IN DEFENSE OF THE STATE: CARL SCHMITT'S CRITIQUE OF LIBERALISM AS THE IDEOLOGY OF CIVIL SOCIETY

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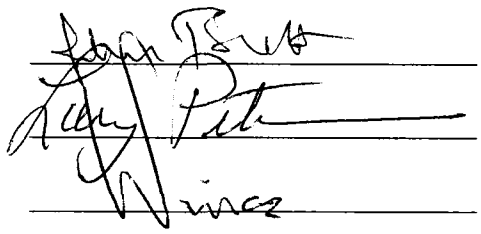

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DEDICATION

This dissertation is dedicated to my wife, Tanya Lynne Cunic, Psy.D., who is the love of my life, and without whose support, love and example it could not have been completed. It is also dedicated to my son, Zachary Ross Koon, the sweetest, happiest child I have ever known.

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ABSTRACT

Carl Schmitt's Weimar era critique of liberalism and democracy has been hailed as original and significant for contemporary political theory, yet Schmitt operated within a historical, political and cultural context very different from our own. I argue that Schmitt is best understood within the context of German historicism, and that his political philosophy is motivated by concerns he shares in common with the nineteenth century German conservative historicism of the sort best represented by the political works of Heinrich von Treitschke. Though reacting to different events, both seek to preserve the status of the state as a force standing over civil society. Both react to the advance of what might be regarded as the ideology of modern civil society, i.e., liberalism, economics, and the politics of the rational, self-interested individual. I will attempt to show that the themes of war, duty and power are central to Schmitt's political philosophy, and that these are borrowings from the German tradition of conservatism typified by the work of Treitschke. In an effort to preserve what he saw as valuable in the German tradition of the state against the encroachment of civil society, Schmitt placed a strong emphasis on war as a firm basis for the state's right to demand obedience from its subjects, and strove to increase the power of the state to overcome what he saw as the centrifugal forces of civil society. Schmitt specifically denies that liberalism is a political doctrine: although Schmitt does not call liberalism the ideology of civil society, he presents it as such, and offers his own, unambiguously "political" theory as an alternative. In seeking to reinforce the power of the state while diminishing the role of civil society in politics, Schmitt relies greatly on the application of an older critique of bourgeois civil society to the political theory of liberalism.

CHAPTER 1

Introduction

> War is still today the most extreme possibility. One can say that the exceptional case has an especially decisive meaning which exposes the core of the matter. For only in real combat is revealed the most extreme consequence of the political grouping of friend and enemy. From this most extreme possibility human life derives its most specifically political tension.[1]
>
> Only in time of war does the importance of politics really come home to us. In a life of peace and quiet most people give little thought to the State, and are therefore willingly disposed to underrate it.[2]

This dissertation examines Carl Schmitt's effort to lay a stronger foundation for duty to the state, and will show that Schmitt's political philosophy, rather than being entirely novel, actually evolves out of nineteenth century political philosophy of the sort best exemplified by the work of nineteenth century conservative historian and political philosopher Heinrich von Treitschke, whose popularization of Hegelian political theory is best known through his *Politics*. I offer an interpretation of Schmitt which will demonstrate how his Weimar-era work is essentially a modernization of nineteenth century German conservatism, which is best exemplified by Treitschke's Hegelian political theory, designed to address what Schmitt saw as main problem of political modernity. For Schmitt, this main problem can be broadly conceived of as the ever-increasing and improper intrusion of civil society into the domain of the state, an intrusion brought on by the historical march of democracy. According to Schmitt, liberalism serves to weaken the state and to make it ever more responsive to the

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[1] Carl Schmitt, *The Concept of the Political,* George Schwab, trans. (Chicago: University of Chicago Press, 1996), p. 35.
[2] Heinrich von Treitschke, *Politics,* Blanche Dugdale & Torbin de Bille, trans. (London: Constable & Company, 1916), vol. I., p. xxxi.

economic demands of particularistic forces within civil society. The problem with this is that this increasingly weakens the state, which eventually is unable to meet the demands of some crisis or another, and collapses. Schmitt's response to what he regards as a liberal assault on the foundations of the state is to seek to reinforce the state. As he deals with this problem, Schmitt relies upon an understanding of the proper relationship between the state and civil society that called for the unrestricted power of the state. Although this strain of thought has its origins in Hegel, this theory of the strong state became dominant in the late nineteenth century, when men such as the historian Heinrich von Treitschke popularized it.

Although Schmitt's work has gained some currency in Anglo-American academic political philosophy in recent years, much of it is insufficiently informed by the proper historical context: while Schmitt is clearly critical of the Weimar constitution and society, the question of the extent to which his writings hearken back to the period of relative stability following 1871 has been under-appreciated. During this period, Bismarck consolidated the rule of the central authority, and Heinrich von Treitschke acted as a strong advocate of the *Machtstaat*, the power-state. The unification of Germany and the victory of Prussia in the Franco-Prussian War did give rise to a militant, state-centered nationalism based on Hegel's political writings, yet, at the same time, German civil society was making new claims on the state. New "isms"—liberalism, pacifism, socialism, communism, and economism—appeared to challenge the state's monopoly on the political. Treitschke conducted his defense of the political primacy of the state until his death in 1896. During the Weimar era, Carl Schmitt continued this defense of the

state much where Treitschke left off, yet dropped much of Treitschke's most bellicose rhetoric.

This softening is understandable: given the disastrousness of the First World War for Germany, a serious advocate of the prewar *Machtstaat* would have to make his political program compatible with the post-war order, as it was widely believed that the ideological and institutional arrangements of Wilhelmine Germany were directly responsible for the decision to go to war. Schmitt and Treitschke also share an interpretation of Hegel that treats the state/civil society divide as a dualism that "hardens the antagonism between social disorder and political order."[3] Yet, unlike Treitschke, Schmitt has the historical advantage of being able to see the progress of democracy, and even the institution of representative government in Germany, an event Treitschke would have regarded as highly improbable, given that he saw Germany as monarchical by nature. Though not necessarily opposed to democracy in the classical sense, Schmitt is deeply opposed to liberal democracy, as it violates the sanctity of the domain of politics, and threatens to make the state the mere puppet of civil society. Insofar as liberalism remains a specifically apolitical doctrine, it does not threaten the state or politics. It is in arguing for the political recognition of the primacy of the private life of production and consumption, for the concrete political representation of private interests, that liberal democracy threatens the state through the politicization of previously apolitical social forces.

Schmitt as a Critic of Liberalism

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[3] Renato Cristi, *Carl Schmitt and Authoritarian Liberalism: Strong State, Free Economy*, (Cardiff: University of Wales Press, 1998), p. 100.

It must be asked whether serious consideration of the work of Carl Schmitt is worthwhile for contemporary political theory. The conventional wisdom is that it is. Carl Schmitt's Weimar era work is said to offer, "unexplored potentialities for radical democratic theory,"[4] and "because only by engaging in a dialogue with a steadfast enemy of liberal dialogue like Schmitt can they [Schmitt's contemporary liberal interlocutors] vindicate both liberalism and the endless dialogue that is political philosophy."[5] With the historical demise of Marxism-Leninism as liberalism's main rival, it is perhaps unsurprising that liberal political theorists have turned to Schmitt, whose work is thought to give insight into liberalism's weaknesses so that its proponents may remedy them. John Rawls, whose 1971 *A Theory of Justice* made him a central figure in contemporary liberalism, joined the many other liberals for whom Carl Schmitt's work represents an interesting challenge. The 1996 edition of Rawls' other book, *Political Liberalism*, cites Schmitt's work as an example of the elite dissatisfaction with democracy that contributed to the collapse of Weimar.[6] For Rawls, this points to the need for a conception of justice that may be understood and acted upon while still cherishing the diversity of values that is characteristic of modernity. This is an important aspect of the challenge to liberal democracy presented by Carl Schmitt, and the one that most interests liberal political theorists. Schmitt's answer to the problem of value pluralism is national homogeneity, a solution that most liberals find both impossible and undesirable. Liberal students of Schmitt, while rejecting his nationalism, nonetheless accept Schmitt's critique of

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[4] Andreas Kalyvas, "Who's Afraid of Carl Schmitt?" *Philosophy and Social Criticism*, 25 (1999): 87-125; p. 89.
[5] Ronald Beiner, "Forward," in David Dyzenhaus, ed., *Law as Politics: Carl Schmitt's Critique of Liberalism* (Durham: Duke University Press, 1998.), p. ix.
[6] John Rawls, *A Theory of Justice* (Cambridge: Belknap Press, 1971). John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), p. *lxii*.

pluralism as valuable, and hope to answer it by either substituting some set of shared values that may replace national identity as the source of "substantive homogeneity," or by crafting a liberalism that accepts the undefined character of democratic politics.[7]

Much of the revival of interest in Schmitt has been driven by an urge to instrumentalize his teachings as part of a broader assault on bourgeois liberalism. Schmitt himself took part in this critique, though he did so from the right, whereas many of his current devotees hope to use him to construct a critique from the left. There should be serious reservations about such an attempt, not because Schmitt's work is irrevocably tainted by fascism or proto-fascism, but because it was intended to address a very different problem. Schmitt's critique of liberalism was developed as a defense of the strong state standing above civil society. Schmitt sees the executive as the branch of government most able to represent the will of all, and regards the legislature as a hypocritical bourgeois institution, justified on the basis of the norm of rational discussion yet practicing pure party politics and the art of the backroom deal, with the result that groups within civil society are able to demand ever greater intervention on their behalf, while systematically denying that anything is owed to the state on their part.

That Schmitt's work continues to be relevant to both supporters and opponents of liberalism points toward an ambiguity towards liberalism within Schmitt's thought. Its Hobbesian origins notwithstanding, liberal political philosophy developed in opposition to advocates of a strong state, at the outset against absolute monarchists and later against the twin totalitarian alternatives of Stalinism and fascism. Schmitt's work appears as an attempt to solve what he sees as *the* fundamental dilemma of modern politics, which is

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[7] For the former, see Rawls, op. cit. For the latter, see Chantal Mouffe. *The Return of the Political.* (London: Verso, 1993).

the question of the proper relationship between the state and civil society. Schmitt sees the political emergence of civil society as so decisive that it requires the redefinition of the political itself:

> ... the general definitions of the political which contain nothing more than additional references to the state are understandable and to that extent also intellectually justifiable so long as the state is truly a clear and unequivocal eminent entity confronting nonpolitical groups and affairs—in other words, for as long as the state possesses the monopoly on politics. That was the case where the state had either (as in the eighteenth century) not recognized society as an antithetical force or, at least (as in Germany in the nineteenth century and into the twentieth) stood above society as a stable and distinct force.[8]

Implicit in this is a recognition by Schmitt that he cannot put the genie back into the bottle, that the intrusion of civil society into the domain of the political is irreversible. In this recognition, we see that Schmitt is not simply an etatist. On the other hand, in contradistinction to those liberals who would make the state the mere servant of civil society, who advocate limited government and who aim to restrict it through checks and balances, Schmitt clearly prefers a state that does stand above civil society. For Schmitt, any state that is dominated by civil society is doomed, and so he devotes much effort to the cause of strengthening the state.

Schmitt's Cultural and Historical Context

Carl Schmitt's work brings to light the relationship between political theory and political reality. In *Philosophy of Right*, Hegel's classical presentation of the relationship between the state and civil society—that the state must stand above civil society—is

[8] Schmitt, *The Concept of the Political*, p. 22.

presented as the political reality of nineteenth century Germany.[9] Yet for most of the nineteenth century, Germany did not exist as a unified state, and so was not a political unity, *eine politische Einheit.* For Schmitt, German political unity was something to be preserved, yet in the nineteenth century it was something that had yet to be won. It is perhaps not surprising therefore to find that Schmitt's arguments for preserving political unity are prefigured by Treitschke, whose main task prior to 1871 was to establish political unity. Part of Schmitt's solution to the problem of the threat posed to the state by the intrusion of civil society into politics is to emphasize the "substantive equality" of democracy, which may consist of moral equality, equality in virtue, the equality of all believers in a religious faith, or be based on nationality, depending upon the historical time and place.[10] Though this may be taken to mean that Schmitt is agnostic with regard to the content of substantive equality, Habermas is correct to note that Schmitt addresses the question as though such equality must be based on ethnonational homogeneity in modern democracies.[11] Though the concrete political problem faced by Treitschke was the division of Germany into numerous small states rather than the inability of the state to stand above civil society, it is precisely the same ethnonational homogeneity that emerges as the instrument of political unity in his writing: "...we see that there are two strong forces working in history; firstly, the tendency of every State to amalgamate its population in speech and manners into one single mould, and secondly, the impulse of every vigorous nationality to construct a state of its own."[12] Though Schmitt and

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[9] G.W.F. Hegel, *Philosophy of Right,* T.M. Knox, trans. (New York: Oxford University Press, 1967), p. 285.
[10] Carl Schmitt, *Verfassungslehre (*Berlin: Duncker & Humblot, 2003), pp. 228-231.
[11] Jürgen Habermas, "On the Relation between the Nation, the Rule of Law, and Democracy," In Jürgen Habermas, *The Inclusion of the Other (*Cambridge, Ma.: MIT Press, 1998), pp. 129-153.
[12] Treitschke, *Politics,* vol. I, p. 272.

Treitschke were responding to crises of political unity that were very different in their origin, ethnonational homogeneity as the prepolitical basis of the state remains part of the solution.

One of the difficulties in any studying the work of any political theorist of the past is determining why their work should be of continued interest, given that most of the political writers in the canon of political philosophy were, more or less, motivated by political events and concerns of their own place and time. A work that speaks to our own time will certainly be of historical interest as well, but when is it that we can say that the opposite is certainly the case? There is therefore an unavoidable tension in the study of the history of philosophy, and this tension comes to the forefront in the work of Carl Schmitt. As Jürgen Habermas has written, Schmitt belongs to a "very German" tradition, which raises the question of whether Schmitt is simply too German for his work to be of any relevance to foreigners. Schmitt consciously sought to develop a specifically German political and legal theory, as he believed this was essential to maintaining German autonomy, particularly in the face of what he regarded as Anglo-Saxon cultural and economic imperialism.[13] Moreover, his Weimar production was written in a time of political, economic, and social crisis, the characteristics of which may or may not repeat themselves in our time. It has been convincingly argued that Schmitt's production during this period was meant to address the contemporary political problems of the era.[14] In the

[13] "A people is not defeated until it subjugates itself to the foreign vocabulary, the foreign conception of what is right and lawful, particularly as it pertains to international law." Carl Schmitt, "USA und die Völkerrechtlichen Formen des modernen Imperialismus." In Carl Schmitt, *Frieden oder Pazifismus? Arbeiten zum Völkerrecht und zur internationalen Politik*, Günther Maschke, ed. (Berlin: Duncker & Humblot, 2005): 349-377, p. 365.

[14] As one author has noted, Schmitt's desire to address contemporary problems results in "... a perpetual flux of political positions across Schmitt's work...whose work consists overwhelmingly of interventionist texts." Gopal Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt* (London: Verso, 2000), p. 5.

quest for Schmitt's continuing significance, it is possible to overlook the extent to which his work is constrained to its relevant temporal-spatial context, i.e., Germany in the 1920's and 30's.

Schmitt's 1923 *Die geistgeschichtliche Lage des heutigen Parlamentarismus*[15] was published in an English translation in 1985 as *The Crisis of Parliamentary Democracy*. In many ways, this is a prescient work, as it anticipates by a decade the crisis that would prove to be the undoing of Weimar. It is a leap, however, to assume that his lack of faith in the Weimar political arrangements, imposed, as they were, upon a nation with a slender democratic heritage, is equally applicable to, for example, the United States today. If his critique of the collapse of the parliamentarianism as the political expression of enlightenment rationality applies to democratic arrangements more generally, how do we explain the relative stability of the American federal and republican form, a form that Schmittian theory depicts as inherently unstable in the face of liberalism? Although much of the recent literature focuses on Schmitt's agonal solution to the "problem" of modern liberal democracy, it is appropriate to ask the question of whether the problem Schmitt sees in modernity is really a problem at all, or at least whether Schmitt's diagnosis is the most appropriate one.

None of this should be taken to mean that Schmitt is absolutely useless to students of political philosophy. I mean only to raise the issue of the generalizability of Schmitt's writing as a problem that should be seriously considered. Such a consideration requires, at a minimum, the development of an understanding for the cultural and historical context of Schmitt's work. It is clear that, while his work was interventionist, Schmitt also

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[15] Literally "The spiritual-historical situation of parliamentarianism (by which the parliamentary regime is meant) today."

thought he was addressing universal political issues. For this reason, we ought to seriously examine when it is likely Schmitt is addressing a contemporary issue, and when it is likely he is developing a political theory that may be of universal worth. Sometimes, this is a fairly simple matter of examining the context in which Schmitt used certain words and phrases—for example, when Schmitt refers to "the state" in the singular, he refers to the German state, but when he refers to it in the plural, he refers to all modern states, or even all states, depending upon the context.

Schmitt is quite often described as a diagnostician of political phenomena, as a discriminating evaluator of the problems of modern politics. This may be so, but we should have a care in making such use of Schmitt. Schmitt carefully staked out his territory as defined by time and place, and his method and outlook were thoroughly historical. So, while it is certainly legitimate to look to Schmitt for some sort of analysis or diagnosis of political modernity, we must simultaneously maintain a resolute awareness of these three things: first, the historical tradition within which Schmitt is operating, second, the way Schmitt himself is always careful to qualify his diagnoses historically, and third, that differences between our time and place and the time and place in which Schmitt wrote may limit the extent to which Schmitt's thinking may be generalized to apply here and now.

Schmitt's writings span the better part of a century, and even when we restrict the scope of inquiry to his writings in the 1920's and 1930's, we are liable to find that the problem in confronting Schmitt's work is that it lacks coherence. This poses a theoretical challenge: what sorts of statements can we make about Schmitt's work that will always be true? Is there a single viewpoint from which all of Schmitt's various positions and

concepts remain comprehensible? If we answer these questions, we have a sort of key to understanding Schmitt's thought as a whole. It would enable us to understand what Schmitt is for as well as what he is against, and what his point of reference is. Anyone who has struggled with Schmitt's wide-ranging corpus will surely appreciate why such a simplification is desirable. Simply put, the useful simplification I propose is this: Schmitt is for the state, and against civil society, to the extent that civil society improperly intrudes upon the state: he adopts the viewpoint of the state. To Americans, this might seem surprising, because we are used to thinking of civil society as something that is unquestionably good. To understand Schmitt, it is necessary to forget this, and instead to understand civil society as Hegel understood it, for that is how Schmitt understands it. Briefly put, we should understand that civil society is good insofar as it is an arena for the satisfaction of legitimate human wants and needs, and bad insofar as it intrudes into politics. This is because civil society is an amorphous, unwieldy thing, potentially at war with itself, whereas the state is a unity among other unities, and must not become internally disunited.

From this perspective, to hand the right to political rule over to civil society would be to invite disaster. Civil society is the sphere wherein the needs of individuals are satisfied, and this cannot make up the life of the state. As Treitschke put the matter, "The nation that lives only to justify those social appetites, whose only wish is to grow richer and live more comfortably, must inevitably fall prey to the lowest propensities of nature."[16] Though there is not a single viewpoint that may be identified with civil society, all serious challenges to the authority of the state come from elements within it, the most notable of which is subsumed under the category of "the economic." Though

[16] Treitschke, *Politics,* vol. I, pp. 72, 50.

there are other political points of view to which Schmitt is opposed, Schmitt devotes much of his writing to opposing liberal democracy. Given that liberal democracy amplified its ideological hegemony throughout the last century, it should be unsurprising that Schmitt's opposition to liberal democracy should be one of the major areas of interest to readers of Schmitt.

Democracy versus Liberalism

One of the key distinctions that Schmitt clearly posits as a universal condition of political modernity is the one he makes between democracy and liberalism. Schmitt understands democracy as the identity of ruler and ruled, and therefore as a political form, whereas liberalism is politically neutral: "...neither a political theory nor a political idea."[17] Liberalism has no theory of the state, according to Schmitt, except to focus obsessively on the various ways to constitutionally limit the state, which Schmitt categorizes as an essentially nonpolitical posture.[18] This, as Heiner Bielefeldt notes, results in what Schmitt regards as an irreconcilable contradiction between democracy and liberal constitutionalism: "Whereas democracy is a particular way of *exercising* political sovereignty, constitutionalism is exactly the opposite, namely, a way of *preventing* political sovereignty."[19] For Schmitt, sovereignty is absolute, and so a limited government is not properly regarded as a government at all.

Clearly, then, Schmitt is opposed to liberal democracy, and political theorists have answered this criticism largely by speculating on the substance of the alternative Schmitt

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[17] Schmitt, *The Concept of the Political,* p. 61.
[18] Ibid., p. 61.
[19] Heiner Bielefeldt, "Carl Schmitt's Critique of Liberalism." in David Dyzenhaus, ed., *Law as Politics: Carl Schmitt's Critique of Liberalism,* pp. 23-36, p. 27.

advocates.[20] For Heinrich Meier, Schmitt's opposition to liberalism is due to Schmitt's self-understanding as a political theologian, which means that, for Meier's Schmitt, questions of right and wrong are irrelevant, and what matters most is to follow the command of faith to take action that cultivates the enmity necessary for the upholding of the political.[21] John McCormick contends that Schmitt opposed liberalism because it represents the intrusion of a depoliticizing and nihilistic technology into politics, which can only be countered through the use of myth.[22] Paul Gottfried argues that Schmitt is best regarded as a "pessimistic Hegelian," in that he sees the sovereign state as indispensable for politics and civilization, and yet vulnerable and fragile.[23] Renato Cristi has argued that the substance of Schmitt's political vision is best considered to be "authoritarian liberalism," and that the main object of his attack is democracy rather than liberalism.[24] Jerry Muller has argued that Schmitt is a "radical conservative" who seeks to use the power of the state for conservative ends.[25]

Schmitt's Alternative: the *Machtstaat*

All of these interpretations are certainly defensible, but they illustrate what I regard as the main problem of our understanding of Schmitt: there is much consensus that Schmitt is an opponent of liberal democracy, but less on the alternative he proposes.

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[20] One author has called the validity of this strain of political theory into question. See Emanuel Richter, "Carl Schmitt: The Defective Guidance for the Critique of Political Liberalism," *Cardozo Law Review*, 21 (2000): 1619-1644.

[21] Heinrich Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue,* J. Harvey Lomax, trans. (Chicago: University of Chicago Press, 1995). See also Heinrich Meier, *The Lesson of Carl Schmitt: Four Chapters on the Distinction between Political Theology and Political Philosophy,* Marcus Brainard, trans. (Chicago: University of Chicago Press, 1998).

[22] John P. McCormick. *Carl Schmitt's Critique of Liberalism: Against Politics as Technology.* (New York: Cambridge University Press, 1999).

[23] Paul Edward Gottfried, *Carl Schmitt: Politics and Theory (*New York: Greenwood, 1990), p. 32.

[24] Cristi, *Carl Schmitt and Authoritarian Liberalism: Strong State, Free Economy.*

[25] Jerry Z. Muller, "Carl Schmitt, Hans Freyer and the Radical Conservative Critique of Liberal Democracy in the Weimar Republic," *History of Political Thought*, XII (1991): 695-715.

Given this gap in the literature, this work addresses itself more to the latter than to the former. The development of this line of inquiry is a worthwhile project for contemporary political theory, as, in order to understand the real purpose of Schmitt's opposition to liberalism, it must be understood what it is that he does advocate. It is clear that Schmitt is opposed to modern liberalism, and his critique of it has become well known and thoroughly studied. What is less clear is the extent to which the content of this critique is intertwined with Schmitt's positive political program.

Part of his agenda is to establish ethnonational homogeneity as the basis of the modern state, which appears as a solution to a problem described and solved in very traditional Hegelian terms, i.e., the danger to the state of civil society. Related to this is what Tracy Strong rightly identifies as "a deeper claim," that "the political defines what it is to be a human being in the modern world and that those who would diminish the political diminish humanity."[26] Here, Schmitt seeks to retake the moral high ground from those (i.e., liberals, universalists, pluralists, pacifists, etc.) who had seized it with such success from the advocates of the political order as it had existed in Germany since 1871.

It has been asserted that "Unlike the enemies of liberalism, such as fascists and Nazis, who had an alternative to it, Schmitt did not."[27] Though it is true that Schmitt himself despaired at constructing an alternative to liberalism, this does not mean that he thought liberalism was unassailable, or undeserving of being assailed. Schmitt does not provide an alternative to liberalism because he does not feel it is incumbent upon him to do so: it suffices that he complete the critique of liberalism, and the alternative to

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[26] Tracy B. Strong, "Foreword: Dimensions of the New Debate Around Carl Schmitt," in Carl Schmitt, *The Concept of the Political*, pp. ix-xxvii, p. xv.
[27] Paul Piccone and Gary Ulmen. "Uses and Abuses of Carl Schmitt," *Telos* 122 (Winter 2002): 3–32, p. 17.

liberalism will arise quite naturally from the traditions and culture of Germany. Liberalism, as such, is an unpolitical system of ideas arising historically from the unpolitical area of human life, and can do no harm if it remains confined to that domain. In other words, liberalism is the ideology of civil society, and so long as it does not attempt to impose itself upon political life, it need not be destroyed, only confined to its proper domain:

> German romanticism from 1800 until 1830 is a traditional and feudal liberalism. Sociologically speaking, it is a modern bourgeois movement in which the citizenry was not sufficiently powerful enough to do away with the then existing political power bathed in feudal tradition. Liberalism therefore wanted to coalesce with tradition as, later on, with the essentially democratic nationalism and socialism. No specific political theory can be derived from consequent bourgeois liberalism.[28]

Time and time again, Schmitt refers to liberalism as a "system," whereas we can see here that the political ideas that are native to Germany are held by him to be a tradition.[29] All of these things, when taken together, serve to lower the bar of the task Schmitt sets himself: liberalism does not have to be absolutely refuted, only contained, restricted to the unpolitical areas of life; Schmitt does not have to develop an alternative to liberalism because tradition will supply it better than he could devise it.

Any reader of Schmitt must come to the conclusion that he was conservative, but it must be asked what it was he sought to conserve. To understand this, it is essential that we examine the historic legacy of the German *Machtstaat*, which was most forcefully propounded by Heinrich von Treitschke. Like Schmitt, Treitschke concerns himself very much with the position of the state as an entity standing over civil society. In his political

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[28] Schmitt, *The Concept of the Political,* p. 69.

[29] Ibid., p. 71. It is often noted that Schmitt referred to the "incredibly coherent systematics of liberal thought," but it is seldom mentioned that Schmitt likely regarded this as a backhanded compliment, that he, as a conservative, might harbor some skepticism about astoundingly consistent systems.

writings, Treitschke lays heavy emphasis on war, duty to the state, and the power of the state. Treitschke presents these elements as the foundation of the German regime during his lifetime, and Schmitt sought to incorporate them into a modern German state that could withstand the threat posed by the political emergence of civil society. War, duty, and power supported old political arrangements admirably, and so Schmitt's task is not so much to put forward a new political program in opposition to liberalism as it is to weaken liberalism so that the traditional German political outlook will prevail.

