be a critique of the particular, concrete practices of the institution, and not of the possibility of the institutionalization of the Church as such. Schmitt essentially asserts that, whatever direct revelation may reveal, it cannot contradict his account of the meaning of Christ for theological-political form.<sup>13</sup> In this way too, Schmitt's argument about the Church mirrors the argument about political institutions that he advances in *Wert des Staates*; there we also found that, though an individual can justly criticize any individual state, one must presuppose a harmony between justice and the state in general. We found in our discussion of *Wert des Staates*, furthermore, that Schmitt distinguishes himself from a typical fascist doctrinaire such as Mussolini precisely by his emphasis on the justice of the critique of particular states, and especially by his insistence that no state can ever fully realize the just. In "The Visibility of the Church," we discover a deeper reason why this insistence is important to Schmitt. As we have seen, Schmitt understands the awareness of human sinfulness and the recognition of the imperfection of all human creations

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<sup>13</sup> In this respect, Schmitt seems to answer the question of the primacy of God or the good with an argument that subordinates God to the good, and furthermore what amounts to Schmitt's own understanding of the good. This is not to say that Schmitt would be comfortable asserting his own understanding above the mystery of God's purpose.

to go hand-in-hand with the belief in the essential goodness of the world, and therefore in the ultimate goodness of God. Schmitt's insistence on the necessary imperfection in every worldly institution therefore in his mind serves to strengthen, rather than qualify, his argument for their essential goodness.

For Schmitt, the distinction between the visible and the concrete and the task of criticizing the concrete is crucial because things of this world have eternal significance. The worldliness of the Church, and the refusal of its true members to turn their backs on the world, is ultimately defended, according to Schmitt, not only because the world was originally good, but because it has been promised that the world will one day be saved. Continued involvement in the world and its institutions is justified for Schmitt because of the nature of the promised "end of the world"—which, Schmitt argues, will "not be Nirvana but rather a new and transfigured world that is nevertheless the same world" (VC, 55). Schmitt's argument is that it is just for man to turn his attention to mundane things, rather than let them 'take their own course,' because the material world is originally good and what has not been destroyed by sin will eventually be saved. This is why to abandon the "visible world" would be for Schmitt so monstrous—because the world retains an aspect of the divine, and is thereby a means of man's connection with God. Schmitt's justification of institutions and his defense of the morality of the political, therefore, are predicated upon his belief in the original and eventual goodness of the world, on the importance of discerning the divine in the worldly.



*The Protestant as a model of Schmitt's opponent*

Schmitt's account and elaboration of the Catholic-Protestant quarrel over mediation and immediacy, which is ultimately a quarrel over the possible relation of the divine and the worldly, has obvious consequences for his understanding of the value of institutions and the nature of politics. It makes sense, therefore, to view Schmitt's theological reflections as intimately related to his political and legal thought. The relation of these aspects of Schmitt's thought becomes more evident, I will argue, as we discern how Schmitt's stance in "The Visibility of the Church" is mirrored in the more familiar arguments he makes outside a scholastic or Christian context, arguments in which Schmitt cannot refer to a common belief in the divinity of Christ to prove his point. In fact, as we will see by looking at Schmitt's argument against liberalism and legal positivism below, Schmitt seems to consider his various opponents to be modeled on the Protestant position. In other words, the Catholic-Protestant quarrel that Schmitt prosecutes serves as the fundamental pattern for his various antagonisms.<sup>14</sup>

In order to see the connection between Schmitt's polemic against liberalism and legal positivism and his argument against the Protestant view, it must be recognized that the brunt of Schmitt's critique of Protestantism in "The Visibility of the Church" is not finally doctrinal but concerns an internal contradiction in Protestant thought, and particularly the morally suspect stance to which Schmitt argues this logical contradiction leads. All of the relevant steps of Schmitt's argument can be seen by drawing out his critique of the Lutheran jurist Sohm, a

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<sup>14</sup> In arguing this point, I intend to show that Schmitt is more concerned to oppose those opinions that he sees as conflicting with his own understanding of the worth of the political, which is moral and theological, than to oppose those points of view that assert the self-sufficiency of human reason, as Meier contends.

critique that serves as the context for “The Visibility of the Church,” and to which Schmitt returns several times over the course of his career.

Sohm was a highly respected and influential professor of jurisprudence who taught in the latter half of the nineteenth century (he died in 1917). He was a committed Lutheran whose jurisprudential work clearly drew on Catholic-Protestant controversies. Besides his work on Roman law, he wrote on the history of the Church, Church law, and on the origins of Catholicism. Sohms stands in clearest opposition to Schmitt by arguing that the Christian idea is most completely opposed to legal form. As Schmitt summarizes Sohms’s argument, its core is the contention that “the whole essence” of Christianity was altered by the appearance of the Catholic Church—in other words, that the original Christian moral teaching could not survive institutionalization (GL, 21.4.48). Arguing against the possibility of a “visible Church,” Sohms asserts that in the original conception of worship—where a ‘church’ was present whenever two or more were gathered in Christ’s name—“every form of legal constitution is excluded.”<sup>15</sup> Sohms’s favor for the apolitical stance of the early Christians makes clear that he believes ‘legality’ or institutionalization to be absolutely opposed to Christian morality or ‘spirituality.’ As Sohms puts it, “the Church...signifies a *spiritual* people; ...Christendom forms not a state nor a political union, but is a *spiritual* power. Once and for all, a legally constituted Church cannot be.”<sup>16</sup> Christian morality, according to Sohms, stands in absolute opposition to legal form.

Sohms acknowledges that the institutionalization of the Christian idea was expedient, and perhaps even necessary for the memory of Christ to survive in any meaningful form. But this

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<sup>15</sup> Sohms, *Outlines of Church History*, 32. Compare to this Schmitt’s argument that “the juridical regulation of human relations existed before evil and sin, and was not its result... St. Augustine considers it necessary to emphasize that God instituted marriage *ante peccatum hominis ab initio*.” From this Schmitt draws the conclusion that “the lawfulness of the visible world in the Christian conception is thus by nature good” (VC, 56).

<sup>16</sup> Sohms, *Outlines of Church History*, 34.

does not in Sohm's opinion alter the fact that the Church is a betrayal of the Christian idea. Correspondingly, the crux of Sohm's argument against "the visible Church" is that Christians are obliged to try continually to organize themselves in these purely spiritual groups because legal form stands in direct and absolute opposition to spirituality.<sup>17</sup> Sohm understands the essential Christian task, in other words, as the obligation to strive for purely spiritual communion with God.

Schmitt, of course, stands in diametric opposition to this, arguing that what makes the Roman Catholic Church a true instantiation of the Christian idea is precisely its highly developed "juridical logic" (RC, 12). As we have seen in "The Visibility of the Church," Schmitt attacks Sohm's position by arguing that, as a believer in Christ, Sohm should acknowledge that the divine permeates things of this world. But Schmitt does not rest his argument with Sohm solely on these grounds of shared religious conviction. In the context of arguments that do not begin from the Christian premise, Schmitt critiques Sohm on the grounds of logical consistency, and insinuates moreover that Sohm's logical inconsistency leads to a morally suspect position.

In our examination of *Wert des Staates*, we saw that Schmitt critiques Sohm's understanding of the "duality in justice" by focusing on an apparently minor correction of Sohm's opinion that justice must "strive for coercive realization" (WS, 82, 80). As Schmitt points out, based on their shared understanding of justice as a pure norm, justice does not have a will and cannot 'strive.' Schmitt suggests that one can make Sohm's conception of the "duality in justice" more "precise" by arguing that "because justice must be realized coercively by the state, as its *exactor*, all state law must become exact, 'formulated' and 'certain,' in order to be

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<sup>17</sup> Sohm, *Outlines of Church History*, 35.

capable of concrete realization” (WS, 82, 80). For Schmitt, as we have seen in the last chapter, one must therefore consider form or precision in law to be an aspect of justice itself. Schmitt’s correction of Sohm insinuates, then, that Sohm is backed into the position of attributing to justice a will, and moreover, a will to coerce—despite Sohm’s premise about justice and his deeply-held conviction that the moral norm and the things of this world are absolutely opposed—because Sohm will not admit that legal form is an aspect of justice rather than that of force. The purpose of Schmitt’s correction of Sohm’s view of justice seems to be to articulate an account of justice in which the norm of justice remains more clearly distinct from force—in other words, to correct Sohm’s argument to make it more coherent with itself. The missing link in Sohm’s argument to which Schmitt points is the acceptance of the justice of legal form.

Schmitt’s correction of Sohm insinuates that Sohm’s refusal to see legal form as just results in his reluctant attribution of the will to coerce to the norm of justice itself. Because Sohm does not allow for the justice of form, Schmitt suggests, he ends up having to elide the distinction between power and justice. The inability to make a distinction between justice and power, Schmitt makes clear, paves the way for the justification of every power (WS, 17). In other words, from a critique of the logical contradiction in Sohm’s thought, Schmitt draws out a moral critique of the Sohm’s position. Schmitt’s implicit moral critique of Sohm in *Wert des Staates* is echoed, more loudly, in his moral critique of the Protestant position in “The Visibility of the Church.”

According to Schmitt in “The Visibility of the Church,” the Protestant endeavor to move away from the worldly Church and its juridical forms in the attempt to achieve purely spiritual communion with God forces the Protestant into “two roles: the ‘pure’ Christian who serves God

in the most extreme invisibility; and, separate therefrom, the one who serves mammon in the most manifest visibility and is proud of the fact he has liberated *spiritualia* from its logically sordid association with *temporalibus*” (VC, 57). As Schmitt makes clear, this division results, in his opinion, “not in two souls but none” (VC, 57). This is because, according to Schmitt, the Protestant’s focus on the otherworldly leaves him free to involve himself in the most vulgar materiality; in thinking the things of this world to be devoid of spirituality, the Protestant neglects to cultivate, Schmitt alleges, the aspects of the material that can have a relation to the divine. Since all forms and institutions of this world are for the Protestant equally sinful, Schmitt insinuates, he cannot distinguish between powers and therefore in practice ends up justifying the things of this world indiscriminately.

The logical contradiction that Schmitt sees inherent in the Protestant denial of the justice of form leads, in his analysis, to moral failure: the hypocritical pretension to be morally pure while being blind to one’s own ‘sordid’ involvement in the world. This hypocrisy, according to Schmitt, is crucially connected to the pride the Protestant takes in believing he has successfully separated worldly and spiritual matters. This pride seems to be in Schmitt’s view the deepest expression of the Protestant error, for in this pride, Schmitt insinuates, the Protestant refuses to imitate Christ in his humble engagement with the world, and rather follows the devil in attempting an “imitation of God” directly (VC, 57). The Protestant, in Schmitt’s view, in other words, gives into the temptation to turn one’s back on the world and endeavors to become a purely spiritual being. Hence the Protestant falls into what Schmitt characterizes elsewhere as one of the devil’s best traps: Schmitt reasons that the “Master of the World” wants to seduce people into striving to rid themselves of material concerns, for the devil well understands that in

order to renounce the world, one must believe that one possesses it, has control over it and can dispose it at will (GL, 15.2.49). In other words, according to Schmitt, the devil tricks man into trying to conquer the world, thereby embracing the world's most 'sordid,' 'concrete' aspects, precisely by tempting him to think that it is possible and desirable to renounce mundane matters.

Schmitt's critique of the logical inconsistency in the Protestant position blends into a moral critique in the following manner: by assuming that the absolute theoretical incompatibility between justice and power holds true in practice, Protestants are moved to abandon the world in the effort to become closer to the divine. This lack of attention to the presence of the divine in the world, to the moral standards that are inherent in practice, causes the Protestant to devalue and even attempt to do away with politics and legal form. Since this quest is, according to Schmitt, both impossible and an implicit act against God, the Protestant ends up in a hypocritical engagement in the world, participating indiscriminately in all of its aspects, while proud of his supposed moral purity. In his later work, we will see that Schmitt levels this same logical argument and moral critique at other opponents who do not claim to base their position on Christian grounds. In fact, as I will indicate below, one finds that the various positions against which Schmitt argues over the course of his long career have a common core: they all seem, in Schmitt's interpretation, to be modeled on the Protestant position.

Let us begin with Schmitt's analysis of liberalism in *The Concept of the Political*. In the last chapter of that work, Schmitt describes the "incredibly coherent systematics of liberal thought," which, he argues, "moves... in a typical always recurring polarity of two heterogeneous spheres, namely ethics and economics, intellect and trade, education and property" (CP, 70-71). The typical polarity Schmitt discerns in liberal thought suggests a

parallel with what he understands to be the polarity, typical of the Protestant view, of things of the spiritual realm and those of the purely material world. Looking at the world through the lens of the strict theoretical distinction between “intellectuality” and “trade,” Schmitt argues, liberals, like Protestants, prove incapable of grasping the true nature of the political as something which might in practice encompass both the spiritual and the material (CP, 71). What is truly political is systematically ‘dissolved’ in the liberal interpretation, according to Schmitt, either elevated to a purely ‘spiritual,’ intellectual and therefore apolitical discussion, having no physical or practical consequences, or debased into the unjustifiable ‘material’ exercise of force (CP, 71-72). In asserting a polarity between ethics and economics, in short, liberals on Schmitt’s view make it impossible to fathom—or even discern—what is in his analysis truly political. Moreover, the impossibility of grasping what is truly political from the point of view of the paradigm of the polarity of ethics and economics gives rise, Schmitt argues, to the liberal opinion that what passes for politics is simply the exercise of brute power, and consequently to the liberal “attempt to annihilate the political as a domain of conquering power and repression” (CP, 71).

While the liberal articulation of the economic and the ethical as irreconcilable opposites is according to Schmitt “astonishingly systematic and consistent,” Schmitt does not believe that it has succeeded in overcoming the political (CP, 79). Rather, as Schmitt makes clear in the last paragraph of the essay, he believes that liberal systematics “cannot escape the logic of the political” (CP, 79). One might understand Schmitt’s position here more clearly in the light of what we have learned from his critique of Sohm: while Sohm makes a good argument for the theoretical incompatibility of justice and power, Schmitt argues, his logic fails when he attempts to apply this strictly theoretical view to what must be true about justice in the practical world if

justice is to have human meaning. Likewise, Schmitt respects the theoretical ‘systematics’ of liberalism, but does not think it suffices to grasp the nature of politics. ‘The political,’ according to Schmitt, has a different logic, one that begins from the recognition of the fact that intellectual and material things do seem to overlap in its domain.<sup>18</sup>

Although the liberal view is insufficient to grasp the political, on Schmitt’s analysis, its theoretical perspective is not without practical, political effect (CP, 70). Rather than overcoming the political by disregarding it, Schmitt argues, liberal thought only drives the political underground, forcing it to take ever-nastier forms. By splitting politics into “competition” and “discussion,” Schmitt argues, liberals deny the validity of war, and yet they cannot do away with its existence (CP, 71). Although “war is condemned,” Schmitt argues, liberal polities have ways of dealing with their enemies: by “executions, sanctions, punitive expeditions, pacifications, protection of treaties, international police, and measures to assure peace” (CP, 79). These measures are practically no different than techniques of war, Schmitt argues. Yet liberals pursue these measures both more ferociously and more proudly, according to Schmitt. This is because they do not acknowledge this middle realm of politics and war, where justice and power overlap, and consequently pursue their wars with an ethical zeal, not content to call the “adversary... an enemy” but labeling him “a disturber of peace and thereby designated to be an outlaw of humanity” (CP, 79). These wars fought ostensibly on behalf of ethical principles are, according to Schmitt, not more humane, but rather more ferocious: a liberal war must “turn into a crusade and into the last war of humanity” (CP, 79). We see, therefore, that the logical problem Schmitt discerns in liberal thought not only precludes them from properly understanding the practical, political realm, but leads, in Schmitt’s analysis, to a grave moral failure.

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<sup>18</sup> I will expand on this understanding of ‘the political’ in Chapter 5.



Like their Protestant models, the well-intentioned liberals end up, according to Schmitt, contradicting themselves because of their insistence on seeing the practical world through the lens of an absolute theoretical polarity between justice and power, the spiritual and the material. In both cases, Schmitt claims, the result is the same: neither liberals nor Protestants can avoid acting politically, acting in the world; their desire to see the ethical and the economic as distinct encourages them to deal in material matters of trade or power while believing themselves to be moved by purely ethical or spiritual concerns. This gives rise, in Schmitt's view, to a characteristic, hypocritical pride, in which one sees only the good intentions of one's spiritual pursuits and does not acknowledge their material consequences.

With his analysis of the error that he believes to be common to Protestantism and liberalism, Schmitt emphasizes the consequences of not sufficiently distinguishing between the theoretical and the practical, and specifically of transferring without qualification one's opinions about what is absolutely true in theory into the world of practical action. According to Schmitt, this purely theoretical view of the world of practice cannot discern the reality or the purpose of politics. The consequent disregard of the political, Schmitt asserts, results in a hypocritical engagement with the things of this world. It seems that this pattern of thought is paradigmatic for Schmitt of a typical error, one he time and again attempts to expose in its various forms. Indeed, we find that Schmitt's analysis of the hypocrisy of legal positivism in *Political Theology* follows the same mold.

In *Political Theology*, Schmitt polemicizes against the legal positivist Hans Kelsen's attempt to "obtain in unadulterated purity a system of ascriptions to norms" by removing "all sociological elements" from juristic concepts (PT, 18). On Kelsen's understanding, as Schmitt

represents it here, jurisprudence deals solely with ‘norms,’ while sociology considers the material conditions required to create or apply law. We will see that, in his critique of Kelsen’s legal positivism, we once again find Schmitt criticizing a position that attempts to view political and legal matters through the lens of a theoretical distinction between norms and facts, between justice and power.

According to Schmitt, Kelsen claims at first simply to be cordoning off a realm in which law can be considered as a matter of ‘pure theory,’ to be outlining a discipline that will coexist with an account of political realities. However, Schmitt argues, Kelsen’s theory ends up attempting to reduce all properly political elements to legal attributes: in Kelsen’s thought, the state becomes “purely juristic,” a “legal order,” and finally simply a “basic norm” (PT, 18-19). Schmitt finds, in other words, Kelsen’s strict distinction of norms and facts leading to the same consequence as the liberal polarity of ethics and economics: the attempted elimination of the state and of the political as such. Citing Kelsen’s own plea that “the concept of sovereignty must be radically repressed,” Schmitt concludes that, in the end, Kelsen’s disciplinary distinction between jurisprudence and sociology aims at excluding the recognition, and eventually the existence, of a properly political sphere of human action and thought (PT, 21).<sup>19</sup>

Once again, the significant problem Schmitt sees in Kelsen’s work is that it oversteps the theoretical endeavor—in this case, the creation of useful legal fictions—with which it claims to be occupied. Schmitt sees Kelsen’s attempt to ‘repress’ the ‘concept of sovereignty’ as not simply an effort to make jurisprudence more scientific, which is how Kelsen portrays it, but as an opinion about the nature and worth of sovereignty that it itself based on a political position and

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<sup>19</sup> I will address Schmitt’s disciplinary response to Kelsen’s division of jurisprudence and sociology in the next chapter.

leads to political consequences. Schmitt argues that Kelsen's argument about sovereignty does not come down to "a juristic question," but "depends on philosophical, especially on philosophical-historical or metaphysical convictions" (PT, 7). In Schmitt's view, Kelsen's jurisprudence claims to be a simply neutral, purely theoretical science but is in fact based on a polemical, metaphysical position.

Schmitt reconstructs the link between Kelsen's legal theory and Kelsen's polemical position by pointing out that, although Kelsen aims to separate all material and political conditions from his science of jurisprudence, his view of law only makes sense within a particular political context.<sup>20</sup> Legal positivism, as Schmitt recounts its history, is an intellectual elaboration of the political stance taken by nineteenth-century German liberals in their struggle to control Bismarck's state; Kelsen's work depends upon "the old liberal negation of the state vis-à-vis law and the disregard of the independent problem of the realization of the law" (PT, 21). Schmitt thereby attempts to expose Kelsen's science as hypocritical: a politically-motivated repression of political concepts. Like Protestants and liberals in Schmitt's analysis, Kelsen is intimately involved in political struggles while "proud of the fact he has liberated" a pure theory of jurisprudence from its "logically sordid association" with sociological facts of power (VC, 57).

Kelsen's science, according to Schmitt, hides a political and metaphysical position that, as we will see, is linked in Schmitt's view to the Protestant perspective. Schmitt elaborates the

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<sup>20</sup> This point is not unique to Schmitt and is accepted also by at least some defenders of legal positivism. Peter C. Caldwell argues that "in the case of [Richard] Thoma and [Gerhard] Anschütz, the decision for a positivist method was not just an empirical assessment...but also an ethical affirmation of democratic self-determination" (Caldwell, "Legal Positivism and Weimar Democracy," 288). The connection between positivism and democracy also allows Caldwell to make a fair case for the importance of the role that legal positivistic argument plays—though only while a democratic constitution "remains in force" (278 ff.).

metaphysical position he discerns at the basis of Kelsen's jurisprudential thought by drawing on the Dutch liberal theorist Hugo Krabbe, who according to Schmitt expresses the "ideological root" necessary to the view that law alone can rule if the state is transcended (PT, 22).

According to Schmitt's account of Krabbe's work, the belief that law alone is capable of ruling "in the strictest sense of the word" is based on the understanding that the force of law (quoting from Krabbe) "emanates from the spiritual nature of man," and therefore that "laws can be obeyed voluntarily" (PT, 22). Krabbe writes that according to the "modern idea of the state... 'we no longer live under the authority of persons, be they natural or artificial (legal) persons, but under the rule of laws, (spiritual) forces'" (PT, 22). Krabbe, like Sohm, seems to understand his antagonism toward the legal to be an expression of favor for the spiritual; both follow what Schmitt sees as a distinctively Protestant claim that the spiritual cannot be institutionalized. Moreover, like the Protestants Schmitt opposes in "The Visibility of the Church," Krabbe also seems to believe that it is possible for "spiritual power" to rule directly, and therefore argues that we should strive to rid ourselves of the "personal force (of the king, of the authorities)" in order to enjoy this direct rule of the spirit (PT, 22). Krabbe's opinion here, which asserts not simply the theoretical distinction of the spiritual and the legal, but the ability of the spiritual alone to rule in practice—and indeed, the actual fact of spiritual rule of law in modern times—clearly echoes what Schmitt presents as Sohm's call for Christians to strive for 'purely spiritual communion' with God.

Accordingly, we see that Schmitt finds inconsistencies in Krabbe's and Kelsen's thought that parallel the errors into which he thinks Sohm falls. In Schmitt's explication of Krabbe's theory, we see that Krabbe wants to argue both that "force" is opposed to "spirit" *and* that there

is such a thing as “spiritual force”—which is, moreover, opposed to “force” because it leaves man essentially free (PT, 22). Like Sohm, Krabbe seems unable to maintain the distinction between spirit and force that is a predicate of his argument for the moral superiority of spiritual things. Schmitt also sees a similarity between Krabbe and Kelsen in the following respect: Krabbe argues that, if we remove the impediments of force, law will flow naturally from man’s spirit; according to Schmitt, Kelsen also asserts an identification of “the lawfulness of nature and normative lawfulness” (PT, 41). For Kelsen, it follows, what is right is identical with what will naturally come about if the artificial forces of politics and sovereignty are overcome. Schmitt elaborates the consequences of this view: when “exclusively scientific thinking” has “permeated political ideas,” one becomes confident that one can “push aside” the sovereign, because one believes that “the machine now runs by itself” (PT, 48). It seems, then, that Kelsen’s views come here in Schmitt’s opinion to a point of self-contradiction: his purely ‘normative’ science of jurisprudence in fact depends on the faith that the ‘machine’ will run itself. Kelsen and Krabbe, in Schmitt’s analysis, claim to base their legal and political views on an effort to respect the spiritual or the normative above all; Schmitt however sees their allegedly purely normative perspective, like Sohm’s, changing into the opposite: a vote of confidence in the self-sufficiency of the material or the ‘mechanized,’ an implicit conviction that the facts of power will be sufficient to produce justice.

It seems therefore that Schmitt’s critique of Kelsen, paradoxically, rests on Schmitt’s allegation that Kelsen’s normativism does not allow for an adequate conception of norms.<sup>21</sup> This suspicion is strengthened when one discerns the correspondence between Schmitt’s critique of

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<sup>21</sup> McCormick makes a similar point: “Schmitt’s critique of legal positivism is both descriptive and—ironically, given his aversion to normativism—normative” (*Carl Schmitt’s Critique of Liberalism*, 215).

Kelsen and the critique of the anarchist position he advances toward the end of *Political Theology*. According to Schmitt's description of the anarchists, they seem to share with Krabbe and Kelsen the fundamental faith that "life... on the basis of its natural rightness produces the correct forms by itself from itself" (PT, 64). The connection Schmitt insinuates between normativists and anarchists allows one to draw Schmitt's critique of Kelsen's normativism to a sharp point. In Schmitt's analysis, anarchists, as more radical and consistent proponents of the power of things to "govern themselves," understand that this claim necessarily entails the vigorous denial of norms and ideas, indeed of anything transcendent (PT, 27). Schmitt makes this argument most clearly in *Roman Catholicism and Political Form*: anarchists understand that "so long as even the ghost of an idea exists, so also does the notion that something preceded the given reality of material things—that there is something transcendent—and this always means an authority from above" (RC, 27). The existence of a transcendent norm, Schmitt argues, would imply that people have to decide how to organize themselves according to principles, principles that were not immanent and evident, but had to be articulated and defended. A transcendent idea, from the point of view of an anarchist, would be "an outside interference, a disturbance of the self-propelling machine," evidence that things cannot "govern themselves" (RC, 27). In Schmitt's analysis, the normativist assumption that 'the machine now runs by itself' seems surprisingly equivalent to the anarchist's creed; the difference seems to be that, for Schmitt, Kelsen is not as aware of or honest about the consequences of his thought as are the anarchists (PT, 50; CP, 60-61).

Following the train of Schmitt's argument in *Political Theology*, one sees that he believes that the 'normativist' position represented by legal positivism, and the nineteenth-century

liberalism on which it is dependent, undermines itself by being unable to maintain a coherent concept of ‘norm,’ and reduces to a dependence on what is factual or automatic.<sup>22</sup> This leads in Schmitt’s opinion to a politics which extols the reign of pure norms but is in fact “increasingly governed by conceptions of immanence” (PT, 49). The hypocrisy of the normativists to which Schmitt points here parallels the hypocritical pride of the Protestants: just as the Protestant zeal to achieve purely spiritual communion with the Christian God ends up denying Christ, in Schmitt’s view, so does the normativists’ eagerness to dispense with the medium of the state implicitly deny the reality of norms in practical life.

What Schmitt seems to intend to demonstrate with this surprising intellectual genealogy—relating the extreme normativism of legal positivists to the extreme materialism of anarchists—is the interchangeability of every position that attempts to look at the practical world of action through the lens of the theoretically absolute distinction between the material and the spiritual, the fact and the norm. We find that Schmitt’s critique of Kelsen, like his critique of Sohm, centers on his attempt to look at the political and the legal from a purely theoretical perspective. In Schmitt’s view, Sohm’s inability to maintain the theoretical independence of justice from power is paralleled by Kelsen’s inability successfully to maintain the independence of legal norms from facts of power. Just as Sohm was forced into the position of asserting that justice itself must contain a will to coerce, so Kelsen is in Schmitt’s analysis backed into the position of alleging that norms come into being naturally or mechanically. In Schmitt’s view, Sohm and Kelsen have in common the attempt to maintain a purely theoretical perspective; their

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<sup>22</sup> Indeed, we find that Schmitt in fact does point toward this conclusion in the preface to the 1934 edition of *Political Theology* when he writes that “the German theory of public law of the Wilhelmine and Weimar periods... was only a deteriorated and therefore self-contradictory normativism... a degenerate decisionism... clinging to the ‘normative power of the factual’” (3).

unwillingness to begin from the supposition of the practical coincidence of norms and facts, or justice and power, in the political, Schmitt argues, makes them unable to maintain the independence of these two realms in their theories.

Moreover, once we find that the more consistent anarchists also dissolve in Schmitt's analysis into contradiction—Schmitt concludes *Political Theology* by arguing that Bakunin had to “become in theory the theologian of the anti-theological and in practice the dictator of an anti-dictatorship” (PT, 66)—we see that according to Schmitt, one ends up in the same predicament whenever one attempts to regard the political through the lens of pure theory, regardless of whether one begins from perspective of normativism or that of materialism. Both the normativist and the anarchist hypocritically use force to achieve that very end that they have professed will come about naturally, and which indeed derives its claim to value from the allegation that it is ‘spiritual,’ ‘natural,’ or does not require force. The similar structure of Schmitt's analysis and critique of the Protestant, the liberal, the legal positivist, and the anarchist demonstrates that Schmitt's aim is to show that all positions that attempt to view the practical world of politics solely from the perspective of a theory that draws an absolute distinction between the material and the spiritual end up logically contradictory and morally suspect.<sup>23</sup>

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<sup>23</sup> It is worth noting that Schmitt's published polemic against Judaism also follows this pattern. In fact, the argument Schmitt makes against the alleged effect of the Jews on German jurisprudence in his most notorious anti-Semitic work, “Die deutsche Rechtswissenschaft im Kampf gegen den jüdischen Geist” [“German Jurisprudence in the Struggle against the Jewish Spirit,” 1936] repeats almost verbatim Schmitt's polemic against liberalism from *The Concept of the Political* (1194). Raphael Gross argues that Schmitt understood his main enemy to be the Jewish people, and that Schmitt's argument against other opponents (liberals, legal positivists, anarchists) is modeled on this antagonism to Judaism. Gross sees some of the same parallels that I do between Schmitt's arguments against his various opponents (*Carl Schmitt and the Jews*, 131-152). It seems to me, however, that it is more accurate and fruitful to consider the Protestant as the model of Schmitt's opponent because it is against this position that Schmitt's positive (Catholic) argument comes most clearly to light.



## *The theological justification of the political*

While Schmitt's theological considerations may at first have seemed to take us far afield from the political and legal concerns Schmitt raised in the earlier works that we considered, the fact that Schmitt's argument against the Protestant position closely mirrors his arguments against liberals, legal positivists, and anarchists demonstrates that one must consider the relation of Schmitt's theology to his apparently non-theological arguments. The more straightforwardly legal and political works we examined in Chapters 1 and 2 brought us to the conclusion that, despite his understanding of the necessary harm that worldly power does in its effort to realize justice, Schmitt maintains that the individual should seek his good by submitting to political authority and the political order. We found that *The Visibility of the Church* offers a direct answer to the question of the justice of involving oneself in the mundane world, and indeed a theological reason for Schmitt's insistence that the involvement with material power is justified: because the world is not entirely evil and is in fact our means of connection with the divine. The world's original and eventual goodness, as it appears in the Catholic perspective that Schmitt presents, leads to a theological reason to regard the willingness to be involved in worldly matters as a fundamentally just or moral attitude: because such an attitude implies a recognition of the goodness of God's creation and of the harm done to the world by human sin.<sup>24</sup> Our examination

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<sup>24</sup> The recognition of the goodness of God's creation seems to be even more fundamental than the acknowledgment of human sin. A passage in *Wert des Staates* indicates that Schmitt believes a single-minded focus on human sin can lead to the undermining rather than the establishment of political order. Schmitt argues there that sensitivity to the weakness and evilness of man can lead one continually to seek new protectors, or to devise a political system in which no one, including the leader, is entrusted with too much power. To prevent his emphasis on human weakness from leading to this conclusion, Schmitt maintains that ultimately, one must believe in the "power of the good and the just" (WS, 83). In other words, Schmitt's authoritarianism is based not only on a view of human sinfulness, but the power of divine goodness to penetrate the world. Correspondingly, 'the political' is for Schmitt not just a compensatory response to human depravity, but is in itself good, a remnant of divine order in the fallen world.

of *The Visibility of the Church* suggests therefore that Schmitt's insistent worldliness can be more adequately understood in light of a broader, indeed otherworldly, context.

The relation of the theological and the political that we have discovered through a reading of "The Visibility of the Church" moreover offers an insight into the reason why Schmitt's ostensibly scientific examination of 'the political' seems to have a moral edge. In Schmitt's view, it is wrong to deny the necessity or the importance of politics because this argument presupposes, as Schmitt explains, either the opinion that the world is entirely good or that it is entirely evil, or (more accurately) an opinion that alternates unwittingly between these two extremes. These stances are for Schmitt morally reprehensible because they refuse to do God the honor of allowing His creation to be good, and concomitantly display what is in Schmitt's view an insufficient recognition of human sin, since they either overtly deny human sinfulness or essentially attribute to God what is properly man's fault: the imperfection of the world. For Schmitt, denying the worth and necessity of the political is therefore a paradigmatic act of pride. Conversely, affirming the goodness of the political is for Schmitt an indication of one's theological orthodoxy and moral righteousness.

With this understanding of the moral and theological root of Schmitt's affirmation of the political, we are in a better position to see why Schmitt seems to offer contradictory accounts of the relation of the political and the moral. On the one hand, Schmitt's accounts of both the nature and the worth of the political are based on a particular moral and theological claim: that Christ's appearance on earth provides the model for, and testifies to the goodness of, political form. On the other, Schmitt's reluctance to base his argument consistently and explicitly on this claim also seems to be a consequence of his particular theological understanding. That

understanding is most clearly expressed, as I have argued in this chapter, in the quarrel that Schmitt articulates between what he sees as the Catholic and the Protestant perspectives.<sup>25</sup> In sum, Schmitt understands the Protestant view to center on the belief that purely spiritual communion is possible; on Schmitt's account, this implies both that one can have an immediate relation with God, attaining direct knowledge of the divine, and that relations among men can likewise be purely spiritual or apolitical, that the human community is potentially a community of saints. Schmitt sees this Protestant opinion as both immediately threatening to the truth of Christ and ultimately leading to the inability to ground any particular moral claim. That is, Schmitt insists that the "general belief in God," if not buttressed by his specific interpretation of "the sentence, *that Jesus is the Christ*," will inevitably lead to a proliferation of a variety of claims:

"Allah is great—or, even go farther to any one of the many truths in need of interpretation, to social ideals, highest values and fundamental postulates... for example, freedom, equality, and brotherhood; or: man is good; or: to everyone according to his achievements, etc., etc." (CP1963, endnote to pages 59-66).