The overall objective of Schmitt is therefore to establish that the state is a political unity, unquestionable even in the face of the divisions within civil society. In order to accomplish this aim, which may be broadly characterized as Hegelian, Schmitt makes a turn which is inspired by Hobbes, the "always most modern of all philosophers of pure human power."[30] Though Hobbes was directly concerned with the foundation of the modern state, Schmitt was concerned with its maintenance in the face of the political emergence of the masses and civil society, which he saw as the fundamental problem of modernity. Schmitt replaces Hobbes' war of all against all with the possibility of modern warfare as the threat that serves as the ground for political obligation, and it is from this duty that the powerful state emerges.[31] This means of securing obedience is Schmitt's most significant borrowing from Hobbes. Such a state as Schmitt describes is capable of asserting itself against both internal and external threats, as well as standing over the small-minded squabbles and divisive interests that Schmitt saw as gnawing away at the unity of the state like so many termites. Though the masses in the modern state are "socially and psychologically heterogeneous," a strong state can, for Schmitt, overcome

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[30] Carl Schmitt, "Gespräch über die Macht," in *Gespräch über die Macht und den Zugang zum Machthaber/Gespräch über den Neuen Raum* (Berlin: Akademie Verlag, 1994): 9-33, 16, 26.
[31] Thomas Hobbes, *Leviathan* (Indianapolis: Hackett, 1994), pp. 77-88.

this heterogeneity by reinforcing homogeneity, thereby creating a virtuous circle in the political life of the people.[32] Schmitt's preferred state looks very much like Treitschke's, except that it is no longer based upon the "dynastic legitimacy of absolute princes," the governing value of which was honor.[33] What Schmitt's *Machtstaat* shares with Treitschke's is the element of decisiveness, framed in express opposition to the liberal "parliamentary legislative state's tendency towards endless discussion," embodied in institutional arrangements that are capable of enacting the plebicitary will of a homogeneous people.[34]

Synopsis of the Argument

I have described the bare bones of an approach to Schmitt's work that puts him into the context of previous German political theory, in that it marks an attempt to use Hobbesian means to achieve the Hegelian political end of political unity under a state that stands over civil society. Schmitt purposefully devises war, duty, and power as countervailing concepts that undermine key concepts of liberalism, just as Schmitt's famous category of "the political" aims a dagger-thrust at the liberal concept of "the economic." Schmitt's tactic is to gainsay liberal thought in a systematic way. Thus, if the liberal notion of peace describes it as the natural state of affairs wherein people pursue their own true self-interest, which leads them naturally to cooperative trade and commerce, then Schmitt does all he can to depict peace as unnatural and war as natural, to show that war can be an honorable affair and economics can be lowly and deceitful,

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[32] Carl Schmitt, *The Crisis of Parliamentary Democracy,* Ellen Kennedy, trans. (Cambridge, MIT Press, 1988), p. 25.
[33] Carl Schmitt, *Legality and Legitimacy,* Jeffrey Seitzer, trans. (Durham: Duke University Press, 2004), pp 7-8.
[34] Ibid., p. 9.

and that a notion of self-interest that takes no account of one's role in the state is excessively individualistic and contrary to the life of a free man.

This account, if not entirely the opposite of the liberal account of peace, is nonetheless consistently at odds with it. Similarly, the Schmittian theme of duty to the state is presented in opposition to the liberal view that the aim of life is freedom, conceived of primarily as the private search for pleasure. Schmitt's vision of power stands opposed to a liberal one that holds that state power is inherently dangerous, that it is best to keep the government small and weak so that it does not threaten liberty, or demand too much of a sacrifice of individuals. These three themes are taken up in succession in Chapters Four, Five, and Six. Chapter Seven deals with Schmitt's overall effort to create stability by asserting the unity of the state as a force over civil society. The remainder of this introduction concerns itself with a chapter-by-chapter synopsis of this argument.

The second chapter of this project is a literature review of works relating to Carl Schmitt, with special attention to the English-language secondary literature. The second part of this chapter is an exploration of the literature that makes up and contributes to the debate between Carl Schmitt and Leo Strauss on Schmitt's *The Concept of the Political.* The third chapter reviews the literature on Heinrich von Treitschke, with an eye toward situating his teachings in the broader context of nineteenth century Germany. The three chapters that follow this concern the three thematic elements that make up Schmitt's Hobbesian solution to the dilemma posed by the political emergence of civil society.

Chapter Four concerns Schmitt's understanding of war. Liberals, if not completely pacifistic, nonetheless profess themselves to be peaceful. Yet despite this

more or less peaceful and anti-militaristic stance taken by liberals, in an age in which liberalism is assuming the characteristics of a global orthodoxy, war between nations has remained a fact of political life. This is at apparent odds with liberal political philosophy, which treats war—when it treats war at all—as an aberration, a problem which can be resolved through the right set of international institutions and agreements—something like a liberal state on a global scale.

Yet war arises with enough regularity to cast doubt on the liberal account of peace as the norm, making Schmitt's emphasis on war as an essential element of politics seem sensible. As one German observer notes, "After the attacks of 9/11, of course, one could gain the impression that Schmitt had become the prophet of American politics."[35] In *The Concept of the Political*, the possibility of war is the Hobbesian remedy Schmitt applies to the problem posed by the quantitative total state.[36] War plays a similar role in the theory of both Treitschke and Schmitt—it is the savior of politics: "War is Politics κατ' έξοχήν. Again and again it has been proved that it is war which turns a people into a nation, and that only great deeds, wrought in common, can forge the indissoluble links which bind them together."[37] Although political ideals worth fighting for may be abstract, the unity that war can bring to a nation is presented as very real, and war may be said to be constitutive of the state, and the political.[38] Just as it does in Hobbes, it is fear—in this case, of external threats—that provides a rational basis for political obedience: "Whoever doesn't have the power to protect another person doesn't have the

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[35] Dirk Blasius. "Carl Schmitt: Relevance and Ambivalence," *German Historical Institute London Bulletin*, XXV (2003): 55-63, p. 58.
[36] Schmitt, *The Concept of the Political*, pp. 32-39.
[37] Treitschke, *Politics,* vol. I, pp. 51-52.
[38] This observation has its analogue in the literature on transitions to democracy, where it has been noted that relatively nonviolent transitions may actually produce less stable outcomes than violent ones. See Jon Elster, Claus Offe & Ulrich K. Preuss, *Institutional Design in Post-Communist Societies: Rebuilding the Ship at Sea, (*Cambridge: Harvard University Press, 1998), pp. 6-10.

right to require obedience from him. And conversely, whoever looks for protection and accepts it does not have the right to refuse to obey."[39]

Chapter Five considers the theme of duty to the state. The question of the extent and ground of individual obligation to the state is a fundamental problem of political philosophy in general and for liberal political philosophy in particular. Hobbes sought to base obedience to the state on the fear of a violent death. For him, without the state, we are all surely more vulnerable to a violent death than we are with the state—moreover, the Hobbesian state itself uses fear of a violent death as a means of social control, using the mortal terror of the gallows to keep vainglorious and prideful natures in check.[40] What is more, every state must have the ability to defend itself, and to this end citizens must be willing to risk their lives for the regime. Hobbes is much more consistent in this regard than the American founders, who had ideas about honor that included the glorification of martyrs for the cause, all the while affirming a right to life every bit as absolute as that found in Hobbes. Here we find an apparent contradiction: how can the liberal state, the legitimacy of which is originates from the protection of life, liberty, and property, demand of its citizens that they risk these things without contradiction?

Schmitt clearly attempts to make political duty to the state the most meaningful duty in the life of every citizen. This is because he views as one of the consequences of the pluralism that characterizes modern mass politics to be "denying the sovereignty of the political entity by stressing time and time again that the individual lives in numerous different social entities and associations.... These control him in differing degrees from case to case, and impose a cluster of obligations in such a way as that no one of these

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[39] Schmitt, "Gespräch über die Macht," p. 14.
[40] Hobbes, *Leviathan,* pp. 106-110, 203-210.

associations can be said to be decisive and sovereign."[41] By taking his Hobbesian turn, Schmitt is able to reassert the primacy of the state as the dominant recipient of individual loyalty. Thus, through this "realist" means, Schmitt is able to arrive at a solution in accord with idealist ends, which is a state that stands above society that commands the obedience of all.

The related question of whether it is desirable that the state should be powerful is addressed in Chapter Six. Anglo-American liberals tend to view the state with suspicion: this tradition of political philosophy conceives of freedom primarily as negative freedom, and so, for them, freedom exists where the state is not. For German political theory, the growth of a powerful state is less of a problem, due perhaps in part to the historical lack of a unified German state, but certainly to the Hegelian ideal of the state. The German language has a word, *Machtstaat*, which literally means "power state," that seems to be an apt description of the modern state.[42] The theory of the *Machtstaat*, as it was formulated in the nineteenth century, most notably by Heinrich von Treitschke, stands as an alternative conception of the state that may provide some theoretical leverage in understanding the nature of powerful states. For Treitschke, "We may say that power is the vital principle of the State, as faith is that of the church, and love that of the family."[43] Treitschke writes many times that power is the essence of the state, and that any state that forgets this will certainly "repudiate its own nature and perish."[44] Schmitt, it will be argued, shares this view of the state.

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[41] Ibid., p. 41.
[42] Superpower may come close to the idea of the *Machtstaat*, but it is inadequate, as our understanding of what a superpower is is entirely determined by the relative international ordering of the military and economic power of states, whereas a state may be a *Machtstaat* without being a superpower. Indeed, the prototypical *Machtstaat*, Germany from 1866-1918, was a power, but not a superpower as we understand it.
[43] Treitschke, *Politics*, vol. I., p. 23.
[44] Ibid., p. 24.

Chapter Seven deals with developing an understanding of Schmitt's political theory that focuses on a struggle to achieve political unity. For both Schmitt and Treitschke, *Einheit,* or unity, may be taken as the most essential thing for the life of any state. The state cannot acknowledge any rival claimants to authority within its own domain, the domain of the political. Though the divisions addressed by Treitschke and Schmitt are, at times, different, they share a core conceptual commitment to the state as *eine Einheit*, a unity or unit. In Treitschke, we find that "...the qualities of power, unity, and sovereignty are the essence of the State...."[45] Both Treitschke and Schmitt consistently favor national unity over the alternative of disunity, whether it is understood as disunity due to class divisions, regional loyalties, what they would see as the inherent weakness of federal or confederal systems, or internationalist ideologies.

In opposition to the natural political forces, which seem to be mainly centrifugal, Schmitt offers a conception of the state as a unity. Though Schmitt's solution to the problem of political modernity is thoroughly realist in construction and is predicated upon a pessimistic understanding of human nature, what Schmitt seeks to achieve is lofty, namely the actualization of the state as a political unity that is capable of giving expression to the highest ideals of the people. It was exactly the faith in the progressive role to be played by the state that gave the political thought of men such as Treitschke its optimistic character, and it is the "intrusion" by civil society into the domain of politics that is the source of Schmitt's most grave concerns.

In the conclusion, I suggest that some borrowing from Schmitt may well be useful as an antidote to a conception of the state and to all political things that has grown

[45] Treitschke, *Politics*, vol. II, p. 330.

altogether too particularistic. The understanding of the state theory of Carl Schmitt developed here is also compared to some of the important recent interpretations that have emerged in recent years, with a focus on how it is that a greater understanding of Schmitt's understanding of the problem of modern politics enables us to turn to Schmitt for alternative conceptions and solutions. I propose that, at a minimum, such an effort must include some understanding of Schmitt's argument against the intrusion of civil society into the life of the state.

The view of the state as a *Machtstaat* holds that the incursion of civil society into the affairs of state constitutes a distortion of the natural relationship between civil society and the state. In short, Schmitt, like Treitschke before him, is in favor of the state. This viewpoint could be seen as a corrective to a liberal viewpoint that has become excessively opposed to the state and to politics in the name of the free and rational individual. It is characteristic of the regularity of Schmitt's critique of liberalism that even this principle, the idea of the rational individual which underlies so much of liberal thought, is thoroughly opposed by way of an contrary conception, the idea that "all genuine political theories presuppose man to be evil, i.e., by no means an unproblematic but a dangerous and dynamic being."[46] According to Schmitt, it is a direct and inevitable consequence of liberalism's rejection of the dangerousness of man that "For the liberals, the goodness of man signifies nothing more than an argument with whose aid the state is made to serve society. This means that society determines its own order and that state and government are subordinate and must be distrustingly controlled and bound to precise limits."[47] The opposite approach, which sees in man a danger and turns to the

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[46]Schmitt, *The Concept of the Political*, p. 61.
[47] Ibid., p. 60.

state for means whereby this danger may be contained, unleashes government just as liberal conceptions of human nature restrain it. The dangerousness of man, in Schmitt's conception, has an unlimited, unrestricted quality, so the authority of the state must similarly be without limits, restrictions, checks or balances.

Although Schmitt does not make use of any theoretical state of nature, his assertion of the dangerousness of man is a similar thought experiment. He consistently depicts this dangerousness as a human universal, the one thing upon which we may rely, which further supports his demand for a strong state. Nothing could undermine this claim more than the liberal concept of the rational, self-interested individual. Schmitt undermines the account of the rational individual by arguing two things: first, that we observe that men do things against their own rational self interest, and second, that one of the most important things they do is to evidence a willingness to die for their country on the battlefield. Liberals are thus profoundly wrong about human nature, but it is good that they are wrong, because no state could long endure if they were right.

Violence plays a twofold role in Schmitt's account of political obedience. Fear of violence is a reason for men to obey the state and to serve to protect it, and the willingness of citizens to perform violence on behalf of the state becomes the acid test of every state. Instead of focusing on the perpetual fear of the individual in the Hobbesian state of nature, or even the fear with which the subject must regard the awful power of the Hobbesian sovereign, Schmitt points toward the state of nature that exists between nations at all times. His use of fear takes place in the context not of some hypothetical prepolitical condition, but in the "concrete" and "existential" context that occurs when "...at least potentially, one fighting collectivity of people confronts a similar

collectivity."[48] The individual subject may be legitimately commanded to risk life and limb for the state because the state is not merely an umpire between competing pluralist groups, or as the means to the particularistic ends of some ruling faction, but is the guarantor of the survival of the people. This is the peculiarly Schmittian version of the Hobbesian social contract, wherein loyalty is owed by the individual as a member of a people whose way of life is forever threatened by external antagonists. In this way, Schmitt establishes a foundation for individual duty to the state, while guarding against the selfishness liberal individualism supposedly engenders by emphasizing the collective nature of the threat posed by national enemies.

It is Schmitt's greatest fear that the state will completely devolve into a quantitative total state, which, "appears, if not altogether the servant or instrument of a dominant class or party, to have become the mere product of an equilibrium between several conflicting groups, at most a *pouvoir neutre* and intermediary...."[49] This development is a problem for two reasons: first, because such a state "refrains from authoritative decision-making," and second, because "In the face of such a figure, the ethical question of fidelity and loyalty must get a different answer from the one it gets in the case of a univocal, transcendent and comprehensive unity."[50] It is exactly that "univocal, transcendent and comprehensive unity" that is Carl Schmitt's preferred alternative to the quantitative total state, which he calls the "qualitatively total state." Such a state is a *Machtstaat*, and its power resides just in its ability to command the obedience of its subjects while standing above civil society, preserving the Hegelian

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[48] Ibid. p. 28.
[49] Carl Schmitt, "Ethic of State and Pluralistic State," David Dyzenhaus, trans., in Chantal Mouffe, ed. *The Challenge of Carl Schmitt* (New York: Verso, 1999): 195-208, p. 198.
[50] Ibid., p. 198.

equilibrium between the state and civil society by preserving the domain of the political for the state.

CHAPTER 2

A Review of the Literature on Carl Schmitt

Recently, students of political philosophy have struggled with the problems posed by Schmitt's writings. He has been praised, condemned, analyzed, and, in general, taken quite seriously as the author of "some of the most stunning critiques of liberalism and parliamentary democracy ever penned...."[51] Schmitt's Weimar writings are held to be of special importance, because that period is when he chose to address the subjects most engaging to us today, and because they are free of the stigma associated with his later involvement with Nazism.

Interpretations of Schmitt are as varied as his interpreters. On the one hand, he is accused of Nazism, on the other, of nihilism, and on the third, of being an insincere Nazi who really supported the Weimar Republic. While it was true he was a Nazi, he was a failure as a Nazi, in that he was forced into semi-retirement by a rift with the party in 1938. This fact has caused some to question the extent to which Schmitt's Nazism was sincere, the result of careerist opportunism, or whether it marked an attempt to ameliorate the damage Nazism would inflict on Germany and Europe by reforming it from within. None of these arguments are credible. Joseph Bendersky's 1983 book on Schmitt, if not an effort to rehabilitate Schmitt, at least makes an effort to develop a more nuanced understanding of him, which is why his title "*Carl Schmitt: Theorist for the Reich*" is somewhat misleading. This is because Bendersky's project is to show that Schmitt's joining of the Nazi Party in 1933 should be interpreted in light of what Bendersky holds to be earlier attempts to reinforce the Weimar constitution.[52]

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[51] McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology*, p. 3.
[52] Joseph W. Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton, Princeton University Press, 1983).

According to Bendersky, Schmitt's writings should not be interpreted as connected to others on the right who sought to overthrow Weimar, but rather as an effort to protect the constitution from its enemies on the left and the right.[53] This interpretation, however, is not well supported by the available evidence. As Bendersky himself writes, "Schmitt never lost his antipathy for party politics and throughout the Weimar Republic he refused to join a political party."[54] If we accept this, then the fact that the very first political party Schmitt chose to join was the Nazi Party, at the very moment of its triumph over the Weimar constitution, ought to assume a far greater significance than Bendersky gives it.[55] By 1933, a political theorist of such widely acknowledged sagacity as Schmitt would surely have known precisely what the Nazi Party was about, which leaves his apologists at a theoretical impasse their theories cannot surmount: either he really saw the Nazi Party as an vehicle for an authoritarian politics acceptable to him, in which case they are wrong about his intentions, or he fundamentally misunderstood the character of the Nazi Party and its leadership, in which case their argument for his significance as a political theorist is misguided.[56] Nonetheless, Bendersky is correct in

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[53] Joseph W. Bendersky, "Carl Schmitt and the Conservative Revolution," *Telos*, 72 (1987): 27-42.
[54] Bendersky, *Carl Schmitt: Theorist for the Reich,* p. 15.
[55] For a thoroughgoing account of Schmitt's involvement with the NSADP, see: Dirk Blasius, *Carl Schmitt: Preußischer Staatsrat in Hitlers Reich (*Göttingen: Vanderhoeck und Ruprecht, 2001).
[56] Cf. Gottfried. *Carl Schmitt: Politics and Theory.* At times, Gottfried defends or minimizes Schmitt's involvement with the Nazis in ways that are quite surprising. Of Schmitt's relations with returning exiles after the war, Gottfried writes that they barred him professionally because: "He had committed a mortal sin for which no absolution was possible. He had tried to ingratiate himself with a totalitarian power that had lost the war and had lacked the good sense to call itself leftist." (p. 32) Although they did not call themselves leftists, the Nazis did, in fact, call themselves National *Socialists*. He also did not merely *try* to ingratiate himself with the Nazis, he succeeded, enjoying the personal protection of Hermann Goering. More to the point, it is unlikely that this is what raised the ire of the ex-exiles, but rather that they had suffered at the hands of the Nazis and Schmitt had not. He placed his prodigious intellect at the service of a profoundly anti-intellectual regime, something that ought to call his qualifications to serve as a teacher of law in a democracy into question. Furthermore, Gottfried fails to note the inconsistency in Schmitt's indignation at being denied the "due" his scholarly ability otherwise should have afforded him: if one uses political connections to advance one's own academic career, as Schmitt undeniably did, one loses the right to claim that an injustice has been done when one is demoted as a result of the fall of one's political patrons from power.

arguing that Schmitt's Weimar era work does mark an effort to save the state, however it is questionable whether the substance of the changes Schmitt advocated would not, in themselves, constitute a shift towards authoritarianism.

There is far more evidence to suggest that Schmitt was, at this point, authoritarian rather than merely conservative, a fact which has not escaped those who have evaluated Bendersky's line of reasoning. Stephen Holmes writes: "Relying exclusively on personal insecurity, ambition, and opportunism to explain the 'leap,' Bendersky discounts all theoretical linkages between the authoritarian opposition to liberalism of Schmitt's Weimar works and his swift adhesion to the Nazi cause when Hitler took power ... no republican theorist at the time viewed him as a loyal ally of the Republic. Only Bendersky, with the benefit of sobering remoteness, has seen Schmitt as a true friend of Weimar."[57] If we accept, as Holmes does, that Schmitt's contemporaries understood him correctly, then any differences between Schmitt and the Nazi Party should not be understood as differences between a conservative and fascists, but as differences between advocates of two different strains of authoritarianism.

Bendersky's work on Schmitt is typical of what John McCormick calls the first wave of Schmitt literature.[58] According to Andreas Kalyvas, this early period of Schmitt literature in English "offered an apologetic and uncritical account" of Schmitt's political theory.[59] An early exemplar of this period in Schmitt scholarship is George Schwab's *The Challenge of the Exception*.[60] Like Bendersky, Schwab is eager to point out the

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[57] Stephen Holmes, "Carl Schmitt: Theorist of the Reich," *American Political Science Review* 77 (1983): 1066-67, p. 1066. See also E. J. Feuchtwanger, "Carl Schmitt: Theorist for the Reich," *International Affairs* 59 (1983): 745.
[58] John P. McCormick, "Political Theory and Political Theology: The Second Wave of Carl Schmitt in English," *Political Theory* 26 (1998): 830-854.
[59] Kalyvas, "Who's Afraid of Carl Schmitt," p. 88.
[60] George Schwab, *The Challenge of the Exception* (Berlin: Duncker & Humblot, 1970).

differences between Schmitt's theory and Nazism, and is less forthcoming about the similarities which obviously proved attractive to Schmitt in 1933.

Schwab's book is largely intended as an introduction to Schmitt's political theory, and, written as it was before any of Schmitt's works had been published in English, much of it takes the form of a recitation of Schmitt's political ideas. It was, therefore, a valuable contribution to the literature at the time, but is incomplete in addressing many important questions about Schmitt's political theory—for example, the extent to which Hegel informs Schmitt's work:

> Is Schmitt's notion of the state as a sphere of objective reason akin to Hegel's? No. The state for Hegel is "the march of God in the world…", and "the Estates stand between the government in general on the one hand and the nation broken up into particulars on the other." Schmitt's understanding of the state as a sphere of objective reason is its capacity to distinguish friend from foe, and the state's ability not to succumb to civil society and as such to serve the entire nation rather than just sections of it.[61]

Here, Schwab is either relying on a pluralist interpretation of Hegel that is ill supported by Hegel's own work, or he misunderstands the role of the estates in Hegel's theory. Arguably, both of the quotes he takes from *Philosophy of Right* do little to support the idea that Hegel endorsed capture of the state by civil society, or some faction thereof—indeed, if we read Hegel as an opponent of pluralism, they do exactly the opposite.

Though Schwab is right to bring up Hegel in connection with Schmitt's idea of the state, he too quickly dismisses it as obviously different from Hegel's, and ignores the possibility that these differences are accounted for by Schmitt's desire to protect what is an essentially Hegelian theory of the state from the possibility of what he regards as a pluralist misinterpretation of Hegel. That Schmitt believes he is correct in adopting an

[61] Ibid., p. 57.

anti-pluralist interpretation of Hegel is evident from Schmitt's comment in *The Concept of the Political* that "Hegel, nevertheless, remains everywhere political in the decisive sense." [62] It is exactly the ideal of the state standing above civil society that constitutes Schmitt's greatest borrowing from Hegel.[63]

Heinrich Meier has made a major contribution in the literature on Carl Schmitt, but his work is marked by an overemphasis on one element in Schmitt, at the expense of developing an understanding of Schmitt's work within a broader context. His two books on Schmitt have recently become available in English: *Carl Schmitt and Leo Strauss: The Hidden Dialogue* and *The Lesson of Carl Schmitt.*[64] Meier's work is similar to the "first wave" of Schmitt literature in downplaying the strongly authoritarian inclinations of Schmitt's political theory, but it represents a break in that it does not uncritically summarize Schmitt, but rather subjects his work to thoroughgoing exegesis. In this, he takes his lead from Strauss, whose own analysis of Schmitt reveals that he should be understood as a very careful writer.[65]

Meier treats Schmitt as though he were an isolated genius speaking from on high, a thinker so original that his work need not be considered in the broader context of the tradition of German political thought. Such a treatment may obscure as much as it reveals, for Schmitt writes as a conscious participant in the German tradition of political

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[62] Schmitt, *The Concept of the Political,* p. 62.
[63] In this, I am in perfect agreement with Renato Cristi. See: Cristi, *Carl Schmitt and Authoritarian Liberalism: Strong State, Free Economy,* p. 86.
[64] Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue.* Originally published as: Heinrich Meier, *Carl Schmitt, Leo Strauss und der "Der Begriff des Politischen:" Zu einem Dialog unter Abwesenden* (Stuttgart: J.B. Metzler, 1988). Meier, *The Lesson of Carl Schmitt: Four Chapters on the Distinction between Political Theology and Political Philosophy.* Originally published as: Heinrich Meier, *Die Lehre Carl Schmitts: Vier Kapitel zur Unterscheidung Politischer Theologie und Politischer Philosophie* (Stuttgart: J.B. Metzler Verlag, 1994).
[65] Leo Strauss, "Notes on Carl Schmitt's *The Concept of the Political,*" J. Harvey Lomax, trans., in Schmitt, *The Concept of the Political,* pp. 81-105.

philosophy initiated by Hegel, and also as a publicist deeply interested in questions of his place and time. Also, as several of Meier's reviewers have noted, Meier not only slights those who wrote before Schmitt, but also those whom have written on Schmitt. Shadia Drury only slightly overstates the case when she writes that Meier's work "contains nothing about the debate to which it contributes."[66] Meier undermines his own purpose by elevating Schmitt to such a level that all previous political philosophy and all subsequent criticism of Schmitt are ignored.

Meier's principal theme is that Carl Schmitt should be understood as a political theologian who seeks to give meaning to human existence by asserting that the realm of the political is one which is fundamentally concerned with decisions about right and wrong, good and evil. The political, for Meier's Schmitt, is thus reduced to the theological. This omits much of what Schmitt emphasized in his theory.[67] Schmitt's understanding of the state is distinct from his understanding of the church, for example. If this theological understanding is correct, then Schmitt should make an effort to imbue secular political concepts with theological significance. Meier's best argument in support of the position that Schmitt is best understood as a political theologian is to cite Schmitt's observation that "All significant political concepts of modern political theory are secularized theological concepts."[68] Meier takes this to mean that theology lies at the root of politics, and it is this idea that informs all of his thinking on Schmitt. Yet this

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[66] Shadia B. Drury, "Carl Schmitt and Leo Strauss: The Hidden Dialogue," *Political Theory* 90 (1996): 410-411; p. 410.

[67] Günther Maschke, in his foreword to *Frieden oder Pazifismus?,* observes that, since his death in 1985, Schmitt has been depicted as a "theologian (if also as a politician), as a cultural critic, as a philosopher of history, as an aesthete, as a man of letters, as a metapolitician, as a Catholic intellectual (or as a bad Catholic), *et cetera*, and so forth; every so often the political retreats entirely from view." Günther Maschke, "Vorwort," in Schmitt, *Frieden oder Pazifismus? Arbeiten zum Völkerrecht und zur internationalen Politik,* XXIII-XXX, p. XXVI.

[68] Carl Schmitt, *Political Theology*, George Schwab, trans. (Cambridge: MIT Press, 1988), p. 49.

famous remark of Schmitt may also be taken to mean that we do live in a secularized world, one that is ever growing more secular, and that theology will be of less political importance than before. Furthermore, the focus of Schmitt's concern and the object of his inquiry is always *the state*, an object that seldom makes an appearance in Meier's writing on Schmitt.[69] Jan Müller's criticism that "those in search of Schmitt's current relevance will encounter little inspiration here" is apt.[70]

It is precisely the question Meier treats as uninteresting—the question of the meaning of Schmitt in the context of German history, or, in other words, the relationship between Schmitt's theory and his practical politics—which has assumed center stage in the most recent literature on Schmitt. The most polemical of recent writers addressing this question is Stephen Holmes, whose *Anatomy of Antiliberalism* argues that there is such a thing as an antiliberal tradition, or *Geist*, which may be genealogically traced to reveal certain core commonalities shared by opponents of liberalism.[71] It is here that Holmes overreaches, particularly since many elements of what he calls "antiliberalism" so obviously predate liberalism, and the whole project is an effort to build a case of guilt by association. Schmitt, along with Maistre, are Holmes' principal examples of the bearers of this antiliberal tradition, and he uses affinities between their arguments and other opponents of liberalism to effectively tar all who disagree with his vision of

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[69] While acknowledging an *historical* connection, Schmitt actually draws a very clear distinction between political theory and theology: "The methodological connection of theological and political suppositions is clear. But theological interference generally confuses political concepts because it shifts the distinction usually into moral theology." Schmitt, *The Concept of the Political*, p. 65. This is, of course, a reference to Stahl, whose teachings Schmitt regarded as the wrong turn that corrupted Prussian political theory. Stahl's teachings formed the basis of politically conservative Protestantism in Germany for the fifty years that follows his fruitful period of the 1840's.

[70] Jan Müller. "Critical Theorist or *Katechon*? New Literature on Carl Schmitt," *History of European Ideas* 24 (1998): 161-173; p. 164.

[71] Stephen Holmes, *The Anatomy of Antiliberalism* (Cambridge: Harvard University Press, 1993). See also: Stephen Holmes, "The Scourge of Liberalism," *New Republic*, 6 June, 1988, pp. 31-36.

liberalism with a fascist brush. This sleight of hand, along with his pugnacious style, undermines his objectivity in the eyes of the reader. As Thomas Spragens notes, Holmes goes especially overboard when he "speaks of 'fascist and postfascist communitarians,' a tendentious formulation that suggests without any convincing warrant whatever that the concerns of people like MacIntyre, Charles Taylor, and Robert Bellah should be understood by analogy with fascism rather than by reference to Aristotle, Hegel, and civic republicanism."[72] Schmitt is of interest to Holmes not as a theorist of the state, but primarily as a weapon to accuse "antiliberals" of guilt by tenuous association. If Meier makes too few connections between Schmitt and other political thinkers, Holmes is willing to make far too many. Again, Holmes also overlooks the importance of nineteenth century German political thought for understanding Schmitt, which is odd, given the blossoming of antiliberal thought at that place and time. In so doing, he neglects to tap into a mine that, if nothing else, would have been rich with material to direct towards his polemical purpose.

Though similar to Holmes in his understanding of Schmitt as an authoritarian, and in his failure to recognize Schmitt's reliance on the particularly German conception of the state, John McCormick's work on Schmitt is a more rigorous examination of Schmitt's political theory.[73] For McCormick's Schmitt, the advent of technology is the defining characteristic of modernity, and it is therefore opposition to technology that provides the underlying motivation for Schmitt's opposition to liberalism. With regard to his substantive politics, McCormick wants to have it both ways—on the one hand, he does discuss the affinities between Nazism and Schmitt's brand of authoritarianism, while on

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[72] Thomas A. Spragens, Jr., "The Anatomy of Antiliberalism," *The Journal of Politics* 57 (1995): 1198-2001; p. 1199.
[73] McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology.*

the other he consistently agrees with those who see Schmitt's involvement with Nazism as a purely opportunistic moment when Schmitt sought to advance his career. Though McCormick does not explicitly raise the possibility, his position is that these possibilities are not mutually exclusive. With regard to other important questions, McCormick also avoids making distinctions others see as quite important—for example, McCormick notes that "Holmes objects to attempts at softening Schmitt's political theory that present it as Hobbesian rather than reactionary," whereas he holds that Hobbes' "influence does not make Schmitt's thought any less extreme but ... does highlight Schmitt's major theoretical-political objectives."[74] This is a rather oblique way of writing that McCormick's Schmitt ultimately relies on an authoritarian interpretation of Hobbes.

Like Meier, McCormick puts heavy emphasis on the influence of Hobbes on Schmitt's thought, or rather the uses to which Schmitt puts Hobbes. McCormick is absolutely correct in this, and on many other points, however the emphasis on Hobbes obscures the possibility that Schmitt may have other, equally important influences—for example Hegel, as modified by nineteenth century conservatives such as Treitschke. As evidence of this, one might turn to Schmitt's *Concept of the Political*, wherein he mentions Hobbes by name seven times but mentions Hegel by name twenty times.

McCormick is emphatic about the extent to which Schmitt sought to adopt the substance (i.e., fear of death) of Hobbes' political thought while rejecting the mechanistic and technological elements of Hobbes' state theory, which Schmitt regarded as conducive to destructive pluralism and the subjugation of the state to civil society. Yet the view of the relationship between the state and civil society that Schmitt accepts is Hegelian rather

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[74] John McCormick, "Fear, Technology and the State: Carl Schmitt, Leo Strauss and the Revival of Hobbes in Weimar and National Socialist Germany," *Political Theory* 22 (1994): 619-652; pp. 645-646.

than Hobbesian. McCormick writes as though this is an original contribution to political theory by Schmitt: "The state must stand above society as a quasi-objective entity, rather than help precipitate civil war by existing as one subjectivity among others."[75] This passage strongly evokes Hegel's view of the state, and yet McCormick does not mention Hegel in this context, and many others, when he ought to. In this, McCormick has much in common with other authors in the English-language literature on Schmitt. It may be reflective of our own cultural biases that English-speakers tend show more interest in the Hobbesian rather than the Hegelian elements of Schmitt's thought.[76]

McCormick supports Holmes' side of the debate when it comes to the question of Schmitt's influence on contemporary conservatives: "... it appears that Schmitt's thought exerts a subterranean, yet pervasive, influence on conservatism in the postwar United States beyond the cultural conservatism of Straussianism."[77] Allegedly, Schmitt exerted a powerful influence on Morgenthau, Strauss, Hayek, and others, who adopted Schmittian conceptions of politics without acknowledging Schmitt, in order to avoid the stigma of Schmitt's association with Nazism.[78] Though this strand of Schmitt literature will also be addressed in the conclusion, it is worth a word or two here. The gist of this position is that it aims to show a fundamental relation between American conservative liberalism and the work of Schmitt: for his part, Schmitt is presented as a fascist or a proto-fascist. This therefore points to some sort of latent fascism within American conservative liberalism. A problem with this approach is that most authors in the Anglo-

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[75] Ibid., p. 625.
[76] Of those currently contributing to the English-language Schmitt literature, Paul Gottfried, Renato Cristi and Jerry Muller stand as notable exceptions to this tendency.
[77] McCormick, "Political Theory and Political Theology: The Second Wave of Carl Schmitt in English," p. 847.
[78] Ibid., p. 847.

American Schmitt reception have tended to overlook the strong parallels between Schmitt's thought and that of Frederick the Great, Treitschke, and other German writers who "elevated power over morality in the state's pursuit of survival and self-realization," a tradition which for the sake of simplicity is referred to here as the tradition of the *Machtstaat*.

To those who read Schmitt today, much of what he has to say about politics, war, and the state seems novel, and so it is not too far-fetched to attribute influence to him when someone else—who may have actually had some contact with Schmitt—writes something that sounds vaguely Schmittian. Yet if we look for those who have exerted subterranean influences, we must not discount the possibility that those who are alleged to exert such influence may have, themselves, been subject to influences of a more or less subterranean nature. What McCormick, Holmes, and others find original in Schmitt is not, in fact, original, but deeply rooted in the tradition of the *Machtstaat*.

McCormick's interest in Schmitt is centered on the question of whether it is truly necessary to discredit the uses to which conservative interpreters would put Schmitt's theory, and the related question of whether Schmitt's political theory has anything to offer those on the left. One author has criticized this approach as "a very complicated yielding of Schmitt's work for contemporary discourses and analyses."[79] Chris Thornhill has written that Schmitt's ideas "invite a plausible reception in a left-oriented critique of liberal democracy," but goes on to question the wisdom of borrowing from Schmitt by thinkers of the left: "there is nothing in these ideas which is not anticipated by Marx himself.... The fact that left-oriented intellectuals now turn to the far right for repetition

[79] Richter, "Carl Schmitt: The Defective Guidance for the Critique of Political Liberalism," p. 1633.

of Marx's own arguments thus reflects a spectacular crisis of intellectual confidence."[80] Of course, reading Schmitt as a pessimistic right-Hegelian struggling to adapt to modern pluralistic democracy renders a Marxist rapprochement with Schmitt plausible, even if it is a sign of a crisis of intellectual confidence.

One Marxist critic of Schmitt whom I believe must be excluded from Thornhill's criticism is Renato Cristi, who does not examine Schmittian politics for insights in order to bolster left-wing political theory, nor to strengthen liberalism, but rather to point out what he believes are inherently authoritarian aspects of liberalism.[81] Cristi brings to this task an understanding of German political thought and history that is often absent from Anglo-American Schmitt literature. Unlike many who write on Schmitt in English, Christi properly understands the centrality of Hegel for the tradition of German political thought which is Schmitt's authentic intellectual context: "With a few exceptions, Schmittian scholars have yet fully to consider the impact of Hegel's political thought on Schmitt."[82] In contrast with those who portray Schmitt as primarily Hobbesian, Cristi contends that "Schmitt saw himself implicitly as Hegel's contemporary heir, assuming a legacy vastly transformed by historical circumstances—Hegel's state as an *imperium rationis* was the total state that Schmitt espoused."[83] For Schmitt, according to Cristi, the

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[80] Chris J. Thornhill, "Carl Schmitt after the Deluge: a Review of the Recent Literature," *History of European Ideas* 26 (2000): 225-240; p. 226.

[81] Cristi, *Carl Schmitt and Authoritarian Liberalism: Strong State, Free Economy.*

[82] Renato Cristi, "Carl Schmitt on Liberalism, Democracy and Catholicism," *History of Political Thought* XIV (1993): 281-300; p. 297. For Cristi's interpretation of Hegel's political philosophy, see: F. R. Cristi, "The Hegelische Mitte and Hegel's Monarch," *Political Theory* 11 (1983): 601-622. Cristi's interpretation of Hegel is that only an authoritarian monarch can sufficiently depoliticize civil society to secure the neutral state against the potential tyranny of particular interests, particularly business interests. While it is an open question as to whether Hegel is correct, I agree with Cristi that this is Hegel's primary political motivation.

[83] Cristi, *Carl Schmitt and Authoritarian Liberalism: Strong State, Free Economy,* p. 99. In a similar vein, Grigoris Ananiadis writes "It is this spirit, or the old Prussian conception of the state, that Schmitt attempted to revive, adapting it to the novel conditions of mass democracy." Grigoris Ananiadis, "Carl Schmitt and Max Adler," in Mouffe, ed. *The Challenge of Carl Schmitt,* pp. 118-137; p. 128.

distinguishing features of the Hegelian political order are a bureaucratic state that stands above the discordant tumult of civil society, a civil society that nonetheless provided a realm of economic freedom for individuals, the disinterested rule of a strong monarch and a parliament that provided a vital forum for public debate and the true explanation of the interests of factions within civil society.[84]

What, then, prevented Schmitt from arguing for the Hegelian political order rather than one characterized by a strong, democratically selected executive? According to Cristi, it is because "Schmitt found himself in a completely different historical context. In 1919, the *pouvoir constituant* of the German people abolished the monarchical principle and entrenched a liberal-democratic constitution. This explained the difference in their approaches. Schmitt, but not Hegel, was forced to deal with and confront democratic institutions."[85] Given the impossibility of monarchical legitimacy, Schmitt opts for plebicitary legitimacy—for Cristi, Hegel provides the substance of Schmitt's politics, with a strong elected executive substituted for a strong monarch. For Cristi's Schmitt, monarchy would be best, but given the crisis of monarchical legitimacy following the First World War, the best possible regime would be characterized by a strong executive with plebicitary legitimacy. It is this combination of an authoritarian political realm with a liberal civil realm that Cristi dubs "authoritarian liberalism."

Cristi argues against Bendersky that there was no "break" in Schmitt's thought in 1933, that what had changed were the political conditions, not Schmitt.[86] Despite this serious disagreement, Cristi, like Bendersky, recognizes the importance of Treitschke's contribution to German political thought, particularly with regard to Schmitt's

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[84] Ibid.; pp. 98-107.
[85] Ibid.; p. 107.
[86] Ibid.; pp. 142-145.

understanding of political romanticism and pluralism. According to Cristi, Schmitt "looked at Gentz through Treitschke's eyes" and "adopts Treitschke's view that 'political romantics' weakened the state by their emphasis on medieval conceptions of social pluralism and communal authority."[87]

Aside from these interesting observations, which are suggestive, Cristi does not address the question of whether there might be any other points of agreement between Schmitt and Treitschke. Even those who are aware of Treitschke's importance as a political writer in nineteenth century Germany nonetheless tend to underplay the influence of Treitschke's *Weltanschauung*. Perhaps this is because Treitschke was such a successful evangelist for his brand of politics that his beliefs became absolutely ubiquitous in conservative circles. Jerry Muller, in an article that (largely successfully) seeks to puts Schmitt "into more historically accurate perspective," writes of Schmitt's use of a "historical dichotomy" between militarist Prussia and mercantilist England, which Muller writes "appears to have been adapted by Schmitt from Otto Hintze."[88] Hintze was a student of Treitschke's, who was himself virtually obsessed with the struggle for power between Prussia and England.[89]

Schmitt studied Treitschke while a student at the Gymnasium at Attendorn: "Previously his historical consciousness had been based upon books written from the

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[87] Ibid.; pp. 54, 74-75.

[88] Muller, "Carl Schmitt, Hans Freyer and the Radical Conservative Critique of Liberal Democracy in the Weimar Republic," p. 704.

[89] Of course, this should not be taken to mean that Hintze's views mirror those of Treitschke exactly, merely that Hintze may have been influenced by his teacher's obsession with the conflict between Prussia and England for European domination. Interestingly, the distinction between a commercial Britain and a military Prussia was a common one that did not originate with Treitschke , and was in fact explicitly rejected by him: "Indeed, though contemporary England is solely swayed by the interests of her commercial policy, it would be doing her a grave injustice to suppose that her rich intellectual life is entirely overshadowed by the spectre of commercialism. Sparta was without doubt a warrior-State, but what State in modern times can be so described without reserve? Ignorant and hostile critics have often stigmatized Prussia with the epithet of militarism, and yet it is obvious that this conception entirely fails to take the measure of our national life." Treitschke, *Politic,*. vol. II, pp. 19-20.

Catholic standpoint; now he confronted the Prussian nationalism of Treitschke's historical thought."[90] Certainly, Treitschke's work did not transform Schmitt into a Prussian nationalist, however it must be asked whether Prussian nationalism is all that can be learned from Treitschke. If what is learned earliest is learned best, the question of what Schmitt learned from Treitschke assumes new significance. The Prussian state revered by Treitschke became problematic under conditions of democratic politics and German national unity. Schmitt saw the possibility that such a strong state could be a bulwark against what he regarded as an excessive intrusion of civil society into politics, but in order to accomplish this it would have to become German, stripping off its specifically Prussian traditions.

It is true that Schmitt as applies a Hobbesian remedy to the ills he perceived in pluralism, but it must be recognized that his efforts to this end were a continuation of the battle waged by the previous generation of German conservative nationalists against particularism. Schmitt's attraction to Nazism was not merely a result of opportunist careerism, but resulted from Schmitt's oft-expressed desire for a strong executive-dominated state that could hold itself above the fractiousness of civil society.[91] While I am skeptical of the influence exerted by Schmitt upon the German-speaking émigré community of intellectuals in the United States, I believe that the important, unasked question raised by the advocates of the "subterranean influence" hypothesis is that, once we have determined affinities between Schmitt and American conservatism, whether we can find real connections between Schmitt and these émigrés, or whether this supposed

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[90] Bendersky, *Carl Schmitt: Theorist for the Reich,* p. 7. Bendersky cites: Carl Schmitt, *Ex Captivitate Salus: Erfahrungen der Zeit 1945/4 (*Cologne: Greven, 1950).

[91] This was characteristic of the Second Reich, or at least is how Treitschke and other Germans of the period regarded the Second Reich.

"influence" is entirely spurious. Given that the émigrés Schmitt supposedly influenced were his own contemporaries, who lived through the same events, shared a common German cultural heritage and often attended the same institutions of higher learning, should we be astonished to find that they share some of the same concerns?

My strongest claim is to disagree with those who, like Wolin, find that "there remains an irreducible originality and perspicacity to the various *Zeitdiagnosen* offered by Schmitt during the 1920's, in comparison with the at times hackneyed and familiar formulations of his conservative revolutionary contemporaries."[92] While Schmitt's criticism of the times in which he lived may be perspicacious, they are not nearly so novel as Wolin asserts, and if Schmitt's formulations seem novel, it is because he employs novel language in defense of old ideas. While I agree with Cristi that Schmitt's purpose is to correct Hegel (or, more accurately, to save his own "correct" interpretation of Hegel from pluralists and Marxists), I will demonstrate that, in this too, Schmitt is walking in the footsteps of Treitschke.

Schmitt and Strauss

Much of the interest in Carl Schmitt's work has been animated by the work of Heinrich Meier, who places special importance on a relatively brief and lopsided exchange of ideas between Schmitt and Leo Strauss. Though I do not assign to this brief exchange the centrality that Meier believes it has for both Schmitt and Strauss, the issues raised by the debate on the relationship between Schmitt and Strauss have assumed such a significance in the English-language literature on Schmitt that they deserve to be

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[92] Richard Wolin, "Carl Schmitt: The Conservative Revolutionary Habitus and the Aesthetics of Horror," *Political Theory* 20 (1992): 424-447; p. 428.

addressed in reviewing the Schmitt literature. In this connection, it has become *de rigueur* to make mention of a comment Schmitt reportedly made to his student Güther Krauss sometime in the 1930's, who reportedly told Heinrich Meier in 1988 that Schmitt told him that he must read Strauss' "Notes on the Concept of the Political" because Strauss "saw through me and X-rayed me as nobody else has."[93] Though we receive this remark third-hand, and even though fifty years elapsed between its utterance and its retelling, it is perfectly plausible, and has been widely accepted as true.

If this comment is not apocryphal, what does it tell us about Schmitt's political theory? First, it tells us that Schmitt does not merely write to be read, but rather to be "X-rayed." Thus, his theory must have (at least) two meanings for two types of readers—one that operates on the surface, that is designed to operate on the average reader, and another, deeper meaning offered to the careful reader. Second, it tells us that Schmitt found Strauss' understanding of his work to be astute. If this is the case, why is there any need to bother to study Schmitt further, seeing that Leo Strauss did the necessary work over seventy years ago?

One reason is that Strauss' essay is limited in scope, covering only Schmitt's *Concept of the Political*, and, while he may have uncovered the core of that essay, even this treatment is not comprehensive, precisely because it deals only with its core—its periphery, which informs the core, is left unexamined. Another is that what interested Strauss in Schmitt was what appeared most novel in his work, the potential of his Hobbesian solution to the problems liberalism posed (and still poses) to the state. What is old in Schmitt goes unexamined by Strauss, perhaps because he regarded it as uninteresting, or sufficiently obvious that it went without saying. Yet, if we are to come

[93] Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue,* p. xvii.

to a correct understanding of Schmitt, then we must examine not only what is new in Schmitt, but also what is old, because what a German reader in the Weimar era as obvious enough as to not merit further comment has become remote from us. Finally, Strauss wrote his *Notes* in 1932, and therefore did not have the advantage of knowing that Schmitt would join the NSDAP on May 1, 1933, and so could not address himself to the significance of such a move to Schmitt's political theory.

The two poles of the debate on the matter of the relationship between Schmitt and Strauss are perhaps best represented by Heinrich Meier and Shadia Drury: Meier Straussianizes Schmitt, while Drury Schmittifies Strauss. For Meier, "what one finds in the center of Schmitt's thought is his faith in revelation."[94] Yet this finding is supported by a *highly* selective reading of Schmitt, one that fails to address questions that are obviously central to Schmitt's thought. Schmitt was concerned with the classical question of political philosophy; the question of the best regime, or, more accurately, the question of what the best regime for us (Germans) might be: his answer to this question does not rely upon faith in revelation, but upon faith in the state. Schmitt had the opportunity to become a priest, and did not. Although he is critical of enlightenment rationalism, his entire argument is, itself, rational, and even his call for the creation of myths calls for the dissemination of national, not religious, myths as the balm for an ailing state.

Ultimately, Meier takes certain Straussian positions that were first voiced by Strauss in the 1950's and imposes them on Schmitt in the 1920's. On the other hand, Drury argues that Strauss is more Schmittian than Schmitt, in that he criticizes Schmitt for not taking "the evil and selfishness of humanity seriously enough": Strauss' students

[94] Ibid., p. xiv.

are said to "detest the pluralism of American society, and long for the cohesiveness of Schmitt's total state."[95] For Drury, Strauss saw the United States through the prism of Weimar, and believed that American democracy would succumb to tyranny as Weimar did.[96] Yet her entire argument is based on a false premise, falsely ascribed to Strauss, i.e., that it is possible to avoid tyranny through the imposition of tyranny.

Strauss had a great advantage over the contemporary student of Schmitt. Strauss believed in developing a properly historical, rather than historicist, understanding of philosophy, which for him meant understanding a given text as much as possible as its author would have understood it. Very often, there are great distances of culture and time between an author and his reader, which can make the task of interpretation difficult. Yet—in the case of Strauss' understanding of Schmitt, there is no gap of culture or time, as both are Weimar era Germans, products of and operating within the same academic culture. There isn't even very much of a generational difference, as Schmitt is only eleven years older than Strauss.

I have suggested that Strauss was in a good position to understand Schmitt, which brings up the question of what Strauss took the worth of Schmitt's work to be. It has often been lamented by those seeking to come to grips with Schmitt's thought that it "awakens such passionate animosity among liberals,"[97] and that interpreters are too quick to adopt "the role of either prosecutor or defense attorney."[98] This is a special problem in studying Schmitt, for it is correct that, for any investigation to be worthwhile, scholarly neutrality must be maintained, and yet Schmitt himself, the political theologian, the

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[95] Shadia Drury, *Leo Strauss and the American Right* (New York: St. Martin's, 1997), pp. 93, 96.
[96] Ibid., pp. 4-7.
[97] Mouffe, ed., *The Challenge of Carl Schmitt*, p. 2.
[98] Balakrishnan, *The Enemy*, p. 1.

Christian Epimetheus, celebrates the final evaluative judgment and, in distaining neutrality, seeks to foreclose it as a possible standpoint from which to evaluate his own work. This is a pitfall that must be avoided, and so the investigation of Strauss' evaluation of Schmitt does not entail any necessary agreement or disagreement with Strauss' judgment.

The question of Strauss' intention in writing his *Notes on the Concept of the Political* is one that, like so many others concerning Schmitt, has no definitive answer, but there is general agreement on the issue around which such a question revolves. According to Heinrich Meier, "what primarily interests Strauss in writing on *The Concept of the Political* is to complete the critique of liberalism."[99] For Renato Cristi, this may be true, but "Strauss could not go along with an attempt that grounded the political in an anthropology steeped in theological dogma, even less if this theology was passed as Hobbesian."[100] Paul Edward Gottfried makes a similar point, going further in arguing that Strauss' *The Political Philosophy of Thomas Hobbes* constitutes "a critical confrontation with Schmitt, pursued through a ruthless demythologization of Schmitt's hero."[101] Doubtless, the issue of Strauss' intention is centered on Schmitt's critique of liberalism—the question is whether Strauss saw Schmitt's Hobbesian edifice as one upon which such a critique could be constructed, or whether he regarded it as swampy ground upon which such a construction could not stand.

There is good reason to believe that Strauss' intent was twofold. On the one hand, his reception of Schmitt's *The Concept of the Political* is friendly, to the extent that he shares Schmitt's revulsion at the prospect of a depoliticized world. On the other hand,

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[99] Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue,* p. 11.
[100] Cristi, *Carl Schmitt and Authoritarian Liberalism,* p. 171.
[101] Gottfried. *Carl Schmitt: Politics and Theory*, p. 41.

Strauss is clearly critical of the use Schmitt makes of Hobbes, and his *Notes* are constructed as an attempt to draw Schmitt "beyond the horizon of liberalism." Despite the changes Meier so laboriously documents, this is exactly what Schmitt refuses to do.[102] Strauss' *Notes* are clearly intended to elicit a response from Schmitt, yet, as Meier notes, no such response was forthcoming.[103] Given that Strauss' *Notes* were followed by three letters to Schmitt, which were followed by letters to others in Schmitt's circle inquiring as to the reason why Schmitt did not reply, it is reasonable to interpret Strauss' *Notes* as an effort to engage Schmitt in a dialogue—a dialogue that Schmitt steadfastly refuses to enter into directly, a decision that Strauss regarded with puzzlement and, later, indignation.[104]

In this connection, the letter Strauss wrote to Schmitt on September 4, 1932, is telling. Strauss characterizes his *Notes* as "objections," and then proceeds to level two more objections that are more devastating than anything which he wrote in his *Notes*.[105] Although he writes that these objections are the result of further reflection, it is just as likely that they were withheld because Strauss intended his *Notes* to be a constructive critique, and that these especially devastating criticisms would have been incongruent with Strauss' sympathy for what he had thought was Schmitt's overall project. Given Schmitt's refusal to address himself to Strauss' critique, Strauss takes off the proverbial kid gloves. Although he leaves the door open for a rapprochement by writing that Schmitt's work "invites misunderstanding," it is clear that the responsibility for this misunderstanding lies with Schmitt, as it is due to his lack of clarity in framing the issue.

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[102] Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue,* pp. 83-87.
[103] Ibid., p. 129.
[104] Ibid., p. 129.
[105] Ibid., p. 124.

Strauss notes that, in Schmitt's formulation, the political may arise from "human oppositions" that have an "unpolitical character" and that the political must therefore be "something *subsequent or supplementary*."[106] Strauss then writes, "But if I have correctly understood your opinion—admittedly taken more from an oral exchange than your text—it leads precisely to the conclusion that there is a *primary* tendency in human nature to form *exclusive groups*."[107] Although we don't have access to the oral exchange between Strauss and Schmitt, Strauss' reading is supported by *The Concept of the Political*.[108] Essentially, Strauss is pointing out that Schmitt's argument may be interpreted as suggesting that political oppositions may arise from an unpolitical prepolitical state, whereas Schmitt's actual position is that man is everywhere political, and that political groupings come first. Although Schmitt did not address himself to this critique, it is not as damning as it may appear, as Strauss acknowledges. There is always, in Schmitt's theory, a latent opposition between all groups, an opposition that takes on an unpolitical character within the context of another sphere of reference that has more significance as the primary political grouping—i.e., the state. Schmitt's avowal of the state as the predominant political grouping also finds expression in his consistent opposition to those factors that threaten it, such as the possibility of the replacement of the state as a political unit by some hypothetical Kantian or actual Wilsonian transnational political entity, or schisms within civil society that result in politically significant oppositions. Basically, Strauss is here criticizing Schmitt's lack of clarity in relating his assertion of the primacy of the political to the question of how it is that

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[106] Ibid., p. 124. Emphasis in original.
[107] Ibid., p. 124. Emphasis in original.
[108] Schmitt, *The Concept of the Political.* Compare pages 19-20 with pages 37-39.

politically meaningful oppositions may arise at the level of civil society, on the one hand, and on a transnational basis (as in an international conflict between classes), on the other.