In reaction to this position, Schmitt formulates a "Catholic" view as an attempt to pull back from these antichristian and nihilistic consequences of the Protestant claim that each individual can know the divine directly. In the face of the myriad possible assertions about the divine, Schmitt's Catholic alternative wants to insist on the absolute truth of one proposition: '*that Jesus is the Christ*,' from which Schmitt derives both the necessity of mediation between the human and the divine and also the inescapability of the political in relations among men. Given this context, one can see why Schmitt is reluctant to assert that he can directly refute the Protestant

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<sup>25</sup> The centrality of this antagonism to Schmitt's thought indicates that it is misleading to characterize Schmitt as representative of the position of faith as such, as Meier does (*The Lesson of Carl Schmitt*, 171-173). It would seem difficult to explain Schmitt's critique of the Protestant view on Meier's account; indeed, Meier does not address it.

claim that human beings can achieve a purely spiritual communion, a direct connection with God. To make this claim would be to imply that one were privy to a superior revelation or were authorized to provide the definitive interpretation of divine truth,<sup>26</sup> and would as such counter the argument Schmitt intends to make for the necessity of mediation.

The fact that Schmitt's own understanding of the political ultimately rests on an assertion about the divine implies that he finally cannot deny the "proviso" that "every individual" "must obey God more than man," or in other words the possibility of continuing, direct, personal revelation (VC, 55). In the end, Schmitt's own view is not based on an objective, rationally provable claim, but on a moral and theological assertion of faith. Schmitt both admits the grounding of his argument in a "profession of faith" (CP, 58) and at times "conceals, or half-conceals," perhaps "even to himself," this source of his thought.<sup>27</sup> In other words, Schmitt does not limit his argument to the contention that one would be morally superior if one consented to involvement with worldly matters, but insists at times that involvement with worldly matters is inescapable. This contributes to the impression that Schmitt's analysis of the political is not based on a moral evaluation but is rather an attempt to discern "*what is.*"<sup>28</sup> The reason for Schmitt's wavering on this issue seems to be his wariness of the consequences of basing one's thought on an assertion of personal faith in the manner in which Schmitt characterizes the Protestant position.

In the next two chapters, we will examine how Schmitt attempts to deal with the fact that exposing the moral assertion at the basis of his understanding of the political would undermine

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<sup>26</sup> As we have seen, this is the error for which Schmitt criticizes the Pope when he attempts to act outside the Roman Catholic Church.

<sup>27</sup> Minkov, "Natural Evil or Natural Goodness?," 281.

<sup>28</sup> Strauss, "Notes on *The Concept of the Political*," 108.

the coherence of his own position and his attempt to counter the Protestant view. We will thereby address some of Schmitt's more familiar works, those that conceal the moral and theological claims that in fact ground his understanding of the political, and that attempt to argue for the objective necessity of politics in human life. Just as in the early works that we examined in Chapters 1 and 2, we will see that also in the later, more familiar works, Schmitt conceals the theological root of his thought by insisting on presenting an account of what the political must be from what he considers to be the view of practice rather than theory, and refraining from drawing the theological implications of this 'common-sense' view. Understanding the particular theology at the basis of Schmitt's thought, however, has demonstrated that the inconsistencies that Schmitt exposes in those who attempt to regard politics from a purely theoretical perspective have ultimately, in his analysis, a source in theological and moral error—and that conversely, the argument that Schmitt makes in favor of beginning the examination of legal and political things from the point of view of practice is not finally based on an assessment that this view is sensible, but ultimately on Schmitt's conviction that the view from the perspective of practice is finally truer and more moral than the attempt to achieve a purely theoretical perspective. Having understood this, it will become clear that Schmitt's seemingly limited and objective definitions of the political in fact lead back to Schmitt's theological understanding of the significance of politics.

## *Chapter 4: Political Theology*

This chapter will examine several works of Schmitt's that deal with politics and theology but are not written from an explicitly theological perspective. I aim to show in this chapter that the particular 'science' that Schmitt claims can most adequately grasp the phenomenon of the political, the "sociology of concepts," is based on what we have seen Schmitt articulate as the perspective of practice, the point of view implied in the attempt to act in the realms of politics or jurisprudence (PT, 45). Furthermore, I will argue, Schmitt's "sociology of concepts" has a direct relation to his political theology in that working through the implications of this method of 'political science' leads one to the particularly 'Catholic' interpretation of Christianity that we saw Schmitt defend in the last chapter.

While this chapter intends to demonstrate the theological basis and implications of Schmitt's ostensibly scientific arguments, it also aims to highlight the importance Schmitt accords to the endeavor to ground his religious belief in an objective argument, in particular, the argument for the inescapability of the political. I therefore argue that Schmitt's Christian faith and his attempt to ground this faith in the objectively "known" must be considered of equal importance in the effort to attain an accurate picture of Schmitt's thought.<sup>1</sup> This chapter thereby addresses the value and the limits of Meier's claims about the nature and centrality of political theology to Schmitt.

In the first section of this chapter, I argue that Schmitt intends to articulate the perspective of 'practice' as a method by elaborating what he calls the "sociology of concepts," a mode of analysis he promises will yield a truly "scientific" perspective of political and juristic

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<sup>1</sup> Shell, "Taking Evil Seriously," 192-193.

concepts (PT, 45). As we will see, this sociology of concepts will explain political and juristic concepts by discovering the theological or metaphysical concepts with which they are analogous—while, Schmitt insists, doing justice to both the political and the theological.<sup>2</sup> Schmitt considers this mode of analogizing the political and the theological as an elaboration of the view of practice, I will argue, because central to Schmitt’s claim for the superiority of his sociology of concepts is his argument that it allows one to adequately consider two “spiritual and at the same time substantial identities” (PT, 45). Schmitt claims, in other words, that his new method does not insist on the strict theoretical distinction between spirit and substance but observes and accounts for the fact that they seem to go together in practice.

Schmitt is notoriously cryptic about what he intends the phrase ‘political theology’ to signify; however, it seems at first glance related to his ‘sociology of concepts’ in being associated with the “political application” of the phenomenon Schmitt aims to explore with his new science (PT, 37). As we will see, however, and as an understanding of Schmitt’s general view of the relation of theory to practice would suggest, it is not accurate to view the sociology of concepts simply as a theoretical endeavor and political theology simply as an activity. In section 2 of this chapter I will examine what I suggest is an example of an ‘application’ of Schmitt’s sociology of concepts, the argument he makes about the relation of Thomas Hobbes’s politics and theology in a note appended to the 1963 edition of *The Concept of the Political*. Working through Schmitt’s analysis of Hobbes here will give us insight into Schmitt’s sociology of concepts, and show in particular that it is not a neutral method but always concludes by supporting Schmitt’s particularly Catholic political theology.

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<sup>2</sup> Schmitt seems to use ‘metaphysical’ and ‘theological’ almost interchangeably in this chapter of *Political Theology*. See Chen, “What is Carl Schmitt’s Political Theology?,” 155.

In section 3 of this chapter I will examine another analysis Schmitt offers of Hobbes, set forth in “The Completed Reformation: comments and references to new Leviathan interpretations” [“Die vollendete Reformation: zu neuen Leviathan-Interpretationen,” 1965]. Schmitt’s argument about Hobbes here, I contend, aims to show that Hobbes’s political theory essentially restored a ‘Catholic’ understanding of politics. Moreover, I argue, Schmitt’s argument implies that this renewal of a Catholic view of politics is inevitable; in other words, Schmitt uses this essay on Hobbes to attempt to demonstrate the inescapability of the truly political.

All of these apparently objective arguments serve Schmitt’s particular theological understanding, as I will suggest in the last section of this chapter. One should not conclude from this, however, that Schmitt intends his ostensibly scientific arguments only as a means of making his theologically-based argument acceptable to non-believers. Rather, I will argue, proving the inescapability of the political and demonstrating the necessity for truly political order to base itself on a Catholic interpretation of Christianity—both of which Schmitt attempts to accomplish by arguing the ‘hard case’ that Hobbes contributed to the reestablishment of Catholic principles—are important to Schmitt in their own right. Schmitt’s assessment of Hobbes and its implications will show, I argue, how he intends his method of the sociology of concepts to be both a rational examination of the structure of political and theological concepts and to support his particular theological convictions. Schmitt’s attempt to provide objective proof for the necessity of the political is simultaneously an endeavor to prove the truth of his theology.



## *Grasping the Political*

In the previous chapters, we found that Schmitt's arguments against various opponents took on a common form: time and again Schmitt criticizes those who claim that a purely theoretical perspective is sufficient to explain political things. In particular, Schmitt argues that the theoretical understanding of the strict opposition of justice and power gives rise to a distorted view of the reality of political life. According to Schmitt, one should rather begin from the premise that justice and power must relate in some way in the world; this, in Schmitt's presentation, is the perspective of practice, the point of view implied in the attempt to *act* in the realms of politics or jurisprudence. In this section, we will examine Schmitt's attempt to articulate this perspective as a method—a method that attains a simultaneous view of justice and power, of the spiritual and the material, and is therefore able to grasp accurately 'the political.'

Schmitt seems to intend the "sociology of concepts" that he develops in the third chapter of *Political Theology* to address this mysterious nexus of the political. As we will see, Schmitt understands the sociology of concepts to be able to approach political things indirectly; rather than setting forth a theoretical dissection of the relation of the spiritual and the material, the sociology of concepts proceeds by comparing political concepts, which are "spiritual but at the same time substantial," with theological concepts, which according to Schmitt have the same dual nature (PT, 45).<sup>3</sup> In other words, Schmitt puts forth the sociology of concepts as an accurate

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<sup>3</sup> It is important to note that Schmitt argues here that in order to see *concepts* accurately, you must see them from the perspective of practice; this accords with his later statement that "all concepts of the spiritual sphere, including the concept of spirit, are pluralistic in themselves and can only be understood in terms of concrete political existence" (AN, 85). By this Schmitt means to imply that every idea is simultaneously a spiritual assertion of truth and a material assertion of power.

method by which to grasp political things because it can account for the mysterious relation between the spiritual and the material, between justice and power, in practice.

To clarify Schmitt's approach, it is helpful to see that he does not intend to argue that behind every political stance lies a theological opinion, as if the theological concept were a 'spiritual' concept and the political position were 'substantive.' Referring to the reductionist view of the counter-revolutionaries (which we have seen Schmitt oppose in Chapter 1), Schmitt writes that "it would be erroneous to believe" that the sociology of concepts implies a "spiritualist philosophy of history as opposed to a materialist one" (PT, 42). Schmitt aims, he makes clear, to privilege neither the material nor the spiritual in his mode of analysis: "there is no question here of whether the idealities produced by radical conceptualization [i.e., theological concepts] are a reflex of sociological reality, or whether social reality is conceived of as the result of a particular kind of thinking and therefore also of acting" (PT, 45). Schmitt's sociology of concepts will not derive ideas from material circumstances, nor will it explain physical realities as a result of modes of thinking; it means to grasp the spiritual and substantive simultaneously.

Schmitt suggests that this can be accomplished by focusing on the analogy between the *structure* of the theological and political concepts in question. Schmitt makes clear that the importance of the 'systematic structure' of concepts is just as significant as the historical relation between theological and political concepts (his secularization theory), though the latter usually gains more attention. In the oft-cited opening sentence of the chapter in question we find: "all significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development...*but also because of their systematic structure*, the

recognition of which is necessary for a sociological consideration of these concepts” (PT, 36, my emphasis). Accordingly, Schmitt’s sociology of concepts “aims to discover the basic, radically systematic structure [in context, this clearly refers to the theological or metaphysical structure] and to compare this conceptual structure with the conceptually represented social structure of a certain epoch” (PT, 45).

What is the importance of structure to Schmitt in the development of this method?

Schmitt explains that his examination of conceptual structure is premised on the premise that “the metaphysical image that a definite epoch forges of the world has the same structure as what the world immediately understands to be appropriate as a form of its political organization” (PT, 46).<sup>4</sup> In other words, Schmitt suggests here that the view one holds of the universe will be analogous to one’s view of political things: what seems true about the ‘world’ will coincide with one’s judgment about what is ‘appropriate’ politically. The importance of structure as Schmitt understands it here seems to be that structure implies ‘organization’ and therefore hierarchy and ‘form,’ in other words an articulation of who rules, and moreover of what justifies this rule, or what people accept as ‘appropriate as a form.’ The significance of Schmitt’s focus on the structure of concepts becomes clearer as we recognize that it serves as a key point in differentiating his position from the two positions against which he articulates his new method in *Political Theology*, Kelsen’s pure theory of jurisprudence and Max Weber’s sociology. Examining Schmitt’s implicit critique of Kelsen and of Weber will help us understand more thoroughly what Schmitt intends to accomplish by the sociology of concepts.

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<sup>4</sup> As we will see, this statement should not be taken as an expression of a relativist, historicist view.

We saw in the last chapter that Schmitt's critique of Kelsen focuses on the inadequacy of Kelsen's theory of jurisprudence for an examination of political things because it regards only the 'spiritual' or normative, and relegates the 'material' to another science, sociology. Against this backdrop, we see that the structure of concepts is important to Schmitt because structure implies at once a physical and an intellectual reality; it grasps equally what Schmitt sees as the simultaneously political and metaphysical aspects of a concept. Focusing on the structure, therefore, will allow Schmitt to be "concerned with establishing proof of two spiritual but at the same time substantial identities" and to *compare* two concepts that are simultaneously spiritual and substantive, thereby exposing the "systematic analogy between theological and juristic concepts" (PT, 45, 42). The sociology of concepts is therefore intended not only to avoid the incessant alternation between spiritualist and materialist versions of history; it also aims to correct Kelsen's division of jurisprudence and sociology. According to Schmitt, Kelsen, as we saw in the last chapter, claims to develop a purely normative science of jurisprudence by separating the norms of law from the conditions in which the law is applied; he argues that those conditions are irrelevant to jurisprudence, and properly studied rather by sociological methods. In Kelsen's view as Schmitt presents it, therefore, sociology is a supplement to his normatively focused jurisprudence; the two combine to give a complete view of political and legal things. In this chapter we see that Schmitt's "sociology of juristic concepts" suggests that what Kelsen divides into jurisprudence and sociology properly belongs together (PT, 46).

Schmitt's new method is therefore a critique both of purely normative jurisprudence and of the sociology that would supplement it. Indeed, we see that Schmitt, in outlining the approach of his sociology of concepts, distinguishes it from other versions of sociology, most notably Max

Weber's. In fact, Schmitt originally wrote the first three chapters of *Political Theology* as a contribution to Weber's *Festschrift*. In his tribute to the great sociologist, though, Schmitt offers a sharp analysis and correction of Weber's 'science of society.'<sup>5</sup>

Schmitt does not characterize Weber as the materialist complement to Kelsen's normative science; he recognizes that Weber's "sociological method, [which] seeks the typical group of persons who arrive at certain ideological results from the peculiarity of their sociological situations," is more sophisticated than the Marxist view that reduces all to "vital processes" (PT, 43-44). Weber, according to Schmitt, believes rather that ideas and beliefs are produced by one's social situation, or "milieu" (PT, 44). Weber's sociology therefore seems to have something in common with Schmitt's, in that they both focus on something (in Weber's case, the 'social') that cuts across the material and the spiritual.

Schmitt however sharply differentiates his sociology of concepts from Weber's sociology, arguing that Weber's view is in the final analysis "psychology" because it comes down to "the determination of a certain kind of motivation of human action" (PT, 44). For example, Schmitt writes, from Weber's point of view

it would be possible to view Kelsen's jurisprudence as the ideology of the lawyer-bureaucrat practicing in changing political circumstances, who, under the most diverse forms of authority and with a relativistic superiority over the momentary political authority, seeks to order systematically the positive decrees and regulations that are handed down to him. (PT, 44-45)

Schmitt allows that this analysis can offer an enlightening or interesting view, but then concludes that "this type of sociology is best assigned to *belles-lettres*," that its method "cannot be distinguished from the brilliant literary criticism of a Saint-Beuve" (PT, 45). Schmitt argues that

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<sup>5</sup> See Colliot-Thélène's analysis in "Carl Schmitt versus Max Weber," 138-153.

his “sociology of concepts” is “altogether different,” that his method “alone has the possibility of achieving a scientific result” (PT, 45).

Schmitt, perhaps surprisingly, criticizes Weber’s sociology for being inadequately scientific; this leads us to ask how exactly Schmitt regards his own approach as more scientific than Weber’s. Schmitt argues that Weber focuses in essence on the psychology of motivation rather than the structure of concepts. This indicates that Schmitt thinks Weber deals with subjective interpretations rather than objective realities: as we have seen, Schmitt understands the *structure* of a concept to imply a claim to rule and a justification of it. The difference between Schmitt’s and Weber’s approach could be characterized by saying that, while Schmitt concentrates on the political and the juristic, Weber looks toward the social, the ‘milieu,’ a realm that does not involve explicit claims to rule. Schmitt implicitly criticizes Weber, then, for his lack of attunement to the importance of structure, politics, claims to rule, and legitimation of those claims, arguing moreover that Weber’s lack of attention to this dimension of human life causes his science to be inadequately scientific.

Why does Schmitt think developing an adequately scientific approach to these matters is important? Schmitt’s critique of Weber seems to come to a point in his imaginative reconstruction of what Weber might say about Kelsen; comparing this with Schmitt’s own assessment of Kelsen in *Political Theology*, we see what Schmitt might regard as an unsatisfactory consequence of Weber’s inattentiveness to politics or insufficiently scientific view. In *Political Theology*, we see Schmitt arguing with Kelsen, attempting to show the faults in his perspective. By contrast, Schmitt’s characterization of Weber’s view insinuates that Weber, by implying that Kelsen’s work is an understandable product of his situation, does not

offer, and perhaps even undermines, the development of a standard by which to judge Kelsen. Following this logic, it appears that Schmitt faults Weber's conclusions for their apparent relativism; Weber, in ignoring politics, does not regard ideas as claims to rule; he is therefore not seriously concerned with assessing the justification of those ideas. Schmitt, by contrast, in focusing on the structure of concepts, involves in his view both intellectual arguments and the material consequences of those arguments. This brings us to a surprising conclusion: Schmitt's critique of Weber for being inadequately scientific is bound up with his allegation that Weber's work undermines the attempt to elaborate standards of judgment. The connection Schmitt implicitly draws here between science and political judgment should cause us to reexamine the apparent relation between Schmitt's sociology of concepts and his political theology—or, between Schmitt's ostensibly objective and scientific analysis of the structure of political and theological concepts and the particular theological understanding that might underlie it.

Let us look again at the apparent distinction between the 'sociology of concepts' and 'political theology,' or what are ostensibly the non-judgmental and judgmental aspects of Schmitt's argument. The 'sociology of concepts' seems at first glance an objective and non-judgmental science whose results can be applied by political-theological partisans from any side. As insights derived from the method of the sociology of concepts, Schmitt details how the seventeenth and eighteenth-century belief in a transcendent God mirrors the assumption of that same epoch that the sovereign should transcend the state, and also remarks that, in the nineteenth century, Hegel defined the worldview by both "drawing God into the world and permitting law and the state to emanate from the immanence of the objective" (PT, 49-50). Schmitt presents his

sociology of concepts, in other words, as if it were intended to consider all theological opinions non-judgmentally or equally.

On the other hand, the term ‘political theology’ appears in Schmitt’s chapter apparently as a politically-motivated application of the insights that can be objectively derived from the sociology of concepts. Schmitt mentions that insight into the structural analogies of political and theological concepts allowed, for example, “conservative authors of the counter-revolution who were theists [to] attempt to support the personal sovereignty of the monarch ideologically, with the aid of analogies from a theistic theology” (PT, 37). In other words, these counter-revolutionaries were able to increase the efficacy of their political statement by advancing a theological argument. Their strategy depends on seeing the structural analogies between monarchy and an omnipotent God, analogies Schmitt claims can be revealed and investigated by his sociological analysis of concepts. Notably, Schmitt does not limit the term ‘political theology’ to describing the activities of the theistic counter-revolutionaries; he also describes Kelsen’s atheistic argument as a ‘political theology.’<sup>6</sup> Political theology therefore seems to be for Schmitt descriptive of any political stance advanced by a theological argument, a depiction of an activity that could characterize equally well any political argument or theological belief.<sup>7</sup>

We should hesitate before drawing this conclusion, though, since we have seen that Schmitt believes it a mistake to view the theoretical and the practical as equally adequate views, or indeed to understand theory as offering standards that can be implemented by practice (GU, 11). Moreover, as we have seen, the whole endeavor of the new method of the sociology of concepts is based on the perspective of practice. Therefore, viewing Schmitt’s sociology of

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<sup>6</sup> The three times ‘political theology’ is mentioned in *Political Theology* can be found on pages 42, 49, and 50.

<sup>7</sup> This is Meier’s argument; see *The Lesson of Carl Schmitt*, 171-173.



concepts as a handmaiden to political men of various stripes who will apply his insights in practice would likely be at least a misinterpretation of Schmitt's own understanding. Schmitt's view of the relation between theory and practice would rather lead to the conclusion that, just as the political-theological activity of the counter-revolutionaries (or of Kelsen) is not simply practical or oriented toward material change, so his own sociology of concepts is not purely intellectual or theoretical. Therefore, Schmitt cannot intend his sociology of concepts to serve every political-theological purpose indiscriminately. As I will attempt to show below on the basis of an examination of Schmitt's analysis of Hobbes, both Schmitt's sociology of concepts and his conception of political theology are governed by his specific faith.

Within *Political Theology*, however, we can already see that Schmitt's sociology of concepts itself has a double-edge. It becomes clear that the relation between political and theological concepts may go beyond analogy in Schmitt's view when he remarks that he has "for a long time referred to the *significance* of such fundamentally systematic and methodical analogies" (PT, 37).<sup>8</sup> Moreover, Schmitt observes that "many reminiscences of theology" seem to "appear in the details" of contemporary juristic arguments, and suggests that such apparent "derailments" may be "underpinned by systematic or methodical necessities" (PT, 38-39). In other words, Schmitt insinuates here that he believes the full explication of a juristic argument may in fact require theology, that jurisprudence and theology are related not simply by the possibility of drawing an analogy between them but in fact by necessity.

Moreover, we find both that Schmitt's sociology of concepts is based on a "presupposition" that it is possible to draw analogies or find "identities" between political and

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<sup>8</sup> Here Schmitt refers to *Wert des Staates*, *Political Romanticism*, and *Die Diktatur*.

theological concepts—and that the connection of political and theological concepts also constitutes the task or purpose of Schmitt’s method: “the determination of such an identity *is* the sociology of the concept of sovereignty” (PT, 46, my emphasis). In the course of its analysis, in other words, the sociology of concepts, according to Schmitt, attempts to demonstrate that juristic and political concepts are *necessarily* underpinned by theological and metaphysical concepts—that there is a real, and not simply analogical, relation between political and theological concepts.

### *Schmitt’s political-theological analysis of Hobbes*

In order to clarify the connection between Schmitt’s structural analysis of theological and political concepts (his sociology of concepts) and his own theological convictions (his political theology), we can turn to what I argue is an illustration of Schmitt’s sociological method: his evaluation of Hobbes. It may be instructive to compare my interpretation of Schmitt’s reading of Hobbes with that of Heinrich Meier. For Meier, as we have seen, Schmitt’s designation of political theology as revolving around structural identities in theology and jurisprudence is a “diversion and detoxification” promoted by Schmitt in order to distract from Schmitt’s true, theologically-motivated, political agenda.<sup>9</sup> By contrast, I aim to show that Schmitt’s actual elaboration of the structural analogies of theological and political concepts does not serve to divert attention away from his true purpose, but points toward Schmitt’s theological position and attempts to prove its validity. In other words, Schmitt’s science is not a mask but an attempt to ground his faith in something solid, in necessity.

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<sup>9</sup> Meier, *The Lesson of Carl Schmitt*, xvi.

It is furthermore appropriate to consider Meier's argument here, since Meier takes Schmitt's analysis of Hobbes as perhaps the "one counter-example of importance," or test case for his own understanding of Schmitt.<sup>10</sup> Meier's account of Schmitt's interpretation of Hobbes forms a key piece of evidence in his case that ultimately Schmitt's "political theology is unable to provide historical action with any 'concrete' orientation;"<sup>11</sup> Meier's judgment rests most heavily on his understanding of Schmitt's interpretation of Hobbes because it is here that Meier concludes that Schmitt shows his political and historical judgments to be most obviously subjective and arbitrary. On Meier's understanding, Schmitt's evaluation of Hobbes depends on "Schmitt's faith" that Hobbes understood himself as a "restrainer" (or *katechon*), and ultimately on "Schmitt's faith" that "Hobbes acted out of 'genuine piety.'"<sup>12</sup> In other words, Meier argues that Schmitt's judgment of Hobbes comes down to deciding not only whether or not Hobbes's Leviathan-state served as a *katechon*, but ultimately on whether or not Hobbes *intended* his political science to help institute a *katechon*, that is, whether or not Hobbes acted piously. In the question of who or what serves as the *katechon*, Meier argues, Schmitt's political theology fails in the task it sets for itself, becoming "lost in a generality that can no longer be distinguished from subjective arbitrariness," in which "anything seems possible."<sup>13</sup> Schmitt's theological understanding therefore gives rise, on Meier's account, only to a subjective and arbitrary view of political alternatives, one that "seems to find support solely in the blind will to obedience or in

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<sup>10</sup> Meier, *The Lesson of Carl Schmitt*, 100-101. As Meier's student Anna Schmidt writes, "Meier's interpretation of Schmitt... stands or falls with his reading of Schmitt's Hobbes" ("The Problem of Carl Schmitt's Political Theology," 119). In his preface to the American edition of his book on Schmitt, though, Meier calls for more work to be done on Schmitt's "complex relationship to Thomas Hobbes" (*The Lesson of Carl Schmitt*, xi).

<sup>11</sup> Meier, *The Lesson of Carl Schmitt*, 170.

<sup>12</sup> Meier, *The Lesson of Carl Schmitt*, 128. For "*katechon*," see Thessalonians, 2:6-7, where Paul refers to someone or something that restrains the advent of the Antichrist, which precedes the Second Coming.

<sup>13</sup> Meier, *The Lesson of Carl Schmitt*, 161-162.

the good intention of faith.”<sup>14</sup> Meier’s conclusion that Schmitt seeks above all the ‘good intention of faith’ also justifies Meier’s assertion that Schmitt’s concept of political theology could be used equally well to support any political program justified by any belief.<sup>15</sup>

By contrast, I will argue that Schmitt’s evaluation of Hobbes centers on Hobbes’s conformity to a specific belief, and moreover, that this illustration of Schmitt’s political-theological analysis shows that Schmitt intends his sociology of concepts to validate his specific theological position. As Meier notes, Schmitt devotes an unusual number of works to Hobbes, making several stabs at a “reevaluation and appropriation” of at least an aspect of Hobbes as Christian.<sup>16</sup> I will draw my argument from two later, lesser studied documents: first, Schmitt’s comments on Hobbes in his notes to an expanded edition of *The Concept of the Political* in 1963, and second, the 1965 essay “The Completed Reformation: comments and references for new Leviathan interpretations.” In both of these works we find Schmitt arguing against the conclusion that Hobbes’s political theory intends to separate politics and the divine. That Schmitt seems compelled to redeem the great scoffer at the Roman Catholic Church, the thinker who appears to have liberated politics from any connection with the transcendent, or at least with any particular understanding of the transcendent, is certainly surprising. I will suggest that it is precisely by making this difficult case that Schmitt intends to demonstrate the dependence of every true political order on Christian theology, and in particular, on his own version of a Catholic interpretation of Christian theology.

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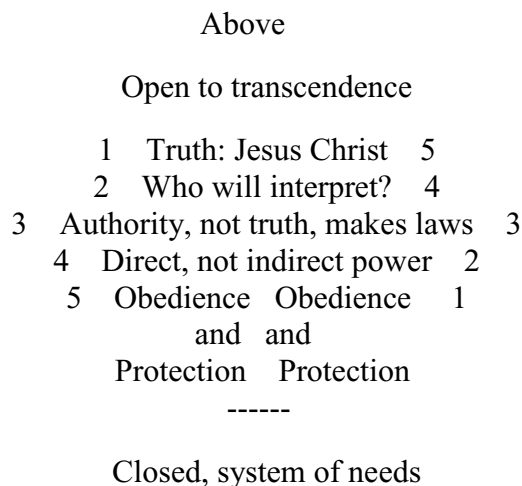
<sup>14</sup> Meier, *The Lesson of Carl Schmitt*, 128. Or as Anna Schmidt puts it more pointedly: “all it takes for Hobbes to win over Schmitt is to write one pious sentence [‘that Jesus is the Christ’] in order to get away with all the irreligious ‘rest’” (“The Problem of Carl Schmitt’s Political Theology,” 118).

<sup>15</sup> Meier, *The Lesson of Carl Schmitt*, 171-173.

<sup>16</sup> Meier, *The Lesson of Carl Schmitt*, 119.

In the 1963 edition of *The Concept of the Political*, Schmitt appends a note to the section concerning the “pessimistic” anthropology that he suggests underlies every truly political doctrine.<sup>17</sup> Schmitt’s intention in this note is to show that one can derive all of the essential propositions of Hobbes’s political theory from the sentence “that Jesus is the Christ”—and conversely, that working through the logic of Hobbes’s political anthropology leads one necessarily back up to that Christian sentence. In other words, Schmitt intends to show here that Hobbes’s political theory is inextricably connected to Christian doctrine.

In order to make this point, Schmitt depicts the structure of Hobbes’s political thought in the following diagram:



*Figure 1: “Hobbes-crystal.”*

Schmitt’s first proof begins from the sentence “Jesus is the Christ,” and works its way down to explain Hobbes’s understanding of the “system of needs.” This proof might serve as a review and summary of my analysis of Schmitt’s argument in the previous chapters. Schmitt’s reasoning is set out here as follows: if we are presented with the kernel of the Christian claim,

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<sup>17</sup> The section commented upon is Chapter 7 of the 2007 English edition of *The Concept of the Political*, p. 58-68.

“Jesus is the Christ,” we are confronted by something that demands an explanation; in fact, we find that this sentence is “perpetually” in need of interpretation.<sup>18</sup> Simply the opacity of the sentence requires that one explicate it, but Schmitt means to indicate something else here as well: that Christianity requires an authoritative institution. We have seen his full argument for this position in Chapter 3. That Schmitt intends to refer to that argument here is indicated by how he characterizes the perennial question to which Christianity gives rise: who “explains and executes” this truth in a “juridically-binding” way? What is made clear here is that Christianity for Schmitt demands an institution that both elaborates and defines the truth embodied in the central Christian sentence, and itself represents or consummates this truth in the world. One might refer to Schmitt’s remark in “The Visibility of the Church,” that the analogy made between Christ’s body and the Church’s body is a marvelous metaphor since it perfectly enacts what it states (VC, 52). Since the Christian institution must simultaneously explain and execute, it not only serves as the worldly face or worldly power of Christendom in Schmitt’s analysis, but also gives the authoritative interpretation of Christianity: it must with the same stroke assert a physical reality and an intellectual truth. The sentence “Jesus is the Christ,” Schmitt points out, gives rise to the question: “who decides what true Christianity is?” And in Schmitt’s interpretation, “who decides?” is also the central question to which Hobbes directs our attention (CR, 168; PTII 115).

The next step of Schmitt’s argument here is that the question “who decides?” requires an authority to answer it, for only an authority can make a decision about what the truth means. Truth, according to Schmitt cannot “realize itself,” and therefore requires an authority that will

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<sup>18</sup> All quotes in this section, unless otherwise indicated, are drawn from the 3 pages constituting the note in question: Schmitt, *Der Begriff des Politischen*, 1963, note to pages 59-66.

both provide a definitive interpretation and represent and enforce this interpretation in the world (WS, 81). The authority, in Schmitt's view, realizes the truth both conceptually and concretely. "Truth cannot put itself into execution," Schmitt writes here, "for that executable commands are required." As we have seen in Chapters 1 and 2, Schmitt understands these executable commands—this certainty and specificity in law at which judges and states aim—to be an aspect of justice itself. While, or more precisely because, truth does not realize itself, truth in Schmitt's view must have an aspect is amenable to the effort to realize it. To return to Schmitt's "Hobbes-crystal," we see that the Hobbesian sentence "authority, not truth, makes laws" is for Schmitt another manner of expressing his conviction that human beings cannot achieve purely spiritual communion.

Authority for Schmitt has a dual-significance; it has one eye on the transcendent and the other on the concrete. Authority allows for the truth to have access to the world, and thereby for the individual to have access to the truth. We can therefore intuit the importance of direct power for Schmitt, who specifies that the significance of authority is that it "gives forth a *direct power*, which—in distinction to an *indirect power*—vouches for the execution of the command, demands obedience, and has the capacity to protect those who obey it." Authority gives rise to direct power, which is important because, unlike indirect power, it has a double function. Direct power is able both to establish a 'normal condition' in which physical reality comes to reflect the norm, and—what is stressed with this sentence—to offer an incentive to people to obey the command and thereby participate in the realization of the norm. The direct power of the authority appeals to people's desire for security, for protection, and establishes this series of links

that Schmitt draws “from above to below, from the truth of the public cult to the obedience and protection of the individual.”