Far more telling is Strauss's second criticism:

> The *tendency* to separate (and therewith the grouping of humanity into friends and enemies) is given with human nature; it is in this sense destiny, period. But the political thus understood is not the constitutive principle of the state, of "order," but only of the condition of the state. Now this relationship of rank between the political and the state does not emerge sufficiently, I believe, in your text. Your statement "The concept of the state presupposes the concept of the political" is ambiguous: "presupposition" can mean constitutive principle *or* condition. In the first sense the statement can hardly be maintained, as the etymology (political-*polis*) already proves.[109]

As his last word on the subject, he simply notes that this is perhaps why one of his reviewers accused Schmitt of "sociologism," a charge that Schmitt would have taken as the harshest possible criticism.[110]

The relationship between the political and the *polis* is a one that Strauss could hardly have failed to notice at the time he wrote his *Notes*: he certainly would have reflected upon the origin of the word *political* in evaluating the stand-alone line that begins Schmitt's *The Concept of the Political.* Upon reading, "The concept of the state presupposes the concept of the political," Strauss's only plausible reaction is "No it doesn't. The political is simply a thing of the *polis*." In his letter, Strauss simply notes the etymological relationship between *political* and *polis*, and drops the issue with characteristic terseness—a terseness that belies the significance of his criticism. This criticism is utterly fatal to Schmitt's stated project in *The Concept of the Political.* Supposedly, Schmitt is interested in the concept of the political because he is interested in

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[109] Leo Strauss.,"Letter to Carl Schmitt dated September 4, 1932," in Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue*, pp. 124-126, p. 125.
[110] Ibid., p. 126.

the state, yet Strauss has simply and elegantly demonstrated that the concept of the state does not presuppose the concept of the political in any way—that in fact, the political is presupposed by the state, or at least its ancient predecessor, the *polis*. Thus, the entire project of *The Concept of the Political* is removed from its theoretical underpinnings, and revealed to be essentially pointless. It is worth noting that this is the very last thing that Strauss writes on *The Concept of the Political.*[111]

Why does Strauss fail to address himself again to *The Concept of the Political*? It is plausible that it is because the relationship he calls attention to between the political and the *polis* renders the rest of Schmitt's essay uninteresting. Schmitt is supposedly motivated by the "unsatisfying" circularity inherent in defining the state as something political and politics as something that pertains to the state.[112] Strauss reveals that there is no circularity, and that the political is historically prior to the modern state. This also relates to Schmitt's Hobbesianism. For Strauss, Schmitt's turn to Hobbes is ill advised and unnecessary. What puzzles Schmitt is, in fact, simply dealt with in Aristotle's definition of man as a political animal.

While I have presented evidence to suggest Strauss's growing disaffection with Schmitt's work in the early 1930's, this is ground that Heinrich Meier has covered before, although he reaches a different conclusion. It would be useful in evaluating Strauss's verdict on Schmitt if we had some material from the post-war period which would shed some light on how the mature Strauss regarded his relationship with Schmitt. No such

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[111] He does not take up the theme at all in his third letter to Schmitt, which is deals exclusively with things Strauss wants from Schmitt. Leo Strauss, "Letter to Carl Schmitt dated July 10, 1933," in Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue,* pp. 127-128. Strauss asks Schmitt for his help in persuading Friedrich to permit him to work on a new critical edition of Hobbes' works, and to make an introduction to Maurras.

[112] Schmitt, *The Concept of the Political,* p. 20.

material where Strauss makes reference to Schmitt exists. This silence, I believe, is telling, and I believe supports my position more than the alternative.

Although Strauss is silent on Schmitt in the post-war period, this does not mean that we cannot come to some conclusion regarding Strauss' evaluation of Schmitt's ideas. One of the most important themes in Schmitt's work is the *Ausnahmezustand*, the state of emergency or, more literally, the state of the exception. Beginning with *Die Diktatur*, the exceptional case one which proves pivotal for Schmitt's political teachings.[113] The exceptional case is for him the touchstone for understanding the political—to such an extent that several authors have identified it at the central theme in Schmitt's work.[114] It is in this context that Strauss' mature appraisal of Schmitt can be determined, for he expressly explored the question of thinkers who make the exceptional case the point of reference for their political ideas on pages 161-162 of his *Natural Right and History*.[115] The following is Strauss' final judgment on those who would make the exception the norm:

> By saying that in extreme situations the public safety is the highest law, one implies that the public safety is not the highest law in normal situation; in normal situations the highest laws are the common rules of justice. ... there is no principle which defines clearly in what type of cases the public safety, and in what type of cases the precise rules of justice, have priority.... What cannot be decided in advance by universal rules, what can be decided in the critical moment by the most competent and most conscientious statesman on the spot, can be made visible as just, in retrospect, to all; the objective discrimination between extreme actions which were just and extreme actions which were unjust is one of the

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[113] Carl Schmitt, *Die Diktatur* (Munich: Duncker & Humblot, 1928), pp. VI, VIII-X, 16-18.
[114] For example: Schwab, *The Challenge of the Exception.* Oren Gross, "The Normless and Exceptionless Exception: Carl Schmitt's Theory of Emergency Powers and the 'Norm-Exception' Dichotomy," *Cardozo Law Review*, 21 (2000): 1825-1868. Wolfgang Pircher, *Gegen den Ausnahmezustand: zur Kritik an Carl Schmitt (*Vienna: Springer, 1999).
[115] Leo Strauss, *Natural Right and History (*Chicago: University of Chicago Press, 1965), pp. 161-162. It may be of interest to some that *Natural Right and History* is 323 pages long, making page 162 the central page—161 pages appear before it and 161 pages appear after it. It may be asserted without exaggeration that the critique of those who would make the exception the norm is literally central to *Natural Right and History*.

> noblest duties of the historian... Machiavelli denies natural right, because he takes his bearings by the extreme situations in which the demands of justice are reduced to the requirements of necessity, and not by the normal situations in which the demands of justice in the strict sense are the highest law.... Furthermore, he does not have to overcome a reluctance as regards the deviations from what is normally right. The true statesman in the Aristotelian sense, on the other hand, takes his bearings by the normal situation and by what is normally right, and reluctantly deviates from what is normally right in order to save the cause of justice and humanity itself.[116]

For reasons of space, I have edited Strauss' commentary down to what is most relevant—what I have excluded, if anything, only serves to heighten the critique of those who would make the norm the exception.

It is impossible to demonstrate conclusively that Strauss had Schmitt in mind when writing the foregoing passage. From a certain point of view, however, the question becomes how could it be that Strauss *did not* have Schmitt in mind?[117] Even if we abandon the possibility that Strauss' critique is directly leveled at Schmitt, we are left with the question of whether it applies to him as a member of the class of those who take the exception to be the norm. To this question, the answer can only be yes. While Schmitt was critical of those who fail to take into account the extreme situation, Strauss' answer is that it acknowledgement of the possibility of an extreme situation does not necessarily entail taking the exception for the norm, and that a certain reluctance to embrace the exception is necessary for political justice.

While Schmitt embraces the either/or of politics, and defends the necessity of the political decision itself against charges of injustice, Strauss argues that the statesman ought to be restrained by a historical standard. Though it is clear Strauss is not entirely

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[116] Ibid., pp. 161-162.

[117] Given Strauss' prior engagement with Schmitt's work, the importance Schmitt personally played in advancing Strauss' career, and his recognition of the importance of the *Ausnahmezustand* for Schmitt's work—for which, see: Strauss, "Notes on Carl Schmitt, The Concept of the Political," p. 88.

satisfied with the Aristotelian statesman, he prefers him to the Machiavellian one. For while the Machiavellian, such as Schmitt, is concerned only with what is effective and good for his own nation, the Aristotelian statesman adheres to a higher standard, and is ultimately bound to "save the cause of justice and humanity itself." It is most notably this that Strauss finds wanting in those who, like Hobbes, Machiavelli and Schmitt, take the exception to be the norm.[118] Strauss' last words on Schmitt serve to clarify what is at the core of his critique of the *Concept of the Political*, which is that, though Schmitt seeks to make use of Hobbes, in the end he is trapped by him, and becomes Hobbesian despite himself.

[118] Much of what is important for Schmitt's political thought, i.e., war, power and duty to the state, is not new, but recalls Treitschke and Hegel. What is novel in Schmitt is the attempt to graft the Hobbesian emphasis on crisis onto the Hegelian conception of the state, which is itself never so much in a crisis condition as it is the worldly expression of God's will. It is exactly this element, which Strauss at first finds promising, that he so forcefully rejects in Machiavelli, Hobbes and, implicitly, Schmitt. See also: Strauss, *Natural Right and History,* p. 195.

CHAPTER 3

A Review of the Literature on Heinrich von Treitschke

While Schmitt's ideas and biography have recently been the subject of numerous works, Treitschke is far more obscure to Anglo-American readers, and so it is sensible to here consider his biography.[119] Born the son of a Saxon officer in Dresden on September 15, 1834, young Heinrich von Treitschke often accompanied his father as he conducted his military business, and it seemed natural to his family that "he would follow in his father's footsteps and embark on a military career."[120] But such was not his karma. At the age of eight, young Heinrich was afflicted with chicken pox and measles in rapid succession, which resulted in a nearly fatal glandular infection which damaged the boy's hearing.[121] Treitschke's hearing was to grow ever more impaired through the course of his life, so that eventually he was stone deaf. Despite the handicap that denied him the military career for which he was otherwise well suited, Treitschke excelled academically. He decided to study history in preparation for an academic career. Although it was contrary to the wishes of some in his family, who thought it an improper vocation for an aristocrat, his father and headmaster supported this decision.[122]

Treitschke's university time was spent at Bonn, Leipzig, Tübingen, Freiburg, and Heidelberg, and he was awarded a doctorate from Leipzig in 1855.[123] Treitschke served as a private university lecturer in Leipzig off and on from 1859-1863, as University Deputy Professor for Political Science at Freiburg from 1863 to 1866, as Professor for

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[119] For a recent exploration of Schmitt's intellectual biography, see Balakrishnan, *The Enemy: an Intellectual Portrait of Carl Schmitt.* See also Jan-Werner Müller. *A Dangerous Mind: Carl Schmitt in Post-War European Thought* (New Haven, Yale University Press, 2003), especially pp. 17-47.
[120] Andreas Dorpalen, *Heinrich von Treitschke (*New Haven: Yale University Press, 1957), p. 3.
[121] Ibid., p. 3.
[122] Ibid., p. 10.
[123] Ibid., pp. 24-28.

History and Politics at Kiel from 1866 to 1867, as Professor of History at Heidelberg from 1867 to 1873. He taught at the University of Berlin from 1873 until his death in 1896.[124]

The definitive statement of Treitschke's political philosophy is his *Politics*, whose title was borrowed from Aristotle, with a characteristic lack of humility. Treitschke's *Politics* is an attempt to devise a comprehensive guide to the subject; a guide intended to serve as a handbook for the ruling class as well as an attempt to endow them with the moral and ethical attitudes appropriate to rulers. Treitschke's *Politics* comes to us as a book that should have been written, but was not. Treitschke long intended to write an extensive work on politics, but put this enterprise on hold, pending completion of his *Deutschen Geschichte im neunzehnten Jahrhundert*—a work which itself proved to be so monumental that Volume 5, published just two years before Treitschke's death in 1896, ends with his account of the events of 1848.[125]

The posthumously published *Politics* consists of notes taken by students during lectures Treitschke offered at Berlin between 1874 and 1895.[126] Though it may seem odd today that a historian such as Treitschke would have lectured extensively on politics,

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[124] Treitschke has been the subject of a number of biographical treatments, the most comprehensive of which are: Dorpalen, *Heinrich von Treitschke,* and Ulrich Langer, *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten* (Düsseldorf: Droste Verlag, 1998). A shorter, more personal biography by one of Treitschke's students is to be found in the first chapter of Adolph Hausrath. *Treitschke: German Destiny and International Relations, together with a study of His Life and Work.* (New York: Putnam, 1914).

[125] Langer, *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten,* p. 342.

[126] H. W. C. Davis, *The Political Thought of Heinrich von Treitschke (*New York: Scribner's, 1915). It is also noteworthy that Treitschke held that none of the social sciences could be divorced from political science. "It is then clear that society takes a thousand forms, and consequently that social science cannot be separated from political science. We can indeed treat the science of economics as an intellectual abstraction, but if we survey society with its struggles and its groupings, including those which are not economic in their nature, we find ourselves once more in the presence of the State. For that is the legal unity which counterbalances this multiplicity of interests, and it is only playing with words to speak of political and social science as two separate things." Heinrich von Treitschke, *Politics*, Hans Kohn ed. & trans. (New York: Harcourt 1963), p. 27.

once we understand the extent to which Treitschke esteemed the political role of the Prussian aristocracy, it follows that his appointment at Berlin would carry with it the happy duty of developing the moral and intellectual virtues of his students so that they could fulfill their natural political role. The fact that Treitschke's *Politics* comes down to us in the form of his students' notes is fitting, for Treitschke's greatest successes came in the classroom, and it is his influence on his students which constitutes Treitschke's legacy:

> Though he himself may long be forgotten, his views may well survive anonymously in the thoughts and actions of later generations. More than once ideas have proved more long-lived than the names of their originators. No doubt Treitschke's views were of this kind. While his books were gathering dust as unread classics, his teachings lived on in the opinions of the bulk of the students who had been attending his classes. These men, numbering many thousands, constituted a substantial sector of the diplomats, judges, and administrators, the lawyers, teachers, and writers, the politicians and economists of the Wilhelmian era, and the thoughts he had implanted in their minds during their most impressionable years continued through them to exert their influence on public affairs. The spirit that pervaded the Germany of William II bears the hallmark of many of the views which Treitschke had been propounding in his lectures and essays.[127]

Treitschke counted among his many students such eminences as Heinrich Class, Hans Delbrück, Otto Hintze, Max Lenz, Erich Marcks, Friedrich Meinecke, Karl Peters, Ludwig Schemann, Gustav Schnürer, Georg Simmel, and Friedrich von Bernhardi.[128]

It may not be excessive to claim that Treitschke is the most politically significant academic to have been forgotten by history. His *Deutschen Geschichte in neunzehnten*

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[127] Dorpalen, *Heinrich von Treitschke,* p. 292.

[128] Ibid., pp. 294-295. Interestingly, Erich Marcks' son, the Wehrmacht General Erich Marcks, was a friend of Schmitt's. See Gottfried, *Carl Schmitt: Politics and Theory*, p. 73. Erich Marcks senior is best remembered for his biography of Bismarck. General Marcks was one of the Wehrmacht officers who, like Schmitt, had been involved with the "Schleicher Circle," but who avoided Schleicher's fate. Later in the war, General Erich Marcks worked as a senior staff officer in planning Barbarossa, the invasion of the USSR, and served as the commanding general of the 84th Corps during the allied invasion of Normandy. He is killed in action on June 12, 1944, when allied planes strafed his car as he was on his way to inspect the positions of his troops.

Jahrhundert was an object of veneration in thousands of German homes; he published sixteen books during his lifetime and had eight published posthumously; wrote no fewer than one hundred and sixty-three works in various publications; served in the Reichstag for thirteen years; received a number of significant honors from the state, including the *Orden pour le merite* and the position of Historiographer of the Prussian State.[129] Despite his prominence in his own time, Treitschke is largely forgotten today. Treitschke's brand of nationalism was seen as a proximate cause of World War I, despite the fact that nearly twenty years elapsed between his death and the onset of war—and yet those twenty years were the approximate amount of time required for Treitschke's students to rise to positions of prominence in the Reich.

In addition to the charges regarding Treitschke's "war guilt" (and, being dead, Treitschke may have been an easy target in this regard), Treitschke's professional standing with his colleagues as a scholar had always been tenuous, and his colleagues were disparaging of his involvement with politics, as the arc of Treitschke's own career follows that of his powerful Prussian benefactors.[130] Other factors that may have served to distance Treitschke from his fellow academic "mandarins" probably included Treitschke's immoderately grand self-image, and the isolation caused by his deafness.

In addition to his work as an essayist and historian, Treitschke also followed the poetical muses. In this, he was following a family tradition: his father had written poetry, and his great-uncle, Georg Freidrich Treitschke (the honorific "von" had not yet been

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[129] Langer, *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten*, pp. 397-413.
[130] More than once Treitschke's advancement up the academic career ladder was aided by his powerful friends. He was allowed to keep his Prussian citizenship when he received his appointment at Heidelberg mainly because it was hoped that he would proselytize on behalf of Prussia. It is also not a historical accident that his appointment at Berlin in 1873 came close on the heels of the momentous events of 1871. See Dorpalen, *Heinrich von Treitschke*, pp. 130, 192.

acquired by the family) served as the principal poet of the Burgtheater in Vienna, achieving his greatest acclaim as Beethoven's librettist for his *Fidelio*.[131] Treitschke's only published poetical work was his *Vaterländische Gedichte*, published when he was still a tender whelp of twenty-two. Langer—quite rightly—characterizes Treitschke's poetry as marked by "unmistakable mediocrity of form and style," but the patriotic theme Treitschke adopted was one that would be taken up again and again in his essays and lectures:[132]

> It will come yet, the golden era,
> To us in rage and grief unveiled,
> Where only like a forlorn saga,
> The myth of German shame resounds."[133]

Treitschke sought to intensify the patriotic sentiments of Germans through his poetic skill, but he must have thankfully realized that his talents were not up to the task.

Treitschke's work enjoyed some currency in the UK and the US during World War I, when his writings were published in translation.[134] George Haven Putnam, writing in the foreword to Hausrath's biographical tribute to Treitschke, which he published

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[131] Langer, *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten*, p. 74.
[132] Ibid., p. 74.
[133] From Heinrich von Treitschke, *Vaterländische Gedichte* (Göttingen: G. Grote, 1856). Cited in Langer, *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten*, p. 75.

> *Sie kommen noch, die goldnen Tage,*
> *Die wir in Zorn und Gram ersehnt,*
> *Wo nur wie eine finstre Sage*
> *Die Mär der deutschen Schande tönt.*

[134] The biography of Treitschke by his student Adolph Hausrath, along with a series of excerpts from Treitschke's works, appeared in an anonymous translation in both Britain and the United States in 1914. See: Hausrath. *Treitschke: German Destiny and International Relations, together with a study of His Life and Work.* Oddly, the title on the cover (*Treitschke: German Destiny and Policies*) differs from that on the spine, which is *Treitschke: His Doctrines and His Life*, which is also different from the title appearing on the title page, which is *Treitschke: German Destiny and International Relations, together with a study of His Life and Work.* This edition appears with a foreword by the publisher George Haven Putnam, who also wrote the foreword to his company's 1915 publication of *The Confessions of Frederick the Great and The Life of Frederick the Great*, the latter of which was written by Treitschke. Heinrich von Treitschke, *The Confessions of Frederick the Great and The Life of Frederick the Great* (New York: Putnam, 1915). The British edition appears with no such editorial comment as *Treitschke: His Life and Works* (London: Jerrold & Sons, 1914). Strangely, no author or editor is credited in the British edition, though Hausrath's biography makes up nearly half the book.

along with some excerpts from Treitschke, explained why he felt his American contemporaries should concern themselves with Treitschke's work: "The history of the French Revolution could not be considered without analysis of Rousseau and his writings, and, in like manner, the present action of Germany, which amounts to a revolution, in initiating the European War of 1914, will always be connected in history with the teachings of Treitschke."[135]

Putnam notes that Treitschke "has been called 'the Machiavelli of the nineteenth century,'" and notes the mechanism by which Treitschke's ideals continued to mould German policy even after death: "He died in Berlin in 1896, and it is his pupils, the middle-aged men today, Bernhardi and others, who have planned the present fight of Germany for the domination of Europe. Bismarck was Treitschke's valued friend, and William II has been nurtured on his teachings."[136] As further support for his claim that Treitschke's teachings led to the war in which America had yet to become involved, Putnam cites Professor J. H. Morgan, who held that understanding Treitschke's influence requires an understanding of his "purer insights," which he lists as the doctrine that the ends justify the means, that war is the nurse of manly sentiment, that modern commercialism is to be despised, that Germany's domestic life, pastoral simplicity and faith make her superior to other European nations, and that, "He rested his hopes for Germany on the bureaucracy and the army. By a quite natural transition he was led from his championship of the unity of Germany to a conception of her role as a world power.

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[135] Hausrath. *Treitschke: German Destiny and International Relations, together with a study of His Life and Work*, p. iii. Another critique and collection of Treitschke's thoughts published in English at this time is Davis, *The Political Thought of Heinrich von Treitschke*, which also saw publication in America the following year as H. W. C. Davis, *The Political Thought of Heinrich von Treitschke* (New York: Scribner's, 1915).

[136] Hausrath. *Treitschke: German Destiny and International Relations, together with a study of His Life and Work.* pp iv-v.

He is the true father of *Weltpolitik.*"[137] Putnam saw Treitschke's influence as so great that he actually calls Clausewitz "his pupil"—a historical impossibility, given that Clausewitz died two years before Treitschke's birth.[138]

Yet we should not let such an error to lead us to conclude that Putnam was wrong in his overall assessment of the importance of Treitschke, for his view of Treitschke's significance was widespread at the time. In 1915, the French sociologist Emile Durkheim explored what he saw as the "German ethos" that led to World War I:

> The behavior of Germany during the war is based on a definite ethos.... This ethos will be explored through Treitschke. To describe it, we do not need to look for its elements here and there, so that we may later arrange them and make connections that are, more or less, artificial. There is a German writer who explained the principles upon which this system is established and who was fully and clearly aware of the consequences which follow from it: namely Heinrich von Treitschke in his entire body of work, but especially in his *Politics*.[139]

Though Treitschke had died nearly twenty years before the beginning of the war, Durkheim's description of Treitschke as the leading proponent of German militarism is well founded.

Given his bellicosity and the fact that World War I certainly did nothing to uplift the German people, Treitschke's status during the Weimar era was a problematic one. Yet Treitschke still held interest for Germans. Dorpalen writes of Treitschke's ideas that "the catastrophe of the first world war... [did not] lead to their repudiation. During the Weimar era Treitschke's values were still shared by many until they were swept away by the canons of Nazism."[140] One exhaustive count of dissertations on Treitschke yields

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[137] Ibid., pp. v-vi.
[138] Ibid., p. viii.
[139] Emile Durkheim, *über Deutschland: Texte aus dem Jahren 1887 bis 1915*, Andreas Gipper trans. (Constance: Universitätsverlag Konstanz, 1995), pp. 246-247.
[140] Andreas Dorpalen, "Heinrich von Treitschke," *Contemporary History* 7 (1972): 21-35, p. 34.

twenty total dissertations and one postdoctoral qualification paper on him in this century: of these, seven were written during the Weimar era, making that period something of a highpoint of academic interest in Treitschke.[141]

Why is it that Germans were interested in Treitschke in the Weimar period? One reason offered by Dorpalen is that Treitschke's critique of parliamentary government, offered in defense of Germany's constitutional monarchy, was also directly applicable to the Weimar constitution.[142] Treitschke thought Germany was poorly suited for a parliamentary system of government.[143] For Treitschke, a strong party system, economic liberalism and parliamentary government all went hand in hand, belonging properly only to England, and contrary to German nature: "We are distinguished from other nations by our honourable love for outspoken convictions, which would make a cut-and-dried party system distasteful to us. We refuse with thanks 'the sacred bonds of friendship,' which holds English parties together. We would fain distribute the offices of state according to merit, an ideal that is very hard to realise, but is dear to every German heart."[144] According to Treitschke, German sincerity makes party discipline impossible, and the German desire for meritocracy—a desire that finds its philosophic expression in Hegel's

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[141] Christof Rolker, *Heinrich von Treitschke: Werke und Ausgaben (*Constance: Universitätsverlag Konstanz, 2001). The sum of these works by decade is as follows: 1900-10, 1: 1911-20, 4: 1921-30, 5: 1931-40, 3: 1941-50, 2: 1951-60, 2: 1961-70, 1: 1970-80, 1: 1981-90, 0: 1990-2000, 2. The nationality of the universities where these dissertations were accepted is as follows: eighteen are German, one Austrian, one American and one French—all seven of the works written in the Weimar period are by German authors. Overall, this could be seen as evidence that Treitschke has been overlooked by English-language political philosophy, and that he is becoming increasingly obscure even in Germany. Also interesting is the breakdown of these dissertations by subject area: six are in the area of history/philosophy of history, five are on the subject of Treitschke's writings on different nations (his own or others), and the remaining ten are on topics that belong to the field of political philosophy. (Note that I have classified these conservatively—though, for example, G. Schramm's *Heinrich von Treitschke und Österreich* may well material of interest to the student of political philosophy, it is included in the "national writings" category.) Although he was a historian by profession, by this measure he is best regarded as a political thinker, in that what has been most of interest to subsequent generations is his political thought.

[142] Dorpalen, *Heinrich von Treitschke*, p. 293.

[143] Langer, *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten*, pp. 335-357.

[144] Treitschke, *Politics*, vol. I, p. 148.

valorization of the bureaucracy—makes rule by parties impossible for Germans. Opponents of the Weimar constitution found in Treitschke a ready-made authority.

For the most part, Treitschke attracted little scholarly attention in English in the latter half of the twentieth century. Perhaps because the popular supposition by the scholars in the allied countries that Treitschke's writings led to World War I has found its way into the history of war, the branch of political science in which Treitschke is mentioned most often is the subfield of international relations and comparative politics that concerns itself with the state.[145] Even here, Treitschke is most commonly cited as though he were an acknowledged and prominent proponent of statism and realism whose importance needs no explanation, yet students of this subfield have yet to produce a single article or book that focuses on Treitschke's political theory as worthy of independent consideration. Typical of the use that recent political science has made of Treitschke is found in an article on the state by Mostafa Rejai and Cynthia Enloe:

> It was Georg Wilhelm Friedrich Hegel who succeeded in giving Herder's cultural nationalism a firm political grounding. What Hegel had done in theory and philosophy, Otto von Bismarck and Heinrich von Treitschke accomplished in practice. At the hands of Hegel, the state was turned into a God-like creature capable of commanding the unquestioned loyalty of all Germans as a step towards final unification. The state was seen as the supreme repository of all moral and spiritual values, the supreme object of man's devotion. Bismarck and Treitschke employed the teachings of Hegel to maximum advantage. Together, the two Prussians propagated the cult of the state as the embodiment of might and power. The overriding task was still German unification, but now under Prussian leadership.... The new German Reich, proclaimed by Bismarck on January 18, 1871, was in effect an expanded Prussia. It symbolized the union of militarism and nationalism.[146]

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[145] And even in IR and comparative, Treitschke's work has not been given the attention it arguably merits—there is, for example, no book-length treatment in English of Treitschke's theory of war. One of the purposes of this project is to reclaim Treitschke as a writer whose work is worthy of serious consideration by political theorists, and political scientists in general.

[146] Mostafa Rejai and Cynthia H. Enloe, "Nation-States and State-Nations," *International Studies Quarterly* 13 (1969): 140-158, pp. 147-148.

For Rejai and Enloe, this development is significant because a difference between state-fostered nationalism (as in Prussia) and nationalism-fostered states (as in France), and points to the more difficult task of creating legitimacy in those states where the nation precedes the state.[147]

Yet this short treatment of Treitschke's role in the history of the development of the theory of the Prussian state, though factually correct in most respects, does as much to confuse as it does to clarify the significance of Treitschke. It may, for example, be somewhat misleading to refer to Treitschke as a Prussian, because it may lead one to believe that he was a Prussian and therefore a Prussian nationalist, whereas in fact he was born a Saxon, advocated German unity under the Prussian banner from an early age, and became a Prussian citizen as a consequence of his belief that Prussia offered the best vehicle for German unity. Also, when the authors write that "Bismarck and Treitschke employed the teachings of Hegel to maximum advantage," they may lead the reader to make several suppositions which, if not demonstrably false, at least require more proof than is offered here: that Bismarck and Treitschke were purely opportunistic in their use of Hegel (Treitschke, at least, was sincere in his advocacy of Hegelian political idealism), that Bismarck and Treitschke were always of one mind (they sometimes disagreed), and that they played roughly the same role in propagating "the cult of the state" (crudely speaking, there was a division of labor between the two, with Treitschke acting as theorist and publicist and Bismarck as the practical politician). They also write that "What Hegel had done in theory and philosophy, Otto von Bismarck and Heinrich von Treitschke accomplished in practice," which suggests Treitschke was unconcerned with theory and

[147] Ibid., p. 148.

philosophy, which flies in the face of the evidence provided by Treitschke's five decades of contributions to political theory and philosophy, none of which are cited by the authors. It is precisely this sort of error that is inevitable when Treitschke is treated as a historical authority of tangential interest to contemporary theorists of the state rather than a critical nineteenth century political writer worthy of independent consideration.

Despite the fact that political science is sometimes exasperatingly concerned with the development of concepts and constructs, there has been a blindness to the extent to which the literature on the state owes to Hegel and others working in the German Hegelian tradition. Howard Lentner noted this myopia in his 1984 article, "The Concept of the State: A Response to Stephen Krasner," calling for a break with "the behavioralist fashion which rejects much of what was written before WWII," and asserting that German theorists have been ignored partly because the German language is inaccessible to American scholars of the state and because this tradition has been "associated with authoritarianism," despite which "one can with profit read Bluntschli, Meinecke, and Treitschke."[148] Lentner's call for a revival of the study of the Hegelian literature on the state, of which Treitschke forms a part, is the main demand he makes of Krasner and other liberals who would call themselves "statists," yet this call has largely been ignored.[149]

I suspect that the continued treatment of Treitschke as a figure of only minor interest to scholars in international relations and comparative politics is due not only to the reasons given by Lentner, but also because Treitschke's work is conceptually remote

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[148] Howard H. Lentner, "The Concept of the State: A Response to Stephen Krasner," *Comparative Politics* 16 (1984): 367-377, p. 369.

[149] Ibid., pp. 367, 369-371, 376. Lentner implies that Krasner, who calls himself a statist simply because he is willing to admit of a role for the state, would benefit from the study of *true* statists, such as Treitschke, who fully embrace the state. See p. 377, fn. 31.

from the expertise of contemporary scholars in these fields of study: Treitschke's view of science is Aristotelian, and his model of the state is Hegelian. Modern-day political scientists are unlikely to regard Aristotelian political science as having to potential to offer any real advances in knowledge, and undertaking the demanding study of Hegel's political works in order to work out the minutiae of Hegel's system might seem to them to be a use of time more fruitfully employed elsewhere.

Another reason for Treitschke's academic marginalization stems from his publicly avowed anti-Semitism. Treitschke was a major player in the *Berliner Antisemitismusstreit* (Berlin Dispute on Anti-Semitism) of 1879-1880, which on his part took the form of a published dispute with Theodor Mommsen. It was during this disputation that Treitschke published the infamous phrase "The Jews are our misfortune," which later was adopted as an official Nazi slogan. Yet Treitschke's anti-Semitism was radically different from that of the Nazis, in that it not based on race, but on identity. As the descendant of Slavs, Treitschke did not endorse any form of racism, but instead saw German identity as a matter of language and culture. Thus, Treitschke's "solution" to the Jewish was a call for their assimilation, not their eradication. Treitschke believed in national religious homogeneity, and so his solution for German Jewry is no harsher than the one he offers Catholics. Treitschke clearly thought that the Christian/Jewish split within Germany was a religious question, not a racial one. Moreover, the "Dispute on Anti-Semitism" also had a strong political component, in that German Jews were strongly associated with liberalism.[150] Nonetheless, Treitschke's role in making anti-Semitism socially respectable in Germany casts a long shadow over his historical legacy.

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[150] Richard M. Ebeling, "Ludwig von Mises and the Vienna of his Time," *The Freeman: Ideas on Liberty*, 55:3 (March, 2005): 24-31, p 31, fn .27. Ebeling cites Hertz in support of the proposition that "the real

The only standalone treatment of Treitschke in American political science in the past fifty years is Edward Megay's 1958 article "Treitschke Reconsidered: The Hegelian Tradition of German Liberalism."[151] Coming just one year after the publication of Dorpalen's biography of Treitschke, this article notes that Treitschke's "political philosophy has not yet been subjected to the searching and objective analysis which it deserves," and—though too short to constitute such an analysis—it appears intended to assert Treitschke's importance as a political theorist, and to excite some sort of debate over Treitschke's thought.[152] It is a brief introduction to Treitschke's political thought, which Megay depicts as important because it was representative of and influential on the German elite of Treitschke's day, it influenced later liberals, it helps us to understand the peculiarities (and failures) of German liberalism, and because "it is one of the important vulgarized, and therefore popular, forms in which Hegel's philosophy has dominated and continues to influence the political climate in Germany."[153]

Megay's central thesis is that there was no "break" in Treitschke's thought, between a liberal early phase and a conservative late phase, as has been asserted by Davis and others.[154] Megay puts the appearance of such a break down to changes in "the political condition of Germany during his lifetime"—that Treitschke's attacks on the German states prior to unification (which have been characterized as liberal) is entirely

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target behind much of the anti-Semitism in Germany and Austria was economic liberalism": "It was rightly felt by many that the real object of [anti-Semitic attacks such as those by the Germany historian Heinrich von Treitschke, who coined the phrase, 'The Jews are our misfortune'] was not the Jews, but liberalism, and that the Jews were only used as a means for working up public opinion against its fundamental principles." Frederick Hertz, *Nationality in History and Politics (*New York: Oxford University Press, 1944), p. 403.

[151] Edward N. Megay, "Treitschke Reconsidered: The Hegelian Tradition of German Liberalism," *Midwest Journal of Political Science* 2 (1958): 298-317.

[152] Ibid., p. 299.

[153] Ibid., p. 299.

[154] Ibid., pp. 299-300.

consistent with his support for the state during the Bismarckian era (which has been characterized as conservative).[155] With regard to this claim, Megay is on solid footing, as the political order Treitschke lamented in 1861 (*Die Freiheit*) is not the same as the one he defended in 1888-1893 (*Die Politik*), which Treitschke believed represented the ideal state of Hegelian political philosophy.[156]

One of Megay's other principal claims, however, is far less tenable. According to Megay, differences between the political philosophy of Treitschke and Hegel are due not to any actual disagreement between Treitschke and Hegel, but to Treitschke's inability to understand Hegel, particularly his failure to understand the Hegelian dialectic. Megay writes: "in several instances in which he specifically rejected Hegel's thought, he actually opposed only common misinterpretations of Hegel's ideas with Hegel's actual views."[157] This is a bizarre claim. According to Megay, Treitschke uncritically accepted common misinterpretations of Hegel's political philosophy as Hegel's actual positions, while *consistently* arguing against these from a position that reflects Hegel's actual political philosophy, which Treitschke *somehow* did not attribute to Hegel. Megay is willing to believe that Treitschke, one of the most accomplished scholars in nineteenth century Germany, has committed a schoolboy error, but fails to see the impossibility of this. For Treitschke to have attributed misinterpretations of Hegel directly to Hegel himself, and to have argued against such misinterpretations using a consistently correct interpretation of Hegel, he must have first have had to interpret Hegel correctly. Consider the following passage:

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[155] Ibid., p. 300.
[156] Ibid., p. 300.
[157] Ibid., p. 301.

> All his life Treitschke adhered to the view that "a Christian cannot live only for the state, because he cannot renounce his eternal destiny." He rejected, therefore, the ancient Greek view of man only as a citizen, repeating Hegel's argument perhaps unwittingly, but at any rate without referring to it.[158]

The passage to which Megay refers was taken from Treitschke's *Politics*, which was taken down from his students' notes: failure to cite one's sources in a classroom setting may be a sin, but it is a venial one. Why should we assume that Treitschke's failure to attribute this point to Hegel reflects his ignorance of Hegel's argument, especially as we know Treitschke read Hegel's *Philosophy of Right*? The fact that he follows Hegel so closely here should be seen as evidence of his knowledge of Hegel's position, rather than his ignorance of it. Megay continues:

> Beyond this Treitschke subscribed to Kant's principle that man must never be used as a mere means. Consequently, Treitschke always insisted on the "infinite right of the person" or the "value of the immortal personality of man." Strangely enough, Treitschke believed that these views were opposed to those of Hegel, although he borrowed both the phrase "infinite right of the person" and roughly the whole argument from Hegel.[159]

Megay's explanation is so implausible that he refers to it as strange, though it is more than that—it is impossible.

Megay has been presented with a nearly perfect correlation, and yet feels the need to put it down to error on the part of Treitschke. A far more consistent, though less simple, explanation is that Treitschke has some agenda in attributing misinterpretations of Hegel to Hegel himself. A clue as to what this agenda might be is supplied by Megay: "Unaware of his role as a vulgarizer and propagator of Hegel's political philosophy, Treitschke was suspicious of Hegel's concept of civil society and thought that 'Hegel's

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[158] Ibid., p. 304.
[159] Ibid., p. 304.

teachings remained unfruitful for political science.'"[160] I submit that Treitschke's assertion that Hegel's teachings are unfruitful for political science is not inconsistent with a belief on Treitschke's part of the validity of Hegel's actual views. This supposes awareness on Treitschke's part of a distinction between political philosophy and political science. On the one hand, Hegel's teachings on civil society, in particular, may have been seen by Treitschke as representing a philosophic truth about man's political condition, while on the other hand, he may have believed that such a philosophic truth may prove dangerous in political practice. Such an interpretation, I believe, is far more consistent with the evidence Megay cites than his own interpretation, which assumes Treitschke must have been ignorant of things we know he knew. This distinction, I believe, is crucial if we are to understand how the Treitschke who upholds the ideal of the Hegelian state may be reconciled with the Treitschke who defines the state as power.

Hegel grounds obedience to the state on the apprehension of the universal ideal of the state by the individual. Treitschke, on the other hand, leaves this in the background (though it is surely there), as if he doubted men's capacity to see themselves in the state—to the Hegelian ground for obedience, he adds the fellow-feeling of comrades in arms when faced with "imminence of death" at the hands of the enemy. In this, he anticipates the use Schmitt makes of Hobbes in *The Concept of the Political* when he emphasizes the importance of the "ever present possibility of combat" for understanding the enemy, which defines the political, which in turn defines the state.[161]

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[160] Ibid., p. 309.
[161] Schmitt, *The Concept of the Political*, p. 32.

War occupied a key place in Treitschke's political thought. For him, war is an essential part of human nature—not only is it not a thing to be lamented, but it in fact is something to be celebrated as a wellspring of virtue and national unity:

> We have learned to recognize the moral majesty of war just in those aspects of it which superficial observers describe as brutal and inhuman. Men are called upon to overcome all natural feeling for the sake of their country, to murder people who have never before done them any harm, and whom they perhaps respect as chivalrous enemies. It is things such as this that seem at the first glance horrible and repulsive. Look at them again and you see in them the greatness of war. Not only the life of man, but also the right and natural emotions of his inmost soul, his whole ego, are to be sacrificed to a great patriotic ideal; and herein lies the moral magnificence of war. If we pursue this idea still further, we shall see that in spite of its hardiness and roughness, war links men together in brotherly love, for it levels all differences of rank, and draws men together by a common sense of the imminence of death. Every student of history knows that to do away with war would be to cripple human nature. No liberty can exist without an armed force ready to sacrifice itself for the sake of freedom. One cannot insist too often on the fact that scholars never touch upon these questions without presupposing that the State only exists as a sort of academy of arts and sciences. This is of course its duty, but not its most immediate duty. A state which cultivates its mental powers at the expense of its physical ones cannot fail to go into ruin.[162]

Clearly, Treitschke here glorifies war, however we should take note that this element of realism has its roots in Treitschke's idealism. If we strip away Treitschke's florid prose, his argument is as follows:

- War calls men to sacrifice themselves for the ideal of the state.
- War enhances the unity of the people by creating love between comrades in arms, and by destroying divisive social distinctions through the common and immanent threat of death at the hands of the enemy.

[162] Hausrath, *Treitschke: German Destiny and Policies*, p. 139.

Liberty and freedom (the highest ideals of the state in the Hegelian tradition[163]) are contingent upon armed force, the maintenance of which is therefore the most immanent duty of the state.

It is therefore not without reason that Isaiah Berlin called Treitschke the most optimistic of nationalists, for his nationalism is based in a confidence in the German state as the embodiment of the ideal of freedom.[164] Compare this with Hegel's argument on the necessity of war in *Philosophy of Right.* Hegel contends that the state may demand the sacrifice of everything, including the lives of its subjects, based upon the individual's recognition of his absolute individuality in the idea of the state. He also affirms that war is a necessity, and that perpetual peace can lead only to the corruption of nations: "Sacrifice on behalf of the individuality of the state is the substantial tie between the state and all its members and so is a universal duty."[165] Ulrich Langer writes that Treitschke's teaching on war is a restatement of Hegel's, but also takes note of the difference in emphasis in Treitschke's formulation, which is summed up in a more succinct formulation of his "academy" pronouncement: "The state is not an academy of the arts, it is power."[166] This modification of Hegel is particularly significant, particularly when we understand Treitschke's views on the effects of war on the spirit of a people.

Treitschke believed war had an uplifting effect on nations. He argued that war is the universal remedy, and an absolute necessity for the health of states: "War is political science *par excellence.* Over and over again it has been proved that it is only in war a people becomes in very deed a people. It is only in the common performance of heroic

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[163] Paul Franco, *Hegel's Philosophy of Freedom* (New Haven: Yale University Press, 1999).
[164] Isaiah Berlin, *The Crooked Timber of Humanity* (Princeton: Princeton University Press, 1990), p. 248.
[165] Hegel, *Philosophy of Right*, pp. 209-210.
[166] Heinrich von Treitschke, *Das constitutuionelle Königthum in Deutschland*, in *Historische und Politische Aufsätze*, vol. 3, *Freiheit und Königthum* (Leipzig: Hirzel, 1871): 491-625, p. 534.

deeds for the sake of the Fatherland that a nation becomes truly and spiritually united."[167] Unity is the most important attribute for the people of a nation, and for Treitschke the strongest unity is to be found on the battlefield. Treitschke's political views may be oversimplified as excessively militaristic: the essence of the state is power, the military is the instrument of the state's power, and so all other aims of the state ought to be subordinated to its martial ones—culture, learning, art and individuality are all trampled under the jackboots of the bellicose military class. In hindsight, it is possible to render a reading of history that makes this claim, although the accomplishment of German individuals in culture, learning, and the arts during this period ought to render such a reading highly suspect. More to the point, such an interpretation is contrary to Treitschke's intention, for he is ever critical of such one-sidedness, whether in a person or a state.

While Treitschke regards power as the essence of the state, and the army as a fundamental institution, he goes further, arguing that the ultimate end of the state is something higher: "The State is a moral community called to positive labours for the improvement of the human race, and its ultimate aim is to build up real national character through and within itself, for this is the highest moral duty of nations as well as individuals."[168] Military defense is therefore the first aim of the state, and a task that it never relinquishes, but once security is achieved it becomes possible for it to accomplish "positive labour for the economic and intellectual welfare of its members," so that "the sphere of the State's activity widens with the growth of culture."[169] The state is a civilizing force, which, "if it is to make the law secure, must therefore take steps to kill

[167] Davis, *The Political Thought of Heinrich von Treitschke*, p. 150.
[168] Treitschke, *Politics*, vol. I, p. 74.
[169] Ibid., p. 74.

the brute in man."[170] Treitschke argues for a state that fosters development of martial virtue and civilization, and for it to be active without threatening the to individual: "Power for the State and freedom for the people, prosperity and defensive strength, culture and faith are the great antitheses which we seek to reconcile."[171] This state recognizes the contradictions inherent in these things, and works toward their resolution.

In this way, Treitschke avoids the charge of "one-sidedness," so that he is free to level it at the competing, liberal night-watchman version of the state, which he sees as wrong and bad: "If it [the state] existed only to protect the life and goods of its citizens it would not dare to go to war, for wars are waged for the sake of honour, and not for the protection of property."[172] Here we see Treitschke's idealism, for while he seems to be a realist when it comes to martial affairs, in fact his *Machtstaat* exercises its power for an end higher than mere survival.

[170] Ibid., p. 73.
[171] Ibid., p. 89.
[172] Ibid., p. 73.

CHAPTER 4

War

When Carl Schmitt addresses the subject of war in general, he has in mind a specific type of war, a sort of conflict he describes as belonging to the classic law of war traditionally practiced on the European continent, was codified at the Congress of Vienna in 1814/15, and which continued to hold sway even through the First World War.[173] Schmitt defines such conflicts concisely in his *Theorie des Partisanen*: "War is waged from state to state as a war of regular state armies, between sovereign bearers of a *jus belli*, who respect one another as enemies in war and consequently do not discriminate against one another as criminals, so that a peace is possible and a normal, self-evident end to the war may be concluded."[174] This sort of war may be said to be normal for Schmitt in every sense of the word, as it is the type of war that he is referring to when he writes of "war" simply, both because he sees such wars as governed by a set of norms and also because he uses them as the standard for the evaluation of war in general.

For both Schmitt and Treitschke, war between states is the proper arena for the development and expression of political enmity. Both conceive of the civil society as Hegel did, as the domain within which selfish desires are satisfied. Yet unlike Hegel, who believed that the actual Prussian state held adequate dominion over the selfishness of civil society, both Treitschke and Schmitt saw the relationship between civil society and the state as threatened by the emergence of the democratic form of legitimacy, which exposes the state to the economistic demands of liberal civil society. It is impossible to overstate the gravity with which both Treitschke and Schmitt regarded this prospect. For

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[173] Carl Schmitt, *Theorie des Partisanen*, (Berlin: Duncker & Humblot, 2002), p. 16.
[174] Ibid., p. 16.

both, the real increase in the dominance of civil society finds its intellectual expression in the increasing dominance of the political ideas associated with civil society, which are liberalism, individualism, pacifism, and hedonism. Treitschke, and later Schmitt, wage all-out polemical war by using the fact of international war as a ground for political obligation, effectively using Hobbes to fight a rearguard action against the intrusion of civil society into the domain of politics. When we read the writings of Treitschke and Schmitt in the context of the threat posed by civil society to the state, it is not at all difficult to understand why both writers argue in favor of a civilized warfare between European states and against a Kantian vision of universal peace. The view of war (as well as the often aphoristic style) of both writers is admirably summed up in a saying of Schmitt's: "War is at the heart of the matter."[175] This is a restatement of Heraclitus' famous proverb that "War is the father of all things," and it is certainly evident that Schmitt holds that war is the father of the state, and remains at the heart of the state.

Warfare is to Schmitt what he takes business to be to liberals. Just as business is the business of civil society, war is the business of the state. This view is offered in direct opposition to those liberals who would make economic prosperity the *summum bonum*, the end of all state activity. War and the possibility of war is a powerful argument for the *Machtstaat*, in that the stakes of economic competition are not nearly so high as they are in war. Additionally, war is seen as an inherently unifying aspect of human existence within the state, especially under modern conditions, which increasingly make war total. Rather than seeing one's countrymen as economic competitors, war makes people see them as comrades. Warfare reminds us of Schmitt's dictum that man is

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[175] Carl Schmitt, "Totaler Fiend, totaler Krieg, totaler Staat," in Schmitt, *Frieden oder Pazifismus,* pp. 481-507, p. 482.

a dangerous animal, further reminding all of the relation between protection and obedience, and of the root cause of the necessity of the state in the first place. Schmitt employs the possibility of war to bludgeon the liberal ideal of the sanctity of the individual, and to assert the primacy of the state over human life:

> For the individual as such there is no enemy with whom he must enter into a life-and-death struggle if he personally does not want to do so. To compel him to fight against his will is, from the viewpoint of the private individual, lack of freedom, and repression. All liberal pathos turns against repression and lack of freedom. Every encroachment, every threat to individual freedom and private property and free competition is called repression and is *eo ipso* something evil. What this liberalism still admits of state, government, and politics is confined to securing the conditions for liberty and eliminating infringements on freedom.[176]

Here, Schmitt makes it clear that his teachings on politics are not derived from "the viewpoint of the private individual," which is to say from the viewpoint of the individual as a member of civil society, but rather from the point of view of the political, i.e., the state. The possibility of war against the enemy, whoever it is who threatens our existence in a particularly intense way, obliges us to leave the individualistic realm of civil society and to adopt the political standpoint of the state, whose nature is power, derived from obedience. Here, Schmitt plainly seeks to reinforce the "state, government, and politics" against the reckless individualism of civil society, whose emphasis on private gain and private freedoms is reckless in the face of the threat of the enemy.

Schmitt seems careful not to romanticize war, and, strictly speaking, it may not be correct to describe him as a militarist: nonetheless, it is, strictly speaking, correct to describe him as the opposite of a pacifist. For Schmitt, war may not be good in itself, but it is certainly not bad in itself, either. Schmitt's generation had been schooled by Treitschke and his students, whose pronouncements in favor of war probably led many of

[176] Schmitt, *The Concept of the Political*, p. 71.

those young men to have ideas about honor, courage, and martial virtue that were violently disconfirmed by the national, and often personal, experience of the Great War. Yet Schmitt argues that the phenomenon of war in general is a reality that shaped the development of the modern state, and so is also ultimately absolutely essential for the continuance of the modern state and political life. Moreover, war has a moral effect on men and nations. If we include some measure of the morality of war considered in terms of the extent to which it fosters virtue and viciousness, Schmitt gives every indication that he holds war to be a good thing, indeed. Though Schmitt is astute enough to avoid seeming to romanticize war, there is nonetheless good reason to believe that he is every bit a believer in the morally uplifting effects of war as Treitschke was.[177]

War and the Relationship between Civil Society and the State

Carl Schmitt is often written of as the theorist of the extreme case, the theorist of the exceptional case. This is absolutely true, but vague. If we understand Carl Schmitt as the theorist of the extreme case, we must also understand him as a theorist of war, for, as he writes, "War is still today the most extreme possibility."[178] Yet this is not precisely what Schmitt writes in the original, which is: "Even today, war remains the 'emergency/serious situation' (Ernstfall)"[179] What follows reveals the significance of war for Schmitt's understanding of politics:

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[177] So long as, of course, we are speaking of the properly civilized sort of war between nations, and not civil war, which marks a breakdown in the correct relationship between civil society, the state and friend/enemy relationships, and the "perpetrator" model of warfare, which inflicts concepts of criminality that are useful in keeping order in the context of civil society upon the context of international relations, where they are not only useless, but dehumanizing and brutal.

[178] Schmitt, *The Concept of the Political*, p. 35.

[179] Carl Schmitt, *Der Begriff des Politischen*, (Berlin: Duncker & Humblot, 2002), p. 35. Here, Schmitt has put the word "*Ernstfall*" into quotes, as if to emphasize its literal meaning. The word "*Ernstfall*" is a compound word, composed of "Fall", which means situation or case, and "ernst," which stems from the

> One can say that the exceptional case has an especially decisive meaning which exposes the core of the matter. For only in real combat is revealed the most extreme consequence of the political grouping of friend and enemy. From this most extreme possibility human life derives its specifically *political* tension.[180]

The incidence of war gives politics a seriousness that is universal and specific to politics, so long as war remains a possibility. The "most extreme consequence" is also at the "core" of the concept of the friend/enemy dichotomy. Thus, whenever Schmitt writes of friends and enemies, of antagonism, or of the extreme case, we must understand that he is writing of war, and that what is significant about war is not that it is good or bad, just or unjust, but simply that it is serious.

This is where Schmitt finds value in war, for, in a world dominated by the pursuit of private pleasures, wherein the fractiousness of civil society increasingly holds sway, such seriousness can render politics sensible, and make the state something more than a nonsensical holdover from the premodern era. Human life, for Schmitt, can have meaning, and one might find it in the domestic, religious or intellectual domains of living: however, in the case of the political domain, it is war—and not war abstractly, but "real combat"—that gives life "its specifically *political* tension."[181] Schmitt does not write that one must actually engage in real combat to partake in the specifically political tension it gives human life, but such combat must be a possibility. Thus, the people can

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same Old German root as the English word "earnest," and which has exactly the same meaning. An "*Ernstfall*" is an emergency, just as an "*Ausnahmezustand*" is an emergency. Yet these two words are very much bound up in one concept for Schmitt. Every emergency is an exception, and every emergency must be taken seriously. It is yet another example of Schmitt's literal-mindedness when we find he insists that "*Ernstfall*," in addition to its common meaning as an emergency, must also retain its connotation of a case or situation that must be taken in earnest. (Ibid., p. 30)

[180] Schmitt, *The Concept of the Political*, p. 35. The italics, present in the original but not in the translation, have been reintroduced here.

[181] Ibid., p. 35.

be united internally by the need to face a common external enemy, and this need can be more or less perpetual, so long as there is a chance the nation may go to war.

The traditional German understanding of the relationship between war and politics was established by von Clausewitz in his influential *On War*: his most oft-cited contribution is that "War is an instrument of politics," and that "War is nothing but the continuation of politics by other means."[182] Schmitt inverts Clausewitz's contribution, or at least what is commonly thought of as the meaning of Clausewitz's contribution, which he argues "is generally incorrectly cited," to say that, while war is nothing but the continuation of politics by other means, there also be no meaningful politics without the possibility of war, of actual fighting.[183] Whatever Clausewitz's intent truly was in describing the relationship between war and politics, Schmitt interprets Clausewitz to mean that war presupposes "that the political decision has already been made as to who the enemy is," and that war "is not merely one of many instruments, but the *ultima ratio* of the friend-enemy grouping."[184] According to this interpretation of Clausewitz, war is an inescapable scope condition that colors all political realities and possibilities: "War is neither the aim nor the purpose nor even the very content of politics. But as an ever present possibility it is the leading presupposition which determines in a characteristic way human action and thinking and thereby creates a specifically political behavior."[185] Schmitt therefore agrees with Clausewitz that war without politics is frivolous, for a serious war can only be conducted on the basis of a serious political aim. Yet, while Clausewitz's insight is that the nature of politics flavors war, Schmitt's own contribution,

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[182] Carl von Clausewitz, *vom Kriege* (Berlin: Ferdinand Dümmlers Verlagsbuchandlung, 1853), p. 120.
[183] Schmitt, *The Concept of the Political*, p. 34.
[184] Ibid., p. 34.
[185] Ibid., p. 34.

derived from his reading of Clausewitz, is to argue that the possibility of war in turn gives politics its own flavor. So, while politics remains autonomous, the possibility of war gives the political a *seriousness*, a *gravity* that is lacking in all other domains of human life. This earnestness gives politics a moral element it would otherwise lack.