Schmitt’s explanation of the logical consistency of this series, starting from the proposition at the top, “that Jesus is the Christ,” is, as he knows, insufficient to convince those who are skeptical of the claim that Hobbes took this sentence seriously. Therefore, Schmitt endeavors to explain how one can begin from the position that Hobbes apparently begins with—“from the system of the material needs of the individual” and work one’s way up, by logical necessity, to the sentence “that Jesus is the Christ.” How does Schmitt show that the ‘material needs’ Hobbes posits lead necessarily to the “door to transcendence”?

It is important to notice how Schmitt characterizes these ‘material needs,’ for they constitute the starting point of his train of argument. Schmitt portrays the needs of the individual that Hobbes intended to address as “the need for protection and security of ‘by nature’ perplexed and helpless men [*rat- und hilflos*].” In other words, for Schmitt’s logical series to hold, it is important that the men who enter the Hobbesian polity do so because they need both protection and security or certainty [*Sicherheit*], because they suffer from the lack of both aid and advice. In short, for Schmitt, the lamentable condition that produces the ‘war of all against all’ must be both physical and intellectual. In Schmitt’s characterization of the ‘war of all against all,’ the struggle of ideas is inextricably bound up with a physical struggle; man’s need for physical protection and moral certainty therefore cannot in his opinion be separated.<sup>19</sup>

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<sup>19</sup> Schmitt draws a similar link between the clash of different ideas about the good and ‘public order and security’ in *Political Theology*: “Everyone agrees that whenever antagonisms appear within a state, every party wants the general good—therein resides after all the *bellum omnium contra omnes*. But sovereignty (and thus the state itself) resides in deciding this controversy, that is, in determining definitively what constitutes public order and security” (PT, 9).



It is this claim that paves the way for Schmitt's assertion that the Hobbesian state of nature is structured so that it requires an authority who exercises direct power in order to be overcome. For only an authority, for reasons indicated above, can offer not simply physical protection but a definite interpretation of the truth. In this interpretation, Hobbes's 'system of material needs' is not ultimately 'closed,' but necessarily breaks out of the purely material realm to involve the spiritual or conceptual. Because, in Schmitt's interpretation, Hobbes introduces an intellectual element into the state of nature, his solution of the commonwealth must address the problematic intellectual confusion and draw up men toward the truth as well as toward physical security. At the same time, it must be recognized that Schmitt's interpretation of the fundamental need for intellectual certainty involves the understanding that intellectual certainty is a *material* need, graphically expressed by Hobbes's demonstration that the lack of it leads to physical war. Here, at the bottom of the series, we see Schmitt binding together the spiritual and the material and preparing the way for the path to lead logically to the sentence "that Jesus is the Christ."

Schmitt's assertion that Hobbes's understanding of man's material needs leaves the door "open to transcendence," or, it seems, even guides the individual toward an understanding of a particular interpretation of the transcendent truth, rests on Schmitt's argument that the authority necessary to lift men out of the state of nature cannot restrict his competence to the provision of physical security, since this would not sufficiently address a significant aspect of the driving force of the war of all against all, which is moral uncertainty. Schmitt's understanding of moral uncertainty as the problem that drives the development of the Hobbesian commonwealth also implies that the authority must assert that there is a transcendent truth to which he appeals; he

cannot preach moral relativism. The Hobbesian authority on Schmitt's understanding must claim to know the good, not simply to be useful. Schmitt thereby attempts to connect Hobbes's understanding of the problem illustrated in the state of nature with the necessity for the sovereign to proclaim an absolute truth.<sup>20</sup>

The final question that remains is: why must the sovereign, according to Schmitt, proclaim in particular that "Jesus is the Christ"? Why can't the sovereign appeal equally as well to other truths, as long as he declares them absolute? Schmitt realizes that this question is decisive for his entire interpretation of Hobbes, for if one can start from Hobbes's understanding of man's material needs and arrive only at the conclusion that the sovereign must assert an absolute truth, the content of which is irrelevant—in other words, if polities only need a compelling myth—then Hobbes's sovereign remains simply an expedient, rather than a necessary expression of the sentence that "Jesus is the Christ." Moreover, as Schmitt himself points out, if this were the case, Hobbes would indeed begin the process of "neutralization" that has become characteristic of modernity. Schmitt depicts how this possibility would unravel his whole interpretation of Hobbes: if all that is necessary is a "general belief in God—then the first sentence could also read: Allah is great—or, even go farther to any one of the many truths in need of interpretation, to social ideals, highest values and fundamental postulates... for example, freedom, equality, and brotherhood; or: man is good; or: to everyone according to his achievements, etc., etc." As Schmitt writes, the coherence of his interpretation of Hobbes comes

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<sup>20</sup> Similarly, Vatter argues that Schmitt understands the Hobbesian sovereign to be defined by his ability to protect physical and spiritual life simultaneously, that the sovereign is for Schmitt the "highest form of the unity of faith and [public] reason." It is on this basis that Vatter argues that "Strauss's separation of revelation from philosophy stands opposed to Schmitt's Christian politico-theological attempt to unify them" ("Strauss and Schmitt as Readers of Hobbes and Spinoza," 185-186; 176).

down to the “question of the interchangeability or non-interchangeability of the sentence, *that Jesus is the Christ.*” Contra Meier, Schmitt clearly directs us here away from attempting to fathom Hobbes’s “subjective conviction” or personal piety and toward an effort to understand “the systematic, fundamental problem of [Hobbes’s] whole political teaching.”

How does Schmitt show that for Hobbes’s theory the sentence “Jesus is the Christ” is not ‘interchangeable’ with any other belief? Schmitt’s understanding of the theological meaning of Hobbes’s political theory seems to rest ultimately on his interpretation of Hobbes’s understanding of human nature (this note is, we recall, appended to Schmitt’s discussion of political anthropology in *The Concept of the Political*). Indeed, Schmitt prefaces his “Hobbes-crystal” with a discussion of what ‘by nature’ means for Hobbes, particularly concerning the question of good or evil of human beings. Schmitt begins his discussion here by considering the suggestion that one distinguish between efforts to articulate a “normal type” of man, such as that found in Aristotle, Plato, or Christian theology, from Hobbes’s presentation of a “corrupt type.” Schmitt comments that, “as far as Hobbes goes, we must emphasize that the application of a formula like ‘by nature’ good or evil does not yet signify a proper confession of faith to the *physis* concepts of Aristotle or Plato (which must themselves be distinguished), nor to the Christian-theological concept of nature.” The reason for this is:

that good or bad in the sense of normal or corrupt is for Hobbes bound up with the *situation*: the state of nature (or, more accurately, the condition of nature) is an abnormal situation, whose normalization is achieved first in the state, that is, in the political unity. The state is a realm of reason... that changes the civil war into the peaceful coexistence of citizens. The abnormal is the “corrupt situation,” the civil war. In civil war, no one can behave normally.

In other words, Schmitt explains here that it is in his view mistaken to understand Hobbes’s ‘state of nature’ as literally providing Hobbes’s account of what men are like naturally or

originally. Schmitt argues here that the ‘state of nature’ is for Hobbes an exceptional, degenerate or corrupt situation, which we can discern by observing that in this condition, men cannot behave ‘normally,’ or according to norms (even according to the norms Hobbes ‘discovers’ by examining the ‘state of nature.’) Simply by looking at Hobbes’s description of the ‘state of nature,’ Schmitt claims, we cannot tell whether Hobbes abides by the understanding of nature offered by Aristotle, Plato, Christian theology, or whether he offers another understanding of his own. Yet by marking Hobbes’s ‘state of nature’ as a civil war and as an abnormal situation, Schmitt is able to suggest that a more accurate understanding of Hobbes’s thought on human nature would leave open the possibility that men for Hobbes are actually naturally or originally good, and that the state of nature is an image of man in a corrupted condition.

We have seen in Chapter 3 the reason why this would be important for Schmitt: the understanding that men are by nature good, and that evil comes into the world by human sin (which is the Catholic teaching), is on Schmitt’s understanding the basis for his conclusion concerning the necessity of political institutions and the goodness of being involved in the world. Schmitt’s intent to argue for precisely this Catholic interpretation of Hobbes’s understanding of human nature is indicated by his attempt to counter the argument, central to Strauss’s critique of Schmitt, that Hobbes believes that human beings can solve the essential problems of their own condition. Strauss bases his view of Hobbes in this respect on Hobbes’s suggestion that man can be educated or manipulated out of the ‘state of nature.’<sup>21</sup> Schmitt attempts to disprove this proposition by arguing that:

When Hobbes speaks of *nature* in the sense of *physis*, he thinks like an ancient... pre-evolutionarily, pre-darwinistically. He is also no philosopher of history, least of all with

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<sup>21</sup> Strauss, “Notes on *The Concept of the Political*,” 114-115.

respect to this unalterable nature of man, who will never stop inventing new weapons and thereby—in the course of his striving for security—creating always new dangers.

In Schmitt's interpretation, man is not made good by becoming a citizen in the Hobbesian commonwealth; his nature according to Hobbes is in fact 'unalterable.' Man remains, rather, corrupted by sin even in the state, for it seems that only one aspect of the individual is satisfied with the security offered by the authority. The other aspect, according to Schmitt's depiction, apparently remains frightened, as evidenced by the fact that man 'never stops inventing new weapons,' trying to take security into his own hands.<sup>22</sup> The Leviathan is not intended to be a perfect society, according to Schmitt: Hobbes's view of man as having been corrupted by sin makes politics perpetually necessary.

In Schmitt's interpretation, therefore, Hobbes does not portray men as moving from a state of natural 'evil' or weakness to a self-made state of 'good' or strength. Rather, Schmitt's argument that Hobbes's 'state of nature' is an abnormal condition leaves open the possibility that men are for Hobbes originally good, and his understanding that Hobbes does not consider men to be made good or to be fully redeemed in civil society indicates that politics for Hobbes is a way of dealing with and directing what human corruption rather than solving or erasing the problem. In Schmitt's view, in other words, Hobbes's position can be in accord with the Catholic teaching that man is by nature good, has become partly evil through sin, and can be pointed in the right direction by involvement in the political offices of the Church.<sup>23</sup> Schmitt argues, in sum, that Hobbes's particular understanding of human nature, or of the "material needs of the individual," if one were to follow its logic, would lead necessarily to a sovereign declaration that man's body

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<sup>22</sup> See "Macht und der Zugang zum Machthaber," in which Schmitt describes the dynamic by which man's striving to make himself secure ends up only making him less secure, or, as he argues there, the dynamic by which the development of technology only weakens man's control over his life, 24-26.

<sup>23</sup> We will consider the distinction and relation of the Church and the political in the next section.

and spirit are inextricably intertwined in their original goodness, their corrupted state, and their ultimate redemption. This unavoidably dual character of human life is for Schmitt, as we have seen in Chapter 3, the essential truth of the statement that “Jesus is the Christ.”<sup>24</sup>

The account I have offered here intends to draw out Schmitt’s case for the logical connection of Hobbes’s particular conception of the basis of political form to a statement that affirms the most important element in Christian doctrine: belief in Christ. The first thing this explication shows is that Schmitt does not rest his case on an argument that Hobbes himself swears inwardly to believe in Jesus; in fact, Schmitt deflects his inquiry away from this question, insisting—contrary to what Meier argues—that his argument about Hobbes should be judged *not* on “the individual-psychological question of the subjective conviction of Thomas Hobbes, but on the systematic, fundamental problem of his whole political teaching.” Schmitt indicates here that his judgment concerning the conformity of Hobbes’s political theory to Christian doctrine rests on the “systematic, fundamental problem” presented in Hobbes’s view of political order, and therefore neither on speculation about Hobbes’s personal piety nor even on the historical-theological question of whether Hobbes indeed articulated a political form that served as a *katechon*. The question on which Schmitt concentrates in his interpretation of Hobbes concerns Hobbes’s understanding of the problem at the basis of political order, or the understanding of

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<sup>24</sup> Meier does not see Schmitt’s understanding of human nature as particularly Catholic, arguing rather that Schmitt subscribes to the Protestant version of the doctrine of original sin, which makes man thoroughly evil (*The Lesson of Carl Schmitt*, 80); cf. *Political Theology*, 57. In fact, interpreters often argue that Schmitt departs from Catholic doctrine on this issue, particularly in the well-known instance of Chapter 7 of *The Concept of the Political* (for example, Gross, 85). Schmitt is however careful in that chapter to put ‘by nature evil’ in quotes every time he uses the phrase, indicating some distance from it. (Some confusion is caused by the fact that this usage is not carried over in George Schwab’s English translation). Schmitt’s kinship with Donoso Cortés is also often cited to allege that Schmitt, like Cortés, for political reasons chooses to break with Catholic doctrine and assert the “complete lowness” of “this creature,” man (PT, 58). However Schmitt’s sympathy with Cortés does not prevent him from concluding that Cortés “failed theologically” (GL, 19.12.47). Moreover, as I attempt to show, it is precisely in connection with his political doctrine that a Catholic understanding of human nature is most important to Schmitt.

human nature that underlies Hobbes's political system. While Schmitt's own view of human nature may be based on faith, his investigation of Hobbes's understanding is not: Schmitt asks whether Hobbes's political anthropology conforms to Christian doctrine (or Schmitt's Catholic version of it), not whether Hobbes's view of human nature was in fact inspired by Christian doctrine. One could argue that Schmitt offers an inaccurate reading of Hobbes's anthropology, but his argument can be rationally examined; contra Meier, it is not an argument that asks to be judged by the light of faith.

Second, this more precise understanding makes us aware that, for Schmitt's analysis here, it is not important whether Hobbes—or Hobbes's sovereign—is explicitly or self-consciously a Christian. Meier justly raises the question of how Schmitt could consider Hobbes to be devoted to Christian ends, given that Hobbes explicitly argues that subjects must obey their sovereign, even if he forbids the public worship of Christ.<sup>25</sup> Schmitt's analysis of Hobbes in this note indicates that the sovereign (like Hobbes) implicitly directs his subjects toward a Christian end, whether or not he takes the final step of explicitly proclaiming that "Jesus is the Christ." On Schmitt's account, the Hobbesian sovereign's effort to rule, if successful, will open the "door of transcendence" for the individual, whose "material needs" can be interpreted so that they point toward the understanding that "Jesus is the Christ." By attempting to show that the anthropology at the basis of Hobbes's political form is itself Christian, Schmitt implies that, if a sovereign successfully constitutes a political order on the basis of Hobbes's political anthropology, he creates a normal order founded on the idea of Christianity, he represents and institutes that idea in the world. In this note, Schmitt is engaged in explicating the theological concept whose

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<sup>25</sup> Meier, *The Lesson of Carl Schmitt*, 126.

structure is analogous to Hobbes's concept of the political; these underlying structures need not be apparent to the political actors, or, it seems, to the intellectual architects of political forms.

Third, once we become clear that Schmitt's evaluation of Hobbes as essentially Christian does not have do with Hobbes's self-understanding, it becomes more evident that Schmitt's assessment of Hobbes depends on Schmitt's own interpretation of what Christian doctrine essentially means. In other words, what Schmitt claims in this note is that he and Hobbes share a particular presupposition about political order, or a particular understanding of human nature, an understanding that Schmitt claims is at the heart of Christianity in the Catholic interpretation (as we saw in our examination of "The Visibility of the Church."). It seems, then, that Meier misses the main connection that Schmitt intends to draw between himself and Hobbes because he does not pay sufficient attention to the particularities of Schmitt's belief, having as he is more interested in portraying Schmitt as representing the "cause" of the "political theologian" as such.<sup>26</sup> Schmitt, in this note on Hobbes, indicates that he understands a particular belief about human nature to serve as the litmus test for the inherent conformity of one's position to true Christian doctrine.

To be sure, there is something odd in Schmitt's suggestion that one's Christianity can be separable from self-conscious or avowed belief in Christ. Schmitt's interpretation of Hobbes gives the impression that Schmitt endeavors to show that the most unlikely things in fact testify to the validity of his own theological opinion. Indeed, if we consider how the sociology of concepts appears and plays out in this example, we are led to see more clearly the connection of

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<sup>26</sup> Meier, *The Lesson of Carl Schmitt*, 173. Meier is interested in portraying Schmitt as representative of political theology as such because he thinks that Schmitt can be most valuable to us if his position is posed most starkly in opposition to political philosophy.



Schmitt's science of the structural analogies between political and theological concepts and his own political-theological position, or judgment about what is the ultimate, theological truth.

What can we understand about Schmitt's sociology of concepts from this example?

Schmitt explains in *Political Theology* that the sociology of concepts compares the structure of a political concept to the structure of its analogous theological concept. We see from this example that the structure of the political concept Schmitt attributes to Hobbes itself contains, in Schmitt's view, a theological opinion. As our analysis of *Political Theology* suggested, the political and the theological seem for Schmitt to be not simply analogically but also logically related. Furthermore, however—as Schmitt makes clear by arguing that Hobbes's political anthropology makes him essentially Christian—the political and theological structures are related for Schmitt by their convergence on a particular opinion. In other words, a particular opinion informs the structure of both. In this light, the political and theological concepts Schmitt examines appear not just related, but essentially identical.

To put it another way, from Schmitt's analysis of Hobbes here, it may at first seem that Schmitt argues for the logical relation of a certain understanding of politics to a theological conviction. It then appears more accurate to say that Schmitt argues that Hobbes's politics contains a theology, and Hobbes's theology contains a politics, that, as Schmitt demonstrates, it is possible to reason from one to the other in either direction. But, more essentially, it appears that Hobbes's political and theological concepts converge on an identical opinion, the opinion that the spiritual and the material are united in sinfulness and redemption (or in the "corruption" of the state of nature and the "normalization" of the civil state). When we look at this opinion more closely, however, we see that it implies that both Hobbes's political and his theological

concepts point toward the recognition of the fact of their inextricable intertwinement, the dual character of the material and the spiritual.

In other words, in Schmitt's account, both Hobbes's political and his implicit theological understanding point toward the necessity of the political, and therefore the Christian truth that must, according to Schmitt, underpin every true political order. This argument could be accused of circularity; Schmitt seems to see it, though, as a confirmation of his understanding of the inescapability of politics and the consequent truth of his theology. This analysis of Schmitt's own 'application' of his sociology of concepts demonstrates, as we suspected, that it is hardly accurate to view the sociology of concepts simply as a theoretical endeavor and political theology simply as an activity. In fact, we find that the 'political science' Schmitt develops is not a neutral method but always concludes by supporting Schmitt's particularly Catholic political theology, as every comparison Schmitt makes between political and theological concepts indicates that true political order can be supported only by Catholic theology.

### *Hobbes's "epochal meaning"*

In this section, we will see how Schmitt attempts to use another analysis of Hobbes (his 1965 essay "The Completed Reformation: comments and references for new Leviathan interpretations") to support his opinion that politics is necessary. Once again we will find that Schmitt argues for a connection of the political and the theological that allows him to use his claim that the political is inescapable to point toward the truth of his own theological conviction. In "The Completed Reformation," I will argue, Schmitt makes a case that political form is

destined to regenerate itself perpetually, or, as he proclaims many times, “*ab integro nascitur ordo*—order will be renewed again.”<sup>27</sup> As we will see, Schmitt makes his argument in this essay by examining a dynamic within Christian history—the development and ‘completion’ of the Reformation—that demonstrates, in Schmitt’s opinion, the inescapability of the political. In the logic of Schmitt’s argument, this ‘fact’ of the political can serve as a testimonial to Schmitt’s understanding of the Christian truth.

Schmitt aims to connect Hobbes with Christianity in this essay by claiming that Hobbes was responsible for ‘completing’ the Reformation. On what grounds does Schmitt argue here that Hobbes should be considered a Christian thinker? Meier suggests that Schmitt renders Hobbes a Christian by arguing that Hobbes followed the “Protestant justification of government, which emancipates the State in every form from the authority of the Pope,” and by asserting that Schmitt believes Protestantism to be “likewise... a Christian possibility.”<sup>28</sup> Meier justifies the last remark by referring to Schmitt’s statement in “The Visibility of the Church” that the Protestant view is an “eternal” Christian possibility.<sup>29</sup> Our reading of this early essay in Chapter 3 indicated, however, that while the Protestant position is indeed a perpetual possibility for Schmitt, it always constitutes the wrong option, as it is a stance based on the devilish attempt to imitate God directly rather than accept Christ’s mediation. Meier’s opinion in this matter is again connected to his argument that Schmitt’s political theology should be understood as able to serve any conviction, and that Schmitt’s theology demands obedience above all. While Meier argues that Schmitt conceives of essential “antagonism” as that between “faith and atheism,” what we will find in “The Completed Reformation,” I will argue, is that Schmitt sees the

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<sup>27</sup> This is a modified quote from Virgil’s *Eclogue* VI, 5; for more details see Meier, *The Lesson of Carl Schmitt*, 169.

<sup>28</sup> Meier, *The Lesson of Carl Schmitt*, 128.

<sup>29</sup> Meier, *The Lesson of Carl Schmitt*, 128.

alternatives as orthodoxy, or correct belief, versus heresy, or false opinion.<sup>30</sup> Moreover, as I will argue below, we find once again that for Schmitt Hobbes is a Christian because he implicitly holds and reasons with the fundamental tenet of the true Christian faith; Hobbes, in other words, proves for Schmitt the truth of the Catholic interpretation of Christianity.

“The Completed Reformation” consists of Schmitt’s reviews of three works recently written about Hobbes. In the first two reviews, Schmitt addresses books by F. C. Hood and by Dietrich Braun, preparing the ground for understanding Hobbes as a Christian thinker. As Meier notes, the arguments raised in these sections are contestable.<sup>31</sup> However, it is also apparent that Schmitt does not intend to rest his case for the Christianity of Hobbes’s thought in conversation with the “Anglican” Hood or the “Lutheran” Braun (CR, 154). Schmitt continually directs the reader toward the third section of the essay, in which he takes up an insight offered by his friend Hans Barion, a “Roman Catholic theologian and jurist of the canonical law,” who, Schmitt claims, unlike Hood and Braun, “pays heed to the essential context” of Hobbes’s political proposal (CR, 165). It is clear that Schmitt understands his argument in Part 3 to be the decisive aspect of his piece and therefore of his interpretation of Hobbes.

According to Schmitt, Barion uncovers a new possibility for understanding why Hobbes advertised his political theory with the symbol of the Leviathan by raising the possible relevance

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<sup>30</sup> Meier, *The Hidden Dialogue*, xv.

<sup>31</sup> Meier, *The Lesson of Carl Schmitt*, 118-120. In the section dealing with Hood, we find Schmitt agreeing that Hobbes likely “presupposed” his sovereign to be a Christian, since other Reformation authors did, and that Hobbes was concerned with “ending the denominational civil wars, and therefore focused on the this-worldly, earthly peace of a Christian community” (CR, 139). In the section concerning Braun, Schmitt argues that Hobbes did not begin a process of neutralization, “but rather initially the opposite,” since national churches asserted “a dogmatic positization contra the idiosyncrasy of deviant opinions of the denominational opponents or neighbors” (CR, 162). Finally, we hear Schmitt declare that “whatever one may accuse the defamed Thomas Hobbes of... his sentence, that *Jesus is the Christ*, meets the kernel of the apostolic proclamation and fixes the historical as well as the kerygmatical topic of the whole New Testament” (CR, 164).

of John of Salisbury's image of the body politic to Hobbes's image of the Leviathan. Barion suggests that Hobbes may intend to "oppose the hierocratic corpus-doctrine of his countryman John of Salisbury with a counter-image of the state" (CR, 165). Barion points out that "one need only to switch the sword and the bishop's staff of the 'great man,' i.e., put the bishop's staff in the right hand and the sword in the left" to see that "Hobbes with his mythical picture of the Leviathan has essentially only inverted the *Societas-Christiana* doctrine of the hierocratic Middle Ages."<sup>32</sup> In other words, Barion argues that Hobbes reverses the hierarchy that medieval Roman Catholic theologians understood between spiritual power and worldly power, putting worldly power in charge of spiritual power. Indeed, we see that in Salisbury's picture, officials play the role of the right arm and soldiers the left, whereas for Hobbes the right arm holds the sword and the left arm the bishop's staff. Barion's suggestion, while intriguing in its perhaps novel details, is certainly familiar in its main point: Hobbes combated the pretensions of the Roman Catholic Church by asserting the superiority of purely political power over 'spiritual' claims. As we will see, Schmitt does not entirely agree with this suggestion; Schmitt's quiet correction of Barion will highlight exactly why Schmitt considers Hobbes's political thought to conform to Christian doctrine.

How does Schmitt think Hobbes responds to Salisbury's *corpus* doctrine by depicting his own commonwealth as a Leviathan? Schmitt writes that Salisbury portrays his *res publica* as a "uniform *corpus*, whose soul is the priests, whose weaponed arm is the soldiers, and whose feet are the farmers" (CR, 176).<sup>33</sup> Schmitt then points to the manner in which he thinks Hobbes opposes Salisbury by reminding readers that Salisbury also depicts a body that stands in

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<sup>32</sup> Hans Barion, review of "Saggi storia intorno al Papato, etc.," 500. Barion's article is worth reading in its entirety, as it is illuminating of the general problem Schmitt addresses here.

<sup>33</sup> Schmitt refers the reader to Book VI, chapter 1 of John of Salisbury, *Policraticus*, 103-109.

opposition to his body politic, “a *corpus unum* of Evil, *quod ex patre diabolo est*,” which according to Schmitt “is colorfully portrayed as the Leviathan-Behemoth-image from the *Book of Job*, whereby Leviathan and Behemoth are not further distinguished” (CR, 176-177).<sup>34</sup> It seems at first that Schmitt intends to say that Hobbes, by calling his commonwealth ‘Leviathan,’ affirms that body which is designated by Salisbury as ‘evil.’ This would essentially accord with Barion’s understanding that Hobbes’s work is the mirror image of Salisbury’s, that Hobbes turns the claim of the Roman Catholic Church concerning the superiority of spiritual power on its head. However, Schmitt does not mean to follow Barion’s suggestion exactly. Schmitt’s divergence from Barion is indicated by his insinuation that the difference between Salisbury and Hobbes is that Salisbury does not ‘distinguish’ between Leviathan and Behemoth—as it should be clear to the reader that Hobbes does: Hobbes’s *Leviathan* was followed by *Behemoth, or the long parliament*, a book in which Hobbes depicted the inept Puritan rule.<sup>35</sup>

What does Schmitt think Hobbes intends by taking the side of Salisbury’s evil corpus, and then splitting it into two? As Schmitt’s hints in this direction are so slim, it is helpful to examine the chapter in Salisbury’s *Policraticus* to which Schmitt points (Book VI, chapter 1). There we find an additional detail concerning Salisbury’s corpus of evil: it is composed of corrupt officials. In fact, Salisbury devotes most of this chapter of *Policraticus* to a polemic against corrupt officials that comes to a head in the portrayal of them as the interlocking scales on the beasts mentioned in *Job*. In Salisbury’s depiction, corrupt officials are characterized by their focus on Christ’s call for the payment of “tribute to Caesar,” and their denial that “the king

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<sup>34</sup> A glance at *Policraticus* demonstrates that this suggestion is plausible enough to merit further thought. In describing the evil corpus, Salisbury refers the reader to *Job* 41:6-8 and glosses this passage in words that evoke the torso of Hobbes’s Leviathan image: “the body is like a shield made of cast and tightly packed scales which have been joined together; one is connected to the other, and not even a breathing space comes between them; one has been glued to another and, holding fast, they will not be separated” (108).

<sup>35</sup> Schmitt has reminded the reader of this earlier in the essay: CR, 144-145.

is Christ whom it is more necessary to obey than men.”<sup>36</sup> Good officials, according to Salisbury, by contrast understand that their primary task is to “lift up the fallen...invigorate the weary... provide for mankind,” and to recognize that in the final instance it is “more necessary to obey [Christ] than men.”<sup>37</sup> Salisbury’s good officials, while technically the arm of the *res publica*, in the last analysis take their orders from Christ and serve humanity rather than any specific polity. It is clear that the chapter in *Policraticus* to which Schmitt points concerns precisely the issue of the relation of Christianity to worldly authority with which we are concerned (VC, 55).

How does Schmitt see Hobbes replying symbolically to Salisbury’s portrait of officialdom? Hobbes’s image of the Leviathan corresponds to Salisbury’s corpus of evil. And yet it would be inaccurate to say that Hobbes simply takes up the party of the devil or asserts the goodness of the corrupt officials that Salisbury has rejected from his polity. Rather, what Schmitt’s interpretation highlights is that Hobbes shifts the focus to a new distinction. How Schmitt understands Hobbes to oppose Salisbury begins to become clear once one has seen that the health or integrity of Salisbury’s body politic depends upon the exclusion of corrupt officials; all the officials that serve in Salisbury’s *res publica* are Christ-like. Thus, according to Salisbury’s view, human corruption plays no part in the *corpus unum* of the *res publica*. In Hobbes’s commonwealth, to the contrary, human corruption is made part of the political body again, and even (pictorially) serves as the foundation or bulk of the political body. The question for Hobbes is not whether officials obey Christ and serve mankind, or are greedy and rapacious, but whether they properly serve sovereign power (desire for gain can conduce to this for Hobbes,

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<sup>36</sup> Salisbury, *Policraticus*, 107.

<sup>37</sup> Salisbury, *Policraticus*, 104, 107. Salisbury goes so far as to portray Christ himself as a good official.

as well as stand in the way).<sup>38</sup> In other words, Hobbes seeks to expose Salisbury's understanding of the distinction between the good official (serving mankind) and the corrupt official (looking out for his own) as a false antithesis. The distinction to which Hobbes draws our attention is not between corrupt human beings and Christ-like human beings, but officials who serve the sovereign and those who sow discord.

This new distinction is represented in Hobbes's division of Salisbury's evil corpus into two bodies—one of which appears as the source of anarchy and chaos (Behemoth), and the other the source of order and peace (Leviathan).<sup>39</sup> Hobbes's reference to Salisbury's evil corpus on his frontispiece therefore constitutes not a defense of corruption, but a change of focus. It appears that for Hobbes, in Schmitt's interpretation, the essential question concerns not whether it is more just to obey spiritual truths or worldly powers (the question is not whether spiritual or worldly power 'rules,' as both Salisbury and Barion suggest), but rather concerns the practical effect one's obedience has, whether it promotes political "order and peace" or the disintegration of political order, "the worst of all evils... civil war" (CR, 144). In other words, Schmitt points out that Hobbes focuses our attention on the question of whether one's actions and opinions contribute to the establishment or the destruction of political order.

As will become clear, this is the new "horizon" that Schmitt thinks Barion's comparison of Salisbury and Hobbes opens up: that Hobbes defends the political against Salisbury's implicitly anti-political doctrine (PTII, 115). The significance of this to Schmitt will become evident as we examine Schmitt's characterization of Salisbury's "monistic-hierocratic" "political

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<sup>38</sup> Hobbes, *Leviathan*, 78.

<sup>39</sup> That Schmitt means to point to this significance of Hobbes's distinction between Leviathan and Behemoth is supported by Schmitt's earlier comment that Hobbes was apparently the first to make a *moral* distinction between Leviathan and Behemoth, as they had previously been distinguished only as belonging to land or sea (CR, 144).



theology” and Hobbes’s response to it (CR, 176). According to Schmitt, the monistic-hierocratic view exemplified by Salisbury does not claim to be anti-political but simply to be concerned with the delineation of the competence of “worldly” powers from “spiritual” powers. Schmitt quotes the medieval canonist Vincentius Hispanus as representative of this view: “the church does not intend to judge in feudal-legal, worldly questions, but only over the sin” (CR, 176). However, Schmitt indicates, the Church’s professed disinterest in ‘legal’ or ‘worldly’ matters is necessarily disingenuous, since its assertion that it can judge “indirectly” in matters of sin “dissolved” the alleged “autonomy” of worldly and spiritual powers (CR, 176). Schmitt attempts to expose the claim to worldly power implicit in Salisbury’s doctrine by arguing that Salisbury’s political theology ultimately “rests on the foundation of the consideration: that the sword of the worldly authorities becomes superfluous, when the people submit to the divine truth of the church” (CR, 176). In other words, Salisbury contends, in Schmitt’s portrayal, that politics, or the secular sword, may be necessary to establish peace among corrupt men in this world, but that those who submit to the Christian truth and repent their sins will naturally be peaceful. Salisbury’s “political theology” implies, in other words, not that spiritual authority might *complement* worldly authority but that it can *supplant* worldly authority, that believing Christians do not need a political order established in any part by force. As Barion remarks, in the end this political theology sees the state as only a “necessary evil,” the “worldly arm” of the church.<sup>40</sup> In Schmitt’s characterization of Salisbury, then, we hear an echo of Schmitt’s critique of Sohm and Kelsen: the monistic-hierocratic claim, like the Protestant and legal positivist views, begins with a dogmatic understanding of the separation of ‘spiritual’ and ‘worldly’ powers, but in

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<sup>40</sup> Barion, review of “Saggi storia intorno al Papato, etc.,” 500.

practice necessarily leads to an implicit assertion of the *physical* superiority of the spiritual, and therefore a contradiction of its premise.

According to Schmitt, Hobbes exposes the contradictions in Salisbury's implicitly anti-political stance, and demonstrates thereby the inevitability of the political. Schmitt writes that Hobbes precisely recognizes the deception involved in the Roman Catholic Church's claim to exercise power only over the sin, and endeavors to show "that each dispute between spiritual-churchly and worldly-political responsibility becomes at the same moment a *political* dispute" (CR, 166). Any attempt of the Church to act in the world, according to this understanding, transforms the Church into a political actor. In the context of Salisbury's political theology, Schmitt argues, the true significance of Hobbes's thought becomes clear: "Thomas Hobbes's epochal meaning is to have recognized with conceptual clearness the purely political sense of the spiritual decision-claim" (CR, 167). This central aspect of Hobbes's thought is precisely what Schmitt thinks the Protestants Hood and Braun ignore and the Roman Catholic Barion's reference to Salisbury allows to be brought out.