Schmitt's case for the centrality of war to politics is made in *The Concept of the Political* and seems not to have been fundamentally altered by him in later works.[186] It is the possibility of war that imparts a duty to the state that protects us, and it is this duty that makes the state powerful—sufficiently powerful even to conduct victorious wars. In his "*Gespräch über die Macht und den Zugang zum Machthaber*," Schmitt offers the relationship between protection and obedience as the ultimate source of all political obedience.

> Why do the people give their consent to power? In some cases from trust, in others from fear, sometimes from hope, sometimes from despair. Yet they always need protection and they seek this protection in power. The linkage of protection and obedience remains as the single explanation of the power granted by the people. Whoever doesn't have the power to protect another person doesn't have the right to require obedience from him. And conversely, whoever looks for protection and accepts it does not have the right to refuse to obey.[187]

This, then, is Carl Schmitt's version of the social contract, yet it is one that is described in terms of rights that *are not conferred*. Rights claims *vis-à-vis* the state are conspicuously absent: one does not have the right even to protection, only the right not to accept the state's protection. So while the possibility of war plays a role in Schmitt's theory that is

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[186] That is to say, in terms of the *centrality* of war. Schmitt's understanding of war as it was *practiced* in the twentieth century, of course, did undergo development.

[187] Schmitt, "Gespräch über die Macht und den Zugang zum Machthaber," p. 14.

analogous to the role of the state of nature in Hobbes' *Leviathan*, Schmitt does not grant the individual any right to preserve his own life, as Hobbes does.[188]

For both Schmitt and Hobbes, the state is a kind of protection racket. For Schmitt, however, it does not follow that one may not be asked to risk one's life and liberty for the state simply because the state was established to protect life and liberty. It is simply that he who is protected by the state must obey its commands, and the state must protect its inhabitants if it is to expect obedience from them. Though Schmitt's conception of the police/security function of the state is somewhat Hobbesian, Hobbes himself is far more free in establishing rights claims for the individual *vis-à-vis* the state, and so "No man is bound by the words themselves, either to kill himself or any other man...."[189] Hobbes does temper this right by allowing for an exception: "And when the defense of the commonwealth requireth at once the help of all that are able to bear arms, every one is obliged, because otherwise the institution of the commonwealth, which they have not the courage or the purpose to preserve, was in vain."[190] The subject of where and when a given individual must serve militarily becomes a question that is open to debate, and Hobbes has provided the individual with powerful arguments against involuntary military service.

Such an arrangement is too ambiguous for Schmitt, as it appears to leave the decision on whether an emergency actually exists up to the individual conscience of the citizen. Significantly, while Hobbes writes about the right of individual men to serve or

[188] Hobbes, *Leviathan,* pp. 79-88.
[189] Ibid., p. 142.
[190] Ibid., p. 143.

not to serve, Schmitt changes the unit of analysis to a *Volk*, an entire people.[191] An individual may refuse to acknowledge political enmity, but a people does so at their peril, for "If a people is afraid of the trials and risks imposed by existing in the sphere of politics, then another people will appear which will assume these trials by protecting it against foreign enemies and thereby taking over political rule."[192] Protection is absolutely fundamental in Schmitt's state theory: "The *protego ergo obligio* is the *cogito ergo sum* of the state."[193] There can be pacifist individuals, but no pacifistic peoples, as they will simply be conquered and assimilated into other nations. It is not surprising, therefore, that Schmitt makes no mention of Hobbes' right of nature in *The Concept of the Political*, for this is a right that belongs to individuals, and Schmitt is uninterested in individuals as the fundamental unit of analysis—for him, the unit of interest is the people. Schmitt stridently asserts and reasserts Hobbes' formula of protection for obedience, but does so without making reference to any right of nature.[194]

There is a right of self-preservation in Schmitt, but it belongs to the people, not individuals, any number of whom may be asked to sacrifice all for the good of all. From Hobbes, Schmitt borrows the conception of civil society as existing in a latent state of nature (though he does not use this term in this context) that can only be overcome by a leviathan or a *Machtstaat*—an especially powerful form of political unity. Despite this borrowing from Hobbes, he is careful to leave out Hobbes' emphasis on the individual as the bearer of rights. War is an unavoidable fact of political life, and it is a fundamental

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[191] Schmitt writes that, while private parties may declare that they have no enemies, "it would be a mistake to believe that a nation could eliminate the distinction of friend and enemy by declaring its friendship for the entire world or by voluntarily disarming itself. Schmitt, *The Concept of the Political*, pp. 51-52.
[192] Ibid., p. 52.
[193] Ibid., p. 52.
[194] Ibid., p. 52.

requirement of war (perhaps *the* fundamental requirement of war) that at least some citizens are willing to kill for the state and, if necessary, to die for it as well.[195] For Schmitt, it makes no sense to think about individuals as political, except in the context of groups. The isolated, autonomous, economically maximizing individual of liberal theory makes no appearance in Schmitt. For Schmitt, it makes sense to speak of the individual as an actor of interest in economic or religious life, but we enter into the realm of the political when we consider him in the context of the group: "A religious community, a church, can exhort a member to die for his belief and become a martyr, but only for the salvation of his own soul; not for the religious community in its quality as an earthy power; otherwise it assumes a political dimension."[196] Schmitt makes this point not only to draw the distinction between what may be an individual motivation for sacrifice in war (i.e., individual salvation) and the inherently political motivation of individuals as members of groups with earthly aims, but also to show how one type of war—the holy war or crusade—that is commonly thought of as mainly a religious phenomenon, becomes political when the aims of the religious community are centered upon earthly group objectives rather than spiritual individual objectives.

Warfare is barbaric when considered from the point of view of the atomistic individual, as "A private person has no political enemies."[197] This is, of course, a criticism of Hobbes and liberal individualists. Hobbes' entire political theory is crafted around a view of man as a private person. For Schmitt, any specifically *political* theory must regard man as a member of a group that is confronted with at least the possibility of

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[195] Indeed, as will be shown in the next chapter, Schmitt earnestly attempts to establish this as a duty, at least among those who are capable of bearing arms.
[196] Schmitt, *The Concept of the Political*, p. 48.
[197] Ibid., p. 51.

enmity from other groups. Schmitt's polemical strategy is to cite Hobbes when it suits his purposes, and to rhetorically build up Hobbes as "the always most modern of all philosophers of pure human power."[198] At the same time, Schmitt fails to mention that Hobbes expressly denies to the state the privilege he holds every state *must* be able to assert, the ability to demand killing and sacrifice of life, especially in the context of war. Schmitt wants to make use of Hobbes' formula of protection and obedience, but he also believes that a *political* theory must account for the sacrifice of life on the part of individuals in the service of the state, and, in order to do this, he looks to Hegel.

In contrast to Hobbes, who thinks of persons as self-interested individuals, and therefore mainly as private (as opposed to political) persons, Schmitt holds that Hegel is "everywhere political in the decisive sense," which means that he conceives of man primarily in the context of possible friend/enemy groupings.[199] For Schmitt, the main challenge to the state and the political emerges from the liberal assertion of the primacy of an apolitical domain of economics or private life. The use he makes of Hegel is to counter this claim through the denial of the very possibility of such a domain. The appeal of Hegel for Schmitt in this regard is based on three things. The first is Hegel's willingness to engage politics philosophically, to take sides on the actual political issues of the day: "That is Hegel's *Hic Rhodus* and the genuineness of a philosophy which does not permit the fabrication of intellectual traps under the pretext of apolitical purity and pure nonpolitics."[200] The second is "his dialectic of concrete thinking," how "quantity transforming into quality has a thoroughly political meaning," in that "from every domain the point of the political is reached and with it a qualitative new intensity of human

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[198] Schmitt, "Gespräch über die Macht und den Zugang zum Machthaber," p. 16.
[199] Schmitt, *The Concept of the Political*, p. 62.
[200] Ibid., p. 62.

groupings."[201] The third, and related, issue is that "Hegel also offers the first polemically political definition of the bourgeois," which is:

> The bourgeois is an individual who does not want to leave the apolitical riskless private sphere. He rests in the possession of his private property, and under the justification of his possessive individualism he acts as an individual against the totality. He is a man who finds his compensation for his political nullity in the fruits of freedom and enrichment and above all in the total security of its use. Consequently he wants to be spared bravery and be exempted from the danger of a violent death.[202]

Note that Schmitt writes only that the bourgeois *wants* "to be spared bravery and the danger of a violent death"—he does not write that such a thing is ever really possible. The fact that this is impossible, because someone must always be willing to pay the ultimate price for the state, means that the bourgeois is not only naïve, but acting in bad faith, for he wishes that his own security be bought with the blood of his countrymen.

It appears from hiss usage that Schmitt is absolutely clear on the distinction between the "bourgeois" and the "*Bürger*," which has a multiplicity of meanings that can be a cause of confusion, including bourgeois, citizen, urbanite, and, when used as an adjective, civil. In the passage from *The Concept of the Political* above, Schmitt uses the word "bourgeois" precisely in the way that Marx uses it, and his critique of the character of the bourgeois will be familiar to any reader of Marx or Hegel. Yet, because of the ambiguities associated with the term "*Bürger*," Schmitt generally avoids using the phrase *"bürgerliche Gesellschaft."* In *der Begriff des Politischen,* Schmitt uses the phrase *bürgerliche Gesellschaft* only twice, both times in reference to other authors—Hegel and Tönnies—who use it.[203] The fact that he avoids this term, however, does not mean that

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[201] Ibid., p. 62.
[202] Schmitt, *The Concept of the Political*, pp. 61-62.
[203] Schmitt, *der Begriff des Politischen*, p. 74.

he has not adopted Hegel's critique of civil society as bourgeois society. Indeed, it is clear that the critique of the person of the bourgeois could also be applied to civil society itself. The adjectives Schmitt applies to *Gesellschaft* show that his desire is not to refute the critique of it as *bürgerliche Gesellschaft,* but to expand on it. Schmitt uses the phrases "essentially economically determined society," "civic society," "individualistic-liberal society," a "pure cultural or civilizing societal system," "the economically functioning society," "universal society," the "universal society of humanity," "depoliticized society," "industrial society," "industrial-commercial society," the "(essentially unpolitical) society," the "'animalism' of 'egoistic' society," and a "leaderless and directionless society."[204] This demonstrates that Schmitt draws on Hegel in clearly and consistently adopting the polemical definition of civil society as a depoliticized realm of economic activity and the satisfaction of private desires. So, although Schmitt is perhaps more careful in his language than Hegel, his criticism of civil society clearly shows that he draws the logical connections between civil society, the bourgeoisie and liberalism that one might draw from the phrase "*bürgerliche Gesellschaft.*"

The Hegelian (and Schmittian) critique of liberal individualism forms a whole, the unity of which is manifested in the consistency and vigor with which liberal individualism is opposed on every basis. Though he writes as though he were paraphrasing Hegel, the prose describing the bourgeois is Schmitt's own, and it is clear that this is a position with which he is in agreement. Of the three elements Schmitt identifies as marking Hegel as the philosopher who is most decisively political, only the second (the contention that a newly created apolitical domain will give rise only to an

[204] Ibid., pp. 44, 47, 49, 56, 58, 73, 75, 76 91.

inner dialectic that creates new oppositions) is based on a logical argument: the other two are based on moral preferences. The first, that Hegel is politically engaged with the issues of his day, is based on a preference for taking risks, for daring to be wrong. This is a kind of moral or intellectual courage. The third, which seems to be Hegel's trump card against liberal individualism, is that taking liberal individualism seriously forces one to engage in the worst sort of cowardice. Any man who takes liberal individualism seriously cannot be a patriot, and will almost certainly act as though he were a coward. Schmitt therefore argues that liberal individualism is to be despised because it makes men vicious, cowardly, and selfish.

For Schmitt, war is a fact of our existence, and liberalism is lacking as a political theory—or, more truly to Schmitt's mind, is a nullity as a political theory—because it does not address the subject of war. Schmitt offers reasons as to why this is the case:

> The critical distrust of state and politics is easily explained by the principles of a system whereby the individual must remain *terminus a quo* and *terminus ad quem*. In case of need, the political entity must demand the sacrifice of life. Such a demand is in no way justifiable by the individualism of liberal thought. No consistent individualism can entrust to someone other than the individual himself the right to dispose of the physical life of the individual.... To compel him to fight against his will is, from the viewpoint of the private individual, lack of freedom, and repression.[205]

Liberalism is consistent with the demands of its individualism, therefore, but every state, even those wherein liberalism is dominant, must "demand the sacrifice of life."[206]

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[205] Schmitt, *The Concept of the Political*, pp. 70-71.

[206] There may be states wherein liberalism is dominant, but for Schmitt there can be no such thing as a liberal state, because he sees liberalism as not having any particular form of state (though often identified with parliamentarianism) but rather consisting in the limitation of state power: "Bourgeois liberalism was never radical in a political sense. Liberalism's negation of the state and the political... have likewise a certain political meaning.... But this is neither a political theory nor a political idea. Although liberalism has not radically denied the state, it has, on the other hand, neither advanced a positive theory of the state nor on its own discovered how to reform the state, but has attempted only to tie the political to the ethical

Moreover, even when liberalism does acknowledge conflict, it tends to define it in economic terms. For Schmitt, this cheapens human life, and is another example of the bad faith of liberals. In one decisive passage, Schmitt reveals what he believes is a critical flaw in the thinking of liberals when it comes to martial matters, which is their tendency to ascribe economically hedonistic motives to warring nations: "To demand seriously of human beings that they kill others and be prepared to die themselves so that trade and industry may flourish for the survivors or that the purchasing power of grandchildren may grow is sinister and crazy."[207] For Schmitt, liberalism cannot possibly offer up a justification for the sacrifice of human life for the state that is consistent with its individualistic ethos—when it does attempt to offer up such a justification, it is expressed in hedonistic terms, but such hedonism is a bad bargain for the individual who actually must give up his life. Once again, this demonstrates how Schmitt sees war as the extreme case that goes to the core of the matter, and thus how liberalism fails to develop an understanding of politics because it cannot account for war as a political phenomenon.

Schmitt adopts Hobbes' principle of the state, which he describes as "weakness produces endangerment, endangerment produces fear, and fear generates a desire for protection, and from this springs the necessity for a security apparatus of more or less complexity."[208] Yet in basing the state upon human frailty, Schmitt is careful to omit Hobbes' right of nature, which is clearly at odds with the necessity of war. This is not the only aspect of Hobbes' state theory that Schmitt drops: in fact, other than the relationship between protection and obedience, and the understanding that the sense in which we are

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and subjugate it to economics. It has produced a doctrine of the separation and balance of powers, i.e., a system of checks and controls of state and government. This cannot be characterized as either a theory of state or a basic political principle." Ibid., p. 61.

[207] Ibid., p. 48.

[208] Schmitt, "Gespräch über die Macht und den Zugang zum Machthaber," p. 16.

all equal is the sense in which we are equally vulnerable, Schmitt uses little of Hobbes.[209] For most of the rest of Schmitt's theory on war, we find that the most direct influence is Hegel, especially the Hegel of the *Philosophy of Right*. It is an oversimplification, but nonetheless essentially correct, to say that Schmitt's teachings on war are basically the same as those of Hegel, minus his metaphysical idealism, plus Hobbes' teachings on the consequences of human frailty, minus his teachings on the right of nature.[210]

Like Schmitt, Hegel dominates Treitschke's scholarly universe, and, again like Schmitt, Treitschke amends Hegel by borrowing from Hobbes. This may be perfectly ordinary, but what truly links Treitschke and Schmitt is that Treitschke anticipates Schmitt by borrowing the same elements from Hobbes that Schmitt would later make use of, and employs them in the same way. Over fifty years ago, Dorpalen described the shift in Treitschke's thought thusly:

> But in his *Politics* Treitschke no longer extols the state as the most perfect accomplishment of the human spirit and in itself a deeply inspiring experience. He praises it rather, like Hobbes, as the indispensable iron framework within which the anarchical and conflicting aspirations of a selfish society must be kept under control. The state is viewed primarily as an instrument of protection and order, and it fulfills these functions with the help of its power resources. Relying on power rather than spiritual ties, it is less concerned with the ideas and attitudes of its citizens than with their obedience.[211]

With one minor caveat, this could describe the borrowings from Hobbes made by Schmitt as well. The caveat is that Dorpalen gets it slightly wrong in terms of emphasis: while it is true that Treitschke sees the state as the "iron framework within which the anarchical

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[209] Which is not the same as saying that he has little use for Hobbes, of course: the bits of Hobbesian theory Schmitt borrows are absolutely central to Schmitt's political theory.

[210] Practically the whole of Schmitt's political theory, save the bits borrowed from Hobbes, is dedicated to the further developments of ideas found in Hegel's *Philosophy of Right*, especially sub-section 3, especially paragraphs 321-360. Hegel, *Philosophy of Right*, pp. 208-223.

[211] Dorpalen, *Heinrich von Treitschke*, p. 229.

and conflicting aspirations of a selfish society must be kept under control," Hobbes saw it as a framework for controlling selfish *individuals.* Moreover, the conception of society as the arena of selfishness is itself more Hegelian than Hobbesian.

Dorpalen's summary of Treitschke's work suggests how it is possible to reconcile Hegelian and Hobbesian notions of war. Hegel writes, "War is not to be regarded as an absolute evil and as a purely external accident, which therefore has some accidental cause.... It is to what is by nature accidental that accidents happen, and the fate whereby they happen is thus a necessity."[212] When we unite this with the Hobbesian formulation *protego ergo obligo,* we arrive at the Treitschean/Schmittian foundation of the modern state, which is that, since war between states is an omnipresent possibility, and it is the state that protects our property, way of life and our very lives themselves from the terrors of warfare, there is therefore a universal obligation to the state. In some ways, this may be regarded as an intensification of the original Hegelian position, as it is accompanied by ever-greater rhetorical invective against individualism and the supposed selfishness of civil society, yet it also reveals the weakness of the original argument, as Schmitt and Treitschke had to turn to Hobbes precisely because they did not feel that most people saw themselves as participating in the higher ethical life of the state, and therefore as obliged to defend it.

Given the importance of the possibility and fact of war for their political thinking, it should come as no surprise that both Treitschke and Schmitt come out strongly against the mere possibility of a perpetual peace. According to Treitschke, it would be undesirable, even if possible:

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[212] Hegel, *Philosophy of Right*, p. 209.

> Without war no state could be. All those we know of arose through war, and the protection of their members by armed force remains their primary and essential task. War, therefore, will endure to the end of history, so long as there is a multiplicity of states. The laws of human thought and of human nature forbid any alternative, neither is one to be wished for. The blind worshipper of an eternal peace falls into the error of isolating the state, or dreams of one which is universal, which we have already seen is at variance with reason.[213]

For Schmitt, world peace and a world state are similarly impossible:

> The political entity presupposes the real existence of an enemy and therefore coexistence with another political entity. As long as a state exists, there will thus always be in the world more than one state. A world state which embraces the entire globe and all of humanity cannot exist. The political world is a pluriverse, not a universe.[214]

Though both Treitschke and Schmitt make some claims to generalizability, much of their writing is directed at the ideas that they see as driving specific contemporaneous political problems. To accomplish this, they often assign to liberal opponents positions to which they feel they ought to be bound. In the instance of war, liberals, seen as arguing from the standpoint of pacifistic hedonism and economism, seek to normalize peace, to expand peace from a normative "ought" to a universal condition of human kind. For Treitschke and Schmitt, this is unrealistic, and invites disaster, for "War against the external enemy and the suppression of internal turmoil would not be exceptional conditions, but rather the ideal normal situation for the law and the state to unfold their inner purposefulness with immediate strength."[215] Without conflict, there can be no purpose for either law or state, yet this cannot be, for conflict is ever with us, according to Schmitt. Though liberals and pacifists may try to project peace as the normal situation, in fact war is every

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[213] Treitschke, *Politics*, vol. I, p. 65.
[214] Schmitt, *The Concept of the Political*, p. 53.
[215] Schmitt, *Die Diktatur*, p. IX.

bit as normal as peace, and so they must be opposed by what Treitschke calls a "stern political conception," lest society destroy the state and thereby destroy itself in the end.[216]

War Considered in its Moral and Ethical Dimensions

In Treitschke's *Politics*, we see the work of a dedicated political Hegelian, but we also find contradictory opinions about the Hegelian vision of the state. In some moments, it is there in all its idealism, but in others Treitschke writes as if disappointed by it, and as if he has made the turn to the Hobbesian modification that Schmitt was later to adopt. As mentioned earlier, Treitschke's *Politics* was reassembled from the notes of his students at Berlin from 1874 through 1895, so it may be that there is an early period when he followed Hegel more closely, and a later period when he adopts the changes I have already described—that is to say, his Hobbesian correction to Hegelianism and even stricter limitation of political claims by civil society. Like Hegel and Schmitt, Treitschke consistently rejects the liberal night-watchman state: "if we simply look upon the state as intended to secure life and property to the individual, how comes it that the individual will also sacrifice life and property to the state?"[217] Part of Treitschke's answer lies in honor, which he sees as a virtue that is most important in whole peoples, rather than individuals. He even adapts Darwinist language to make this point, though the fact that he applies evolution to peoples rather than individuals shows that he misunderstands Darwin: "Brave peoples alone have an existence, an evolution or a future; the weak and cowardly perish, and perish justly. The grandeur of history lies in the perpetual conflict of nations, and it is simply foolish to desire the suppression of their rivalry. Mankind has

[216] Treitschke, *Politics*, vol. I, p. 45.
[217] Ibid., pp. 14-15.

ever found it to be so."[218] Given that warfare is simply part of the way things are, the way they were, and the way they shall be, it is understandable that Treitschke would impart a utility to having a martial disposition—as we shall see, however, he goes beyond this, arguing that war is also morally desirable, uplifting, and to be preferred on aesthetic grounds. Although Schmitt himself usually avoids the aestheticization of war, it is reminiscent of Treitschke when he writes that he does not want to live in a world without "the distinction of friend and enemy and hence a world without politics."[219] Both Schmitt and Treitschke would agree that the point of view of civil society sees only the costs of war, whereas the truly political viewpoint, that of the state, would examine benefits as well.

We have seen that Schmitt posits war as a fundamental activity of political man, in contradistinction to those who would see an economic origin of all things, and who believe that wars are waged "so that trade and industry may flourish for the survivors."[220] If we understand Schmitt's conception of the state as Hegelian in origin, this makes perfect sense, because the domain of trade and industry is the depoliticized realm of civil society, not the domain of the state. Compare this with Treitschke, writing over sixty years earlier:

> The next essential function of the state is the conduct of war. The long oblivion into which this principle had fallen is proof of how effeminate the science of government had become in civilian hands. In our century this sentimentality was dissipated by Clausewitz, but a one-sided materialism arose in its place, after the fashion of the Manchester school, seeing in

[218] Ibid., p. 21. Compare with Schmitt, *The Concept of the Political*, p. 53. "If a people no longer possesses the energy or the will to maintain itself in the sphere of politics, the latter will not thereby vanish from the world. Only a weak people will disappear."
[219] Schmitt, *The Concept of the Political*, p. 35.
[220] Schmitt, "Gespräch über die Macht und den Zugang zum Machthaber," p. 16.

> man a biped creature, whose destiny lies in buying cheap and selling dear. It is obvious that this idea is not compatible with war.[221]

Treitschke and Schmitt are one in criticizing the point of view one might call economic, hedonist, or materialist, and in putting forward a political conception of man grounded in a military, as opposed to economic, worldview. This economic worldview is identified with civil society, and with the Hegelian bourgeois who cannot abide to leave the riskless private sphere.[222]

Both Treitschke and Schmitt work mightily to disqualify the economic standpoint on ethical grounds. Because Hegel understood civil society to be the domain of private consumption, the domain of the satisfaction of private appetites, the domain of universal egoism, selfishness, and greed, it is understandable why subsequent Hegelians would understand doctrines of political hedonism, utilitarianism, and economic rationality as stemming from civil society, and liberalism as something like the "authoritative" philosophy or ideology of civil society. For Hegel, civil society is a wellspring of degeneration: "civil society affords a spectacle of extravagance and want as well as of the physical and ethical degeneration common to them both."[223] Treitschke follows Hegel in this, in conceiving of the civilian view of politics as "effeminate," in holding that "the new materialistic economic teaching," has its "only root in the money bags."[224] Although civil society has an important role to play in the satisfaction of individual needs, Treitschke contends that enshrining consumption as a purpose of the state leads to disaster: "The nation that lives only to justify those social appetites, whose only wish is to

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[221] Treitschke, *Politics*, vol. I, pp. 64-65.
[222] Schmitt, *The Concept of the Political*, p. 62.
[223] Hegel, *Philosophy of Right*, p. 123.
[224] Treitschke, *Politics*, vol. I, p. 72.

grow richer and live more comfortably, must inevitably fall prey to the lowest propensities of nature."[225] Again, just as in Schmitt, disaster follows when a people attends to civil rather than political matters, i.e., the things of civil society to the detriment of the things of the state. The argument is not that economic power and military power cannot go together, but that what we would today call a "consumer society" is bad for the soul, as it creates men who are effeminate, soft, and decadent when history will inevitably demand that they be masculine, hard, and disciplined.[226]

It is arguable whether Schmitt may be properly thought of as a militarist. Certainly, Schmitt believes that it is possible to have wars that are more civilized than others, particularly in treating the duel-style war (wherein the enemy is recognized as an honorable combatant) as opposed to the unrestricted civil war or "humanitarian" war, which entails defining the enemy as a criminal and which therefore inevitably subjects him to worse treatment, whether we are speaking of an individual or entire nation. Schmitt presents this form of combat as preferable to the modern habit of regarding all war as absolute, total wars, with no quarter asked for and none given. Yet even this traditional, less total form of warfare is not presented as a morally desirable thing in itself:

> It is by no means as though the political signifies nothing but devastating war and every political deed a military action, by no means as though every nation would be uninterruptedly faced with the friend-enemy alternative *vis-à-vis* every other nation. And, after all, could not the politically reasonable course reside in avoiding war? The definition of the political suggested here is neither bellicose nor militaristic, nor

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[225] Ibid., p.50.

[226] Though it is always argued that a nation that becomes one-sidedly economic in spirit must meet with destruction, there is also always a moralistic contempt for the appetitive and unmanly man of civil society. Moreover, in Treitschke, at least, we also find the idea that war is the great curative agent of history: "Misfortune is a tonic to noble nations...." "Again and again it has been proved that it is war that turns a people into a nation, and that only great deeds, wrought in common, can forge the indissoluble links which bind them together." Treitschke, *Politics*, pp. 50, 51-52.

> imperialistic, nor pacifistic. Nor is it an attempt to idealize the victorious war or the successful revolution as a "social ideal," since neither war nor revolution is neither something social nor ideal.[227]

Here, Schmitt depicts his position as that of the realist, who regards war as a fact of political life without idealizing it. It must be asked, however, whether this is Schmitt's true position, or whether it is one he has adopted polemically. We have seen that war is vital for the good-functioning state, according to Schmitt. Yet Schmitt's normative conception of war must be generally positive, if it is to be consistent with the rest of his theory.