Schmitt's departure from Barion's interpretation of the meaning of Salisbury to Hobbes highlights that, for Schmitt, Hobbes's significance does not consist in the assertion of worldly power over spiritual power, or an exact inversion of Salisbury's claim.<sup>41</sup> Schmitt signifies several times over the course of his career that Hobbes is significant to him because Hobbes shows that the purely theoretical question of which power should be considered 'higher' must be subordinated to the question of the relation between powers in practice (PT, 33-34). In other

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<sup>41</sup> Meier, by contrast, conflates Barion's and Schmitt's points, arguing that Schmitt thinks Hobbes "positivized and appropriated the negatively charged image from the *Policraticus*...and transferred the *plenitudo potestatis*... [from] the Pope to the State," (*The Lesson of Carl Schmitt*, 129).

words, the question for Schmitt and for Hobbes is not whether worldly or spiritual power is theoretically higher but what the necessary relation is between these two powers in practice. What Hobbes demonstrates more clearly than anyone else, Schmitt claims, is that *in practice*, these two powers are necessarily coincident—because a spiritual assertion becomes a political assertion, a material claim to power as well as a spiritual claim to right, one cannot make an absolute distinction between worldly and spiritual powers as they appear on earth.

Hobbes’s understanding of the necessarily political nature of all assertions, including those on behalf of a ‘spiritual’ truth, gives rise to his fierce opposition to “indirect powers,” as Schmitt makes plain. It is Hobbes’s understanding of the nature of the political, Schmitt argues, that inspires his enmity against Cardinal Bellarmine, and fuels the “eagerness, not to say animosity” with which he polemicizes against “indirect powers” (CR, 175). Hobbes’s argument against indirect powers stems in part from his contention that the opinion that one obeys spiritual power—on Hobbes’s understanding, a false opinion—leads to chaos. Salisbury’s claim to represent spiritual power, on Hobbes’s opinion, will therefore sow anarchy by justifying the assertion of indirect power—which, as we have seen, means for Schmitt the claim to rule without the acceptance of responsibility, the demand for obedience without the offer of protection. But Hobbes’s critique of Salisbury is not solely, or even mainly, practical in Schmitt’s interpretation. In Schmitt’s view, Hobbes’s most important contribution is the countering of Salisbury’s “monistic” political theology with another political theology that restores an understanding of the necessity of a “duality” of spiritual and worldly powers (CR, 176).<sup>42</sup>

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<sup>42</sup> This argument between a monistic and a dualistic political theology is concretely figured in the opposition of Salisbury’s body politic to Hobbes’s Leviathan. Whereas the soul of Salisbury’s body politic is a purely spiritual

Hobbes is the great opponent of the “monistic-hierocratic” Salisbury in Schmitt’s interpretation, because his insight into the nature of the political allows him to argue for an understanding of worldly and spiritual power as necessarily *dual* (CR, 176). As we have seen in Chapter 3, Schmitt considers the belief that the material and the spiritual are always found together in human life to be necessary to the Christian view and central to his Catholic interpretation of Christian doctrine. Schmitt’s justification of the necessarily political character of Christianity and the theological correctness of the Roman Catholic Church, then, indicates that in Schmitt’s eyes, Johannes “*Saresberiensis*”—the English bishop of Chartres—betrays the fundamental logic of the Roman Catholic Church by implying the possibility of purely spiritual rule (CR, 176). Conversely, Thomas Hobbes—the tireless opponent of Cardinal Bellarmine—according to Schmitt affirms the logic of the Roman Catholic Church by reasserting the necessary duality of spiritual and worldly powers.<sup>43</sup>

Schmitt’s thesis in this essay, then, is that Hobbes’s opposition to the “roman church” of Salisbury and Bellarmine makes him in fact a defender of Roman Catholic logic.<sup>44</sup> The logic which Hobbes most deeply opposes is the logic of the Behemoth—in Schmitt’s understanding, a radically Protestant logic, the essence of which is the assertion that human beings can enter into a purely spiritual communion with each other and with God, and therefore can dispense with the power of the ‘sword’ (CR, 145-146). Schmitt’s characterization of Salisbury in this essay suggests that the Roman Catholic Church, at least by the late Middle Ages, came in practice to

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element (the priests), in the Leviathan, the spiritual is but one arm of the body politic, whereas the soul—the sovereign—wields both spiritual and worldly power. Salisbury, *Policraticus*, 66-67; Hobbes, *Leviathan*, 3.

<sup>43</sup> By contrast, Meier argues that Schmitt recognizes that “‘in the world battle between Catholicism and Protestantism,’ Hobbes sided with Protestantism” (*The Lesson of Carl Schmitt*, 129-130).

<sup>44</sup> It is significant that Schmitt in this essay consistently refers to the “roman church” rather than the “Roman Catholic Church,” because this indicates that he believes that the ‘roman church’ has ceased to represent the universal, political principle (CR, 167).

adopt that essentially Protestant view.<sup>45</sup> Given that historical context, Hobbes can oppose the ‘roman church’ and utilize the Protestant suggestion of asserting a *cujus regio, ejus religio*, of giving the sovereign control over spiritual power, to restore order according to Roman Catholic logic. According to Schmitt, Hobbes completes the reformation by addressing the problem posed by the disconnection of the Roman Catholic Church from an association with state-political power. Hobbes’s accomplishment, then, in Schmitt’s view, is to translate the essential Catholic truth into a new institution, the modern state.<sup>46</sup>

Schmitt’s position on Hobbes, as it comes to light in this late essay, is that Hobbes’s delegation of spiritual authority to the sovereign political power restores a proper understanding of the mysterious coincidence of the material and the spiritual on earth. Hobbes’s conception of the Leviathan-commonwealth does not allow for the influence of a Pope who decrees the proper interpretation of the Christian truth or of natural law. But both Schmitt and Barion insinuate here that the Pope became unable to occupy this function without contradiction as soon as the Roman Catholic Church lost its secular arm. Since then, the Pope has been forced to exercise indirect power, essentially asserting the possibility of purely spiritual communion and thereby undermining the rationale of his own institution—as well as, in Schmitt’s analysis, evincing an unjustified and unchristian trust in purely human power (see Chapter 2). Hobbes saves what Schmitt regards as the essential Christian truth—the Catholic understanding that body and spirit are inextricably combined in sin and redemption, that ‘Jesus is the Christ’—by conceptually and concretely arguing for the necessary “duality” of material and spiritual power (CR, 176).

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<sup>45</sup> Barion’s review concerns the quarrel between two scholars over when the Church began to make hierocratic-monistic claims: whether with the end of the West-Roman empire in the 5<sup>th</sup> century, with the juridical reforms of the Holy Roman Empire by Charlemagne’s son in 816, or first with the papal claims to power in the 1300s.

<sup>46</sup> Or the system of modern states that comprises the *jus publicum europaeum*. See Colliot-Thélène, “Carl Schmitt versus Max Weber,” 148.

That Schmitt admires Hobbes not for articulating a Christian position that comprises Protestantism, as Meier argues—as opposed to a particularly Catholic stance—is indicated not only by our foregoing analysis that the Protestant view is typified for Schmitt by an attitude of striving against the political, but also in the current context by his argument that Hobbes *completed* the Reformation.<sup>47</sup> Schmitt likens Hobbes’s thought to “fruit that has been ripened in the fire of the confessional civil war,” nourished by Protestant controversies concerning “interlocking distinctions between spiritual-worldly, inner-outer, visible-invisible” (CR, 169). From this chaos comes Hobbes’s “clearly national [*staatlich*] antithesis to the roman-churchly monopoly on decision,” which is an “expression of the completed Reformation” (CR, 169). Hobbes’s thought developed, according to Schmitt, in the context of Protestant argument—but in ‘completing the Reformation,’ we see that Hobbes, on Schmitt’s account, utterly transforms it. Hobbes’s commonwealth, as Schmitt writes in a complicated but precise sentence, is:

the fruit of an epoch for which the *jus reformandi*—as seen from the point of view of the Middle Ages—became the highest prerogative; but at the same time—from the point of view of the modern state (that came into existence through that very dynamic)—had become the right of the sovereign [*Souveraenitaetsrecht*] (CR, 169-170).

Schmitt argues here that when the right to reform became the ruling idea, it necessarily became institutionalized, combined with worldly power. Thereby the idea of the right to reform was transformed into the modern state, relying on the specific argument that each polity should have the right to determine its own religion, i.e., be truly sovereign. In this dynamic, however, the right to reform became something its logic implied but its proponents did not necessarily intend: it became the concrete institutionalization of the logic that had previously underpinned the

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<sup>47</sup> Schmitt also reminds us of Hobbes’s hostility to Protestantism in arguing that Hobbes opposes both the Protestant militants (portrayed as the Behemoth) at least as vigorously as the Roman Catholic Church—even suggesting that Hobbes slightly favored the Catholic Church over the militants (CR, 145-146).

Roman Catholic Church, a logic exemplified by the statement that the spiritual and the material cannot exist in unmixed form on the earth, or that all worldly things are political. In sum: the right to reform, once realized, becomes the right of the sovereign, ‘the highest prerogative.’ In other words, Schmitt implies that a ‘completed reformation’ could not do otherwise than be absorbed, at least conceptually, back into the Roman Catholic Church. For while reformers may begin from the position of the struggle against the political as such, for Schmitt their success always means the politicization of their position.

It seems, then, that Meier’s portrayal of Schmitt as open to both the Catholic and Protestant alternatives is inaccurate. “The Completed Reformation,” in which Schmitt distinguishes between the opinions of several Christian thinkers, should demonstrate that Schmitt’s interest in Hobbes does not revolve around the question of whether or not he adhered to a general posture of belief. Nor is it correct to portray Schmitt as hoodwinked by “pious sentences,” of which Salisbury offers more than a few.<sup>48</sup> Rather, Schmitt’s interest in Hobbes seems to stem from his determination that Hobbes’s thought affirms a specific political-theological truth; Hobbes’s importance, in Schmitt’s interpretation, lies that he took a particular stance in an intra-Christian quarrel. One might also say that Schmitt values Hobbes’s thought because he thinks that Hobbes brought the confusions and inexactitudes of the anti-political thinking inherent in the claims to indirect power (whether by the Protestant militants or the ‘roman church’) to their logical conclusion. Hobbes’s “epochal meaning,” according to Schmitt, centers on his ability to put the nature of this claim to indirect power “in direct light,” achieving a “conceptual clarity” not attained throughout the whole Middle Ages (CR, 167-168). Hobbes’s

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<sup>48</sup> Schmidt, “The Problem of Carl Schmitt’s Political Theology,” 118.

work testifies, in Schmitt's view, to the conclusion that a clear understanding of the logic of *philosophia practica* points to the true interpretation of Christianity.

Schmitt informs us that "The Completed Reformation" concerns above all the "inner logic of the relationship of spiritual and worldly force" (CR, 153). Our examination of the dynamic Schmitt depicts by portraying Hobbes as completing the Reformation suggests that Schmitt's analysis of this relationship concludes that every attempt to exercise spiritual power, use indirect force, or protest against the established authority, must logically resolve itself into the establishment of a new authority who exercises direct, political power. In other words, the logic of the relationship of spiritual and worldly power seems to prove to Schmitt the inescapability of the political in human life. That politics is necessary is furthermore for Schmitt not simply a presupposition that springs from and serves common-sense; the necessity of the political seems to confirm for Schmitt the truth of his particular theology.

### *The political scientist and the political theologian*

This chapter has attempted to show that Schmitt's "sociology of concepts" is not a scientific veneer overlaying a theologically-motivated political project, but that Schmitt's science is rather directly related to his theology in that Schmitt intends analysis based on his sociology of concepts to *prove* the inescapability of the political and thereby the necessity of Catholic theology to underpin true political order. As our analysis of Schmitt's understanding of the Catholic and Protestant alternatives in Chapter 3 would suggest, Schmitt likely desires to ground his political-theological position in an objective argument because he understands the problems



inherent in the Protestant stance, which is according to Schmitt based on the possibility of a direct, personal relationship with God, or, otherwise put, a privately held moral belief. As this would indicate, Schmitt's attempt to make an objective argument about the political and the theology that underpins it cannot be adequately comprehended as a 'value-neutral' endeavor, but must be understood in the context of his particular theological and moral convictions. Both the premise and the aim of Schmitt's science of the sociology of concepts become clear when one realizes that Schmitt intends this science to prove the Catholic interpretation of Christian truth while avoiding the relativistic consequences he sees inherent in the Protestant position.

In this chapter, we examined what I suggest are two of Schmitt's 'applications' of his method of the sociology of concepts, two political-theological analyses that he makes of Hobbes's work. Seeing Schmitt's scientific method at work has allowed us to better articulate the relation of the sociology of concepts to Schmitt's political theology. We found that Schmitt's investigation of the structure of political and theological concepts discovers that the relationship between a political concept and the concomitantly held theological concept is not best described as 'analogical,' as Schmitt initially claims, but identical, as Schmitt finds behind both of these concepts a single political-theological worldview. In other words, one's political and theological opinions are informed, in Schmitt's analysis, by the same idea. As we saw in our reading of Schmitt's Hobbes-crystal, the structure of both one's political and one's theological opinions gives the same account of what kind of rule is justified.

Moreover, following the logic of Schmitt's investigation of political and theological concepts, we found that Schmitt's science results in the indication that there cannot be a multiplicity of political-theological convictions. Whereas Schmitt presents his sociology of

concepts in *Political Theology* as if it were a neutral method that can look dispassionately upon any number of combinations of political and theological opinions, our readings of both the Hobbes-crystal and “The Completed Reformation” find rather that the historicism apparently implicit in Schmitt’s view in *Political Theology* is misleading.<sup>49</sup> As we saw in these later works, Schmitt’s political-theological analysis leads him to conclude that there is only one opinion that supports truly political order: that which he interprets as Catholic theology. Thinking through the structural analogies of political and theological concepts would therefore seem to lead on Schmitt’s understanding to an insight into what is required for political order, and the consequent affirmation of the tenet that he believes is the heart of Christian doctrine: man is an inextricable combination of body and spirit in both corruption and redemption, in other words, *that Jesus is the Christ*.

In both of Schmitt’s comments on Hobbes that we studied, we found that Schmitt believes Hobbes’s work to provide at least a material confirmation of his own Catholic conviction, and perhaps a rational proof of Christian truth. This becomes especially apparent in “The Completed Reformation,” where Schmitt argues that Hobbes’s clear-sightedness and logical rigor allows him to see the necessity of restoring the political (and with it the rationale of the Catholic Church, if not the institution itself). The indication that human things repeatedly find an ‘order,’ of which Hobbes’s successful instantiation of a new political system is evidence, constitutes for Schmitt a confirmation of the truth of his political-theological understanding. While I therefore agree with Meier that it is misleading to view Schmitt as a value-free “social scientist,” I also think that Meier distorts Schmitt’s intention by overlooking Schmitt’s attempt to prove the grounds of his belief by making an objective argument for the necessity of the

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<sup>49</sup> Colliot-Thélène, “Carl Schmitt versus Max Weber,” 143-144.

political. It is therefore less accurate, I argue, to view Schmitt as standing up for revelation as such against reason than it is to see Schmitt as attempting to regain the ‘middle ground’ of a Catholic alternative, which allows reason to support or point to revelation.<sup>50</sup>

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<sup>50</sup> It seems that Strauss also would disagree with Meier here, which is significant because Meier endeavors to use Strauss’s polemic with Schmitt to reveal Schmitt’s theological assumptions (*The Hidden Dialogue*). Strauss remarks that in studying Schmitt, he was first led “to wonder whether the self-destruction of *reason* was not the inevitable outcome of modern rationalism as distinguished from pre-modern rationalism, especially Jewish-medieval rationalism and its classical (Aristotelian and Platonic) foundation” (“Preface to the English Translation,” *Spinoza’s Critique of Religion*, 31, my emphasis). In other words, Strauss was led to think about the implosion of ‘modern rationalism’ in studying Schmitt; Strauss seems to identify Schmitt’s work at least in part with a misguided effort of ‘reason’ rather than with a consistent adherence to revelation. See also Strauss’s remark that Schmitt is an “impossible compound of Machiavelli and Thomas Aquinas,” which seems to support my interpretation of Schmitt’s thought as an amalgam of modern and Catholic thinking, rather than Meier’s interpretation of Schmitt as a pure type of political theologian (Seminar on Montesquieu, 16 Feb 1954).

## Chapter 5: Political Practice

In this chapter, we will look at a pair of Schmitt's well-known writings about the political—*The Concept of the Political* and *State, Movement, People*—to further support the argument that his apparently secular works are also underpinned by a premise that has, on his understanding, important theological implications. As we will see, both Schmitt's antagonism toward liberalism and his embrace of Nazism revolve around the issue of the relation of the material and the spiritual in practice. In Chapter 3, we found that this issue was central to Schmitt's critique of Protestantism and his elaboration of a "Catholic" alternative. Moreover, we find that Schmitt portrays the contest between liberalism and Nazism in *The Concept of the Political* and *State, Movement, People* as a matter of awareness or lack of awareness of the truth of the political nature of human life, rather than a matter of two opposing views of what is just. In other words, Schmitt once again employs the strategy he uses in his analysis of Hobbes—making a covert claim for his theological position by arguing for the necessity of the political and the inevitability of the restoration of political form.

In the first section of this chapter, I will argue that Schmitt's understanding of enmity as a criterion of the political in *The Concept of the Political* is not a departure from his morally or theologically informed conception of politics, but another, apparently secular, manner of formulating this view. Schmitt's understanding of enmity serves him as the criterion of the political, I will argue, because it allows him to express what we have seen he recognizes as the distinguishing mark of the political in the works we have examined so far: the mysterious but apparently inextricable unity of the material and the spiritual. In other words, I will argue that it is mistaken to view Schmitt's understanding of enmity as a departure from his earlier, normative

conception of politics, and that it is more accurate to see *The Concept of the Political* as an extension of Schmitt's earlier work than an interruption.

Schmitt's ostensibly scientific and neutral criterion of the political clearly has a moral edge; it is intended as a critique of the liberal perspective of politics that, I will argue, is aimed to contribute to the overthrow of liberal thought and politics in Europe. In other words, Schmitt intends *The Concept of the Political* both to present a new criterion of the political and to be a form of political action or intervention. In the second section of this chapter, I will begin to examine how Schmitt intends his emphasis on the centrality of enmity to politics and his elaboration of a clear concept of the political to critique the liberal perspective. In short, we will find that in Schmitt's opinion, liberal thought and practice revolve around a pathological division of the spiritual and the material, and that he aims his understanding of enmity to combat this view.

In the third section of this chapter, I will continue this argument by looking at Schmitt's critique of a concrete historical example of liberal politics, the Weimar Republic. In *State, Movement, People*, we find that Schmitt concentrates on what he sees as the destructive tendencies of the practical separation of material and spiritual powers in the Weimar Constitution. In this work, Schmitt endeavors to show how the attempt to separate these two types of power leads inevitably to the collapse of political order, to anarchy. Against this backdrop, Schmitt looks to Nazism to re-establish an accurate understanding of the necessary relation of material and spiritual claims in practice, and therewith the restoration of a truly political order. Here also we find that Schmitt believes that a clear understanding of the nature of the political will result in a form of political action: as the contradictions of Weimar liberalism

become clear, Schmitt thinks, a truly political alternative will emerge. Schmitt's analysis clearly aims to influence the direction of events as much as describe them; it is thereby interesting to us, as it offers insight into Schmitt's hopes for the new regime, in particular indicating how he expects an increased awareness of 'the political,' understood along the lines he suggests in *The Concept of the Political*, to contribute toward the formation of a new political order.

Schmitt's antagonism toward liberalism and his embrace of Nazism revolve around the importance of understanding the relation of the material and the spiritual in practice; this indicates, as I will elaborate in the conclusion to this chapter, that Schmitt's apparently secular work in fact extends from his theological concerns. In conclusion I will argue that Schmitt's understanding of the significance of the political that we first saw him articulate in the context of "The Visibility of the Church" continues to resonate in his later works, suggesting that Schmitt's efforts to expose the implicit anarchy of Weimar liberalism and to promote the restoration of political order by the Nazi movement is in his view part of the battle against the diabolical temptation to believe that purely spiritual communion is possible for man. We cannot therefore understand Schmitt's concept of the political, I argue, unless we grasp the theological resonances of its core.

#### *The enemy as a political-theological criterion*

Schmitt devotes one of his most famous works, *The Concept of the Political*, to the elaboration of a criterion by which one may discern the degree of 'the political' in any theory or community. The particular criterion that Schmitt suggests can be used to measure the political is

whether or not an enemy can be discerned (CP, 26). Schmitt's understanding of enmity in this work is often interpreted as amoral—with good reason, since Schmitt himself loudly distances his understanding of 'the political' from normative judgments (CP, 26-27). However, Schmitt's criterion of the political and his elaboration of the idea of enmity also clearly constitute an attack on the liberal perspective of politics, and moreover an attack with a moral edge. This section will begin to connect Schmitt's apparently non-normative criterion of the political with the moral function it serves in its critique of liberalism by offering a new understanding of the structure of Schmitt's idea of enmity.

Schmitt's understanding of enmity in *The Concept of the Political* is, I argue, characterized by his attempt to have it express what he regards as the necessary conjunction of the spiritual and the material in human life. This is not immediately evident, for 'enmity' in *The Concept of the Political* seems at first glance to be defined entirely by the presence of physically opposed, armed groups to the exclusion of spiritual or normative distinctions. Indeed, Schmitt begins this work by insisting that political distinctions, that is, distinctions between friend and enemy, are "not derivable from other characteristics," such as "good and bad" or "useful and detrimental" (CP33, 7).<sup>1</sup> In other words, Schmitt argues that one cannot determine a political enemy from a normative point of view. The realm of the political is "independent," he writes, in the sense that "it can neither be grounded" in any one of these normative oppositions, "nor derived from them, nor repudiated nor refuted by them" (CP33, 7). It appears, then, that argument about what is good, beautiful, or useful does not take on a decisive role in the act of determining who is a friend and who is an enemy. Schmitt goes so far in distancing normative

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<sup>1</sup> All further references to *The Concept of the Political* in this section will be to the 1933 German edition. I have chosen to cite from this edition solely to avoid creating confusion, and because I think this edition most clearly demonstrates Schmitt's intention in elaborating his idea of enmity.

judgments from political judgments as to say that the political enemy “need not be morally evil, he need not be aesthetically ugly, he need not appear as an economic competitor” (CP33, 7-8). In other words, it seems that Schmitt is encouraging us to believe that one could decide to fight to the death an enemy that, at least theoretically, one considers a beautiful exemplar of moral goodness, who is moreover useful to one’s country.

Schmitt insists that we take this initially implausible suggestion seriously by explaining that he does not mean it to describe the usual course of affairs, but rather the most extreme possibility or “‘most serious case,’” which he thinks will be most illuminating of the truth (CP33, 13). That is, Schmitt concedes that “in psychological reality,” politics “draws upon and utilizes” normative distinctions for its “conscious justification and grounding”—in other words, he recognizes that we usually consider our enemies to be evil, ugly, and detrimental to our purposes (CP33, 8-9). What Schmitt seems to intend to reveal about enmity by focusing on the most extreme possibility, then, is his opinion that it is ultimately impossible to justify the extreme case of war, which involves commanding other men to be willing to kill and to risk their lives, simply on the basis of these normative distinctions. As Schmitt writes, “no program, no ideal, and no purposefulness could ground a public right to disposal [*offene Verfügungsrecht*] over the physical life of other men” (CP33, 31).<sup>2</sup> One cannot ‘claim title’ over the lives of other men, Schmitt argues, simply on the basis of an idea or norm.

In fact, as we saw in the last chapter, ‘claiming title,’ or demanding obedience unto death from other human beings, must for Schmitt be found in conjunction with the willingness of these people to seek protection by this particular authority. From this follows Schmitt’s argument in

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<sup>2</sup> “*Verfügungsrecht*” is a legal term meaning “title” or “right of disposal.”



*The Concept of the Political* that authority cannot claim the duty of obedience simply based on the soundness of the idea he promotes or represents—for it seems that judgment of the ability of that idea to promote peace and provide protection indeed comes on Schmitt’s understanding from the men seeking protection. The ‘duty’ of obedience that the authority can demand depends on the calculation of a group of people that it is wise to seek protection under his rule specifically. Schmitt reiterates this argument in *The Concept of the Political*: “the protector...determines the enemy, by power of the *eternal relation* of protection and obedience” (CP33, 35). In other words, the protector gains the right to name the enemy from the logic of this dynamic of protection and obedience, which is powered by the subjects’ judgment of what will bring peace.<sup>3</sup>

It seems, then, that Schmitt intends to argue that the right to command others to go to war cannot be based on ideas but must be based on the promise of defending or protecting “physical life” (CP33, 30). Compounding this impression, Schmitt insists that his discussion of the war that cannot be justified simply by appeal to norms is not abstract or “symbolic,” but “refers in particular to the real possibility of physical killing” (CP33, 15). This statement has led critics understandably to conclude that politics for Schmitt concerns above all the preservation of mere life.<sup>4</sup> Indeed, it seems that Schmitt intends to argue that the political revolves around the defense of one’s own material goods: bodies, families, homes, land. An enemy seems to be defined by material threat, and a political authority by its ability to marshal men to defend themselves

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<sup>3</sup> As Strauss notes, Schmitt is reluctant to speak of “duties” (“Notes on *The Concept of the Political*, 120). The apparent grounding of a political order in consent is the basis for Kalyvas’s argument that one can use Schmitt’s thought to underpin a theory of radical democracy. It must be noted, however, that while Schmitt’s description of the compact of protection and obedience avoids the mention of duty and points toward the idea of calculation and consent, Schmitt differentiates his understanding of the social contract from Hobbes by explicitly changing the language from Hobbes’s “mutual relation of protection and obedience,” which indicates expedience, to “eternal relation of protection and obedience,” which expresses rather that the dynamic itself is of importance (CP33, 35).

<sup>4</sup> Wolin, “The Conservative Revolutionary Habitus and the Aesthetics of Horror,” 443.

physically against this threat. Indeed, Schmitt seems to define the distinctiveness of the political authority by its material power when he states that it is “by virtue of this power over the physical life of men [that] the political association transcends all other types of communities or societies” (CP33, 30). Schmitt’s definition of politics and of enmity seems here to refer exclusively to the material aspect of human life.

And yet a closer look at Schmitt’s arguments proves otherwise. As we have seen in the last chapter, Schmitt thinks that the genius of Hobbes’s particular description of the “mutual relation of protection and obedience” is that it speaks to man’s material and spiritual aspects simultaneously—in other words, that protection is not, and cannot be, simply about physical protection (CP33, 35). In other words, Schmitt does not think it possible to ground a political community simply on the basis of material or physical concerns. This argument first surfaces in *The Concept of the Political* as the argument that people logically cannot be commanded to go to war for purely economic reasons: “a society organized around economics... can by no conceivable point of view demand that a member die on behalf of the undisturbed functioning” of the economic system (CP33, 31). As Schmitt remarks, “to demand seriously that men kill and be ready to die... so that the consumer-power of their grandchildren grows is crazy” (CP33, 31). The distinctive value of an economic system, according to Schmitt, is said to lie in the claim that economic life will organize and administer itself, that it is a ‘natural’ mode of human functioning and requires no outside interference of artificial force; in other words, the purely physical or material should need no spirited defense (CP33, 31). This argument is the first indication that Schmitt’s opinion in *The Concept of the Political* does not depart from his earlier view that war

and politics cannot make sense from an exclusively material perspective, or in other words that politics must be understood as a combination of the material and the spiritual.

It seems that a more accurate view of Schmitt's understanding of the political indicates that, while Schmitt finds it important to emphasize that the political authority has power over physical life, he clearly does not mean to limit war, or the political, to a material struggle. This interpretation gains strength once one realizes that Schmitt does not limit power over physical life to the political authority. Indeed, we see that Schmitt emphasizes several times that "the authority to give a judgment about punishment concerning life and death, the right over life and death, can belong to people or groups within the state"—that is, can belong to entities or individuals that are not the decisive political entity or authority (CP33, 30). By arguing that families or patriarchs may be allowed the right to judge and execute in matters of 'life and death,' Schmitt makes clear that he does not understand the authority over physical life to be definitive of political authority. It appears therefore that material power, or the right over life and death is part of, but not exhaustive of, the rights and capabilities of the political community.

This passage furthermore indicates that Schmitt intends to distinguish the political leader from the patriarch, even one who is granted the power to mete out capital punishment, by arguing that, while the patriarch can decide upon and execute punishment of individuals, only the political authority has a "public right to disposal over physical life" (CP33, 30-31). In other words, what comes to light in these passages is the significance of the *public* power of the political authority, or the right to organize a group of men to oppose and fight an enemy. This indicates, first, that the enemy on Schmitt's understanding is not a criminal, someone who has transgressed the law (be it constitutional law or clan law); the enemy cannot be delivered to the

legal apparatus for judgment or the correctional authorities for punishment. Enmity for Schmitt must be opposed by the mobilization of a group.<sup>5</sup>

Seeing that, on Schmitt's understanding, the enemy calls forth the opposition of a group, we may be disposed to take more seriously Schmitt's repeated claim that war is justified by the defense of a "way of life" or of one's "own *manner* of existence" (CP33, 8, my emphasis). Indeed, the significance of the power of the distinctively political authority for Schmitt comes into view with this statement. That Schmitt believes war can be justified only by the defense of a "way of life" signifies that he wants to emphasize that the political community must involve both a 'life' and a 'way;' it must have both a physical and a normative, or a material and a spiritual aspect. Here we find that Schmitt points toward the understanding that the political community is in his opinion only defensible as this coincidence of physical existence and a normative standard in particular manner of living. Indeed, Schmitt emphasizes that war can be justified only as an "existential assertion of one's own *form of existence* against another equally existential negation of this *form*" (CP33, 32, my emphasis). War is for Schmitt the defense of a particular form of life, not a preservation of bare existence.

It becomes more evident that political community on Schmitt's definition necessarily involves both the material and the spiritual if we notice that Schmitt takes continual pains to preserve the balance of these two elements in his description of political things. Having been alerted by Strauss that his argument against the purely normative view of politics in the 1932 edition of *The Concept of the Political* became so dominant that it gives the impression that he meant to engage in a "polemic against morals—against 'ideals' and 'normative prescriptions'" as

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<sup>5</sup> It is true that, in Schmitt's analysis, the enemy itself need not be a politically organized group. As we will examine in the next chapter, this opens up possibilities for the struggle against the enemy other than war (i.e., persecution).

such, Schmitt tacks the other way in his 1933 revision of this essay.<sup>6</sup> In the new edition, Schmitt clarifies his understanding that the terms friend and enemy are indeed “spiritual, like all human existence”—while continuing to insist that they cannot be understood as “‘normative,’ and ‘purely spiritual’” distinctions (CP33, 9).

Even more telling evidence of Schmitt’s intention to preserve the balance between the material and the spiritual in his concept of the political is the adjustment Schmitt makes in the 1933 edition to his discussion of the anthropology he considers necessary to a true political theory.<sup>7</sup> Schmitt argues there that every true political understanding begins with a “pessimistic” anthropological presupposition, in other words, the assumption that man is “dangerous,” “problematic” and “risky” (CP33, 41). This argument proved a weak point in Schmitt’s 1932 essay, since in that edition, it seemed that Schmitt could have been arguing that men should be considered dangerous as animals are dangerous, that is, brutish but able to be tamed, and therefore that human problems were essentially material or physical problems that could be solved, an implication Strauss drew out in his commentary on the piece.<sup>8</sup> In the 1933 edition, Schmitt makes clear that, while struggles between political communities may justly remind one of a bunch of squabbling animals, (which is why “most animal fables refer to actual political situations”), actual animals would of course never organize in groups to fight wars (CP33, 41). Schmitt emphasizes here that “it is the case, as Hobbes stressed, that real enmity is only possible between men. The political friend /enemy distinction is that much deeper than all of the oppositions among animals to the extent that man stands above the animals as a spiritually existing being” (CP33, 42). In other words, while animal fables may give insight into the human

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<sup>6</sup> Strauss, “Notes on *The Concept of the Political*,” 119.

<sup>7</sup> Chapter 7 in the 1932 edition; Chapter 8 in the 1933 edition.

<sup>8</sup> Strauss, “Notes on *The Concept of the Political*,” 113-115.

situation, it cannot be ignored that human beings are fundamentally different than animals, that they exist between animality and another pole. In this addendum, Schmitt tacks so far from his 1932 rhetoric, which suggested that his concept of enmity revolves around a physical struggle, that he tends toward the view that degrees of enmity correspond to degrees of ‘spirit,’ or the sharpness of normative distinctions. Indeed, Schmitt remarks a few pages later that Hobbes correctly recognized that “the worst enmity comes from both sides being convinced of their truth, goodness, and justice” (CP33, 46). In this revision, in short, Schmitt emphasizes the role that belief in normative judgments plays in the recognition of enmity. His intent in making these changes seems to be to balance his emphasis on the material and the spiritual so as to attain an idea of enmity and a concept of the political that grasps simultaneously these two poles.<sup>9</sup>

By seeing that Schmitt’s view of enmity accords with what he has understood from his earliest works to be definitive of the political, we can understand why Schmitt claims that whether a particular perspective is capable of discerning an enemy is an indication of whether that perspective will be sufficient to ground political form. When Schmitt inquires whether or not one can discern an enemy, he asks in essence whether or not one’s actions and thought conform to the understanding that the material and the spiritual are inextricably connected in practice. As we saw in the last chapter, for Schmitt the establishment of political form is not a morally neutral matter, but rather testifies to the inescapability of the political and thereby to

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<sup>9</sup> Indeed, both Strauss and Meier point out changes Schmitt made between the 1927 and 1932 editions of *The Concept of the Political* regarding whether the spheres of the political, the economic, the aesthetic, etc. are separable (“Notes on *The Concept of the Political*,” 102-104; *The Hidden Dialogue*, 17-29). These alterations also seem to be directed toward maintaining a balance between the normative and the material in the concept of the political, as Schmitt endeavors there both to distinguish the political from the normative and to preserve an understanding of the relation between normative and political judgments. I should add that while I argue that these continual changes demonstrate that Schmitt intends to maintain the balance between the normative and the physical in his concept of the political, I do not mean to imply that he succeeds. My critique of Schmitt’s efforts is found in the next chapter.