The foregoing passage from Schmitt is carefully worded so as not to preclude a normatively positive (if not romantic and idealized) concept of war. The first sentence is expressed as a negative, so we can see that, while the political "need not" signify "nothing but" devastating war, it certainly may signify devastating war, and less devastating war. Nor does a positive concept of war require in any way that every nation be "uninterruptedly faced with the friend-enemy alternative *vis-à-vis* every other nation," as we would expect that alliances and the conclusion of reasonably lasting peace treaties would restrict enmity. It certainly does not require that a nation pursue war with all other nations at all times—that would be silly. Also, the definition of the political Schmitt offers, as he understands it, is certainly *not* "bellicose nor militaristic, nor imperialistic, nor pacifistic," but rather an objective description of concrete reality, that does not *itself* adopt any of these value-laden positions, but from which certain of these positions are more likely than others. It is possible to agree with Schmitt on the political and really remain a pacifist? No—to do so would be unreasonable and unreasoning. Finally, it is

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[227] Schmitt, *The Concept of the Political*, p. 33. Translation slightly altered to conform more closely to the original.

true that Schmitt's definition of the political is not an attempt to idealize the victorious war or the successful revolution as a "social ideal." War, as Schmitt understands it, most especially should not be a social ideal, as this would imply that war belongs to the social realm, and that war within civil society is a good thing. Note that foreclosing the possibility of war as a social ideal in no way forecloses the possibility of war as a specifically *political* ideal, a possibility that is conspicuously left open.

The foregoing paragraph seems carefully designed so that Schmitt may absolve himself of any accusation of idealizing war. When we remember that the carnage visited upon Germany in WWI was accompanied by the bellicosity of Treitschke's students, it is easy to understand why Schmitt would want to shield himself against the charge that he is writing good things about war. Treitschke cultivated almost a cult of war, but he did so because he thought "The Germans are always in danger of enervating their nationality through possessing too little of this rugged pride."[228] Treitschke thought that "a dead calm is not wholesome for a people," and so, in order to avoid what he saw as the trend of "slavish observance to the platitudes of natural science" developing in German civil society during the nineteenth century, the encouragement of a certain amount of militarism on his part was warranted.[229] Treitschke is nothing if not consistent, and we may predict his positions based on the simple datum that he sees war as not only the fundamental fact of politics, but also the source of all political virtue. We would expect, therefore, that Treitschke would honor the army above all other national institutions, and he does this: "An Army organized on a really national foundation is the sole political institution which binds citizen to citizen, for there alone do all sons of the Fatherland feel

[228] Treitschke, *Politics*, vol. I, pp. 19-20.
[229] Ibid., p. 51.

themselves united."[230] In his treatment of civilian life, we would expect that Treitschke likes its most martial elements best, and again, he does not disappoint: "The practice of dueling still goes on, even in civilian circles. It is in fact the last barrier in a democratic society against an absolute deterioration of manners.... The great moral vigour, which is one of the Army's greatest strengths, is bound up with the class feeling of honour."[231] We would expect Treitschke to favor the martial virtues above all others, and he does so: "As soon as the state calls out 'Now it concerns me and my existence,' then awakens in a free people the highest of all virtues, one that cannot thrive so greatly and limitlessly in peace, the spirit of sacrifice."[232] Such a call is not simply the requirement of some formula of protection and obligation, but of the honor of a people. Note that it is only in war that a people, and individuals, are given the opportunity to express the highest virtue. For Treitschke, this link between war and what is best in man serves consecrate war, to set it apart from all other human activities as the most noble.

Does Schmitt retain the emphasis on military virtue and positive normative evaluation of warfare found in Treitschke? Again, he appears, at one point, to claim that the central place he assigns to war does not logically entail militarism or a love of war, but it seems likely that this disavowal of militarism was done in order to avoid seeming to be guilty of the sort of militancy widely seen as discredited following WWI. What evidence is there of a love of war on Schmitt's part? There is the matter of the dedication of the *Concept of the Political*, which was dedicated to August Schaetz, a friend of Schmitt's who died "in the assault on Moncelul on 28 August, 1917." Of course, Schmitt

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[230] Ibid., vol. II, p. 390.
[231] Ibid., vol. II, p. 403.
[232] Treitschke, *Das constitutuionelle Königthum in Deutschland*, p. 536. c.f. Hegel, *Philosophy of Right*, pp. 209-211.

quite probably lost many friends to the war. Nonetheless, it is significant that Schmitt here dedicates his work on the "friend-enemy distinction" to a friend of his who has died in an assault, presumably heroically, certainly in the service of his country. Schmitt's *Verfassungslehre* is also dedicated to a friend, Dr. Fritz Eisler, who "fell on 27 September, 1914." It could be that Schmitt's wanted to commemorate those of his friends who had seen combat and not survived because his own military service consisted of safe desk duty, so it may be that he had some share of survivor-guilt.[233] Could it not also be the case, however, that these dedications are not merely personal, but are also intended to be morally edifying, as examples of men who gave their lives in the service of the state? If they are strictly personal, why does Schmitt feel the need to mention how it was that his friends came to die?

Schmitt's preference for war emerges as a theoretical necessity, a dictate of history and as a solution to the ever-growing threat of civil society. None of this necessarily entails, however, that it cannot also be like Donoso Cortés' preference for the "dictatorship of the saber" over that of the dagger, which is due to Cortés' own preference for things that are noble. Though this preference on Schmitt's part could not be a major theme of *The Concept of the Political*, for reasons mentioned above, Schmitt does allude to it in one of the corollaria appended to later editions:

> In the era of the genuine combatant-war, the declaration of war entailed no shame or political stupidity, but it could be done as a matter of honor, if one had grounds to feel threatened or offended (example: the declaration of war upon France and Italy by Emperor Franz Josef I of Austria in 1859). Now, in post-war Genevan international law, it should be an

[233] As far as I can tell, these are the only two of Schmitt's works dedicated to persons deceased at the time of the dedication. Schmitt's other dedications are what one would expect, i.e., there's a dedication to his wife, to his daughter, and various other dedications to fellow academics on the occasion of their birthdays, as is the German custom.

> instance of a criminal act, for the enemy should be turned into a criminal.[234]

In the new style of warfare, the "aggressor" is deemed a "perpetrator," instead of a "combatant," who may legitimately pursue warfare as a matter of a free sovereign decision, even if it be over something so subjective as honor.[235] Schmitt is clear-eyed enough to avoid romanticizing war, to the extent that he does seem to be aware of its universal horror. At the same time, it is clear that Schmitt prefers the "combatant war" or the past to the "perpetrator war" of the present, and it may well be that one of the reasons for this preference is because the combatant model of war retained an awareness of honor, and the perpetrator model systematically denies this.

For Schmitt, we have seen that war is a historical universal, but that war is itself undergoing an undesirable change, from a model that conceives of the enemy as a combatant to one wherein he is a criminal. Changing the definition of warfare from a matter of honor into a matter of legality depoliticizes war, as it substitutes criminal law—which is supposed to apply within civil society—for international law, which is supposed to be operating between nations. This is consistent with one of Schmitt's overarching concerns, the intrusion of civil society into the political realm, where it does not belong. Once dueling between private citizens had been outlawed, as we saw in Treitschke, private citizens no longer bore honor, and honor retreated to the domain of the state. Thus, with the adoption of the perpetrator model of warfare, honor departs from the

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[234] Schmitt, *Der Begriff des Politischen,* pp. 103-104. This is also a bit of an curious example, because Cavour tricked Franz Josef I into going to war under conditions that were disadvantageous to the Austrians, i.e., while the Sardinians had a secret treaty of defense running with the French. The other noteworthy result of the Franco-Austrian War of 1859, besides odd bits of land being swapped between the parties at its conclusion, and the new possibility of the unification of Italy, was that Swissman Henri Dunant, appalled by the plight of the wounded at the Battle of Solferino, would go on to establish the Red Cross four years later. Thus, the decision by Austria to go to war for reasons of honor, ultimately also helped to establish war and the victims of war as an "international humanitarian emergency."

[235] Ibid., p. 103.

international arena, and hence from the world as well. When all politics reduces to legality or economics, there is no longer any seriousness left in the world, no longer the possibility of an "Ernstfall."[236]

Most of all, the very division of war into two types—the "perpetrator" model and the "combatant" model—reveals much in terms of Schmitt's normative judgment of war. Schmitt spends far more time criticizing the perpetrator model than he does lauding the combatant model, but every criticism of the former includes an implicit praise for the latter. The most damning criticism of the perpetrator model is that it is a sham: "When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent."[237] By way of contrast, a state fighting under the combatant model do so honestly for the sake of its own particular interest, and it will do so in a limited and civilized fashion, not withholding honor from the enemy. States under the perpetrator model of warfare use humanity as a "vehicle of economic imperialism," because "whoever invokes humanity wants to cheat."[238] States employing the combatant model wage war openly and honestly on their own behalf, not in the name of economic imperialism, but under the banner of good, old-fashioned imperialism that serves to foster the interests of the state (i.e., power) rather than the particularistic interests of economic powers within civil society.

Schmitt does not claim, as Treitschke does, that war has a wide array of curative powers, yet the advent of the perpetrator model of war shows how very close to Treitschke's thinking on war Schmitt really is. From the Hegelian perspective of

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[236] Schmitt, *Der Begriff des Politischen*, p. 35
[237] Schmitt, *The Concept of the Political*, p. 54.
[238] Ibid., p. 54.

Treitschke and Schmitt, the gravest threat to the life of nations (Germany in particular) is the advance of a hedonistic viewpoint that has served to further the intrusion of civil society into the domain of the political. The proper orientation of the political is toward the international arena, towards external enemies. The intrusion of civil society means that the state is weakened *vis- à-vis* external enemies, and also because the conflicts that are latently political in the context of a civil society that is dominated by the state are likely to become overtly political in the context of a state dominated by civil society. Here we find another meeting-point of Hobbes and Hegel. Hegel adopts the Hobbesian concept of a *bellum omnium contra omnes,* but situates it in civil society, rather than the state of nature. It may be said that Hegel even defines civil society as a *bellum omnium contra omnes* when he writes, "civil society is the battlefield where everyone's individual private interest meets everyone else's."[239] While it is arguable whether this is Hegel's final and most authoritative conception of civil society, it is the one adopted by Treitschke and Schmitt. Treitschke writes: "Society is composed of all manner of warring interests, which if left to themselves would soon lead to a *bellum omnium contra omnes*, for its natural tendency is toward conflict, and no suggestion of any aspiration after unity is to be found in it."[240] In Treitschke's view, this fractious nature of civil society necessitates a powerful state, a *Machtstaat* that is capable of projecting its power inward and containing these powerful centrifugal forces.

There is an internal contradiction within civil society regarding war. On the one hand, civil society is thought to be the locus of endless conflict: on the other hand, civil society is the domain of the satisfaction of selfish interests, and as such is ill-suited as a

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[239] Hegel, *Philosophy of Right*, p. 189.
Treitschke, *Politics*, vol. I, pp. 45-46.

breeding-ground for warriors. Yet this contradiction is not noted by Hegel, Treitschke or Schmitt: civil society is presented as a realm of continuous internecine conflict that somehow renders its combatants soft and effeminate. The reason for this is fairly straightforward: in the absence of the state, the people will be destroyed as a political entity by civil war long before any such conflict can have any salutary effects on the national character. Thus, while war itself is part of the human condition, civil war is always bad, as it undermines political unity. Here we find yet another significance of war in the tradition of the *Machtstaat*, which is that the phenomenon of civil war once again points to the need for a strong state. Historically, Schmitt locates the origin of the modern state in the European wars of religion:

> There really once was a time when it was sensible to identify the concepts of the state and the political with one another. This is because the classical European state had succeeded with something quite unlikely: to achieve peace within itself and to disqualify enmity as a legal concept. It was successful in abolishing the feud, an institution of medieval law, in bringing to an end the denominational civil wars of the Sixteenth and Seventeenth Centuries, which were regarded on both sides as especially just wars, and in creating peace, security and order within its domain. As it is generally known, the formula "peace, security, and order" served as the very definition of the police. Within such a state, there was really only police and no longer politics; unless one considers court-intrigues, rivalries, frondeurs, and attempts at rebellion by malcontents, in short, "disturbances," as politics.... But it must be observed that both words, politics and police, are derivative of the same Greek word, *polis*. At that time, politics in its general sense, high politics, meant only foreign affairs, and as such concerned a sovereign state in relation to other sovereign states, that it acknowledged as such, and on the basis of this acknowledgment carried out decisions about mutual friendship, enmity, or neutrality.[241]

The modern state developed within a context of civil wars, and developed in order to limit political conflict (i.e., serious conflicts, in that they involve the possibility of real combat) to the international level. This passage makes it clear that one of the important

[241] Schmitt, *Der Begriff des Politischen*, pp. 10-11.

functions of the state and the international state system is the policing of politics. Real enmity within the state was possible when private persons could muster armies, build fortresses and even levy taxes, as was possible under feudalism.[242] The early modern state eliminated this sort of activity; at the same time it conducted international wars with new fervor. For Schmitt, these two things clearly go together: only when an internal peace has been achieved can the political distinctions between nations find their expression in international warfare.

Schmitt calls this system classic, and clearly prefers it to what he sees as developing in its place. It is a system of discipline, whereby the regularized and normal conduct of war with other sovereign states preserves the peace at home, and peace at home is the condition of being able to survive as a state in a system that includes recurrent military conflict between nations as its most significant feature. These wars, for Schmitt, have the characteristics of a duel, wherein the combatants respect one another and abide by a set of humane rules, although engaged in a life or death struggle.[243] This system is in sharp contrast with the alternative Schmitt sees as developing, one wherein forces within civil society threaten the monopoly on the political and states pursue increasingly unrestricted warfare against one another in the name of humanity.[244]

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[242] "If a political entity exists at all, the right of vendettas between families or kinfolk would have to be suspended at least temporarily during a war." During time of war, the disposal of life becomes the sole prerogative of the state. Though Schmitt does not note it here, it the outlawing of feuds and dueling would seem to be a natural outgrowth of the state's seeking to be perpetually prepared for war. Ibid., p. 47.

[243] "The cultivation (*Hegung*) and clear demarcation of war includes a relativization of enmity. Every such relativization is a great advance, in the sense of its humanity." Schmitt, *Der Begriff des Politischen*, p. 11.

[244] Before the war, Schmitt tends to emphasize the former—after the war, he tends to emphasize the latter. Although much of Schmitt's post-war writing on this subject (the criminalization of the enemy and the failure to recognize him as an equally sovereign state pursuing his own legitimate interests) appears directed against what Schmitt regards as the unfair treatment of Germany by the allies after the war, Schmitt at least seems aware that the brutality of WWII was abetted by dehumanization of the enemy, and that this occurred on both sides—although I have yet to find a passage that indicates any sensitivity on Schmitt's part to the matter of whether any behavior on the part of Germany in conducting the war may be

Offensive war, when conducted for serious reasons of state, is no crime for Schmitt, and he identifies the delegitimization of such wars as one of the lamentable features of the post-war era: "In the alliance-system of Genevan postwar politics, the attacker is determined to be the enemy. Attackers and attacks are determined on a case-by-case basis: whoever declares war, whoever crosses a border, whoever doesn't keep to certain procedures and certain deadlines, etc., is an aggressor and violator of the peace."[245] This, of course, is the view of what I have called the perpetrator model of war, which is distinct from what Schmitt calls the "combatant war." Though one might argue that the restriction of wars of aggression is humane, from Schmitt's perspective it is inhumane, as imposing the status of "aggressor and violator of the peace" upon a nation is to dehumanize its people, and makes the use of any abhorrent means justifiable, thereby totalizing war.

A good war is led from the point of view of the state, a bad one from that of civil society. Despite all that changed between Treitschke's and Schmitt's time, the enemy remained the same: civil society, at least to the extent that it intruded into the state's domain, the domain of the political, with its economic rationality and vulgar hedonism. The concept of war serves as a polemical battlefield that offers favorable terrain for opponents of the economism of civil society, for human life, courage, and the blood of heroes are all things not easily reduced to a matter of money. Small wonder, then, that Treitschke finds war to be more uplifting than economic matters:

> The just war awakens the baser instincts of human beings, but what powerfully intense human activity does not? And are the vices that

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in any way responsible for what he regards as the excessively severe treatment of Germany at the hands of the allies.

[245] Schmitt, *Der Begriff des Politischen*, p. 103.

> accompany the blessings of our economic endeavors—avidity and fraudulence, hedonism, and hard-heartedness—any less repulsive than the vices of war? The immense excitement of war reinforces and increases not only manly ferocity but also humanity's docile and gentle feelings. I must simply confess—and I am sure that all my friends could make the same confession—that never in my life have I felt such humility, or such devout thankfulness for the luck to be a German, as in that summer when finally, finally the world had to learn exactly what Prussia really is.[246]

Schmitt makes a very similar comparison of the moral effects of the political and the economic:

> The economic way is declared to be reciprocity of production and consumption, therefore mutuality, equality, justice, and freedom, and finally nothing less than the spiritual union of fellowship, brotherliness, and justice. The political way appears on the other hand as a conquering power outside the domain of economics, namely, thievery, conquest, and crimes of all sorts.... But this in actuality is not permissible and neither moral nor psychological, least of all scientific, to simply define by moral disqualifications, by confronting the good, the just and the peaceful with filthy, evil, rapacious, and criminal politics. With such methods one could just as well the other way around define politics as the sphere of honest rivalry and economics as a world of deception.[247]

It is noteworthy that, in both examples, we find that the ideas to which the standpoint of the state and the political are opposed stem from the sphere of economics. No economic competition will stir the soul the way a victory in a just war will, and, though Schmitt is less rapturous, he still sees the political as more honest than the economic, which, in the end, does not actually disavow war, but pursues an ever more intense and brutal war for lowly, amoral economic ends.

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[246] Treitschke, *Das constitutuionelle Königthum in Deutschland*, p. 537.
[247] Schmitt, *The Concept of the Political*, p. 77.

CHAPTER 5

Duty

> ... there is in fact no actual entity corresponding to the abstract conception of civil society which exists in the brain of the student. Where do we find its concrete embodiment? Nowhere. Any one can see for himself that society, unlike the State, is intangible. We know the state as a unit, and not as a mythical personality. Society, however, has no single will, and we have no duties to fulfill towards it. In all my life I have never once thought of my moral obligations toward society, but I think constantly of my countrymen, whom I seek to honour as much as I can.[248]

> ... pluralism consists in denying the sovereignty of the political entity by stressing time and time again that the individual lives in numerous different social entities and associations. He is a member of a religious institution, nation, labor union, family, sports club, and many other associations. These control him in differing degrees from case to case, and impose on him a cluster of obligations in such a way that no one of these associations can be said to be decisive and sovereign.[249]

Both Treitschke and Schmitt feel the need specifically to deny that there is any such thing as an obligation to society. This is because, for both, the ultimate duty of every citizen belongs to the state, but the emergence of society as a rival claimant for obligation serves to weaken the state's claim to obedience. While Treitschke thinks of society as an abstraction (or at least seeks to defang it by defining it as such), Schmitt shows how pluralism can give rise to conflicting obligations that would appear to make the alternative claims of society more plausible, in that what appears as an abstraction in Treitschke's account now finds concrete expression.[250] Additionally, Schmitt confronts another problem, which is "the historic development toward the democratic identity of

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[248] Treitschke, *Politics*, vol. I, p. 45.
[249] Schmitt, *The Concept of the Political*, p. 41.
[250] Though Schmitt, too, also criticizes his rhetorical opponents, Laski and Cole, for adopting a view of civil society that is too abstract, an "all-embracing, monistically global, and by no means pluralist concept...." Schmitt, *The Concept of the Political*, p. 44.

state and society."[251] Thus, if pluralism develops to such an extent so that the duty to the state is no longer the sovereign duty, or the democratic identity of state and society proceeds to such an extent that the state merely expresses the particularism of society, then the state ultimately becomes nothing more than "a revocable service for individuals and their free associations."[252] Of course, such a state can have only a tenuous existence, because circumstances will arise wherein "the political entity must demand the sacrifice of life," yet a pluralistic state would find in this instance that "Such a demand is in no way justifiable by the individualism of liberal thought."[253] This effectively eliminates the authority of the state as a political unity, and so the state under the influence of liberalism becomes something less than a state.

The duty that Schmitt and Treitschke claim is properly owed the state is nothing other than the obligation engendered by protection. One of the possible antitheses to this duty is the selfishness of man as a member of civil society, which, as we have seen, is singled out as a target by both Schmitt and Treitschke. Another possible antithesis, however, is the liberal idea that duty emerges from some sort of social contract, a notion that both Treitschke and Schmitt explicitly reject. Social contract liberalism sees duty as an outgrowth of agreements we ought to uphold. Yet, as we have seen, Hobbes originally acknowledges that a covenant that places one's life in danger is void the moment the danger becomes real, revealing a flaw that is, according to Schmitt and Treitschke, fatal for the liberal account of political obligation. Both Treitschke and Schmitt treat the contractarian account of political obligation as though it is a justification offered up by the bourgeoisie as a cover for the pursuit of pleasure in civil society.

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[251] Schmitt, *The Concept of the Political*, p. 24.
[252] Ibid., p. 45.
[253] Ibid., p. 71.

It is within these parameters, then, that Schmitt seeks to construct an alternative ground for political duty, one that is able to accommodate the entry of the masses into politics by understanding it not as civil society, which is by nature fractious, but as a people, by nature a unity. This requires a change in viewpoint: instead of liberal individualism, which looks at the individual as an actor within the state from the standpoint of civil society and domestic politics, Schmitt shifts outward, to understanding the individual as a member of a people, which may be heterogeneous when regarded from an internal point of view, but which is homogenous when regarded in the context of a world of other nations and peoples. This is the specifically political viewpoint that Schmitt offers in opposition to that of civil society, which is wont to see duty as derivative of some form of contract. This version of political duty is in no way acceptable to Schmitt, for it omits the possibility of any account of virtue. In his view, the duty that arises from the mere desire to keep contracts is a shopkeeper's virtue, and is ill suited to a free people. Moreover, social contract theories are false because they understand duty as the result of a contract between individuals and the state, in yet another example of excessive individualism.

Duty and the Relationship between Civil Society and the State

As we have seen, Schmitt takes warfare to be the original and archetypical political activity. This is in contrast to liberalism, which he argues sees economic transactions to be the archetypical political activities as part of its overall project to "tie the political to the ethical and to subjugate it to economics."[254] This makes it clear what Schmitt regards liberalism to be: it is a philosophy or ideology of civil society that seeks

[254] Carl Schmitt, *The Concept of the Political*, p. 61.

to justify, establish, and codify the norms, expectations, and values of civil society, and even to expand these into the life of the state. Such an expansion can only be disastrous for the state, and for the people, as it can provide no sound basis for duty. While the individual as a member of the state is characterized by duty, the individual in civil society is characterized by selfishness. If civil society develops in such a way that its characteristic tendencies also find political expression, it could be the case that liberal selfishness could even destroy the state's ability to defend itself.

In his *Constitutional Theory*, Schmitt considers differences between his theory of democracy and the democracy of liberalism. First, Schmitt insists that "The citizen in a democracy is a *citoyen*, not a private person or bourgeois."[255] This, once again, is offered as an alternative to the liberal account of personhood, which invests persons with rights by view of their humanity, and not by virtue of their status as an individual in a given political unity. Thus, in opposition to liberal accounts of democracy that recognize only rights-claims against the state, Schmitt chooses to emphasize duties in his formulation of democracy. Moreover, these duties are not done for the sake of the individual, but as an obligation to the political unity as a democratic state:

> The right to vote, to the franchise, is not a right in the sense that it is in the service of the individual (as the secret ballot is, the heterogeneity of which is especially revealed by way of this comparison); it is also not merely a "reflex" of the constitutional law, but a public function and consequently a *duty* to vote, because it is not exercised by the individual as a private person but as a citizen, by virtue of a status under public law. Still, most democratic states have not implemented this consequence of the duty to vote in their election laws.[256]

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[255] Schmitt, *Verfassungslehre*, p. 253. In the note accompanying this passage, Schmitt cites Hegel's definition of the bourgeois as the denizen of a riskless private sphere, in opposition to "the citizen who exists in the political sphere." Ibid., p. 253.

[256] Ibid., p. 254. When Schmitt here writes that the secret ballot is "heterogeneous," he means that its secrecy serves the individual and not the political unity, because the secrecy enables the individual to follow his heterogeneous particular ends rather than the homogenous general ends of the political unity.

It may well be that Schmitt offers these duties in order to make democracy less appealing to liberals: instead of focusing on rights, the things the individual gets from the state, Schmitt places far greater emphasis on duties, the things the individual owes the state. In contrast to centuries of rhetoric against monarchical rule, Schmitt argues that it is democracy that is the state form that demands the most from the people. It is also clear that Schmitt believes that the citizen should not vote in a way that is consistent with his own personal interest, but in a way that he believes is consistent with the needs of the political unity, i.e., the state. This shift from the language of rights to the language of duty, from private to public, from self-interest to the interest of the state demonstrates at once what Schmitt sees as wrong with modern democracy and what he thinks might be done to remedy it.

Given Schmitt's interest in war, it is not surprising that one of the duties to which he pays special attention is military service. In addition to the duty of voting, citizens in a democracy also have the "Universal equal duty to military service, or, more precisely: the right and the duty of each citizen, provided that he is able, to take up arms defend the state and its order from within and without. Just as there can be no genuine democracy without a general right to vote, there is no genuine democracy without the universal duty to military service."[257] Since it is legitimate for the democratic state to demand military service, it follows that it may demand lesser things as well, and so Schmitt also outlines "equal duties" to personal service and taxation.[258] These things are not, in fact, unique to democracy, but Schmitt aims at offering what he thinks is a more realistic (and therefore

[257] Ibid., p. 254. The phrase "allgemeine Wehrpflicht" literally means "general defense-duty," though its ordinary meaning is "universal conscription."
[258] Ibid., p. 254.

less attractive) account of democracy than that offered by liberals. The formula of "protection, therefore obedience" applies in democracy no less than it does in the Hobbesian state. Once the proper foundation for duty is laid and liberal misconceptions about democracy have been overcome, Schmitt offers a democracy that is in direct opposition to the endless discussion of liberal parliamentarianism, a democracy whose "rule is stricter and harder, whose regime is more decisive than any patriarchal monarchy or cautious oligarchy."[259]

In *The Concept of the Political*, Schmitt contrasts genuinely political duty owed to the state with the "duties" imposed upon the individual by universalist humanistic liberalism. According to Schmitt's account, "liberalism, in one of its typical dilemmas of intellect and economics, has attempted to transform the enemy from the viewpoint of economics into a competitor and from the intellectual point into a debating adversary. In the domain of economics there can be no enemies, only competitors, and in a thoroughly moral and ethical world perhaps only debating adversaries."[260] For Schmitt, such a viewpoint is clearly that of the "private individual." The viewpoint logically opposed to this is that of the public collectivity, or, using more correctly Schmittian language, that of the *politische Einheit,* the political unity.[261] According to the Hegelian understanding, civil society is inherently disunited, and so Schmitt projects this incoherence, rightly or wrongly, onto the consciousness of civil society itself, by demonstrating that civil society does not regard itself as a unity. Here, we see Schmitt focusing on two aspects of civil society, its economism and its domination by the bourgeoisie, the "discussing class," and imposing these views onto liberalism. From what Schmitt sees as the political

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[259] Ibid., p. 236.
[260] Schmitt, *The Concept of the Political*, p. 21.
[261] Ibid., p. 21.

standpoint, we do not live in a perfectly moral and ethical world, and so there is always a potential friend enemy grouping, and woe to he who fails to recognize it as such.[262]

Given what Schmitt takes to be the destructive effects of the ideology of civil society, it is a wonder how they have been so effective at contaminating politics. Much of the time, Schmitt writes as if they simply spread endlessly, as though the "civil societization" of thought is simply an essential feature of modernity. In Corollary 2 of *Der Begriff des Politischen*, however, Schmitt describes a possible mechanism for the corruption of the concept of duty:

> Friend is originally only the *blutsfreund* (relation), the blood relative, or the relation by marriage, oath, adoption of children or those who are "made related" by other means. It was presumably Pietism and similar movements that, en route to the "friend of God," arrived at the "soulmate," which was typical of the nineteenth century, and which remains widespread today, tendency toward the privatization and psychologization of the friend concept. Thereby, friendship became a matter of private sympathies, finally with an erotic tint in an atmosphere devised by Maupassant.[263]

Originally, then, the friend was actually akin to oneself, then it spread to an extended family or tribe, then, through religion, to fellow believers, and then the concept became extended to one's own countrymen, and finally it becomes a matter of purely private sympathies, i.e., a thing of civil society. It is worth noting here that this formulation also parallels Hegel's ternary of the family, civil society, and the state.