Schmitt's Catholic interpretation of the essential truth of Christianity. To put this in terms of *The Concept of the Political*, we see that for Schmitt, the degree to which one can discern an enemy determines the degree to which one has a political form, and consequently the measure of the justice of one's political existence. Schmitt's elaboration of the criterion of enmity in *The Concept of the Political* is therefore not a departure from his morally or theologically informed conception of politics, but rather an extension of this view.

### *Liberalism and the enemy*

Schmitt's intention in elaborating the idea of the enemy as a criterion of the political is clarified when we account for Schmitt's polemical intent in elaborating this standard. In this section we will therefore examine how Schmitt employs the concept of enmity in the service of his argument against the liberal position. Schmitt's argument against liberalism obviously has a moral edge, and demonstrates that whether or not one can discern an enemy is not a neutral issue for him, but a measure of the justice of one's position. According to Schmitt, the inability to see the enemy from the liberal perspective is not only a measure of its lack of justice, but moreover results in concrete and objectively discernable problems for the community: the inability to achieve political form in domestic matters and the pursuit of particularly cruel wars abroad. In this examination of Schmitt's opposition to liberalism, we will see that Schmitt understands the endeavor to make people more aware of enmity to be a form of action because he expects that awareness of the political will fundamentally change one's political practice.

Our analysis of the particular constitution of Schmitt's criterion of enmity above allows us to see exactly how Schmitt intends this criterion to oppose the liberal understanding. Schmitt's concept of enmity aims to grasp the point at which human life is equally spiritual and material, counteracting what Schmitt understands to be the liberal "dissolution" of the concept of enmity (CP33, 9). As mentioned in Chapter 3, Schmitt understands liberalism to dissolve the idea of enmity from the "economic side" into a "simple competitor" and from the "spiritual side" into a "simple discussion partner" (CP33, 9). That is, Schmitt finds that liberal thought splits what is properly the concept of enmity into the purely material and the purely spiritual, thereby rendering it unintelligible. As a consequence, Schmitt argues, war as the defense of one's way of life, as the defense of something that is intimately and simultaneously spiritual and material, comes to seem logically impossible.

Furthermore, as we have seen, the liberal dissolution of what Schmitt argues is the proper concept of enmity is not accidental, but according to him a consequence of the manner of thinking at the heart of the liberal view. Schmitt dissects it thus: "in a systematic way, liberal thought evades or ignores state and politics and moves instead in a typical, always revolving *polarity of two opposed spheres*: ethics and economics, spirit and business, education and property" (CP33, 51). In other words, Schmitt argues that the liberal abstraction of all phenomena into the two opposed spheres of "idealism and materialism" renders liberalism unable to articulate political concepts (CP33, 61). As Schmitt writes, "purely ethical pathos and purely materialistic-economic objectivity ally themselves in every typical liberal statement and change the appearance of every political concept" (CP33, 52). Since liberal logic on Schmitt's interpretation sees a perpetual oscillation between the material and the spiritual, it cannot grasp



things that are by their nature at once inextricably material and spiritual; in other words, in Schmitt's view, it is fundamentally incapable of grasping the political.

Schmitt intends his elaboration of the criterion of enmity to oppose, theoretically and practically, the powerful "systematic" of liberal thought (CP33, 52). How Schmitt intends his essay concerning the concept of the political to have material effect can be intuited when we see that for Schmitt it is the liberal *blindness* to political concepts that affects the practical political life of liberal communities. The importance to Schmitt of the allegation that liberals lack awareness of the political becomes clear when we realize that Schmitt does not believe that "as a historical reality" liberalism has succeeded in actually escaping the political (CP33, 49). In other words, in Schmitt's opinion, those informed by the liberal perspective actually do engage in political activity; Schmitt's critique of liberals here centers on his claim that they are not aware of the political nature of their actions.

On Schmitt's understanding, liberal thought cannot in practice escape the political because, even if liberalism limited itself to critiquing particular "encroachments on individual liberties," this critique would in itself be polemical and thereby political (CP33, 50). Schmitt argues that the critique of existing power necessarily implies an assertion of a superior power; he therefore maintains that we must understand all liberal assertions about justice as claims to power (CP33, 53-54). In fact, Schmitt argues here, all appeals to justice or morality must be understood as either an "affirmation of the particular *status quo*" or an attempt to oppose it (CP33, 47, 61). The liberal ideal of "depoliticization" becomes then, in Schmitt's interpretation, a clever tactic, "only a politically particularly useful weapon in political battle" (CP33, 54). In this way, Schmitt is able to argue that even the "apparently anti-political system" proposed by

liberal thought is “essentially about friend-enemy groupings and cannot escape the consequences of the political” (CP33, 61). The crucial distinction that Schmitt sees between liberal theories and truly political theories is therefore that the liberal perspective, according to Schmitt, is incapable of attaining a *concept* of the enemy, or indeed of anything political. We can see, therefore, how Schmitt intends *The Concept of the Political* to have potentially a practical effect: if the main problem with the liberal view is its blindness to, or its denial of, the political, Schmitt’s essay can address that problem first of all by arguing for the necessity of the political, and second by suggesting that the discernment of an enemy is a sign that the political exists.

Schmitt’s essay moreover attacks what he sees as the blindness in the liberal view by establishing Schmitt himself as an enemy of liberalism, thereby attempting to make it impossible for liberals to deny that they have enemies.<sup>10</sup> That this constitutes part of Schmitt’s intention in this work is confirmed by statements he later made about the dramatic effect the essay had and the anger it aroused: “that was a rough touch on a tender point. The devil was driven out when his bush was beaten that way” (GL, 7.9.47).<sup>11</sup> We might understand what Schmitt aims to accomplish in *The Concept of the Political* by recalling his admiration for arguments that succeed in making their point theoretically and materially at the same time—arguments that “concretely manifest” themselves (VC, 52). Indeed, in *The Concept of the Political*, Schmitt simultaneously articulates a concept of enmity and strikes a posture of enmity toward liberal thought and practice. Schmitt’s apparently purely theoretical definition of the political constitutes a political action in two respects: first, because Schmitt’s elaboration of the criterion

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<sup>10</sup> Similarly, McCormick argues that Schmitt endeavors to revive the belief in the Antichrist and to connect the power of the Antichrist with economic-technical thinking (which, as McCormick establishes, has precedent in Karl Marx)—in order to pry liberals out of their fascination with this ostensibly neutral and objective mode of thought (*Carl Schmitt’s Critique of Liberalism*, 87).

<sup>11</sup> That Schmitt sees the willingness to be an enemy as practically significant is demonstrated in his statement: “Woe to him who has no *enemy*, for *I* will be his enemy on Judgment Day” (ECS, 90).

of enmity is itself a polemical argument against liberalism, and second, as we will see in more detail below, Schmitt believes that an increased awareness of the political will translate into an actual difference in political practice.

In *The Concept of the Political*, Schmitt argues that blindness to the political has practical consequences for both domestic politics and foreign relations. The unifying aspect of Schmitt's critique in these two respects is his allegation that those who are unaware of the political nature of their actions undertake essentially political endeavors without a full sense or acceptance of "responsibility and visibility" (CP33, 59). As we will see, Schmitt argues that the *visibility* or invisibility of the political is not simply a theoretical issue but has important practical consequences.

We can see Schmitt's argument about the consequences of denying politics in the domestic realm by looking at the case he makes against the opinion of Franz Oppenheimer that economics is the realm of openness and "reciprocity... equality, justice and peace," as opposed to politics, which Oppenheimer characterizes as the realm of secretive "power" and "domination" (CP33, 59). To the contrary, Schmitt argues, it is economically-driven politics that tends to hide its claim to rule, to obscure the "eternal relation" of protection and obedience, and thereby allow for the evasion of responsibility (CP33, 35, 59). Schmitt points out that, while the "terminology" of economically-driven politics is "unwarlike," actual economically-driven politics would not be 'essentially unwarlike,' as Oppenheimer would like to believe, but would and does in fact engage in such warlike acts as sieges (CP33, 60). The rulers of this economically-determined polity would be unjust, according to Schmitt, because they would be hiding their claim to rule by using ostensibly objective and non-political terms, obscuring the

visibility of their dominance and thereby allowing themselves to evade responsibility for the political community.

The result of this hidden claim to domination, as Schmitt makes clear, is not the end of politics. Similarly, Schmitt argues that in matters of foreign relations, liberal communities may claim not to prosecute war, but that they thereby only succeed in waging wars under a different name. Moreover, in Schmitt's opinion, whether or not politics and war are openly recognized seems to have marked consequences for the manner in which they are conducted. In *The Concept of the Political*, Schmitt argues that wars pursued against an enemy who is said to be a “disturber of the peace,” that is a transgressor of human mores or a universal law, tend to be “particularly intensive” (CP33, 61, 37). Moreover, in Schmitt's opinion, it is precisely the measure to which the participants believe themselves to have transcended the political—the struggle to defend a particular mode of existence—that their battle becomes “particularly inhuman” (CP33, 19). According to Schmitt, this is because warring parties that do not understand themselves to be political are no longer on the defensive, but believe themselves to be on the offensive against an enemy construed to have transgressed the ‘laws of humanity,’ therefore an enemy that appears as an “inhuman monster” (CP33, 19). In this case, Schmitt argues, one tends to believe that “the enemy must be annihilated, not simply driven back into his borders” (CP33, 19). We see, therefore, that on Schmitt's understanding the lack of awareness of the political translates in the case of war into a particularly cruel and irresponsible kind of fighting.

In the next section we will turn to *State, Movement, People*, in which Schmitt provides a more detailed account of how he thinks the problems in liberalism can be resolved by becoming

aware of the political. In other words, *State, Movement, People* will help us attain a more precise understanding of how Schmitt believes an increased awareness of the political can fundamentally effect political practice. On the basis of *The Concept of the Political*, though, we can see that Schmitt intends his argument about enmity not just to make a theoretical point about the contradictions inherent in the liberal denial of enmity and politics, but to serve simultaneously as an action aimed to have historical consequences.

### *The revival of the political in the Nazi movement*

As we will see in *State, Movement, People*, Schmitt believes that an increasing awareness of the political constitutes a force driving the political change from the Weimar Republic to Nazi rule. In this 1934 essay, Schmitt claims that it is “a fundamental insight of the politically current German generation, that the decision concerning whether an issue or a field is non-political itself exemplifies, in a specific manner, a political decision” (SMP, 17). In other words, according to Schmitt, leading Germans recognize that the decision to cordon off a sphere of life from political influence or direction is itself a political decision, that the political is in this way primary. Schmitt thinks this acknowledgment of the true role of the political is the “prerequisite of political honesty and cleanliness,” that it will enable one to exercise the political “responsibility and visibility” for which we saw he faulted liberal political practice and which we find he hopes the Nazi regime will restore (SMP, 27; CP33, 59).

In order to understand how Schmitt expects this insight to accomplish a change in political practice, we need to understand how Schmitt views the dysfunctional dynamic

particular to Weimar liberalism. In *State, Movement, People*, Schmitt provides a more detailed explanation than he offered in *The Concept of the Political* of how blindness to the political leads to the inability to achieve political form. As we will see, though, his analysis revolves around the same argument: that the liberal attempt to evade political responsibility and visibility stems from the liberal tendency to think in terms of oppositions between the spiritual and the material. As Schmitt puts it in *State, Movement, People*, liberalism is ruled in the “details” of its practice and in its “apparently abstract theory” by an understanding of the political problem as one of “oppositions” (SMP, 22). Liberal thought, according to Schmitt here, is constantly “oscillating” between “right and might, justice and state, justice and politics, spirit and power, spirit and state, individual and community, society and state, etc. etc.” (SMP, 22).<sup>12</sup>

On Schmitt’s account, this oscillating duality is untenable. For it is not true, according to Schmitt, that these two aspects (right and might, spirit and power) can on the liberal-democratic view be maintained in equal dignity when they are understood as counter-forces. As liberal theory and practice plays out, Schmitt argues, right, justice, spirit and the individual eventually claim superiority over might, the state, power, and the community. In Schmitt’s analysis, liberal thinking typically opposes justice to the state and then submits the state to this particular idea of justice, which is by definition opposed to the state (SMP, 23). Schmitt therefore argues that the liberal conception of right and might as heterogeneous and alternating opposites, which is according to him the fundamental premise of liberal thought, is inherently unstable.<sup>13</sup>

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<sup>12</sup> As mentioned in the introduction, Schmitt’s interchangeable use of various ‘spiritual’ and ‘material’ terms here should justify the overlapping use of these terms that I have made in this work.

<sup>13</sup> This analysis clearly corresponds to Schmitt’s argument against Sohm and Kelsen that we drew out in Chapter 3, as well as to Schmitt’s contention *The Concept of the Political* that liberals tend to polarize the economic and the ethical, reduce everything to economics, and then submit economics to ethics (CP, 71).

According to Schmitt, this dysfunctional dynamic is typified in the Weimar Constitution, which consists of two parts that Schmitt argues stand in contradiction to each other. Roughly speaking, the first part deals with the ‘state,’ with material organization, and the second part with ‘society,’ with spiritual justification. The second part of the Weimar Constitution comprises an enumeration of the “Basic Rights” of the German people. According to Schmitt, this part is not literally a *constitution*, or a document that gives form or organization, but “by contrast” the designation of a “not-constituted sphere of freedom that organizes itself” (SMP, 23). What Schmitt means is that the protections enumerated in this second part—freedom of speech, of religion, of the right to assembly—are intended to isolate and protect ‘society’ from the state and allow it the freedom to explore and articulate its own ends. According to the general dynamic outlined above, Schmitt argues, in practice society does not remain free or separate from the state, but tends inexorably to attempt to subordinate the state to the particular understandings of justice at which it arrives through its freedom of thought and expression.

This result could be foreseen, Schmitt points out, by the structure of the Weimar Constitution. While the second part is designed to give society the freedom to pursue its own understanding of justice, the first part, or the material organization of the state, is in fact an enumeration of instruments by which society will be able to confine or “constrain the political power of the state” (SMP, 23). Both the rule of law and the division of powers, outlined in the first half of the Weimar Constitution, are intended according to Schmitt to “subordinate the state to society,” or accomplish the “political subjection of the state to the ostensibly non-political society” (SMP, 23). We can see that this is the case, argues Schmitt, because the “rule of law” means in practice the rule of the parliament, which has the right to make laws, and whose reason

for existence is to “represent the non-state society against the state” (SMP, 23). Likewise, the insistence on the independence of the judicial branch acts in Schmitt’s opinion to protect society from the state by ensuring that the executive will be held to the parliamentary laws. In Schmitt’s view, the Weimar Constitution delineates an ostensibly ‘non-political’ sphere in part two, a sphere that is to enjoy certain rights and privileges on account of its non-political nature, and then through the mechanisms and rules outlined in part one, subjects the ostensibly political element, the state, to the ‘non-political’ norms of society.

Schmitt furthermore makes clear that he understands the confusion or hypocrisy inherent in the liberal view, as analyzed above, to lead to the practical failure of liberalism to become truly political or create political form. It is not simply that liberal thought is deceptive or confused, in Schmitt’s view, but that liberal practice systematically evades political responsibility and visibility, and thereby drives a people into anarchic chaos (SMP, 27). *State, Movement, People* concerns itself primarily with what Schmitt sees as the problem of liberal practice in Weimar and the practical solution to this problem suggested by the new dynamic inherent in the Nazi movement. In order to understand why Schmitt thinks that Nazism represents a potential improvement upon Weimar liberalism, then, we need to understand how he thinks the liberal tendency of submitting the ‘political’ state to the ‘non-political’ society leads to practical political disaster or anarchy.

Schmitt begins to trace the devolution of liberal politics into anarchy by arguing that the privileges and freedoms granted to groups understood to be ‘social’ or non-political allows those groups the latitude to articulate their own understandings of justice. These groups inexorably become increasingly political, Schmitt argues, beginning to “bind together individuals” and



“oppose the state in the name of various legal persons (people, society... etc.)” (SMP, 24). For example, a labor union may begin by organizing for an immediate material purpose but, given the latitude, may incline toward promoting its own particular understanding of justice, perhaps culminating in an argument for the rule of the proletariat. Similarly, a church may initially make purely moral or spiritual demands, but eventually come to insist that its members act a certain way in the world, for example, abstain from war. In Schmitt’s view, problems seem to arise when these ostensibly non-political organizations begin to claim authority that is simultaneously material and spiritual.<sup>14</sup> As these initially non-political organizations become political, Schmitt argues, they naturally attempt to advance their own perspective and cause by trying to rein in the state. To the extent that they succeed in limiting the actions of the state without taking over political authority themselves, these social groups “become the actual bearers of political decision-making and of state means of coercion,” but they rule from the private sphere, “and thereby avoid political responsibility and [the accompanying] danger” (SMP, 24). These social groups betray in Schmitt’s eyes a fundamental tenet of just action when they demand the obedience of the state (and by extension, the people) to their particular idea of justice without offering the physical protection that would naturally and justly accompany such a swearing of obedience.

The freedom that liberalism accords to the private sphere is dangerous, according to Schmitt, because it encourages the growth of groups that, by virtue of their necessary position in a liberal system, are encouraged to make political demands without accepting political responsibility. For taking responsibility in the full, political sense would mean losing their

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<sup>14</sup> It is worth noting that Schmitt’s examples of social groups are usually churches and labor unions; this may be to emphasize the difficulty of keeping ostensibly purely spiritual or purely material claims within their bounds in practice. See SMP, 25; CP, 41-43.

morally and legally privileged status as non-political groups. To relate Schmitt's analysis in *State, Movement, People* to his argument in "The Visibility of the Church," we see that the attempt to draw a strict and absolute distinction between right and might, the spiritual and the material, ends up leading one to privilege either right or might at the expense of the other, for example, to fancy oneself as 'purely spiritual' and thereby render oneself blind to the nature of one's involvement in the material world, which, by lack of attention, is bound to become more haphazard and destructive (VC, 57). The attempt to privilege the non-political, or the spiritual, leads in Schmitt's eyes inevitably to the hypocritical and haphazard pursuit of power.

As the various social groups become more intensely political, Schmitt argues, they split the original political unity into various fiefdoms. This is a necessary consequence, he explains, of their contradictory but cumulative attempts to rein in the power of the state. Therefore, according to Schmitt, we find that "behind the veil of liberal-democratic freedom... grows a pluralistic system of a multi-party state" (SMP, 25). In this situation, Schmitt argues, the constitution, which in a proper political order provides the organizing principle of a political unity, becomes a "neutral instrument with which the parties wage a 'war of all against all'" (SMP, 25).

Schmitt's choice of words here draws an analogy between the "anarchic pluralism" characteristic of the Weimar Republic and the last stages of the disintegration of the Hobbesian political unity (SMP, 27). As we saw in the last chapter, Schmitt understands Hobbes to have proposed a political form in which the sovereign engaged the spiritual and material needs of the individual simultaneously. Here, at the end of the era of the modern nation state, we see that the attempt to subjugate the physical power of the state to the ethical demands of society leads, in

Schmitt's analysis, to the view that the state is only a huge "Leviathan," a powerful but erratic and destructive monster, against which is posed the "poor and defenseless" individual (SMP, 24). Once spiritual legitimacy has taken from the state and been ceded to the individual, Schmitt implies, the state's material power will seem utterly unjustifiable. In a pluralistic, multi-party situation, Schmitt argues, the state becomes nothing other than the "mere byproduct of the 'daily compromise'" (SMP, 26).

Once the state is viewed as such, it is bound to collapse, Schmitt maintains, as it is "entirely inadequate" to provide a compelling counter-weight to the social forces (SMP, 26). Ultimately, such a state has no legitimate-seeming means by which to ensure even its own preservation. For Schmitt, this condition becomes clear when the state is permitted to "decide about legality and illegality, but not justice and injustice, or friend and enemy" (SMP, 26). The state can no longer take upon itself the decision about who constitutes the enemy of the people because it has become a thoroughly one-sided institution, having ceded spiritual authority to the society and now only existing as a material instrument of coercion. Schmitt uses the historical example of the Weimar Republic to demonstrate his proposition that the attempt to divide political authority into separate spheres—the material and the spiritual, state and society—leads to the dissolution of all political order, to chaos and anarchy.

In other words, it is not for Schmitt that liberal-democracy produces an undesirable political form; it is on his account incapable of maintaining political form at all. To put it strongly, it is logically not possible in Schmitt's view for a liberal political order to exist. The bipartite system of state and society is internally contradictory and unstable, Schmitt argues, and it therefore necessarily resolves toward an understanding of political authority as unitary. For, as

he details, either the social forces and ideals remain “without practical meaning,” or they “tear the whole dualistic system off its hinges,” overtaking the state and thereby destroying the state-society partition (SMP, 27). Either society is irrelevant, Schmitt claims, or it merges with the state to create a non-liberal political order.

With Schmitt’s understanding of the practical failures of liberalism clearly in view, we can more accurately understand why he hoped that the alternative posed by the Nazi movement would provide a solution to the problems of the Weimar Republic. The main practical problem of the Weimar Republic, in Schmitt’s view, is that the liberal perspective splits the articulation of justice and the defense of this understanding of justice into two functions, society and state. It thereby precludes either entity from becoming the truly political power: the state is demeaned and constrained by society, and society is by definition prevented from openly announcing its power, taking on a visible form and the correspondent political responsibility. In stating that the Nazi movement restores “political honesty and cleanliness,” Schmitt argues in essence that it has the potential to solve the problem of hidden rule and denial of political responsibility that he thinks plagues liberalism (SMP, 28).

We can now see why Schmitt thinks that making people aware of the political may actually change political conditions. As mentioned earlier, Schmitt connects his own argument about the political, most notably argued in *The Concept of the Political*, to the “politically current German generation” (SMP, 17). Schmitt writes that his fellow countrymen have been distinguished by their understanding that the decision of whether something is political or non-political is itself a political decision. In other words, Schmitt argues that Germans now understand there is no purely non-political or objective decision about what belongs outside of

politics—society is not ‘naturally’ non-political—but the claim to be non-political is itself a political claim, a claim that intrinsically asserts a kind of power. The truth about the political that Schmitt claims undergirds the Nazi movement concerns therefore the understanding that what is thought of as non-political is the product of a political decision—in other words, is originally and potentially political rather than essentially non-political. Schmitt’s hope seems to be, in short, that Nazism will re-conceptualize the meaning of ‘society’ and thereby reconfigure the place of social forces in the political community so they are no longer destructive of political authority but in fact contributes to political unity.

This interpretation becomes clear as one understands the significance of the “movement” in Schmitt’s analysis of Nazism. The movement, as Schmitt emphasizes, is the “central element” in his tripartite construction of the Nazi political form—state, movement, people—and as such is the link between the people and the state (SMP, 12). We will find that Schmitt intends the movement to represent a new way of conceiving the relation of the people to the apparatus of the state, and therefore a new way of articulating what in the liberal view appears as the opposing forces of ‘society’ and ‘state.’ Schmitt makes clear that while all three elements of the new political form—state, movement, and people—are essential, the movement has a privileged role as the “organization that carries the weight of the state and the people [*die staats- und volkstragende Organisation*]’ (SMP, 28, 14). The movement links the people and the state first by structuring and “restructur[ing] itself out of all the strata of the people,” drawing from all sectors of German life and funneling these different elements of the German people into its

unified structure (SMP, 13). The elite that emerge from this process become in turn the “political leadership” of the state (SMP, 14).<sup>15</sup>

In order to better understand the role Schmitt hopes the movement will play, it is helpful to notice that in *State, Movement, People*, he describes another political element than seems to serve an analogous role. One finds a clear echo of Schmitt’s statements about the movement in his description of the importance and place of the class of civil servants in the German state prior to the influence of liberal ideas. In Schmitt’s analysis, the civil service, in alliance with the military, was the stratum that supported the classic German state in the nineteenth century—it was also the “*staatstragende Schicht*” for its time (SMP, 14). (The civil service was understood broadly in Germany, comprising jurists and professors as well as what we would think of as bureaucrats.) The civil service, according to Schmitt, was constituted meritocratically, drawing from all sectors of the people. The first important similarity between the movement and the civil service in Schmitt’s analysis, then, is that both are cultivated from the population as a whole.

As a meritocracy, the civil service drew from the people but selected its members according to a common standard of education and character. For Schmitt, it seems crucial that the German people in general looked up to the civil service, considering it a true “elite,” and “spiritually and morally superior,” even “incorruptible” (SMP, 14, 29). The view that these two “strata” are cultivations of the people, rather than simply representatives of the various factions

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<sup>15</sup> In a speech at Weimar on 3 July 1936, Hitler makes a similar point about the movement to defend his rule against the accusation that it usurped power: “The Party stands as a living organism behind this leadership... the Party is, precisely as is everything in life, the result of a process of selection. In it are concentrated all those who from amongst the people are naturally qualified for political life, all those who in any way have the inner conviction that they must perforce devote themselves to politics... The Party as an organization of picked men thus fulfils all the conditions necessary for a Government closely bound up with the people” (*Speeches of Adolf Hitler*, 203). Although Schmitt also uses the term ‘party’ at times, he prefers the concept of the movement to describe the Nazi phenomenon because that indicates the dynamic of striving to speak for the German people as such, rather than represent a ‘part’ or faction.

among the people, leads one to see the second important similarity between the movement and the civil service in Schmitt's opinion (SMP, 31). Each group draws from the people as a whole, but each also selects members and organizes itself hierarchically according to a single standard. In other words, both the civil service and the movement strive to conform to, and thereby embody, a unifying principle; as Schmitt puts it, the movement is "in itself closed and led hierarchically" (SMP, 13). The function of both the civil service and the movement is therefore, in Schmitt's view, to create political unity, first by cultivating a certain class from the people according to a single standard.

Third, the civil service elite was able to create a true political unity on Schmitt's account not only because they were considered the best representatives of the German people, and were therefore trusted to make good decisions on behalf of the whole, but because of the significant role that civil servants actually played in ruling. According to Schmitt, civil servants were bound by oath to serve the state and devote their work to that end. The particular, substantive ends of the state were however defined by the class of civil servants themselves (SMP, 30). That is, civil servants understood themselves as having latitude in the articulation of the substantive justice of the state, as long as they kept in mind that their task was always to serve and defend the political whole. In Schmitt's view, the main task of the civil servants could be summarized as the charge to make a "clear political decision about the enemy of the state" (SMP, 30). In other words, in Schmitt's interpretation, in the classic German nineteenth-century state, civil servants held the responsibility of defining the political unity; they held, to put it otherwise, the decisive political authority. The position that civil servants were accorded in the state, therefore, prevented them

from becoming either critics of the reigning authority or tools of the reigning power; it encouraged them to feel responsible to and for the whole political unity.

Schmitt discerns what he believes to be a particularly healthy political dynamic in these elite bodies of the civil service and the movement, a dynamic that funnels the more energetic members of the people into a body that essentially takes on the leadership of the state. One can now see how Schmitt might think that the Nazi movement could help correct the problems he discerns in Weimar liberalism. For the dynamic of the movement demands that those members of the people who make more compelling or intensive claims to define the political unity be incorporated in its hierarchy, and thereby forced to take greater political responsibility. The substantive accounts of justice developed among the people, which on the liberal understanding would be dispersed into various 'social' groups, are instead directly funneled into the hierarchical elite of the movement, and thereby help to achieve rather than destroy political unity and form. In sum, Schmitt seems to see the elite body of the movement as the crux of a continual process of relation between the state and the people, an element that allows for the simultaneous refinement of the idea the particular political form defends and the selection of those people who will articulate and carry out the execution of that idea. The process Schmitt elaborates focuses on and leads to the creation of political unity.

Making explicit the similarities inherent in Schmitt's description of the role of the nineteenth-century German civil service and his speculation about the role the movement could serve in the new regime provides a fuller picture of what Schmitt hopes the rule represented by the Nazi movement might accomplish. We also see thereby the connection of Schmitt's endeavor to remind the current German generation of 'the political' to the successful functioning



of the movement, for an awareness of the political essence of the ostensibly non-political should encourage these new leaders to claim political power openly (SMP, 28). This is made even clearer as Schmitt specifies the two principles he understands the new regime to depend upon: homogeneity and leadership. First of all, according to Schmitt the movement must presuppose an essential likeness among the German people, a homogeneity that can be plausibly brought out by its dynamic. More importantly for our purposes here, the movement also depends upon a “principle of leadership,” a concept Schmitt clarifies by contrasting it to the liberal “principle of supervision” (SMP, 36-42). The difference between leadership and supervision, according to Schmitt, is that supervision obscures the fact that men must always rule over other men by implying that it is possible for a law, or the constitution, to serve as the “supervisor” or “overseer” (SMP, 39). The principle of leadership stresses, on the other hand, that every claim for the superiority of an idea is also a claim to material power and therefore political power: every “image” of rule “is already rule itself” (SMP, 42). The principle of leadership, therefore, makes visible the actual political power inherent but hidden in the liberal manner of understanding politics. We might see, then, how Schmitt could understand his argument for the necessity of the political in *The Concept of the Political* to contribute to the abandonment of the ideal of supervision in favor of the ideal of leadership.

The distinction Schmitt draws between the principle of supervision and the principle of leadership also helps us understand why he thinks the Nazi movement might be particularly responsive to the problems of political visibility and responsibility that he identified as lacking in liberalism. The Nazi movement is aimed at unmasking forms of political domination hidden under terms like the ‘rule of law,’ and according to Schmitt making its bid for political power

openly—that is, not couched in general, normative terms but presented as the understanding of justice particular to a certain embodied perspective: that of the German people. Schmitt seems to think that the dynamic of the movement will be able to articulate this national view of justice by creating an elite class through the process of selecting members from all sectors of German society. On Schmitt's analysis as it comes to light in *State, Movement, People*, a growing awareness of 'the political' is central to the contemporary German attempt to create political unity through the Nazi regime.

The opposition between liberalism and Nazism, as it comes to light in Schmitt's analysis, is not a contest between two competing views of what is just; for Schmitt, the Weimar Republic is the unfortunate outcome of an error at the heart of liberal thinking—the 'oscillation' of liberal thought between concepts of right and concepts of might, the liberal insistence on attempting to conceive of the material and the spiritual as separate in practice. By contrast, Schmitt sees in the Nazi movement the promise of the restoration of a truly political order because, according to Schmitt, the Nazi concept of leadership is based on the insight that spiritual and material claims to rule cannot in fact be distinguished in practice. For Schmitt, the advent of Nazi rule is the outcome of a clear understanding of the political; this gives rise to the insight that the political is necessary to life on earth, and to the conviction that political order is destined to be restored.

### *The significance of enmity*

As I have suggested above, Schmitt's particular manner of defending the political in *The Concept of the Political* and *State, Movement, People* indicates the continuing relevance to

Schmitt of his view of the moral and theological importance of politics. In “The Visibility of the Church,” we found that Schmitt argues that the attempt to escape the political nature of human life and to seek purely spiritual communion with God is destined to fail, as it essentially denies the necessity of Christ’s mediation and falls prey to the devil’s temptation to believe that one can imitate God directly. In both *The Concept of the Political* and *State, Movement, People*, we find that Schmitt attempts to prove that the endeavor to escape the political and its consequences is impossible, and that political form will inevitably be restored. Moreover, we find in both of these later works that Schmitt’s defense of the political takes the form of an explication of the necessity of the union of the material and the spiritual in practical life, an understanding that coincides with Schmitt’s theological account of the significance of the political as presented in Chapter 3. There we saw that Schmitt attempts to refute the Protestant claim for purely spiritual communion by arguing that the historical event of Christ indicates that human life is never purely spiritual, but rather that “the entire earthly existence” of man is “spiritual-worldly, spiritual-temporal, double” (PTII, 115). In other words, according to Schmitt, it is essential to the Christian perspective to understand that man belongs to the “*res mixtae*,” both in corruption and redemption (PTII, 115). It seems, then, that a full picture of Schmitt’s apparently secular, objective arguments about the nature of the political in works like *The Concept of the Political* can be obtained only if those works are seen in the context of Schmitt’s theological commitments. Schmitt’s defense of the political and his attempt to combat what he sees as the malign falsehood in inherently apolitical opinions come to light, in the scope of his theological horizon, as efforts to fight the diabolical temptation to believe in purely spiritual communion.

Further confirmation of the continuing importance of the theological perspective to Schmitt in his later works can be found by inquiring after the reason for the apparent contradiction in Schmitt's presentation of enmity in *The Concept of the Political*. The problem that arises from Schmitt's presentation of enmity there is this: does Schmitt ultimately think that enmity is an inescapable fact, or is this suggestion itself simply a political, polemical point?<sup>16</sup> This problem comes to light when we take seriously Schmitt's argument in *The Concept of the Political* that "all political concepts, images, and terms have a polemical meaning," that "they are focused on a specific conflict and are bound to a concrete situation" (CP, 30). In this passage, Schmitt seems to argue that ideas have no standing independent of the concrete situations to which they respond. A question therefore arises: does Schmitt understand this statement also to pertain to his own criterion of enmity? In other words, it becomes unclear whether Schmitt argues for the necessity of enmity simply because it seems the most effective way to oppose the liberal understanding of a "universal conception of man," or because he understands enmity to be truly a necessary part of human life (CP, 65). Schmitt's position on this question, as I will argue below, can best be explained in the light of his particular theology.

Within the context of *The Concept of the Political*, Schmitt seems to suggest contradictory answers to the question of whether enmity is an inescapable fact or simply a polemical point. On the one hand, one might conclude, noting Schmitt's intent to contribute to the overthrow of European liberalism that I argued for above, that everything Schmitt writes in *The Concept of the Political* is simply polemical, intended to serve the German cause against the Allied powers. Perhaps the best justification for this view can be found in a comment in which Schmitt ties the understanding of enmity that he has been presenting as a necessary fact

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<sup>16</sup> See Strauss, "Notes on *The Concept of the Political*," 99.

throughout the work to a perspective formed by the need to make a particular kind of polemical attack. Schmitt writes that Machiavelli was forced to sacrifice his reputation and emphasize the pessimistic view of man, the necessity of politics and enmity, because his country was being attacked by an enemy “armed with a humanitarian ideology” (CP, 66). In this passage, Schmitt suggests that Machiavelli’s political theories were formed by the concrete objective of defending the sovereignty of Italy against imperial invaders. On the basis of this comment, it seems that insisting on the inescapability of the political and of enmity, and therefore of the necessity a plurality of polities, is ultimately nothing more than a strategy of self-defense against those who desire to absorb your political order into theirs.

And yet, on the other hand, this does not seem to be an adequate interpretation of Schmitt’s view of Machiavelli’s political thought and action, nor of Schmitt’s own work. For in implicitly likening his own stance to Machiavelli’s, Schmitt indicates that his own view is not limited to defending the particular cause of early twentieth-century Germany, but rather takes as its scope the defense of political particularity as such. Moreover, since Schmitt argues that the actual fighting of the enemy is not as significant as the “mode of behavior which is determined by this possibility,” it seems that what Schmitt defends is not primarily the justice of “the battle” for one’s country but the justice of *being aware* of one’s country’s particularity and the need for its defense (CP, 37). It seems, then, that Schmitt is not primarily engaged in defending Germany or a German way of life, but in justifying the particular as such and especially in encouraging the awareness of the necessity of one’s own particularity. In other words, by comparing himself to Machiavelli, Schmitt indicates that he does not seem to understand his own defense of

particularity to be limited to a particular historical or polemical situation; rather, Schmitt seems to be arguing that political particularity is a universal fact of human life.

Indeed, Schmitt seems to waver on the question of whether his claim for the necessity of enmity is simply a useful polemical point for Germans at the moment or whether it indeed describes a fact of human life. As Strauss emphasizes, Schmitt admits that he ‘does not know’ whether or not the political will one day become superfluous (CP, 53-54).<sup>17</sup> On the other hand, it is evident that Schmitt does not portray his defense of the political in *The Concept of the Political* as simply a polemical stance; rather, he tries to prove the *necessity* of the political by showing the failure of all known attempts to evade it. Moreover, as we saw in Chapter 4, Schmitt continues his effort to prove the inescapability of the political in his later work. To represent Schmitt’s argument most clearly, one must admit that Schmitt seems to want to claim *both* that there is a necessary enmity or division between men that precludes a single view of the human, *and* that human things are actually characterized, in fact and not simply in his polemical perspective, by this enmity. In other words, one could say that Schmitt argues that the necessity of enmity is *both* a fundamentally polemical point (and not just a point made accidentally polemical by the delusions of twentieth-century Westerners) *and* an inescapable fact. In the next chapter we will examine the centrifugal forces of these tensions; here I intend to argue that we can best understand Schmitt’s attempt to take this contradictory position in the light of his particular theology.

In the context of Schmitt’s theology, and in particular his understanding of the Enemy, we see that in his perspective there is a permanent polemic inherent in the experience of human

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<sup>17</sup> Strauss, “Notes on *The Concept of the Political*,” 111.

life.<sup>18</sup> According to Schmitt, as we have seen, there is a perpetual error into which human beings fall time and again, a temptation that cannot be eradicated from human life as we know it. Though this error “appears always in new clothing,” for Schmitt it is best exemplified in the Protestant endeavor to attain purely spiritual communion and ultimately rooted in the diabolical temptation to believe that one can imitate God directly (WS, 82). In other words, according to Schmitt, there is a fundamental heresy that has lasting power in the world. The importance of the Enemy to Schmitt is that he signifies a force of malignant misunderstanding coeval with the world as we know it. This infernal enmity is from Schmitt’s theological perspective both a fact, the context within which human beings must live their lives, and—because, on Schmitt’s account, the devil stands for the denial of the necessity of the political and of enmity—a polemical point. The fact of enmity is a polemical point for Schmitt, in other words, because, in insisting upon it, Schmitt implicitly takes a position of battle, a stance against what he believes to be the devil’s position. Schmitt’s apparent wavering on the issue of whether enmity is an inescapable fact or a polemical point in *The Concept of the Political* cannot be fully understood within the apparently secular context of this work; it makes sense only in the theological context of his understanding of the Enemy.

Schmitt’s intention in insisting on the necessity of enmity and the polemical character of human life also becomes clearest in the context of his particular theology. For Schmitt, the devil represents the most radical challenge to the necessity of Christ, and therefore to the necessity of a mediated, political relationship between man and God; the devil claims that politics, and therefore enmity, can be definitively overcome. By characterizing the temptation to purely

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<sup>18</sup> This polemic is not strictly speaking “permanent,” but relevant to the time between the Fall and the Second Coming.

spiritual communion as diabolical, Schmitt makes a move against the devil's position itself, as with this characterization Schmitt exposes the possibility of a fundamental, ineradicable enmity at the heart of creation: that between the devil and Christ. Recognizing this fundamental dividedness in the world would itself shield one from believing the devil's promise of purely spiritual communion. In other words, Schmitt's insistence on the fact of enmity intends to demonstrate the necessity of politics precisely by exposing the devil's argument. On Schmitt's understanding, then, the extent of one's awareness of the devil seems to match the degree to which one can resist his promises of universal spiritual communion.<sup>19</sup> Since Schmitt sees that believing in the devil is tantamount to taking a stance against the devil's denial of the necessity of the political, Schmitt devotes himself to the task of advocating awareness of him.<sup>20</sup>

It therefore seems that Schmitt's invocation of the enemy in *The Concept of the Political* is a political, polemical act in two senses: historically, it is an attack on the liberal concealment of the political, but more fundamentally, it is intended as a strike against what Schmitt understands to be the diabolical claim that purely spiritual communion is possible for man. These two purposes are furthermore in Schmitt's perspective intertwined: his attack on liberalism is intimately related to what he sees as his role in the theological drama. Liberalism, because it obscures the political and makes a concept of enmity impossible, is in Schmitt's view the contemporary expression of the perpetually tempting falsehood most completely represented in his work by the devil's promise of spiritual community. Conversely, Schmitt's defense of the political, while immediately serving the ascendance of the Nazi movement, derives its ultimate

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<sup>19</sup> Meier argues that Schmitt sees the "truly satanic" as the "flight into invisibility;" that from Schmitt's perspective the greatest danger of the devil is that he makes "every effort to lull his adversary into a false sense of security" (*The Lesson of Carl Schmitt*, 9).

<sup>20</sup> See McCormick's discussion of Schmitt's attempt to revive an awareness of the Antichrist in *Carl Schmitt's Critique of Liberalism*, 85-89.



justification in Schmitt's mind from the duty to act against the Enemy by reminding us of the polemical context of human life.

## *Chapter 6: Contradictions*

Within the context of Schmitt's theology, and particularly of his portrayal of the devil's temptation, we can see the rationale of Schmitt's contradictory accounts of the status of enmity and of the political. The contradictions in Schmitt's argument remain, however, and, as I will argue in this chapter, become central to Schmitt's thought, as Schmitt's effort to oppose the devil also gives rise to the main problem under consideration in this work, the contradictory accounts Schmitt offers of the relation of politics and morality.

Schmitt's endeavor to take a stand against the devil issues in both his moral defense of the political and his attempt to distance his own understanding of the political from a moral claim. On the one hand, against the devil's claim that politics is unnecessary, Schmitt argues not only that politics is an inevitable part of human life, but that it is divinely inspired and sanctioned, that political form is modeled on Christ. The attempt to renew political form is therefore in Schmitt's opinion a morally significant act; the recognition of the necessity of the political is perhaps the most morally significant opinion. And yet on the other hand, Schmitt is reluctant to claim that his understanding of the political is based in a moral opinion. As we can see, this also stems from his attempt to oppose the devil's position, for the devil, on Schmitt's account, stands for the temptation to believe that one can make a purely normative claim. Schmitt therefore elaborates a concept of the political in which the political is opposed to the purely moral; the political is defined for Schmitt by the inextricable unity of the normative and the physical, of the purely spiritual realm of morality and the purely material realm of force. A claim that appeals to the purely moral therefore becomes threatening to Schmitt's argument for

the inescapability of the political; Schmitt consequently attempts to avoid basing his argument for the necessity of the political on a moral claim.

Schmitt's response to this situation is to attempt to base his theological conviction in an objective argument about the nature and necessity of the political, an argument not founded on a 'purely spiritual' claim, or what seems to be for Schmitt equivalent to a "private" moral opinion.<sup>1</sup> Schmitt's intent is to provide rational grounding for the necessity of the political, or in other words, an objective argument for the duty of obedience. Yet at the same time Schmitt endeavors to avoid the charge that he is attempting to give a complete, rational account of the divine, for he believes that a "genuine concept of justice and order" must be placed in the context of an "exalted Divine order above human normativization" (JT, 61). He therefore endeavors to prove the grounds for the necessity of obedience while leaving the full content of the command one should obey open. As I argued in the introduction, Schmitt seems to believe it possible to distinguish and isolate the unfathomable God from what we can know for certain about divine order through the example Christ sets for political form. The certainty of the goodness of the political can therefore coexist, in Schmitt's opinion, with humility about the divine view of justice as such. Schmitt understands his elaboration of objective and certain standards for legal and political action to be based on the possibility of this division of the unknowable from the knowable, the distinction of the mysteriousness of justice in the divine perspective from what Christ can tell us about the justice of political form.

Schmitt's endeavor to offer a limited but certain account of justice by arguing for the worth of the political gives rise to an account of justice that contains certain inherent tensions.

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<sup>1</sup> See Strauss, "Notes on *The Concept of the Political*," 119-120.

Foremost among these is the claim that one can know something for certain about an aspect of justice while remaining in awed ignorance of the full nature of justice, which is the provenance of the purely spiritual or divine. But how can one attain absolutely certain knowledge about a part of justice without understanding justice as a whole? This tension between Schmitt's claim to know that 'the political' is absolutely just, while insisting on the ultimate mysteriousness of justice, causes, as we will see, certain characteristic contradictions in Schmitt's thought.

The problem of the tension in Schmitt's claim to have certain knowledge of a part of justice while being ignorant of the whole first came to light in the context of Schmitt's development of certain standards for jurisprudence, in Chapter 1. There we found that Schmitt argues that legal certainty is an objective and precise standard for judicial decisions, while also maintaining that legal certainty is only one aspect of every law and must necessarily coexist with an appeal to a rationally unexaminable norm of justice. In that chapter, we raised the question of what role the rationally unexaminable aspect of justice actually plays in Schmitt's jurisprudence, and asked whether or not Schmitt's standard of legal certainty did not become in his theory the only possible measure of the justice of a law. That is, we questioned whether Schmitt's ostensibly partial but certain account of what is required for just action in fact remains within its circumscribed sphere, or whether it in essence challenges every other normative claim and becomes itself definitive of Schmitt's understanding of justice as such. We postponed addressing this question in full in order to see it in light of the whole range of Schmitt's thought. In this chapter, we will find this dynamic confirmed as central to Schmitt's thought by seeing it replicated in Schmitt's political theory and his theology.

As I will show, understanding how this problem permeates all the domains of Schmitt's thought gives us greater insight into its nature, its consequences, and its causes. In the first section, I will show that Schmitt's political writings can give us a clearer view of the nature of the dynamic by which Schmitt's allegedly partial account of what is required for just action becomes definitive of his argument about justice as a whole. Another look at *The Concept of the Political* and *State, Movement, People* will show us how Schmitt's understanding of the ostensibly partial requirement for just action—political order—becomes for him the highest good. Understanding the nature of this dynamic will give us, as I will detail in the second section of this chapter, a clearer view of the practical political consequences to which Schmitt's understanding of the nature of justice leads. We find, I argue, that Schmitt's particular approach to the question of justice is largely responsible for the more obviously undesirable consequences of his thought, and moreover ultimately destructive of the establishment of political order at which Schmitt aims. In the third section, we will examine this dynamic as it plays out in Schmitt's theology. In the theological context we see most clearly the causes of this problematic dynamic in Schmitt's thought, which will give us insight into precisely why Schmitt's ostensibly partial view of justice does not and cannot remain circumscribed.

### *The problematic dynamic*

The nature of the dynamic between the two prongs of Schmitt's approach to the question of justice can be seen in his discussion of the place and importance of 'the political' in *The Concept of the Political*. Particularly by following the changes Schmitt makes in the three early editions of this work (1927, 1932, and 1933), we see that Schmitt struggles to articulate a

coherent relation of ‘the political’—a precise, objective but partial account of the just—to other, “purely spiritual,” normative appeals (CP33, 9). Schmitt’s ongoing attempt to clarify this relation should be seen, I argue, as an endeavor to reconcile the two aspects of his overall view of justice: as in part absolutely knowable, and yet as ultimately mysterious.<sup>2</sup> As I will suggest below, the changes Schmitt makes to *The Concept of the Political* indicate that he intends to argue that political distinctions and other normative judgments can exist side-by-side, and even work in concert to produce political form. Over the course of the three editions, however, it becomes clear that the political distinction in fact challenges the other normative distinctions. Although Schmitt argues that political logic is “irrefutable” only in its own “sphere,”<sup>3</sup> we see that his insistence on the absolute validity of the criterion of the political as a standard for just action causes this criterion to become the touchstone for other normative opinions. Political form is for Schmitt in the end constituted by a judgment about the enemy that cannot appeal to any norm other than the value of the political itself.<sup>4</sup>

The point on which Schmitt wavers in the three editions of *The Concept of the Political* is the question of the political “domain’s” independence or relation to the other domains of judgment (moral criteria of good and bad, aesthetic criteria of beautiful and ugly, economic criteria of the useful and not useful).<sup>5</sup> In the first edition of *The Concept of the Political* (1927), one finds that Schmitt articulates the political as a domain that exists alongside of the other

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<sup>2</sup> This argument has benefited from Meier’s work on the differences between the three editions of *The Concept of the Political*, though I differ with Meier concerning the meaning of the changes Schmitt makes, as will become clear below. For Meier’s argument, see *The Hidden Dialogue*, 17-29.

<sup>3</sup> CP32, 66. I cite from the German edition, as this passage is misleadingly translated in the English (67), where it is translated as “The independence and completeness of political thought is here irrefutable,” with no clear referent for ‘here,’ whereas the German specifies “in its sphere.”

<sup>4</sup> What this means will become clearer below, particularly in my discussion in the next section of Schmitt’s reference to Cromwell.

<sup>5</sup> Strauss addresses the question of the independence or relation of the political to the other domains in “Notes on *The Concept of the Political*,” 101-108.

domains, one that offers criteria “independent” of the judgments made from the other domains (CP27, 3-4). Schmitt’s purpose in this edition seems restricted to establishing the political distinction between friend and enemy as one legitimate standard among others for making judgments.<sup>6</sup> In the 1932 edition, however, Schmitt modifies the suggestion that the political occupies a domain entirely independent of the domains of the purely normative distinctions, clarifying his view of the relationship of the political to these criteria. In this edition, Schmitt takes the further step of designating the political as the “utmost degree of intensity of a union or separation, of an association or dissociation” (CP, 26). Schmitt therefore is able to depict a *relation* between the purely normative distinctions and the political: “the political opposition is the most intensive and extreme opposition and *every* concrete opposition becomes that much more political, the closer it approaches the most extreme point of the friend-enemy grouping” (CP, 29, my emphasis).<sup>7</sup> In other words, to the degree that any ostensibly ‘purely normative’ opposition or distinction is advanced with the intent of making a concrete change in one’s assessment of friends and enemies, Schmitt argues, it has become ‘that much more’ a political distinction.

The new relation Schmitt articulates between the political distinction and the purely normative distinctions ends up emphasizing the special status of the political distinction: for as other normative distinctions become more intense, they themselves become more political. One might surmise, as Strauss does, that Schmitt’s point in drawing a relation between the political distinction and the judgments of the other normative spheres is to protect ‘the political’ from

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<sup>6</sup> As Meier suggests in *The Hidden Dialogue*, 17-18.

<sup>7</sup> Translation amended; see CP32, 30.

being criticized from other normative points of view.<sup>8</sup> Indeed, Schmitt raises the issue in this edition that political judgments are often attacked from a point of view that poses itself as “autonomous,” a disinterested or ‘purely moral’ critique (CP, 66). Schmitt aims to counter these criticisms by demonstrating that as ostensibly ‘purely moral’ arguments take a stand against the position of the prevailing power, they themselves become swept up in the logic of the political, since they too are forced to take a polemical stance. It is based on this observation that Schmitt argues that the political is “irrefutable” in its own “sphere,” for whenever a normative opinion is advanced against the prevailing political power, it ceases in his opinion to be a disembodied, ‘purely spiritual’ idea and becomes a claim to rule—the normative position itself inexorably becomes political (CP32, 66). In the 1932 edition, Schmitt seems to distinguish ‘the political’ as a sphere that these other normative distinctions cannot approach without becoming pulled into and subsumed by its logic. He therefore makes a claim for the relative superiority of the political, while continuing to insist upon the “relative independence” of the various normative distinctions and the political distinction (CP32, 26). In sum, in the 1932 edition, Schmitt seems to consider the logic of the political as absolutely valid, though apparently only within a circumscribed sphere.

As the 1933 edition makes most clear, however, Schmitt ultimately understands the political distinction to be distinguished from the other criteria not simply by being certain and valid within its own sphere—in fact, the political distinction challenges the other criteria and thereby ceases to remain within this circumscribed sphere. In other words, Schmitt’s understanding of ‘the political’ ceases to be a partial account of what is necessary for political order, or a partial account of what is just. In the 1932 edition, as we have seen, Schmitt already

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<sup>8</sup> Strauss, “Notes on *The Concept of the Political*,” 104.



argues that the particular criteria of the purely normative distinctions (goodness, beauty, utility, etc.) are surpassed by the importance of the political distinction (friends and enemies) at the most intense political moment. In 1933 he extends the consequence of this claim: “the real friend-enemy grouping is existentially so strong and determinative that the non-political distinction subordinates its previously ‘purely’ religious, ‘purely’ economic, ‘purely’ cultural criteria and motives, which now become *subjected* to the *completely new, unique* requirements and consequences of what has become the political situation” (CP33, 21, my emphasis). Schmitt clarifies that this change takes place “in the same moment” that the purely normative distinctions “effect this [political] grouping” (CP33, 21). This new account specifies that the purely normative criteria become paradoxically less relevant as they approach the moment in which they will make the most intensive claim, because as a political group becomes determined by a particular normative opinion, the content of that opinion ceases to matter: it is ‘subordinated’ to the ‘completely new’ standards required by the political situation. In other words, this new account makes clear that there is a marked tension between the political distinction and the other normative distinctions—for the more closely a ‘purely spiritual’ normative distinction approaches the intensity of conviction that creates a political distinction, the less its particular criteria matter. Indeed, at the moment in which these other normative distinctions assist in the creation of a political unity, their particular criteria become infinitely unimportant, and give way to the criterion of the political. This dynamic indicates that Schmitt is unable to maintain the distinction of friends and enemies as an independent and absolutely valid though only partial account of what is necessary for political order; as we see here, the political distinction

challenges the other normative distinctions and, in Schmitt's interpretation, its logic ultimately proves superior.<sup>9</sup>

Strikingly, Schmitt never goes so far as to make this claim explicitly. Even in the 1933 edition of *The Concept of the Political*, he continues to emphasize the “independence” of the political domain. That is, Schmitt seems unwilling to claim unambiguously that political distinctions of friend and enemy are simply superior to other normative judgments, that they constitute his understanding of what is sufficient for a just political order, rather than what is minimally necessary. To the contrary, Schmitt portrays ‘purely normative’ and political distinctions as qualitatively different kinds of judgments, existing both independently alongside each other, and in relation. In the light of our analysis, it seems that Schmitt wavers on the question of whether and how the political distinction is independent from the purely normative distinctions because he has two somewhat conflicting aims in mind. On the one hand, it is important for Schmitt to maintain ‘the political’ as an absolutely clear and certain account of what is just; therefore it must prove superior to the other normative distinctions when they come into conflict with it. On the other hand, he must maintain his claim that this standard constitutes only a partial account of what justice is, because he is unwilling to claim that he knows what justice as such is. Schmitt is therefore unwilling explicitly to reduce all normative judgments to political oppositions, and formally maintains the independence of these various domains.

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<sup>9</sup> Meier argues that Schmitt's eventual understanding of the political as a matter of intensity means that the political is “stripped of all substance” and therefore necessarily requires the addition of substance from the purely normative spheres (*The Hidden Dialogue*, 23). In other words, Meier argues that the changes Schmitt makes to the edition of 1932 demonstrate Schmitt's recognition that the discernment of a political distinction (the distinction of a friend from an enemy) must involve normative evaluations (judgments of good or evil, useful or not useful, beautiful or ugly). I argue, to the contrary, that whether or not a position is political is for Schmitt itself a normative distinction; in other words, ‘the political’ itself has normative value for Schmitt, and it therefore ultimately cannot co-opt but must conflict with any other normative judgment.

In other words, the changes Schmitt makes to the three editions of *The Concept of the Political* seem to stem from his attempt to maintain the two presuppositions that we identified at the basis of his thought—that justice cannot be known in full, and that a certain aspect of justice can be known absolutely. Schmitt therefore portrays the political as a standard that is absolutely valid, but only within ‘its sphere.’ However, it seems that in the course of Schmitt’s development of the concept of the political over the three early editions, the balance between political oppositions and other normative judgments tilts toward what can be known concretely and absolutely about a just polity, and away from the rationally unexaminable, ‘purely spiritual’ normative distinctions. Just as in Schmitt’s legal work, we saw that Schmitt’s effort to articulate a relation between the standard of legal certainty and the particular normative judgments derived from the community’s understanding of justice ended up privileging his standard of legal certainty, so we see here that the ‘purely spiritual’ distinctions that Schmitt portrays as accompanying the political distinction in the creation of political form become absorbed into the logic of the political at the moment political form is actualized. Nonetheless, it is important to recognize that in both of these examples Schmitt endeavors to present the political distinction as only a partial account of what is necessary for political order.

The same dynamic between the political distinction and other normative judgments that we have seen play out in Schmitt’s theoretical discussion of political form above can also be discerned in his more practical, occasional writings. Schmitt’s explication of the “leadership principle” in *State, Movement, People* parallels his presentation of political logic in *The Concept of the Political* in that the leadership principle also seems to be only a partial account of what is necessary for political order. That is, Schmitt initially presents the “leadership principle” as a

necessary but not sufficient requirement of a just political order, a tool to help the community define its particular way of life. Over the course of the essay, however, it becomes evident that acceptance or denial of the leadership principle itself becomes definitive of the community.

As we saw in Chapter 5, Schmitt opposes the leadership principle to the liberal concept of “supervision,” arguing that the leadership principle makes the requirement of political unity apparent and provides for its more regular and determined realization by making the chains of actual command clear (SMP, 36-42). In Schmitt’s initial presentation of the leadership principle in *State, Movement, People*, he seems simply to want to highlight that a community needs a single, unified understanding of the principle according to which one can legitimately make claims to rule: the leadership principle makes evident that “every political unity needs a coherent inner logic to its institutions and standards” (SMP, 33). On this account, then, the leadership principle is nothing more than a clear-eyed view of what is necessary to every successful political order. In other words, the leadership principle is not initially offered as a description of a particular good at which Schmitt thinks communities should aim, but rather as an objective account of one element at which every political order does in fact aim.

Like the criterion of ‘the political’ as the distinction between friend and enemy, Schmitt presents the political unity that is the focus of the leadership principle as only partially definitive of the community in question. He argues that this is the case in two respects: first, according to Schmitt, National Socialism, having understood the importance of the leadership principle, is able to “secure and care for every true essence of the people [*Volkssubstanz*] that it encounters, whether in regions, clans, or estates” (SMP, 33). Schmitt explains that he understands National Socialism to have thereby invigorated various traditional aspects of German life (farming, civil

service, the military), suggesting, in other words, that a firm understanding of the leadership principle, or of the importance of the unity of the state as a whole, allows one to protect the distinctive, diverse parts of the people. Schmitt writes as if the unity of the whole and the diversity of the parts would support each other: “a strong state,” he argues, is “the prerequisite of the strong individual life of its differently-constituted members” (SMP, 34). The second way in which Schmitt presents the leadership principle as only partly definitive of a community is that he insists that the leadership principle must be found in conjunction with a fundamental homogeneity<sup>10</sup> of the people among themselves (and also an essential likeness between the nature of the people and the leader). In this respect, Schmitt insists that the leadership principle alone cannot found a good community: “only homogeneity can prevent the power of the leader from becoming tyranny and caprice” (SMP, 42). Schmitt writes that the drive to create political unity under the leader would lead only to “anarchy” and be a “particularly bad source of political peril” if there were not a pre-existing likeness among the people (SMP, 46). In other words, the leadership principle alone, in Schmitt’s opinion, is not sufficient to describe the proper aim of a political community; it is simply the principle that makes most explicit the need to “secure and care for” the homogeneity inherent in the people (SMP, 33).

However, we see that Schmitt’s analysis of the leadership principle also implies a tension between it and the semi-autonomous realms that can be found under the umbrella of the political unity. Schmitt points out that “the recognition of the diversity of these self-contained lives would however immediately lead to an unhappy pluralistic turmoil... if a *strong state* did not rise up to protect the whole of the political unity” (SMP, 33). Even though, as we have seen, Schmitt argues that a strong state is the “prerequisite” of the flourishing of its semi-independent parts, he

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<sup>10</sup> The term Schmitt uses is “*Artgleichheit*,” which literally means “species-likeness.”

also contends here that the autonomy of the parts naturally conflicts with the unity of the whole. In fact, there seems to be in Schmitt's opinion an inverse relation between the strength of the diversity of the semi-autonomous domains and the degree to which one must assert a unifying principle: "as diverse as the perspectives for the regulations and institutions of the different spheres of life are, so firmly must on the other hand a unified, consistent central principle be recognized and upheld" (SMP, 33). In other words, in Schmitt's opinion here, any movement toward autonomy must be countered by an equal and opposite force of unity. We are led to ask, then, whether the particular 'regulations and institutions' of the semi-autonomous domains can have for Schmitt any significance in political life—for the more they diverge from the principle of unity, the more they must be challenged and brought into line. The leadership principle, the quest for political unity, in fact seems to contradict and overtake any of these claims to semi-autonomous life that it is supposed to "secure and care for" (SMP, 34). The value of the leadership principle in fact challenges, in Schmitt's analysis, the value of the organizing principles of these other domains. Its status as a principle that is supposed to be only partially definitive of political life therefore comes into doubt.

Schmitt's suggestion that the leadership principle is only a tool that brings out the homogeneity inherent in any particular people is also contradicted by his analysis of the particular case of 1930s Germany. As we have seen, Schmitt argues that the power the leadership principle allows a single authority to articulate the political unity will prove to be only "tyranny and caprice" unless there is an inherent homogeneity among the people, as well as a likeness between the ruler himself and the people (SMP, 42). And yet, Schmitt's discussion of the situation of Germany in 1934 demonstrates that this homogeneity is less accurately

understood as a pre-existing condition than as a goal of the new power. Schmitt argues that the insecurity and uncertainty of the then current state of affairs is not due to the bewildering frequency of new and indeterminate laws, but to the lack of a “normal situation” (SMP, 43). Without a normal situation, Schmitt argues, every law will seem indeterminate. Schmitt concludes that it is impossible to re-establish security by making ‘better’ or more certain laws—the only “way forward,” he writes, is to embark on the “reform of judges,” so that everyone who is “trusted with the explanation, interpretation, and application of German law” is certified in terms of their “*Volksgebundenheit*” (SMP, 44).<sup>11</sup> It seems that this homogenous civil service is not a pre-existing condition that the leader can aim to preserve, but needs to be created—a fact which indicates that German homogeneity as such is not self-evident or present before it is defined by those who understand the importance of political unity. In other words, on Schmitt’s view it seems less accurate to say that actual homogeneity in the population is a prerequisite of just political order than to say that the establishment of a normal situation, based on whatever definition of homogeneity seems expedient, is the proper goal of leadership.<sup>12</sup> The leadership principle cannot then be said to ‘secure and care for’ the essence of the people, but rather to animate the task of establishing a coherent population. Therefore it is not correct to describe the leadership principle as merely partially definitive of the polity, serving an inherent, communal

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<sup>11</sup> Schmitt attributes the phrase “not reform of justice, but reform of jurists” to the then-current State Secretary Roland Freisler (SMP, 44). Scheuerman makes an interesting suggestion that the homogeneity of the judiciary has been presupposed in Schmitt’s thought since *Gesetz und Urteil*, since for Schmitt “legal determinacy can never be adequately achieved by means of a particular set of legal statutes or doctrines... legal reform requires a reform of legal *decision makers*” (*The End of Law*, 17). However, as we have seen, in *Gesetz und Urteil* Schmitt explicitly distances his position from those who regard the personality of the judge as important.

<sup>12</sup> Jan Werner-Müller argues that, for Schmitt, ‘the political’ was more fundamental and important than ‘the nation:’ “Rather than the nation being the active force as the basis of the state, that state could mould its political unity, with

way of life; the importance of political unity that is highlighted by the leadership principle itself becomes the goal to which the other aims of the community are subordinated.

Once again, we find in Schmitt's thought that an ostensibly partial element of political order becomes definitive of the whole aim of the polity. Indeed, as we have seen, Schmitt distinguishes the "current German generation" by arguing that it uniquely understands the importance of the leadership principle—the awareness of the significance of political unity therefore becomes the 'norm' around which Schmitt believes the current German polity is oriented (SMP, 17). In other words, recognition of the leadership principle is for Schmitt a positive good in itself: we find he believes "the strength of the national socialist state" to lie in its being "ruled and permeated from top to bottom and in every atom of its existence with the idea of leadership" (SMP, 33). The idea of leadership therefore appears as not simply an instrument that is used by the new powers for the purpose of doing justice to the inherent homogeneity of the people, but as the core of the new state.

Schmitt intends his leadership principle to indicate the part of justice that according to him we can know absolutely: that it is just to affirm the political, to seek political unity. The coherence of Schmitt's theory depends upon this partial but certain account of justice existing alongside another substantive account of what is just, as we saw in both *The Concept of the Political* and in *State, Movement, People*. However, as we found in both of those works, Schmitt's allegedly partial understanding of justice does not remain circumscribed but in fact challenges every other normative view. In other words, Schmitt's argument for the justice of 'the political' ceases to be partial and becomes equivalent to his whole understanding of the just.

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dictators embodying national will. In that sense, Schmitt thought the nation from the vantage point of the state, and it was the 'state' that mattered in 'nation-state,' not the 'nation'" ("Carl Schmitt—An Occasional Nationalist?," 27).



### *Practical consequences*

In this section we will inquire after the practical consequences of considering this allegedly partial understanding of what is required to establish a just political order—political unity—as the principal good at which the community aims. As we will see from the implications of certain passages from *The Concept of the Political*, an explicit focus on political unity may in fact tend to fracture the community and undermine political order. Following the implications of Schmitt’s own description, we see that the concerted effort to create political unity can furthermore lead to a blurring of the distinction between domestic and foreign policy, to a lack of differentiation between the manner in which one treats one’s ostensible friends and one’s enemies. This should cause us to question more closely the implications of Schmitt’s theory for both internal political order and the relation between nations. As I will argue below, Schmitt’s theory is able to sustain neither political unity nor the “political pluriverse,” the diversity of polities engaging in limited wars, that he claims to be a necessary correlate of his understanding of political form (CP, 53).

Schmitt’s discussion of what is required for the creation of political unity in *The Concept of the Political* gives powers to the central authority that are even more extensive and flexible than they seem at first glance. As Schmitt makes plain, the state must have the authority to counteract anything it believes to threaten the political unity, and the boundaries of state intervention can neither be predetermined, nor established and enforced by another institution (CP, 27, 47-48). Schmitt justifies this by arguing that the question of what constitutes the political unity cannot be decided in the abstract; every new situation causes the state to

reconsider what essentially constitutes the definitive political unity (CP, 34). Schmitt's portrayal makes it seem as if the state should have one eye on the essential communal way of life essential to the people, and another on the exigencies of the moment, keeping tabs on those opinions and actions that are marginal and may become material challenges to the core of this way of life. In fact, the state's authority is even less defined and limited than this in Schmitt's theory. As we will see, for Schmitt every substantive definition of a way of life essentially challenges the goal of political unity; this implies that the question of which opinions are in tension with the unity of the polity does not simply depend upon changing political exigencies. In principle, every opinion that does not consider political unity to be the paramount good potentially conflicts with the state's goal of unity, and the question seems to be only which other normative commitment the state decides to consider threatening at the moment.

Furthermore, in Schmitt's discussion of the power the state requires to determine and defend a political unity, we find that the definition of the people is not only clarified in the light of other, politically organized peoples. In other words, the "enemy" who threatens one's "way of life" is not necessarily an external enemy, an advancing army or menacing state power (CP, 27). The state's goal of "tranquility, security, and order" within its borders requires, according to Schmitt, that it have the power to name the "domestic enemy" (CP, 46). Furthermore, this power to determine the internal enemy is not limited, in Schmitt's theory, to the right to put down an insurrection of a domestic faction, or to declare an internal, warring group to be an enemy of the state. In his discussion of the "kinds of ways to declare an internal enemy of the state (banns, loss of freedom, etc.)," Schmitt makes clear that these declarations neither confer on the banned party the status of "a political unity, nor signify a civil war" (CP33, 29). In other words, it

appears that for Schmitt, the state's defense of its own political unity is not limited to maneuvers against other political unities, be they foreign powers or armed groups within the state that directly challenge the dominant political power. The state, it appears here, is also justified in Schmitt's view to combat those associations that are not themselves enemy political unities. According to this view, the state has rightful authority to target any group as a potential political threat, regardless of whether or not that group is organized as a political body.

In fact, Schmitt goes even further in a note he adds to this passage, insinuating that the state has a right to oppose not only non-political groups but also 'groups' that are not yet organized. Schmitt remarks that the state can justly outlaw "members of certain religious groups or parties" if it ascertains that they "lack a peaceful or legal sense" (CP33, 30). To illustrate his remark, Schmitt mentions the "characteristic argument that atheists in reality cannot be peaceful," as well as raises the issue that "the Weimar coalition dealt with the National Socialists as illegal and 'unpeaceful'" (CP33, 30). With this illustration, Schmitt draws an equivalence between the Weimar government's attempts to combat the Nazi party (which was in the 1920s in fact organized and armed) and how he understands it is permissible for the state to treat 'atheists,' that is, 'members' of a 'group' who are not necessarily or in fact usually armed, or even organized. In other words, it becomes clear that Schmitt considers the state to be justified not only in waging a battle against armed groups within the confines of the polity, or even against organized groups it has reason to think might develop into physical threats, but also against *individuals* whom the state *construes* as belonging to certain groups. The individuals 'belonging' to these 'groups' need not, it seems, even be aware of each other, their supposed community, or their alleged enmity to the state. In arguing that the state should have the

authority to identify types of individuals it considers inimical to peace or legal order, Schmitt's note makes clear, in short, that the state is justified in persecuting categories of people.

The extent and flexibility of the power Schmitt allows the central authority seems to be closely linked to the fact that for Schmitt political unity itself becomes an absolute normative good, and that therefore every other norm stands in potential conflict with it. Political unity is, on Schmitt's understanding, not threatened only by other organized political unities, but also theoretically by any individual who does not understand political unity to be of primary importance. Any commitment that does not explicitly aim at furthering political unity, then, can be suspected of taking a stand against it. If the state is obliged to consider as a potential enemy any individual who does not take political unity as the paramount good, its power indeed extends very far and is frighteningly flexible.

Oddly enough, the extent of power that Schmitt allows the state seems to be inimical to what he claims is the very purpose of state power: "assuring total peace with the state and its territory... creat[ing] tranquility, security, and order" (CP, 46). For if the state has the latitude to persecute individuals who it believes prospectively disturb the coherence of the political unity, it seems that domestic affairs would involve continual uncertainty and insecurity.<sup>13</sup> Moreover, the unity at which the state aims would be perpetually elusive; because no norm other than that of 'unity' is sacred, there would be no fixed doctrine or set of behaviors that could be deemed in general acceptable or customary. Because Schmitt's understanding of the absolute importance of political unity does not allow other norms to define the polity, the state cannot limit itself even to

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<sup>13</sup> McCormick makes a similar argument that Schmitt attempts to "preserve, strengthen, and even redefine the state by reviving the source of its development, the fear of violent death." But, according to McCormick, Schmitt's manner of strengthening authority by instilling fear "gives no real guarantee of actually allaying that fear: it does not abolish the state of nature, but perpetuates it." Schmitt's project, McCormick judges, became "the very institutionalization and manufacture of chaos" ("Fear, Technology, and the State," 652).

establishing or policing a certain convention. The activity of striving after unity becomes the primary function of the state, and the single-minded focus on unity makes that unity in fact ever-more elusive.

Indeed, if we recall Schmitt's analysis of political form as it appears in his commentary on the Hobbesian state (Chapter 4), we see that domestic uncertainty, while formally inimical to the purpose of Schmitt's state, is in fact both logically and practically a necessary condition of it. In Chapter 4, we saw that Schmitt argues that people are moved to recognize the reasonableness of obedience to the Hobbesian sovereign when they become aware of their spiritual uncertainty and their material insecurity, and particularly of the connection between the two. That is, people become willing to submit to political authority when they realize that conflicting understandings of the good can lead to civil war. This implies, then, that a prerequisite of the establishment of the Hobbesian state, according to Schmitt, is a general awareness of material and spiritual insecurity—material and spiritual security therefore appears to be, according to Schmitt's understanding, good at least as a means for encouraging people to accept the Hobbesian political solution. One could construe the domestic interference that Schmitt permits the state as an instrument in its attempt to create unity, then, as serving a perverse purpose in creating perpetual upheaval and insecurity, and thereby prodding people to redouble their efforts to seek security under the protection of the sovereign.

Moreover, our analysis of Schmitt's understanding of political form in Chapter 4 demonstrates that not only would domestic uncertainty momentarily serve a useful purpose in driving people toward the acceptance of sovereign power, but that this condition of domestic uncertainty is in fact a necessary accompaniment to the ideal political form. Schmitt's analysis

of the role played by the Hobbesian sovereign indicates that Schmitt understands political form to be in its ideal condition at the moment of its inception. Since Schmitt understands political form to be in its ideal condition at the moment of its greatest intensity, that is, at the moment that people have most powerfully recognized the political order as the solution to their spiritual and material insecurity, Schmitt must also essentially consider the insecurity that provides the impulse to accept protection from the sovereign as a necessary part of the ideal.

The condition of the most intense spiritual and material insecurity is a situation that Schmitt otherwise describes as the condition of civil war. Civil war and the ideal political form are logically opposite for Schmitt (CP, 47); they are also, however, according to Schmitt's understanding of political form, historically and practically complementary.<sup>14</sup> In aiming to create the most intense political form, one must, on Schmitt's understanding of the conditions necessary to give rise to that form, implicitly also aim for the perpetuation of conditions like those found in the most intense degree of civil war.<sup>15</sup> Civil war is a condition that Schmitt professes to abhor above all; according to him, it is where "everything one can say about war attains its final and bitter meaning" (ECS, 26). And yet, the state must on Schmitt's understanding be constantly striving for political unity, which implies that there will be a continually shifting persecution of groups and individuals that the state determines to be at odds with the ever-elusive goal of political unity. Political form, since it is a matter of degree of intensity for Schmitt, cannot be made once and for all, or even once in awhile; it must be

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<sup>14</sup> Strauss points out that, whereas for Hobbes, "the fact that the state of nature is the state of war of all against all is supposed to motivate the abandonment of the state of nature," Schmitt seems to affirm Hobbes's state of nature by modeling his understanding of the political on it, and taking the "position of the political" ("Notes on *The Concept of the Political*", 106).

<sup>15</sup> Ferdinand Toennies makes a similar argument about the dynamic inherent in Hobbes's *Leviathan*: that the perpetuation of the Hobbesian commonwealth requires the continual exacerbation of the war of all against all ("Hobbes and the *Zoon Politikon*", 60).

continuously reaffirmed. Coexistent with political unity in its ideal form, then, is constant alertness to and even exacerbation of differences within the population.

A consequence of the fact that, for Schmitt, political unity is not a partial and provisional goal, but a criterion of absolute justice, is that political unity becomes definitive of the entire goal at which the community aims. Paradoxically, we find that striving for political unity above all undermines in practice the achievement of domestic security, the establishment of a political form that provides the experience of relative peace and order for its citizens. Schmitt repeatedly promises or insinuates that a strong state will go hand-in-hand with greater internal autonomy.<sup>16</sup> It seems, however, that the strong, unified state Schmitt describes could be construed as complementary to a diversity of domestic groups only in the context of a perverse dynamic in which the state must perpetually attempt to regain its strength by discerning and exploiting the differences among the people.<sup>17</sup> Schmitt's understanding of political form would therefore seem not to promote any kind of meaningful unity in practice, but rather tends to destroy the distinct, domestic realm of relative peace and order where one begins by assuming friendship rather than enmity.

The character of Schmitt's political form, moreover, seems to erase any meaningful distinction between relations within the political 'unity' and relations with other peoples. In other words, it seems to blur the distinction between domestic and foreign policy, since the

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<sup>16</sup> For example, in *The Concept of the Political*, Schmitt reiterates the argument that the qualitatively total state he favors does "not at all imply that [it] must necessarily determine every aspect of a person's life or that a centralized system should destroy every other organization or corporation" (38-39). See also SMP, 34 and "Weiterentwicklung des totalen Staates in Deutschland," 213.

<sup>17</sup> Hannah Arendt's description of the arbitrary standards by which totalitarian regimes prosecute the ongoing process of "selecting" the people could therefore serve as an accurate elaboration of the consequences of Schmitt's theory (*Origins of Totalitarianism*, 389-459). Arendt may have Schmitt's concept of the movement in mind, as she refers twice to *State, Movement, People* (251, 266).

sovereign must behave toward both his own subjects and toward foreigners as if they were potential enemies.<sup>18</sup> As a consequence, I will argue, Schmitt's understanding of political form supports neither domestic political unity nor what he presents as its necessary corollary and foreign analogue: the "pluriverse" of variously constituted states in "the political world" (CP, 53).

Schmitt's argument that "the political world is a pluriverse, not a universe" is important to him for two reasons (CP, 53). First, he understands the necessity of a plurality of polities in the world to be a correlate of the possibility of true political unity, explaining that "a political unity presupposes the real possibility of an enemy, and therewith another, coexistent political unity. As long as even one state exists, there will be on the earth a plurality of states" (CP, 53).<sup>19</sup> Second, Schmitt insists on a necessary plurality in the political world in order to oppose his understanding to the universalistic view he finds typical of liberals or humanitarians. According to Schmitt, the liberal understanding implicitly divides the world into the simply just and the simply unjust, the 'human' and the 'inhuman.' This results, in Schmitt's analysis, in a demonization of the enemy, who is viewed as an "inhuman monster" to be "annihilated" (CP, 110). Schmitt's argument against liberalism here is an extension of his conviction that justice as such cannot be known absolutely, that there will always be a plurality of incommensurable normative judgments. In other words, Schmitt's argument against liberalism is not simply rhetorical or situational, but central to his basic understanding of the outlines of the problem of justice. In questioning whether Schmitt's view of politics is indeed able to support political

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<sup>18</sup> Arendt's description of totalitarian power again provides a suitable account of the consequences of Schmitt's thought: the totalitarian leader treats "his own population as though he were a foreign conqueror," and "treats the victims of his [foreign] aggression as though they were rebels, guilty of high treason, and consequently prefers to rule occupied territories with police, and not with military forces" (*Origins of Totalitarianism*, 416, 420).

<sup>19</sup> Translation amended; see CP32, 54.



plurality, then, we will cast further doubt on Schmitt's ability to maintain the mysteriousness of justice in the face of his claim to know something certainly about a part of justice; in other words, we will attempt to expose from another angle the contradictions at the center of Schmitt's argument.

Schmitt's claim that his understanding of enmity as the criterion of the political leads to a view of the political world as a 'pluriverse' is contradicted on the surface by Schmitt's own depiction of the perspective he presents as exemplary of political consciousness. Schmitt suggests that a speech made by Oliver Cromwell during England's conflict with Spain "surpasses" all other "high points of politics" in modern times in terms of its acute awareness of the political consciousness. According to Schmitt, Cromwell exemplifies the perspective that is most able to recognize the enemy "in concrete clarity... as the enemy" (CP, 67). From the passage Schmitt cites, it is immediately evident that Cromwell views enmity not as plural but as binary. Cromwell, as Schmitt relays it, proclaims that the Spaniard is "the natural enemy, the providential enemy,"

and he who considers him to be an 'accidental enemy' is 'not well acquainted with Scripture and the things of God,' who says: 'I will put enmity between your seed and her seed' (*Gen. III: 15*).<sup>20</sup>

The enmity between England and Spain, in Cromwell's interpretation, does not result from a momentary conflict of interests among a number of potentially conflicting positions, but is dualistic in its essence. By stressing that the binary character of enmity in the Cromwellian view is not accidental (not due to the historical situation or to a practical consideration against 'fighting on two fronts'), Schmitt emphasizes his claim that enmity is in fact dualistic by

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<sup>20</sup> CP, 68. Cromwell's original speech can be found in *Letters and Speeches of Oliver Cromwell*, vol. iii, 388-438.

nature.<sup>21</sup> Moreover, Cromwell phrases this dualism in the sharpest terms; he not only likens the antagonism of England and Spain to the enmity between man and the devil, but even suggests that the opposition of the two countries stems from this cosmic conflict. Cromwell, who Schmitt suggests discerns “the enemy, in concrete clarity, as the enemy,” sees political antagonisms as modeled on a duel between man and the devil (CP, 67).

Schmitt’s reference to Cromwell’s theological understanding of enmity is more than an illustration of Schmitt’s view that political enmity is particularly intense, something akin to a struggle with the devil. Rather, Schmitt connects in this passage a *particular kind* of antagonism between human beings with the enmity between man and the devil. By concurring in Cromwell’s judgment that Spain is the “natural” enemy, Schmitt implies that there is a ‘nature’ to enmity as such. This is for Schmitt based on the antagonism between man and the devil and becomes clearest in its light. The understanding of the specific nature of enmity that Schmitt shares with Cromwell becomes clear when we see that in Schmitt’s depiction, Cromwell’s understanding of enmity has a specific character, that not every opponent is necessarily diabolical. This becomes apparent in the difference that Schmitt stresses in Cromwell’s attitude toward Spain and toward France. Cromwell believed, Schmitt writes, that “with France one can make peace, not with Spain because it is a papist state, and the pope maintains peace only as long as he wishes” (CP, 68). The significance of the distinction Cromwell makes between France and Spain, Schmitt indicates, lies in Spain’s submission to the Pope and consequent inability to direct its own foreign policy. It is important to notice, though, that Schmitt’s argument is not that Spain’s ties to the Holy See make for more difficult negotiations—he emphasizes rather that one *cannot* make peace with Spain, that Spain is a perpetual enemy. Spain represents a position, in

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<sup>21</sup> Schmitt is even more emphatic than Cromwell that the enemy is “not accidental.”

other words, that is in Cromwell's view, as endorsed by Schmitt, naturally or essentially at odds with England's.

This position, it is worth noting, does not stem from a 'purely spiritual' distinction such as religious conviction, for both France and Spain were officially and substantively Catholic countries. The difference between an essential enemy and an accidental antagonist that Schmitt highlights with this example seems to rather focus on what one might call the political structure of the two countries: Spain is effectively ruled by the indirect power of the Pope, whereas France ostensibly lives under the direct rule of a national king. This is why, Schmitt indicates, France does not essentially threaten the "National Being" of England, whereas Spain is a "natural enemy" (CP, 68).<sup>22</sup> In other words, Schmitt discerns in Cromwell's words an understanding of the nature of enmity deeply sympathetic to his own: one that sees the essence of the Enemy in the evil inherent in indirect power. The enmity between England and Spain is therefore enmity between a truly political power, one conscious of its own political nature, and an inadequately political power, one confused about the demands of the political. Enmity in the political sphere is not then for Schmitt conflict between two polities with different interests, ways of life, or animating ideas of justice. Real enmity, Schmitt implies with this passage, is found in the struggle of those groups acutely aware of their political nature against those groups who are

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<sup>22</sup> Meier does not regard this explanation as important, but interprets the "peak" of Cromwell's justification of enmity in the reference to Genesis 3:15. For Meier, the significance of this passage is that it demonstrates Cromwell coming to know his "own destiny" as a "Protestant statesman and dictator" who must oppose the "truly sovereign Pope." That Cromwell identifies the Pope with the devil signifies for Meier that this enmity has reached the highest point of intensity in Cromwell's self-awareness of his divinely inspired mission; it does not in his interpretation indicate that the struggle has any substantive character (*The Lesson of Carl Schmitt*, 58-59).

blind to or deny the necessity of the political in human life. Enmity is therefore for Schmitt by its nature binary, in its essence a battle between these two positions.<sup>23</sup>

The fact that the Cromwellian view of enmity that Schmitt endorses is not simply “accidentally,” but “naturally” binary, indicative of an eternal dualism, means that Schmitt’s understanding of enmity does not in fact allow for a political pluriverse (CP, 68). Schmitt’s political theory does not allow one to see the world as separated into a number of potentially legitimate political forms, or into multiple and conflicting polities that represent partially valid understandings of justice, but rather leads one to the view that the world is divided into groups that are absolutely just and those that are absolutely unjust. Those groups that consciously strive for political unity and form are in Schmitt’s perspective just, while groups that deny the necessity and primacy of politics for human life become for him illegitimate associations. Just as we have seen (in Chapters 3 and 4), that Schmitt considers political form to be modeled on the example of Christ’s union of the spiritual and the material, so we see here further confirmation that the opposition to political form is modeled for Schmitt on the devil’s rebellion. England’s resistance to Spain is, in other words, in Schmitt’s account nothing less than an instantiation of the eternal battle between divine justice and the most malicious injustice. As such, it is difficult to see how Schmitt means to counter the problem he identifies in the liberal view of politics, its alleged tendency to divide the world into the human and the inhuman. For Schmitt’s understanding of the root cause of the battle between true political forms and indirect powers seems to make the enemy, literally, diabolical.

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<sup>23</sup> Once one discerns the nature of the enemy that Schmitt depicts with the example of Cromwell, one finds that the examples of “powerful outbreaks of such enmity” Schmitt offers earlier in the passage—Voltaire’s hatred of Christianity, the resistance of the German barons against Napoleon, the resistance of Lenin against western capitalism—conform to the same understanding of the nature of the enemy (CP, 67). All of these stances combat an enemy “armed with a humanitarian ideology,” an enemy who claims to be in the possession of the universal truth about justice, and therefore explicitly or implicitly claims the prerogatives of indirect power (CP, 66).

It seems, then, that Schmitt's understanding of political unity as the highest good at which a group can aim leads to some of the more obviously undesirable effects of his political theory. On the domestic front, as we have seen, taking political unity as the goal of a community actually undermines cohesion, order, and peace. Moreover, the focus on political unity leads to a blurring of the distinction between domestic and foreign policy, as the sovereign must continually be alert to and even exacerbate tensions within the population, looking for enmity among the people rather than friendship. In Schmitt's comment on what one might call the foreign policy perspective to which his understanding of enmity leads, we see furthermore that his assessment of the justice of political form encourages a view of the world divided into the absolutely just and the diabolically unjust; it gives rise, in other words, to a demonization of the enemy and an absolute conviction in one's own righteousness.

### *The theological source*

The practical consequences of Schmitt's political thought that we identified above have their source, as we argued, in Schmitt's inability to articulate the political as a merely partial account of the just, as he claims to intend to do. In other words, the root of the contradictions and problems in Schmitt's thought seems to be his extrapolation of an ostensibly partial claim about what is required for justice to a total claim about the nature of justice as such. In this section we will look further into the reason that Schmitt proves unable to confine his articulation of standards for just action to its own sphere. On the theological level, I argue, we can see most clearly the inherent difficulty of Schmitt's attempt to articulate a partial account of justice.

In the context of Schmitt's theology, Christ stands for what man can know about justice in the face of an inscrutable God. Christ serves Schmitt, as we have seen, as certain confirmation of a specific aspect of divine justice: the promise to redeem the body as well as the spirit. In Schmitt's argument, though, this conviction about the certainty of material redemption is articulated against the backdrop of an assertion of ignorance about divine justice as such, or an affirmation of the inability of the human mind to 'calculate' or 'measure' "Divine order" (JT, 61). It appears, however, that Schmitt's certainty in the salvation Christ promises potentially conflicts with his uncertainty concerning God's intention. In other words, the problem we found in Schmitt's approach to the question of justice—the tension between his claim to offer an objective but partial account of the just, and his insistence on the mystery of justice as such—is mirrored in the tension we find in Schmitt's theology between his belief in Christ's promise of material salvation and his conviction in an unfathomable God.

Schmitt's awareness of this tension in his theology becomes most evident in the epilogue of his last full-length work, *Political Theology II*. There Schmitt raises the issue of the apparent logical tension between God and Christ that could be articulated, as the Gnostics argue, as the opposition of the capriciousness of a god who creates an imperfect world and the promise of salvation offered to human beings by a loving god (PT II, 124). In other words, Schmitt notes the potential opposition between a capricious and unfathomable god, who does not play a benevolent role in the human world, and a god who responds directly to the evident needs of human beings. In the Gnostic view, Schmitt writes, "the two gods are in a state of open war, or at least in a relationship of unbridgeable alienation" (PT II, 124). In Schmitt's own words, the tension inherent in the identity of these two gods is such that "friendship is almost impossible

between the lord... of a misconceived world” and the “liberator, the creator of a transformed world” (PTII, 125). They are, as Schmitt puts it “so to say, *in and of themselves*, enemies.”<sup>24</sup>

Schmitt makes clear that he does not agree with the answer the Gnostics gave to the question of the relation between the lord of creation and the lord of salvation. However, he stresses the importance of the problem that the Gnostics highlight with their account of the two warring gods. Schmitt insists that “the main structural problem of Gnostic dualism” is a real problem, even a problem that presents itself “inescapably in every world in need of change and renewal,” a problem that “is both imminent and ineradicable” (PT II, 125). As this remark indicates, the basic problem to which Schmitt thinks Gnosticism draws our attention is that the experience of an imperfect world challenges us to believe that the creator of the world is not good. In other words, the theological problem that Schmitt considers to be of central and inescapable importance is the question of how one can account for the goodness of God, given the experience of the painful shortcomings of creation.

Whereas the Gnostics take this insight as a point of departure for positing an evil or uncaring creator god, Schmitt remains intent on articulating an account that would preserve the goodness of God while explaining the imperfection of worldly order. In other words, Schmitt attempts to minimize rather than exacerbate the potential tension that the Gnostics see between Christ and God, the savior and the creator. In the epilogue of *Political Theology II*, it is clear that Schmitt favors the Augustinian response to this problem over the Gnostic solution. As Schmitt presents it, Augustine attempts to harmonize what the Gnostics see as the god of creation and the god of salvation by arguing that the two gods “are not absolutely identical, but

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<sup>24</sup> “Sie sind, sozusagen, *von Selbst Feinde*” (PTII, German original, 121).

nevertheless they are ‘one’” (PTII, 124). To explain and support this, Schmitt cites Gregory of Nazianz: “The One—to *Hen*—is always in uproar—*stasiazon*—against itself—*pros heauton*.” (PT II, 122-123).<sup>25</sup> Schmitt sees this mysterious unity of rest and motion in the Trinity, which according to him expresses that God’s creation and Christ’s salvation may be in tension but are not ultimately at odds. Following Augustine, Schmitt affirms that the doctrine of the Trinity requires the admission of a mystery at the heart of the world: in divine logic, though not in human mathematics, three are one (PTII, 106). The tridentine solution Schmitt accepts seems moreover to require faith that these three are not ultimately antagonistic, but exist in a kind of tense harmony. In short, Schmitt assents to Augustine’s solution insofar as it insists on the mystery of the divine purpose while affirming that the good promised by Christ also testifies to the goodness of the Creator.

The main text of *Political Theology II*, however, makes clear that Schmitt does not entirely follow the Augustinian solution to the Gnostic problem. The manner in which Schmitt departs from Augustine’s account makes Schmitt’s understanding of the problem of Christian theology clearer. As Schmitt points out, Augustine’s attempt to reconcile the two gods of Gnosticism works by “shift[ing] the focus of this difficulty away from the deity” to the sinfulness of man, who according to Augustine “transforms God’s world...into a world in need of salvation” (PTII, 124). In Augustine’s account, human action is at fault for causing the apparent tension between the two aspects of God. Although, as we have seen, Schmitt would agree with Augustine that “what evil there is in the world was created by the sin of man” (VC, 47), he does not seem to follow Augustine so far as to insist that men “prove their freedom”

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<sup>25</sup> Schmitt suggests here a direct connection between the logic of the Trinity and what he understands to be the dynamic inherent in political form, pointing out that *stasis* can imply both the “state,” or political rest, and “the greatest of political commotion, civil war” (CP, 28-29; PTII, 122-123 and 149n3).



only “through their wicked acts” and not “through the good they do” (PTII, 124). As we have seen, Schmitt thinks that it is possible for men to act positively in history by creating and renewing political form. As the main text of *Political Theology II* indicates, Schmitt understands this possibility to distinguish his answer to the Gnostic problem from Augustine’s.<sup>26</sup>

Schmitt’s critique of Augustine in *Political Theology II* concerns the meaning of the division Augustine articulates between the City of God and the City of Man. As Schmitt sees it, this account erroneously suggests the possibility of drawing an “objectively verifiable distinction” between two “domains”—the church and the state, theology and politics, the spiritual and the worldly (PTII, 39-40).<sup>27</sup> Schmitt argues, contrary to this interpretation, that the doctrine of the Trinity makes an absolute distinction between the spiritual and the worldly only “possible in the abstract” since Christ “represents the perfect unity of the two natures, the human and the divine,” and because Mary “has given birth to the divine child in a certain place at a certain time in history” (PTII, 82-83). In other words, against Augustine’s separation of the things of God and the things of man (and more pointedly against those who refer to Augustine to sharpen this division), Schmitt emphasizes that Christ signifies the redemption of the human and the connection of the divine and the world as we know it. Furthermore, Schmitt stresses that Christ’s appearance on earth indicates the presence of divine justice in human history.

Consequently, whereas some have used Augustine’s work to emphasize the distance between divine justice and justice in earthly politics, Schmitt points to political form itself as the crucial

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<sup>26</sup> *Political Theology II* is a belated response (in 1970) to a 1935 essay by Erik Peterson that criticizes Schmitt by arguing that a Christian political theology is impossible. Peterson attacks Schmitt’s understanding of political theology by associating it with the alleged caesaropapism of Bishop Eusebius of Caesarea (who worked with Constantine) and posing Eusebius’s theology in contrast to Augustine’s (PTII, 61-64).

<sup>27</sup> Schmitt argues that “German Protestant theology” took this distinction too literally, causing “the intense crisis which occurred... immediately following the outcome of the First World War.” By contrast, Schmitt claims that German Catholics of the same period were protected from this confusion by their understanding of the Church as itself divine (PTII, 39-45).

remnant of divine order on earth. It is essential to Schmitt's understanding, as we have seen before, that the meaning of Christ is interpreted as indicating that the path to salvation is found through worldly institutions, and that the world itself will eventually be saved (VC, 55). Distinguishing himself from Augustine, Schmitt argues that the salvation Christ promises takes place in the world and does not stand in fundamental opposition to it.

The important problem that Schmitt sees at the heart of Gnosticism, we recall, is how it is possible to understand God as good, given the experience of an imperfect world. Focusing on the problem Schmitt seeks to address, we find that Schmitt's intention in critiquing Augustine seems to be to give a more adequate account of the essential goodness of the world. In other words, Schmitt's rejoinder to Augustine aims to improve upon the effort to overcome the Gnostic dualism by giving an account of the world that better preserves the goodness of the creator God. Schmitt's implicit criticism of Augustine focuses on the sinfulness Augustine sees permeating human things—that human freedom is only asserted in 'wicked acts' and not good. To the contrary, Schmitt argues that man can create and renew political form, which is a reflection of the nature of Christ. For Schmitt, the order created by human beings in political form is a positive good, and the fact that such order can exist in the world a testimony to the goodness of the Creator. Schmitt can thereby affirm that, even if the Creator's ultimate intentions remain mysterious, Christ confirms that the world is good, and therefore that God is good.

Schmitt's response to the problem of the tension between the creator god and the salvation god, which addresses the insufficiency Schmitt sees in Augustine's solution, is to point to the possibility of the establishment of political order on earth and to suggest that this is an

indication that the divine plays a constructive role in human affairs. At the same time, however, Schmitt seems to understand that the mystery inherent in the Augustinian account of the Trinity is necessary, for a completely explicable salvation would seem to put the human mind, and human needs, above the divine understanding and purpose. Accordingly, Schmitt does not purport in his explication of the value of political form to give a whole account of what is necessary for justice. As we have seen, Schmitt attempts to preserve an affirmation of the mystery of divine justice while insisting on the recognition that political order is a certain sign of God's benevolence.

Earlier in this chapter we exposed the difficulties Schmitt encounters in his attempt to maintain the partial character of his account of justice. In the context of Schmitt's theology, one could articulate this problem as the difficulty of preserving the conviction that divine justice is ultimately mysterious while attempting to characterize exactly a certain aspect of it. Indeed, Schmitt's understanding of the meaning and purpose of Christ as a confirmation of the goodness of the world seems to stand, strictly speaking, in logical tension with his understanding of an inexplicable God. For Schmitt's postulate of the goodness of the cosmic order is in tension with the view of a God that could in theory demand anything. Schmitt wrestles with this problem in his remark that "the ever-impenetrable decree of a personal God is, so long as one believes in God, always already 'in order' and not pure decision" (JT, 60). Here Schmitt attempts to assert, on the one hand, that the rationale of divine decree is beyond human comprehension, and, on the other, that God's acts fit into a certain preordained order.

While Schmitt endeavors to minimize the tension between these two positions, both his political theory and his theology are oriented more toward proving the goodness of the Creator

than to paying tribute to His mysteriousness. We can see this is the case by noticing that Schmitt explicitly rejects the ‘decisionistic’ interpretation of the above statement, according to which anything that God does would be good because God did it. Explaining his position by aligning himself with (his own interpretation of) Tertullian, Schmitt argues that

when the jurist Tertullian states: “We are obligated to do something not because it is good, but because God commands it”... it already sounds like juristic decisionism. But because of the inherent, presupposed, *Christian concept of God*, it still lacks the conscious notion of complete disorder and chaos that is transformed into law and order not by the hand of a norm but rather only through pure decision. (JT, 60, my emphasis)

Schmitt portrays the “hand of a norm” hovering over creation, evoking at once a personified deity and the sense that his power is an extension of a general concept. To put it in another way, we see in this passage that what is most fundamental to Schmitt’s theology, what is “presupposed,” is the “Christian concept of God.” The Christian concept of God implies for Schmitt, as we have seen, the conviction that creation is fundamentally orderly, good, and just, and moreover what is eventually required for the complete re-establishment of justice in the world is in its essence known: the promise of Christ is the promise of material salvation. It seems, therefore, that the order heralded by Christ, which speaks to the justice demanded by human beings who live in a world in need of renewal and change, stands in Schmitt’s view above the prerogative of a mysterious God. In other words, one might say that Schmitt’s elaboration of the meaning of Christ serves to subject the independent and unfathomable God he posits to certain rules and standards—or at least that Schmitt’s understanding expresses the faith that, as he says in *Wert des Staates*, God is “subordinated” to the good, because “his all-powerful will cannot desire anything evil or unreasonable” (WS, 96). Schmitt’s particular manner of proving the goodness of God’s creation could, in other words, be accused of solving the latent enmity

between God and Christ by essentially reducing the mystery of God to what Schmitt understands to be the meaning of Christ.<sup>28</sup>

In the context of Schmitt's theology, it becomes clearer why his ostensibly partial account of the justice of the world turns inexorably into a claim about the whole of justice. First of all, that Schmitt understands political form to be modeled on Christ means that man's efforts to create and renew political order are not primarily a practical good; the main purpose of these attempts is in Schmitt's understanding to testify to the goodness of God. In Schmitt's view, therefore, political order is not primarily valued as a necessary but insufficient requirement for decent human life, but as sufficient proof of divine goodness. Political form is, then, not a minimal standard for a just polity for Schmitt; political form is for Schmitt itself the highest expression of justice possible in the world. Schmitt's affirmation of the goodness of political order therefore becomes an account of justice as such.

Furthermore, in seeing that Schmitt's purpose in arguing for a connection between political form and the model of Christ is to confirm the goodness of God and the world He has created, we see another reason that Schmitt's account of the justice of political form becomes an account of justice as such. For Schmitt's argument about the justice of political form presupposes from the beginning a conviction about the whole. In *Gesetz und Urteil*, we found that Schmitt prefaces his account of what could be said about the correctness of a judicial decision by making clear that he asks what must be necessarily true about justice, assuming only that justice is possible in the world. In the context of Schmitt's theology, it becomes apparent

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<sup>28</sup> Here I disagree with Meier, who argues to the contrary that the passage concerning Tertullian indicates that Schmitt's answer to the question of the priority of God or the good "leaves no room for doubt" that Schmitt means to oppose "every attempt that aims at or could have as its result the limitation of God's sovereignty in any way" (*The Lesson of Carl Schmitt*, 92-93).

that this seemingly minor assumption entails in Schmitt's view an account of the connection of the divine and the human, a connection that can be summarized for Schmitt as the 'Christian concept of God.' In other words, the standards for just action that Schmitt develops in jurisprudence and politics presuppose, as we see in light of his full understanding, the benevolence of the Creator. Schmitt's seemingly schematic and incomplete account of what one can say about justice in works like *Gesetz und Urteil* and *Wert des Staates* is in fact based on an all-encompassing view of what justice as such must be.

Schmitt's attempts to confirm and clarify the goodness of God cannot however be adequately understood without acknowledging that Schmitt also intends to preserve the mystery of the divine. The ultimate inscrutability of divine justice provides the context in which Schmitt claims to be able to draw a distinction between what can and cannot be known, and thereby isolate that aspect of justice that can be known objectively and with certainty.<sup>29</sup> Moreover, Schmitt's belief that justice as such is finally mysterious allows him to dismiss consideration of other opinions about justice as not rationally examinable, and focus on his own, ostensibly partial account of justice without measuring his own opinion against others. Furthermore, Schmitt's belief in the divine mystery of justice encourages him to refrain from seriously inquiring about the consequences of his own opinion for political practice, from thoroughly considering the human consequences of, for example, understanding political unity to be the sole good at which the polity aims. Finally, Schmitt's belief in the mysteriousness of justice prevents him from

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<sup>29</sup> As suggested in the introduction, Schmitt provides an account of his method in the following remark: "The first prerequisite for the ability to make good definitions is a rare ability: to exclude the illimitable. ... This threshold can only be crossed by a few. To distinguish the cultivated and the cultivatable from the uncultivated and that inaccessible to cultivation; that is the first of all distinctions, just as for the stoics all virtue begins with the distinction of the realm of our own power from that which is removed from our power" (GL, 22.6.48).

tackling the question of what is just in a comprehensive way; his ostensibly partial view of justice is based on a presumption about the justice of the whole that he rarely makes explicit and does not thoroughly question. In the end, it seems that Schmitt's insistence on the ultimate mystery of justice bears much of the responsibility for the problems and contradictions in his thought. The particular character of these problems, and of Schmitt's political theory, cannot however be adequately understood unless one recognizes the impetus and unifying force behind Schmitt's account of political form and elaboration of standards for just action, which is ultimately an attempt to prove the goodness of the divine order.

Seeing the dynamic between Schmitt's two presuppositions—justice is ultimately the mysterious provenance of the divine, yet a partial account of justice can be known absolutely, as it is modeled on the certain revelation of Christ—play out in his theology, we have discerned more clearly the reason for the difficulty Schmitt has in maintaining these two presuppositions simultaneously. Schmitt does not offer his partial understanding of justice as a provisional understanding; he rather presents it as absolutely certain, though in itself not fully descriptive of justice as such. Schmitt's argument for taking legal certainty and the establishment of political order as standards for just action are arguably rather reasonable, if they are truly taken as partial understandings of what is just, as minimal requirements for a just polity. But Schmitt proves unable to maintain the partial character of his own view of justice, despite his conviction that the claim to understand the whole of justice constitutes the greatest impiety, a diabolical pride. Rather, Schmitt's elaboration of criteria for just action become indistinguishable from a whole account of justice, while at the same time acting to prevent Schmitt from undertaking a more comprehensive consideration of justice as such.

## Conclusion

Our initial question concerned whether it is a good idea to attempt to extract the ‘structure’ of Schmitt’s thought about the political and apply it in the service of our own diverse moral and political preferences. Over the course of this analysis, we have found several reasons to be wary of the attempt to focus on the ‘hard fact’ of the political that Schmitt ostensibly reveals.

First, we might call into question the strategy of drawing a line between Schmitt’s ostensibly realist account of the political and his moral, theological, and political convictions on the basis of our discovery that a single theological view in fact underlies both Schmitt’s morally-charged defense of the political and his effort to avoid resting his characterization of the political on a moral basis. In order to see this connection, it was necessary to take seriously Schmitt’s *particular* theology, especially his argument that traces the structure of the political to a divine model. Schmitt makes clear in “The Visibility of the Church” and *Roman Catholicism and Political Form* that he understands political form to be patterned on the example of Christ. According to Schmitt, Christ demonstrates that political orders must both “have a real body” and also appeal to an “idea;” Christ’s appearance on earth indicates for Schmitt that man must recognize that his life is inescapably political, since he is a “double-creature,” whose “entire earthly existence” is “spiritual-worldly, spiritual-temporal” (VC, 52; RC, 17; PTII, 115). We furthermore demonstrated that this theological argument for the structure of the political is not confined to a passing phase in Schmitt’s career by showing that the essential aspect of this definition of the political is both prefigured in his early works and implied in his later, apparently secular essays. Schmitt’s early work anticipates this theological understanding by arguing that



the political exists at the mysterious nexus of the facts of material power and the spiritual norm of justice. His later, seemingly secular and scientific concept of the political echoes this view by arguing for the necessary conjunction of material and spiritual concerns in human life in opposition to the liberal perspective, which according to Schmitt pathologically oscillates between the economic and the ethical.

Once we have seen that Schmitt's understanding of the structure of the political has a theological underpinning, it becomes clear that Schmitt's defense of the normative value of the political is also motivated by a theological and moral conviction. According to Schmitt, a human being should accept that he belongs to the "*res mixtae*," and therefore consent to the necessity of mediated, political relations, both with other human beings and with God (PTII, 115). The attempt to avoid the political therefore stems in Schmitt's opinion from the greatest impiety: the belief that one is essentially a spiritual being and therefore capable of seeking purely spiritual communion with God and with other men. For Schmitt, this attempt to imitate God is the essence of the devil's error. In Schmitt's view, both his account of the structure of the political and his defense of the value of political form are inseparable from his particular theology.

The reason that Schmitt endeavors to distance his account of the political from a moral point of view, moreover, also becomes clearest in light of his particular theology. Schmitt's definition of the political as something that is opposed to the purely moral is derived to counter the challenge he perceives to the necessity of Christ's mediation by the diabolical claim that it is possible to relate to God on the basis of private conviction. Schmitt therefore "conceals, or half-conceals, even to himself,"<sup>30</sup> the moral presupposition of his argument about the political, for in

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<sup>30</sup> Minkov, "Natural Evil as Natural Goodness?," 281.

Schmitt's view, an argument based on 'purely' moral or spiritual grounds would counter his own contention for the necessity and primacy of politics. Schmitt's particular theology, his moral position, and his attempt to offer apparently objective account of political 'realities,' one that is not grounded in private conviction, are of one piece. This must be recognized by those who attempt to learn from Schmitt by detaching his account of the political from his moral motivations, political objectives and theological assumptions.

Second, our analysis of the contradictions that appear in Schmitt's account of the structure of the political should prompt scholars to look more carefully at Schmitt's argument for the inescapability of the political. As we demonstrated in the last chapter, Schmitt's defense of what he presents as the consequences of the inescapability of the political—the necessary multiplicity of political orders and the justice of political particularity—contains several faults. As we have seen, Schmitt's defense of the justice of political particularity is based on the claim that there is a "duality in justice" (WS, 82). This duality in justice is essential to Schmitt's claim for the absolute justice of political particularity: for in order to argue that the "political pluriverse" (CP, 53), the multiplicity of discrete political unities, is both necessary and just, Schmitt asserts that every polity is oriented around two ideas of justice. One is the justice of particularity or exclusivity itself; the justice of political unity and homogeneity that is emphasized by the "leadership principle" (SMP, 36); in short, the justice of 'the political.' According to Schmitt, this principle of justice exists in each polity alongside another 'purely normative' understanding of what is right, an appeal to the substance of the norm of justice itself. We can see that this second principle of justice is necessary, on Schmitt's account, for if all true political orders were oriented exclusively around the principle of particularity, it would

paradoxically be impossible to distinguish one from the other. In other words, political particularity would disappear.

While Schmitt's efforts to maintain this 'duality in justice' indicate the necessity of such an account to his attempt to argue for the possibility and goodness of political particularity, we found in the last chapter that Schmitt is ultimately unable to maintain these two principles in conjunction. Rather, as we saw, Schmitt's manner of articulating the justice of the goal of political unity, as exemplified by the leadership principle, ends up challenging every other normative claim. Schmitt's understanding of the principle of political unity cannot coexist with another substantive account of what is right. Striving for political unity becomes itself the paramount goal of every polity as it is articulated in Schmitt's political theory.

As we found, when the goal of political unity becomes more important than any other substantive goal, it undermines both internal political unity and its correlate, the diversity and plurality of polities in the world. Since, on Schmitt's account, the state can consider any individual who does not take political unity as his paramount goal to be a potential enemy, the domestic situation exists in a condition of great insecurity and uncertainty. The power and the latitude that Schmitt thinks is necessary for the state to pursue political unity would therefore in fact undermine the desired unity. Schmitt's understanding of the centrality of political unity to the state also blurs the distinction between friend and enemy that is central to his understanding of the political: for there is no presumption of friendship among the citizens of the state Schmitt describes. As we saw, Schmitt's inability to articulate a coherent account of political unity is mirrored by his inability to give an account of the political "pluriverse." Schmitt's view of what is required for justice divides the political world into associations that achieve true political form,

all of which are equally just, and those that fail to do so, which are the epitome of injustice. In other words, Schmitt cannot account for a true multiplicity of particular polities. All real polities are oriented around a single idea of justice—that of unity—and all other groups have on Schmitt's account not achieved political form. Schmitt's attempt to defend the necessity of political particularity thereby collapses into contradiction.

Schmitt intends to argue for the absolute justice of political particularity as only a partial understanding of justice, leaving the full content of justice open to various appeals. His partial account of justice, however, inevitably becomes a whole account of justice, and Schmitt ends up arguing for a single idea of justice that must inform every legitimate political order. Though Schmitt's concept of the political is animated in part by revulsion at the prospect of a "world-state embrac[ing] the entire globe and humanity," there is no reason why Schmitt's own understanding of the justice of the political could not inform a globalized power (CP, 57). A global power could, like the Hobbesian sovereign, combine the claim to provide an authoritative account of what is right with an offer of physical protection; a world-government could assert and exercise material and spiritual power simultaneously. Nor is Schmitt's argument that enmity is an essential criterion of the political inimical to a world-state. The most complete explication that Schmitt offers of his understanding of enmity, in the 1933 edition of *The Concept of the Political*, indicates, as we have seen, that it is possible to define the enemy as a domestic 'group' of unorganized individuals who are moreover unaware of their commonality. In other words, Schmitt would have to admit that a globalized power that persecutes enemies as criminals would be political according to his own definition—though the move to portray the enemy as a

“disturber of the peace” and an “outlaw of humanity” is in his view an injustice that he constructs his account of the political in part to avoid (CP, 79).

Finally, Schmitt’s attempt to demonstrate that the political is an inescapable fact also indicates a deeper problem with Schmitt’s approach. Schmitt’s effort to show that the political is a fact of human life seems to be driven by his reluctance to acknowledge or examine his conviction in the worth of political power. This suspicion of private conviction leads Schmitt to focus on his account of the structure of the political, and to try to show that, since human beings are an inextricable mixture of the spiritual and the material, political order is destined to regenerate itself perpetually, and is therefore inevitable. That this effort truncates Schmitt’s insight into his own position can most obviously be seen in the assessment he offers of the significance of Thomas Hobbes, which we examined in Chapter 4.

As we found, Schmitt portrays Hobbes as a defender of Catholic logic because he translates what Schmitt considers to be the essential Catholic insight into a new political form, the modern nation-state. Hobbes is essentially a defender of the one, true, Catholic political theology, according to Schmitt, because his superior argument demonstrates the inevitability of the political. Once Hobbes exposes the contradictions in Salisbury’s implicitly anti-political stance, and restores a proper understanding of the true relation of spiritual and worldly power—in other words, a true understanding of the political—Hobbes, according to Schmitt, reaffirms this true political theology. Schmitt’s presentation of Hobbes as a Catholic hero, then, focuses on the *structure* of the political implicit in Hobbes’s understanding.

Schmitt’s implausible portrayal of Hobbes as defender of Catholic logic is dependent upon Schmitt’s exclusive focus on the structural definition of politics he finds in Hobbes’s

work—the duality of worldly and spiritual power—and his neglect of the fact that he and Hobbes defend political order for different reasons. Hobbes is clearer about his intentions for defending political order than Schmitt: without political order, there will be no peace, and consequently no industry, development of technology, “no arts, no letters, no society.”<sup>31</sup> Schmitt disdains this part of the argument, interpreting Hobbes’s intentions rather along the lines of his own, much murkier understanding of the goodness of political power: that the inescapability of the political on earth verifies the truth of Catholic theology and establishes the goodness of God. The real weakness in Schmitt’s analysis of Hobbes is that he does not address Hobbes’s *substantive* reasons for promoting political order, and consequently does not use Hobbes’s argument about the worth of the political to think about his own.

In other words, Schmitt’s thought is driven to absurd conclusions because Schmitt’s suspicion of the ‘purely moral,’ of private conviction and ideals, drives him to make a defense of political power that attempts to rely on facts—on the ostensibly inevitable renewal of the structure of the political—rather than one that admits its source in moral opinions or convictions. The problem with Schmitt’s thought, in other words, is that it concentrates overmuch on the structure of the political and not enough on a substantive argument about the value of political power and how it relates to other goods. It is Schmitt’s suspicion of private conviction that causes this essential weakness in his thought.

Those who sympathize with Schmitt’s critique of the hypocrisy of the proud idealists can therefore learn some important things from the study of Schmitt. Interpreters of Schmitt should be wary of the assumption that we can share a common enemy with Schmitt without sharing his

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<sup>31</sup> Hobbes, *Leviathan*, 76.

positive political or moral convictions. While it is certainly true that Schmitt's interpreters need not be implicated in all of Schmitt's political choices, those who sympathize with his critique of moral idealists likely have something more in common with him than they often admit: that is, the desire to make a normative argument on behalf of the political, or to defend properly political power. Schmitt's particular motivation for defending the worth of the political seems to be accounted for by his understanding of the theological necessity of believing in the value of political form in order to affirm the goodness of God. Whatever one's own motivation for defending the value of political power is, one is not likely not be helped in discovering or refining it by studying Schmitt, for Schmitt insistently avoids tangling in the question of the relative merits of substantive arguments for the worth of the political.

Moreover, those who desire to defend the value of political power should recognize that Schmitt's understanding of the structure of the political fails to constitute an effective defense. Schmitt's argument about the political always involves an unspecified "norm of justice," a reference to a spiritual concept that is not elaborated; the ideal or norm that Schmitt insists must inform every political order is always a placeholder. By neglecting to make a substantive argument for the good at which political power should aim, or by refraining even from a serious attempt to justify the goodness of political power itself, Schmitt fails to offer a standard by which to judge among the different powers that present themselves, except for the criterion of whichever best or most quickly manages to establish material order. In other words, Schmitt's account of the structure of the political fails in what seems to be its underlying purpose: to distinguish between properly political and purely material power, to justify the political.

Schmitt's argument therefore seems to suffer most pointedly from his effort to avoid giving a substantive account of his understanding of the good of political power, an effort which causes him to focus rather on the structure of the political. Those who are driven by a suspicion of moral idealism to attempt to extract the structure of Schmitt's thought about the political—the 'hard fact' that he ostensibly reveals—and to use it in the service of their own political goals should be aware of this fundamental problem in Schmitt's thought.



## Bibliography

- Agamben, Giorgio. *State of Exception*. Chicago: University of Chicago Press, 2005.
- . “Movement.” Generation Online. <http://www.generation-online.org/p/fpagamben3.htm>.
- Arendt, Hannah. *The Origins of Totalitarianism*. San Diego: Harcourt, Brace and Co., 1979.
- Balakrishnan, Gopal. *Antagonistics: capitalism and power in an age of war*. New York: Verso, 2009.
- Balakrishnan, Gopal. *The Enemy: an intellectual portrait of Carl Schmitt*. New York: Verso, 2000.
- Ball, Hugo. “Carl Schmitts Politische Theologie.” *Hochland* 2, no. 21 (April-September 1924): 261-286.
- Barion, Hans. “Review of ‘Saggi Storia Intorno Al Papato Dei Professori Della Facolta Di Storia Ecclesiastica’.” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung* 77, (1960): 481-501.
- Bates, David. “Political Theology and the Nazi State: Carl Schmitt’s concept of the institution.” *Modern Intellectual History* 3, no. 3 (2006): 415-442.
- Bendersky, Joseph W. *Carl Schmitt, Theorist for the Reich*. Princeton, NJ: Princeton University Press, 1983.
- Blumenberg, Hans. *The Legitimacy of the Modern Age*. Cambridge, MA: MIT Press, 1983.
- Bockenforde, Ernst-Wolfgang. “Carl Schmitt Revisited.” *Telos* no. 109 (Fall 1996): 81-87.
- Caldwell, Peter C. *Popular Sovereignty and the Crisis of German Constitutional Law: The Theory and Practice of Weimar Constitutionalism*. Durham, NC: Duke University Press, 1997.
- . “Legal Positivism and Weimar Democracy.” *American Journal of Jurisprudence* 39, (1994): 273-301.
- Calvin, Jean. *Institutes of the Christian Religion*. Translated by John Thomas McNeill. London: SCM Press, 1961.
- Chen, Jianhong. “What is Carl Schmitt's Political Theology?” *Interpretation* 23, no. 2 (2006): 153-175.

- Colliot-Thélène, Catherine. "Carl Schmitt Versus Max Weber." In *The Challenge of Carl Schmitt*, edited by Chantal Mouffe, 138-155. London: Verso, 1999.
- Cromwell, Oliver. *The Letters and Speeches of Oliver Cromwell*. Edited by Thomas Carlyle. London: Methuen & Co., 1904.
- Dahlheimer, Manfred. *Carl Schmitt und der Deutsche Katholizismus, 1888-1936*. Paderborn: Schoeningh, 1998.
- Dutton, Brett. "Leo Strauss's Recovery of the Political: *The City and Man* as a reply to Carl Schmitt's *The Concept of the Political*." PhD diss., University of Sydney, 2002.
- Dyzenhaus, David, ed. *Law as Politics: Carl Schmitt's critique of liberalism*. Durham, NC: Duke University Press, 1998.
- Gottfried, Paul. *Carl Schmitt: Politics and Theory*. New York: Greenwood Press, 1990.
- Groh, Ruth. *Arbeit an der Heillosigkeit der Welt: zur politisch-theologischen Mythologie und Anthropologie Carl Schmitts*. Frankfurt am Main: Suhrkamp, 1998.
- Gross, Raphael. *Carl Schmitt and the Jews: The "Jewish Question," the Holocaust, and German Legal Theory*. Translated by Joel Golb. Madison: University of Wisconsin Press, 2007.
- Gunnell, John G. *The Descent of Political Theory: The genealogy of an American vocation*. Chicago: University of Chicago Press, 1993.
- Herf, Jeffrey. *Reactionary Modernism: technology, culture, and politics in Weimar and the Third Reich*. Cambridge: Cambridge University Press, 1984.
- Hitler, Adolf. *The Speeches of Adolf Hitler, April 1922-August 1939*. Edited by Norman Hepburn Baynes. London: Oxford University Press, 1942.
- Hobbes, Thomas. *Leviathan: with selected variants from the Latin edition of 1668*. Edited by E. M. Curley. Indianapolis: Hackett, 1994.
- . *Behemoth; Or, the Long Parliament*. Edited by Ferdinand Toennies. Chicago: University of Chicago Press, 1990 [1889].
- Hofmann, Hasso. *Legitimität Gegen Legalität: der Weg der politischen Philosophie Carl Schmitts*. Neuwied: Luchterhand, 1964.
- Holborn, Hajo. *Germany and Europe: Historical Essays*. Garden City, NY: Doubleday, 1970.
- Holmes, Stephen. *The Anatomy of Antiliberalism*. Cambridge, MA: Harvard University Press, 1993.

- Janssens, David. *Between Athens and Jerusalem: philosophy, prophecy, and politics in Leo Strauss's early thought*. Albany: State University of New York Press, 2008.
- . “A Change of Orientation: Leo Strauss's ‘Comments’ on Carl Schmitt Revisited.” *Interpretation* 33, no. 1 (2005): 93.
- Jünger, Ernst and Carl Schmitt. *Briefe 1930-1983*. Edited by Helmuth Kiesel. Stuttgart: Klett-Cotta, 1999.
- Kahn, Victoria. “Hamlet or Hecuba: Carl Schmitt's Decision.” *Representations* 83, no. 1 (2003): 67-96.
- Kalyvas, Andreas. *Democracy and the Politics of the Extraordinary: Max Weber, Carl Schmitt, and Hannah Arendt*. Cambridge: Cambridge University Press, 2008.
- Kelsen, Hans. *What is Justice?: Justice, Law, and Politics in the Mirror of Science: Collected Essays*. Berkeley: University of California Press, 1957.
- Kemp, Friedhelm. “Der Dichter Konrad Weiss.” *Wort Und Wahrheit* 4, (April 1949): 280-292.
- Kennedy, Ellen. *Constitutional Failure: Carl Schmitt in Weimar*. Durham, NC: Duke University Press, 2004.
- Krieg, Robert Anthony. *Catholic Theologians in Nazi Germany*. New York: Continuum, 2004.
- Lilla, Mark. *The Stillborn God: religion, politics, and the modern West*. New York: Knopf, 2007.
- . *The Reckless Mind: intellectuals in politics*. New York: New York Review Books, 2001.
- Löwith, Karl. *Martin Heidegger and European Nihilism*. Translated and edited by Richard Wolin. New York: Columbia University Press, 1995.
- . *My Life in Germany Before and After 1933: a report*. London: Athlone Press, 1994.
- Lomax, J. Harvey. “Carl Schmitt, Heinrich Meier, and the End of Philosophy.” *Interpretation* 28, no. 1 (Fall 2000): 51-78.
- Manent, Pierre. *A World Beyond Politics?: A defense of the nation-state*. Translated by Marc LePain. Princeton, NJ: Princeton University Press, 2006.
- . *Cours Familier De Philosophie Politique*. Paris: Fayard, 2001.
- Maus, Ingeborg. “The 1933 ‘Break’ in Carl Schmitt's Theory.” *Canadian Journal of Law and Jurisprudence* 10, no. 1 (January 1997): 125-140.

- McCormick, John P. *Carl Schmitt's Critique of Liberalism: against politics as technology*. Cambridge: Cambridge University Press, 1997.
- . “Dangers of Mythologizing Technology and Politics: Nietzsche, Schmitt and the Antichrist.” *Philosophy & Social Criticism* 21, no. 4 (1995): 55.
- . “Fear, Technology, and the State: Carl Schmitt, Leo Strauss, and the Revival of Hobbes in Weimar and National Socialist Germany.” *Political Theory* 22, no. 4 (November, 1994): 619-652.
- . “Irrational Choice and Mortal Combat as Political Destiny: The essential Carl Schmitt.” *Annual Review of Political Science* 10, (2007): 315-340.
- . “Political Theory and Political Theology: The second wave of Carl Schmitt in English.” *Political Theory* 26, no. 6 (1998): 830-854.
- Meier, Heinrich. *Carl Schmitt and Leo Strauss: The hidden dialogue*. Translated by J. Harvey Lomax. Chicago: University of Chicago Press, 1995.
- . *The Lesson of Carl Schmitt: four chapters on the distinction between political theology and political philosophy*. Translated by Marcus Brainard. Chicago: University of Chicago Press, 1998.
- . “The Philosopher as Enemy: on Carl Schmitt's *Glossarium*.” *Graduate Faculty Philosophy Journal* 17, no. 1/2 (1994): 325-331.
- Minkov, Svetozar. “Natural Evil as Natural Goodness? Strauss on Schmitt's *Concept of the Political*.” In *Man and His Enemies: Essays on Carl Schmitt*, edited by Svetozar Minkov and Piotr Nowak, 276-284. Bialystock: Bialystock Press, 2008.
- Mohler, Armin. *Die Konservative Revolution in Deutschland 1918-1932: Grundriss ihrer Weltanschauungen*. Stuttgart: F. Vorwerk, 1950.
- Mouffe, Chantal. “Carl Schmitt and the Paradox of Liberal Democracy.” *Canadian Journal of Law and Jurisprudence* 10, no. 1 (1997): 21-33.
- , ed. *The Challenge of Carl Schmitt*. London: Verso, 1999.
- . *On the Political*. New York: Routledge, 2005.
- Mussolini, Benito [with Giovanni Gentile]. *Fascism; Doctrine and Institutions*. New York: H. Fertig, 1968 [1935].
- Neumann, Franz. *Behemoth: The Structure and Practice of National Socialism, 1933-1944*. New York: Octagon Books, 1963 [1944].

*New Catholic Encyclopedia*, 2nd ed. Washington, D.C.: Thomson/Gale Group; in association with the Catholic University of America, 2003.

Noack, Paul. *Carl Schmitt: eine Biographie*. Frankfurt am Main: Propylaen, 1993.

Norris, Andrew. "Carl Schmitt on Friends, Enemies and the Political." *Telos* no. 112 (Summer 1998): 68-89.

Peukert, Detlev. *The Weimar Republic: the crisis of classical modernity*. London: Allen Lane, 1991.

Pius XI, Pope. "Quas Primas." Papal Encyclicals Online. <http://www.papalencyclicals.net/Pius11/P11prima.htm>.

Pius XII, Pope. "Mystici Corporis Christi." Official Vatican Website. [http://www.vatican.va/holy\\_father/pius\\_xii/encyclicals/documents/hf\\_p-xii\\_enc\\_29061943\\_mystici-corporis-christi\\_en.html](http://www.vatican.va/holy_father/pius_xii/encyclicals/documents/hf_p-xii_enc_29061943_mystici-corporis-christi_en.html).

Rauschning, Hermann. *The Conservative Revolution*. New York: G. P. Putnam's sons, 1941.

Rumpf, Helmut. *Carl Schmitt und Thomas Hobbes: ideelle Beziehungen und aktuelle Bedeutung*. Berlin: Duncker & Humblot, 1972.

Salisbury, John of. *Policraticus: of the frivolities of courtiers and the footprints of philosophers*. Translated and edited by Cary J. Nederman. Cambridge: Cambridge University Press, 1990.

Scheuerman, William E. *Carl Schmitt: The End of Law*. Lanham, MD: Rowman & Littlefield, 1999.

Schmidt, Anna. "The Problem of Carl Schmitt's Political Theology." In *Man and His Enemies: Essays on Carl Schmitt*, edited by Svetozar Minkov and Piotr Nowak, 92-123. Bialystock: Bialystock Press, 2008.

Schmitt, Carl. "Der Begriff des Politischen." *Archiv für Sozialwissenschaft und Sozialpolitik* 58, (1927): 1-33.

———. *Der Begriff des Politischen*. Hamburg: Hanseatische Verlagsanstalt, 1933.

———. *Der Begriff des Politischen: text von 1932 mit einem Vorwort und drei Corollarien*. Berlin: Duncker & Humblot, 1963.

———. *The Concept of the Political*, expanded edition. Translated by George Schwab. Chicago: University of Chicago Press, 2007.

- . *Constitutional Theory*. Translated and edited by Jeffrey Seitzer. Durham, NC: Duke University Press, 2008.
- . *The Crisis of Parliamentary Democracy*. Translated by Ellen Kennedy. Cambridge, MA: MIT Press, 1985.
- . “Die Deutsche Rechtswissenschaft im Kampf gegen den Jüdischen Geist.” *Deutsche Juristen-Zeitung* 41, no. 20 (1936): 1196-1199.
- . *Die Diktatur: von den Anfängen des modernen Souveränitätsgedankens bis zum proletarischen Klassenkampf*. München: Duncker & Humblot, 1928.
- . “Drei Möglichkeiten eines christlichen Geschichtsbildes.” *Universitas* 5, no. 8 (August 1950): 926-931
- . *Donoso Cortés in Gesamteuropäischer Interpretation, Vier Aufsätze*. Köln: Greven, 1950.
- . *Ex Captivitate Salus; Erfahrungen Der Zeit 1945-47*. Köln: Greven, 1950.
- . *Gesetz und Urteil: eine Untersuchung zum Problem der Rechtspraxis*. München: C.H. Beck'sche, 1969 [1912].
- . *Gespräch über die Macht und den Zugang zum Machthaber*. Pfullingen: G. Neske, 1954.
- . *Glossarium: Aufzeichnungen der Jahre 1947-1951*. Edited by Eberhard Medem. Berlin: Duncker & Humblot, 1991.
- . *Die Lage der Europäischen Rechtswissenschaft*. Tübingen, 1950.
- . *Land and Sea*. Translated by Simona Draghici. Washington, D.C.: Plutarch Press, 1997.
- . *Legality and Legitimacy*. Translated and edited by Jeffrey Seitzer. Durham, NC: Duke University Press, 2004.
- . *Der Leviathan in der Staatslehre des Thomas Hobbes: Sinn und Fehlschlag eines politischen Symbols*. Köln: Hohenheim, 1982.
- . *The Leviathan in the State Theory of Thomas Hobbes: meaning and failure of a political symbol*. Translated by George Schwab. Westport, CT: Greenwood Press, 1996.
- . *The Nomos of the Earth in the International Law of the Jus Publicum Europeum*. Translated by G. L. Ulmen. New York, NY: Telos Press, 2003.

- . *Political Romanticism*. Translated by Guy Oakes. Cambridge, MA: MIT Press, 1986.
- . *Political Theology: four chapters on the concept of sovereignty*. Translated by George Schwab. Cambridge, MA: MIT Press, 1985.
- . *Political Theology II: the myth of the closure of any political theology*. Translated by Michael Hoelzl and Graham Ward. Malden, MA: Polity, 2008.
- . *Politische Theologie II: Die Legende von der Erledigung jeder politischen Theologie*. Berlin: Duncker & Humblot, 1970.
- . *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles, 1923-1939*. Berlin: Duncker & Humblot, 1994.
- . *Roman Catholicism and Political Form*. Translated by G. L. Ulmen. Westport, CT: Greenwood Press, 1996.
- . *Über Schuld und Schuldarten*. Breslau: 1910.
- . “Die Sichtbarkeit der Kirche: eine scholastische Erwägung.” *Summa* 1 (1917-1918): 71-80.
- . *Staat, Bewegung, Volk: die Dreigliederung der politischen Einheit*. Hamburg: Hanseatische Verlagsanstalt, 1934.
- . *Staat, Grossraum, Nomos: Arbeiten aus den Jahren 1916-1969*. Edited by Günter Maschke. Berlin: Duncker & Humblot, 1995.
- . *Theodor Däublers “Nordlicht:” Drei Studien über die Elemente, den Geist und die Aktualität des Werkes*. Berlin: Duncker & Humblot, 1991 [1916].
- . *Theory of the Partisan: intermediate commentary on the Concept of the Political*. Translated by G. L. Ulmen. New York: Telos Press, 2007.
- . *On the Three Types of Juristic Thought*. Translated by Joseph Bendersky. Westport, CT: Praeger, 2004.
- . *The Tyranny of Values*. Translated by Simona Draghici. Washington, D.C.: Plutarch Press, 1996.
- . “The Visibility of the Church.” In *Roman Catholicism and Political Form*. Translated by G. L. Ulmen. Westport, CT: Greenwood Press, 1996.
- . “Weiterentwicklung des totalen Staates in Deutschland.” In *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles, 1923-1939*, 211-216. Berlin: Duncker & Humblot, 1994.

- . *Die Wendung zum Diskriminierenden Kriegsbegriff*. München: Duncker & Humblot, 1938.
- . *Der Wert des Staates und die Bedeutung des Einzelnen*. Tübingen: J. C. B. Mohr, 1914.
- Shapiro, Kam. *Carl Schmitt and the Intensification of Politics*. Lanham, MD: Rowman & Littlefield Publishers, 2008.
- Shell, Susan. "Taking Evil Seriously: Schmitt's 'Concept of the Political' and Strauss's 'True Politics'." In *Leo Strauss: Political Philosopher and Jewish Thinker*, edited by Kenneth Deutsch and Walter Nicgorski, 175-193. Lanham, MD: Rowman & Littlefield, 1993.
- Slade, Francis. "Catholicism as a Paradigm of the Political?" *Telos* no. 109 (1996): 113.
- Sohm, Rudolf. *Kirchenrecht*. Edited by Erwin Jacobi and Otto Mayer. München und Leipzig: Duncker & Humblot, 1923.
- . *Outlines of Church History*. Translated by May Sinclair. London: Macmillan and Co., 1895.
- . "Die Soziale Aufgaben des Modernen Staates." *Cosmopolis* (November 1897).
- Strauss, Leo. *Gesammelte Schriften*. Edited by Heinrich Meier. Stuttgart: J.B. Metzler, 1996.
- . "Notes on *The Concept of the Political*." Translated by J. Harvey Lomax. In *The Concept of the Political*, translated by George Schwab, 99-122. Chicago: University of Chicago Press, 2007.
- . *Spinoza's Critique of Religion*. Translated by E. M. Sinclair. Chicago: University of Chicago Press, 1997.
- Taubes, Jacob. *Der Fürst Dieser Welt: Carl Schmitt und die Folgen*. München; Paderborn: W. Fink; F. Schöningh, 1983.
- . *The Political Theology of Paul*. Stanford, CA: Stanford University Press, 2004.
- Toennies, Ferdinand. "Hobbes and the *Zoon Politikon*." In *On Sociology: Pure, Applied, and Empirical*, edited by Werner J. Cahnman and Rudolf Heberle, 48-61. Chicago: University of Chicago Press, 1971.
- Vatter, Miguel. "The Idea of Public Reason and the Reason of State." *Political Theory* 36, no. 2 (2008): 239-271.
- . "Taking Exception to Liberalism: Heinrich Meier's Carl Schmitt and Leo Strauss: The hidden dialogue." *Graduate Faculty Philosophy Journal* 19/20, no. 2/1 (1997): 323-345.



———. “Strauss and Schmitt as Readers of Hobbes and Spinoza: on the relation between political theology and liberalism.” *The New Centennial Review* 4, no. 3 (2004): 161-214.

Wacker, Bernd, ed. *Die Eigentlich Katholische Verschärfung: Konfession, Theologie und Politik im Werk Carl Schmitts*. München: W. Fink, 1994.

Werner-Mueller, Jan. “Carl Schmitt—an Occasional Nationalist?” *History of European Ideas* 23, no. 1 (1997): 19.

———. *A Dangerous Mind: Carl Schmitt in post-war European thought*. New Haven: Yale University Press, 2003.

Wolin, Richard. “Carl Schmitt: The Conservative Revolutionary Habitus and the Aesthetics of Horror.” *Political Theory* 20, no. 3 (August, 1992): 424-447.