The process described by Schmitt here has the virtue of fitting in well with Schmitt's other attacks on humanitarian universalism. The theoretical endpoint of this process of the universalization of friendship is the friendship of all humanity, on a

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[262] This is also a fairly typical Schmittian rhetorical formulation. For his liberal opponents to be correct, we must live in a "perfectly moral and ethical world," whereas Schmitt imposes no such standard of perfection upon his own argument.

[263] Schmitt, *Der Begriff des Politischen*, p. 104.

worldwide basis. Yet this universal humanitarian duty lives only in the rhetoric of humanitarian liberals, to be used as the ideological weapon of an actual nation against another nation in order to justify predatory acts against it.[264] The ideal of liberal self-interest goes together with the elimination of the state, the erection of a world state, and the total replacement of all existing political entities with that of humanity.[265] In such a world, loyalty to one's countrymen as public, political friends makes no sense, and the only loyalty that remains is in the attachment to private friends. This attachment thus supplants the position that had been occupied by political friendship, with the important difference that such relationships do not entail that any people make "the ultimate sacrifice." In ancient times, when settlements consisted mainly of people who had been interrelated for generations, ties of blood or friendship might suffice for political purposes, but that's obviously no good in modernity. Even economic ties, the ties that liberalism tells us ought to be the strongest, based as they are on the pursuit of everyone's rational self-interest, cannot generate this sort of duty, as Schmitt makes clear:

> In an economically determined society, there is no conceivable point of view from which order, i.e., that the functions within the domain of economic categories proceed predictably, can demand that any member of society sacrifice his life in the interests of its undisturbed functioning. To justify such a demand on grounds of economic utility would especially be a contradiction of the individualistic principles of a liberal economic order and could never be justified by the norms or ideals of an economy that is believed to be autonomous. The individual person may voluntarily die, for whatever he will; that, like everything fundamental in an individualistic-liberal society, is an utterly "private matter," i.e., the matter of his free, uncontrolled judgment, of no concern except to the freely-self-determining determination itself.[266]

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[264] Ibid., p. 54.
[265] Ibid., pp. 56-58.
[266] Schmitt, *Der Begriff des Politischen, p.* 49. Schwab translates this as "an economy autonomously conceived." Carl Schmitt. *The Concept of the Political.* p. 48. I offer this translation here in part to preserve Schmitt's original intent, which is to write of an autonomous economy, because this may be a reference to an essay by Walther Rathenau. See: Walther Rathenau, *Autonome Wirtschaft (*Jena: Diederichs Verlag, 1919).

If we read this in the context of men at war, fighting for their nations, then Schmitt is clearly being mockingly sarcastic, especially in the last sentence. Schmitt is here absolutely insistent on the point that, in the last instance, politics is not reducible to economics, and that to speak of "economic determinism" in the sphere of politics is clearly nonsense, because dying for an economic cause is absolutely never justifiable in economic terms.

Civil society, then, to the extent that it becomes the dominant realm in men's lives, and eclipses their participation in the life of the state, poses a severe threat to the political unity because of its individualism and its understanding of man as *homo economicus*. The bourgeois can know no duty beyond that to his pocketbook, or to the satisfaction of his many appetites. Given the inevitability of war, a nation composed of selfish individualists engaged in the private pursuit of pleasure cannot long endure. This is why, in *The Concept of the Political*, Schmitt ends by criticizing two sayings, the plain meaning of which could be taken as a summary of everything to which Schmitt is reacting. The first, which Schmitt argues is usually misunderstood, is from Walther Rathenau: "today economics, rather than politics, is destiny."[267] The second saying comes from Schumpeter, and it is that "a political position founded on economic superiority is 'essentially unwarlike,'" to which Schmitt retorts: "The only thing 'essentially unwarlike,' and this stems from the essence of liberal ideology, is the terminology."[268] Thus, though the essence of liberal ideology is *cast* in pacifistic terms, liberalism itself can easily adapt itself to bellicosity, using "a new and essentially pacifist

[267] Schmitt, *Der Begriff des Politischen*, p. 76.
[268] Schmitt, *The Concept of the Political*, p. 78.

vocabulary" hypocritically to justify it.[269] So, despite the increasing popularity of liberalism, the ideology of civil society, and despite increasing economism and its allegedly pacifistic tendencies, in point of fact these changes have made the world absolutely no less dangerous than before. All that has changed is that those states and individual peoples who have most successfully integrated liberal pacifism and risk avoidance into their consciousnesses will be the least prepared for the actual, and inevitable, outbreak of war, whether waged as an economic conflict or an exclusively military one.[270] The most liberal, individualistic states will have great difficulty filling the ranks, as its citizens will be the ones willing to risk the least, as they have no basis for loyalty to the state, in contrast to the inhabitants of any truly political state. To say that civil society should dominate the state is the same thing as saying that economics, and not politics, is destiny, because both imply the same thing: that men's lives are dominated by a depoliticized realm of commercial activity, production, and consumption, wherein risk is calculated in terms of profit and loss rather than in the lives of citizen-soldiers.

As we have already seen, Schmitt holds that there is a problem with the liberal account of political obligation, as it is paradoxical that an agreement to preserve one's life could ever justify its sacrifice, and, in the second place, no economic benefit can justify the sacrifice of one's life and the foregoing of all future pleasures.[271] One might have thought that these criticisms would be sufficient, but both Schmitt and Treitschke go much further in undermining the contractarian account of political obligation. In part, this is due to the fact that the liberal tradition against which both are arguing uses a

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[269] Ibid., p. 79.
[270] The scenario Schmitt seems to present as most likely, i.e., the predominant type of war in modernity, is the military conflict waged for economic purposes, hypocritically justified on humanitarian grounds. Schmitt, *The Concept of the Political*, pp. 78-79.
[271] Schmitt, *Der Begriff des Politischen*, p. 49

contractarian model to establish political obligation. It is also the case, however, that the contractarian account of political obligation is fundamentally at odds with the basic assumptions about political life we find in Treitschke and Schmitt. If we understand the foundational contract as a "social contract," and that the social is the opposite of the political, just as society is the opposite of the state, then conceiving of the state as a social contract would appear to be another disturbance of the proper relationship between civil society and the state.

In an effort to discredit the liberal social contract, Treitschke transports us back to the state of nature, and asks how it is that men in the state of nature might be able to conclude a binding contract. His answer is that they cannot, because this "can only be done where the State exists; where it does not, there can be no contract."[272] This leads to the further claim that the conception of the state as a social contract is in error, because history has never seen an age in which man did not live in states (however primitive); "We cannot found the State upon a contract which in its turn can only be conceived within that state."[273] Although Treitschke does not suggest that social contract theory requires the actuality of a prepolitical state of nature, he feels that what he regards as the historical lack of such a condition should be counted as a weakness of the theory. Finally, Treitschke objects to the conception of the state as a contract devised for the safety of the individual, because military necessity requires sacrifice, and, "if we simply look upon the State as intended to secure life and property to the individual, how comes it that the individual will also sacrifice life and property to the state."[274] Though we may desire to be good and uphold contracts to which we are party, Treitschke argues that few

[272] Treitschke, *Politics*, vol. I, pp. 6-7.
[273] Ibid., p. 7.
[274] Ibid., pp. 14-15.

would be willing to uphold this bargain. Because we *do* observe men sacrificing their lives for the state, therefore, the state cannot be a contract.[275]

Treitschke's "answer" to social contract theories is to demonstrate what he takes to be their failure at justifying political obligation and to point out that the social contract presupposes that a political arrangement is already at work in the state of nature. Schmitt's logic in opposing the liberal social contract is remarkably similar to Treitschke's:

> A constitution that is based upon an act of constitution-constituting power of the people, must be essentially something other than a social contract, a "*Contrat Social*." The democratic principle of the constitution-constituting power of the people proposes that the constitution comes about through an act of the politically competent people. The people must pre-exist as a political unity and are presupposed, if they are to be the subject of a constitution-constituting force.[276]

Though Schmitt's language here is more technical than Treitschke's, his meaning is plainly the same: a contract presupposes a contracting entity, and, since the political entity/unity of the people is something called "the state," the constitution itself cannot be based on a contract, as the entity "created" by it is, in fact, presupposed by it. The only genuine constitutional contract, according to Schmitt, requires at least two contracting parties that each constitutes a political entity/unity, and which normally takes the form of

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[275] This should not be taken to mean that Treitschke holds that the defense of private individuals and their property is unimportant to the state: far from it, he defines defense and police functions as the first duty of the state. Treitschke, *Politics*, vol. I, p. 22.

[276] Schmitt, *Verfassungslehre*, p. 61. It should be noted that Schmitt's tactic here is to turn Rousseau's own standards against Rousseau's own theory. cf. Jean-Jacques Rousseau, *Social Contract and the Discourses (*New York: Knopf, 1992), pp. 189-191, 209-215. Schmitt's critique of Rousseau may also be based in part on Hegel's charge that the grounds for political obligation in such a theory confuse the state and civil society, then the end of the state becomes "security and protection of property and personal freedom," with the logical conclusion that "membership in the state is something optional." Hegel, *Philosophy of Right*, p. 156.

an agreement to create a federal entity.[277] This sort of contract is also distinguished as genuine because it entails compromise between two interested parties, whereas that is not true of the *Contrat Social*, according to Schmitt.

Given Schmitt's concern for the sanctity for the political uncontaminated by the things of civil society, however, one might expect that he would criticize the social contract on these grounds, and indeed, he does. Writing in an ironical mode, he notes that the social contract cannot be a free contract according to the standards of civil society.

> A free contract as it is regarded by the liberal civil legal and social order requires that three elements be brought together: 1. The parties to the contract stand opposite to one another as *individual* persons in a private legal relationship. A contract between two individuals and one between two political entities is something so essentially different, that the same label "contract" can only touch on secondary and external affinities between the two processes. 2. The free contract between individuals can only establish *one-on-one* relationships that, are in principle *measurable*, in principle of limited content and therefore in principle *rescindable*. 3. It follows that the free contract never encompasses a person in his entirety. It is rescindable and dissolvable; the total appropriation of a person in their totality appears immoral and illegal.[278]

Although Schmitt himself certainly does not care to see the standards of civil society exported into the political realm, he does believe that, given the understanding of the social contract as a *social* (as opposed to political) contract, its advocates ought to be bound by the standards of civil society, specifically, by the standards of civil law. His objective here is to show how completely inadequate such standards are for the purposes of establishing political obligation. The political freedom of the citizen cannot be the

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[277] Ibid., pp. 62-63. Compounding the matter is the fact that German uses the same word, *Vertrag*, to mean both contract and treaty. Given that he believes politics properly understood is politics between states, and that a *civil* contract is a thing of *civil* society, it is not surprising that Schmitt works mightily to allow the former form of contract to establish a constitution while completely disallowing the latter.
[278] Schmitt, *Verfassungslehre*, p. 67.

same as that of the party to a civil contract. Those who argue for such a contract have once again misunderstood the nature of politics, and are wrong in seeking an apolitical ground for political obligation. Only a specifically political (in Schmitt's friend-enemy sense) contract is capable of encompassing the entirety of a person (i.e., including the sacrifice of life, if needed).[279] This is a typically Schmittian technique. Rather than impose his own standard, Schmitt seeks to make it seem as though liberal theory—in this case, social contract liberalism—fails on its own terms. In this way, Schmitt keeps liberalism on the tactical defensive, without having to defend his own proposals.

Treitschke anticipates Schmitt in attacking civil society on the basis that it is an illegitimate competitor for the loyalty of men: "Society, however, has no single will, and we have no duties to fulfill towards it."[280] The state, of course, may legitimately demand anything of the people. As in Schmitt, it is not simply that we are confronted with two claims for obedience, and that we may divide our loyalties wherever we may. Given that Schmitt understands the state as the unity whereby the people confronts their enemies, and Treitschke understands it as "the public force for offence and defence," both men acknowledge absolutely no duty to society whatsoever, because it is the state, in its function as the defender of the people, that makes the life of civil society possible.[281] In Schmitt, we find that this protection obliges us to make the enemies of the state our own enemies, and so it is the same in Treitschke. Both harbor a concept of the state that treats

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[279] As early as 1914, Schmitt is criticizing the individualistic basis of social contract theory: "The mistake of social contract theory is not that it constructs a contract, but rather that it assumes empirical individuals to be the parties to the contract." Carl Schmitt, *Der Wert des Staates und die Bedeutung des Einzelnen* (Berlin: Duncker & Humblot, 2004), p. 106.
[280] Treitschke, *Politics,* vol. I, p. 45
[281] Ibid., p. 22.

its sovereignty as absolute, and therefore there can be no such thing as a political duty to society, as there can be no duty that conflicts with the duty to the state.

Just as in Schmitt, the advance of civil society into the domain of the state is depicted by Treitschke as a potentially disastrous. We see in Treitschke the forerunner of the absolute opposition between the state and civil society that would preoccupy Schmitt a generation later. According to Treitschke,

> there is a natural distinction between the social and the political conception of the state. It may be regarded from above from the point of view of the government, and the question asked, "what safeguards its authority?" In pursuing this train of thought the question of individual happiness is relegated to the second rank. On the other hand the social point of view looks upon the state with naïve egotism, and points clamorously to the new social forces for which it has not yet legislated. Everything which our century terms liberalism tends toward the social view of the state. Were it the only one, were it not confronted by a stern political conception, the framework of our nationality would simply collapse, and Germany be disintegrated by the warring of innumerable social groups.[282]

Treitschke here is conscious that there is an alternative viewpoint for examining the relations between civil society and the state, and he rejects it, always preferring to adopt the standpoint Schmitt would later adopt, that of the state. The alternative is described as the collapse of "the framework of our nationality" (i.e., the state), which would result in a *omnium contra omnes*, which is exactly the same sort of "pluralism" to which Schmitt thought liberalism was inclined. Once again, too, we see the dualism of thought Schmitt was to adopt in writing on the same subject. The citizen's relation to the state is one of absolute duty, just as his position in civil society is characterized by absolute egoism and selfishness. And while their liberal antagonists fret about the power of the state, seeing freedom only where the state is not, Schmitt and Treitschke have cultivated a fine

[282] Treitschke, *Politics*, vol. I. p. 49.

appreciation of the state's function in preserving order, an appreciation based in a conservative, pessimistic evaluation of human nature.

A duty to the state is a political duty, yet here we must take account of Schmitt's unique interpretation of what the concept of the political is. According to Schmitt, the ancient teachings on the subject of the best regime are plausible because of the indivisible link between "*polis* and politics," and the modern teachings are plausible because of the correspondingly indivisible link between the state and politics: "a doctrine inaugurated by Machiavelli, Jean Bodin, and Thomas Hobbes, endowed the state with an important monopoly: the European state became the sole subject of politics."[283] What led Schmitt to readdress the question of the political was that this solution, which had endured since the sixteenth century, was now under threat from pluralism, liberalism, democracy, socialism, and economism. Modern life, according to Schmitt, is increasingly marked by *Entpolitisierung*, which is rendered into English as depoliticization. Although the German Revolution of 1918 and the advent of the Weimar Republic are the historic events that precipitate what Schmitt sees as a crisis of the political, in fact he depicts these events as part of this larger tendency towards depolitization.

Schmitt's teaching on the political is inconsistent. Shadia Drury is absolutely correct to:

> note that there is a certain ambiguity in Schmitt's account of politics. Schmitt's conception of the political has two dimensions that are not altogether compatible with one another. On one hand, Schmitt writes as if the political is a datum, a fact of life, an irreducible reality that only the self-deluded can deny. On the other hand, Schmitt speaks as if the political is something honorific and glorious, which has been obscured and forgotten in a world dominated by the economic or the vulgar. He romanticized the political, and regrets that it has been undermined by the

[283] Carl Schmitt, *Le categorie del 'politico,'* Gianfranco Miglio & Pierangelo Schiera, eds. (Bologna: Società editrice il Mulino, 1972). Cited in Schmitt, *The Concept of the Political,* p. 6.

> success of liberalism. It is not that liberalism has simply obscured or hidden the truth from view; it has eclipsed a superior world that was more real, more serious, and more manly. There is a tension between the two.[284]

Drury does not support this allegation by citing Schmitt, but there is little need for her to do so, as the accuracy of her description ought to be evident even to the most inattentive reader of Schmitt. In *The Concept of the Political*, particularly, Schmitt shows his double face, depicting the political as ineluctable, on the one hand, and endangered, on the other. This internal split is a consequence of Schmitt's own effort to replace "the state" in political theory with the category of "the political": while Schmitt certainly believes that his new category is something unavoidable, this concept retains many of the properties of the state, something Schmitt strongly desires to protect. On the ever-present possibility of enmity, Schmitt writes: "Nothing can escape this logical conclusion of the political," and goes on to argue that even pacifism can lead to "war against war."[285] Even liberalism, which Schmitt depicts as barren of any "specific political idea," nonetheless "like any significant human movement, liberalism, too, has failed to elude the political."[286] In the account of the political as ineluctable, it always returns just as we believe it has been banished, and so the moment when we are most certain the political has been vanquished is therefore the moment of the greatest self-deception.

We ignore the political at our own peril, and our failure to recognize it constitutes a sort of liberal false consciousness. In the account of the political as endangered, on the other hand, Schmitt argues that the threat to the category of the political is very real, and takes the form of an intrusion by society into what formerly had been the exclusive

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[284] Drury, *Leo Strauss and the American Right,* p. 90.
[285] Schmitt, *The Concept of the Political*, p. 36.
[286] Ibid., p. 69.

domain of the state.[287] This depoliticization is, in reality, a hyper-politicization, in that it supplants, more or less, the state as an "organized political entity" with "banal forms of politics" that are marked by "parasite- and caricature-like configurations."[288] Thus the truly significant political distinction is watered down, replaced in the political lives of men with things that should not be regarded as political. At the same time, however, this marks the failure of Schmitt's attempt to replace the state with the concept of the political, because he has had to bring in the state once more in order to give it substance, thereby falling back into the circular reasoning he had expressly hoped to avoid.[289]

This is not an abstract critique: Schmitt's concern here is with practical politics, informed by a profoundly pessimistic view of human nature. If we were somehow capable of focusing on multiple political relationships, internal politics might not matter, but for Schmitt internal political differences are inherently destructive. Although he sometimes does not explicitly refer to it, the German Revolution of 1918 casts a shadow over all of Schmitt's Weimar era production—though when he does refer to it, it is not as a revolution, but as a civil war. Though he may have had the events of late 1918 in mind, Schmitt nonetheless postulates that party divisions are incipient antagonists in a civil war as a general rule of politics:

> The equation politics = party politics is possible whenever antagonisms among domestic political parties succeed in weakening the all-embracing

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[287] Ibid., pp. 22-25.

[288] Ibid., pp. 29-30. Note that the word here rendered as "entity" is "*Einheit*," which also should be understood as a unity, or unit. The word "*Einheit*" occurs sixty times in *Der Begriff des Politischen*, and it is clear that this is a word that has been carefully chosen precisely because it has the dual meaning of unit and unity. At times, it is clearly used to refer to a thing that is united, at times to the property of unity, and sometimes with typically Schmittian *Doppelsinnigkeit.* See Carl Schmitt, *Der Begriff des Politischen* (Berlin: Duncker & Humblot, 2002), p. 10. This makes a difference here because Schmitt's specific critique of depoliticization is not that it causes the state to cease to exist as an *entity*, but rather that it causes it to no longer be a *unity*. Along with sovereignty, *politische Einheit* is depicted by Schmitt as a concept particularly relevant to understanding the political. Ibid., pp. 54-58.

[289] Schmitt, *The Concept of the Political*, p. 24.

> political unity, the state. The intensification of internal antagonisms has the effect of weakening the common identity *vis-à-vis* another state. If domestic conflicts among political parties have become the sole political difference, the most extreme degree of internal political tension is thereby reached; i.e., the domestic, not the foreign, friend-and-enemy groupings are decisive for armed conflict. The ever present possibility of conflict must always be kept in mind. If one wants to speak of politics in the context of the primacy of internal politics, then this conflict no longer refers to war between organized nations but to civil war.[290]

Schmitt does leave some small, marginal room for normal partisan politics here: they are acceptable when they do not intensify to such an extent that they weaken the position of the state *vis-à-vis* other states, so long as they do not become the sole political difference, and so long as internal party politics do not assume precedence over international politics. The locus of political duty must be unquestionable: it is owed to the state.

Regime Type and Political Duty

Liberals make the claim that there can be such a thing as "enlightened self-interest," that individual selfishness can lead to socially desirable outcomes. Both Treitschke and Schmitt refute this view, tending to see the state the source of all virtue and civil society as the source of all vice. In Schmitt's words, "The systematic theory of liberalism concerns almost solely the internal struggle against the power of the state."[291] Though they are perhaps less systematic than liberals, both Schmitt and Treitschke rise to the challenge of liberalism through a series of concepts opposed to those offered up by their antagonists. Thus, if liberalism emphasizes the internal danger to the private citizen through the possible oppression by the state, both Schmitt and Treitschke point to what they see as the greater danger to the individual that would be engendered if foreign

[290] Ibid., p. 32.
[291] Ibid., p. 70.

enemies or fractious groups within the nation should become emboldened by a too-vigorous liberal weakening of the state. Against the concept of "enlightened self-interest," Treitschke offers up the paradox that men "cannot arrive at overcoming egotism by egotistical reasoning."[292] Although liberals often cite the danger of oppression of the individual by the state, Treitschke and Schmitt point to how disastrous it would be if the state were made to serve the whims of the individual. Liberal democracy, which focuses on the rights claims of individuals upon the state rather than the duties owed by the individual to the state, is depicted as distorting the proper political order. As we have seen in the area of war and peace, while liberals praise peaceful trade and disdain the brutality of combat, Schmitt derides economic things and praises military things, by redefining war as "honest rivalry and economics as a world of deception."[293] A generation earlier, Treitschke adopted almost the same tone in arguing against those who would use the brute in man to tame the brute in man, asking, "Are not passion and stupidity to be counted among the great powers in all economic life?", to which he sarcastically adds that "it would be very nice if rogues and assassins were sensible enough to see that they would be much more comfortable if they did not rob or stab their neighbors."[294]

And so, we see both Treitschke and Schmitt countering the liberal claim that man is a rational animal, particularly in his economic dealings, and countering the whole liberal position that is based on what they see as a false choice between the peaceful, mutually-beneficial dealings of civil society and the warlike domain of the political. As we have seen, they argue that economics can be a cause of war, and that capitalist

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[292] Treitschke, *Politics*, vol. I, p. 46.
[293] Schmitt, *The Concept of the Political*, p. 77.
[294] Treitschke, *Politics,* vol. I, p. 46.

dealings may be driven by passions, all in order to show that there is no such thing as a social contract that replaces true political obligation through the instrument of "enlightened self-interest."

In arguing against liberal theories of political obligation through enlightened self-interest, one thing that neither Schmitt nor Treitschke bother to prove, though they treat it as true, is that liberalism is a thing of civil society, particularly the class that engages in business, i.e., capitalists and merchants. According to Schmitt, it is not liberalism but democracy, that "must do away with" the "nineteenth century divisions and antitheses pertaining to the state-society (= political against social) contrast," which he lists as religious, cultural, economic, legal, and scientific matters, all of which have their antithesis in the political.[295] These are the contrasts and distinctions Schmitt seeks to uphold—though Treitschke certainly believed in them as well, he treats these contrasts more as a matter of fact that may be taken for granted, rather than a thing that is threatened. Democracy marks the entrance of a heretofore apolitical class of people into the political arena, and it is they who demand that politics pay attention to social, as opposed to political, matters. Civil society being what it is, they all demand that the state further their own particularistic interests, rather than the interests of society as a whole.[296] Thus, democracy inverts political obligation, for rather than individuals owing obligation to the state, it is now the selfish individual, standing as a member of civil society, who demands that the state obey.

Such a state of affairs is, for Schmitt, precisely the opposite of that in which the state truly stands above civil society. This goes to the core of what Schmitt regards as the

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[295] Schmitt, *The Concept of the Political*, p. 23.
[296] In Schmitt's terms, this is the quantitative total state, i.e., the state that "potentially embraces every domain." Schmitt, *The Concept of the Political*, p. 22.

fundamental error of the liberal conception of democracy. Schmitt cites Jacob Burckhardt's nineteenth-century definition of democracy as an authority supporting his conception of this fundamental error: "Only in one respect was it (i.e., democracy) consistent, namely, in the instability of its demand for state control of the individual."[297] Such a state is a potential tyrant, in that it may politicize things that are properly private, and yet: "It should be able to do everything, yet allowed to do nothing. In particular, it must not defend its existing form in any crisis...."[298] The duty of the individual to the state in a liberal democracy is a mile wide and an inch deep. Because the penetration of society into the state is so total, the role of the individual is changed. He becomes essentially nothing but the bearer of rights, particularly with regard to social welfare, and ceases to be obligated on any side by any duty to defend the form of the state. In other words, Schmitt believes that the Hegelian caricature of the bourgeois as a purely private individual will become universal in a democracy that acknowledges no separation of the social and the political, and that Germany—and perhaps even the world—will become a society of consumers rather than citizens, of private individuals enjoying private pleasures without restraint, without any political obligation to the state that makes the enjoyment of these things possible.

Here we see an important difference between Schmitt and Treitschke. Schmitt would agree entirely with the sentiment of Treitschke's pronouncement that "the state protects and embraces the people's life, regulating its external aspects on every side. It does not ask primarily for opinion, but demands obedience, and its laws must be obeyed,

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[297] Ibid., p. 23.
[298] Ibid., p. 23.

whether willingly or no."[299] Note that it is only the "external aspects" of the life of the people that Treitschke depicts as regulated: civil society remains properly depoliticized, as it should in the original Hegelian formulation. This could be because Treitschke does not imagine it possible that the state could regulate life so completely as in the Schmittian quantitative total state.

At the same time, however, Treitschke does argue that democracies (which he prefers to call "democratic republics," in acknowledgement of government by representation) are capable of more far-reaching intrusion into the private lives of citizens than any other form of regime. The example he cites is the "horrible temperance legislation in many of the states," that puts "the innocuous German beer on the same level as the frightful American spirits," and would lead to a "preposterous inquisition into the privacy of every home" if it were to be seriously enforced.[300] Treitschke argues that such legislation would be impossible in a monarchy, "for every king would feel that such an inquisition would be exceeding his own powers."[301] In an insight that would have led him to Schmittian conclusions about the quantitative total state if he had followed them further, Treitschke contends that a democracy has no such restraint. Treitschke comments thusly on the attitude of the "sovereign people" in a democracy: "I may allow myself to do everything, for I am everything, I am the great collectivity of the state."[302]

This attitude towards the individual is carried on much further by Schmitt. Treitschke did not carry on with the exploration of this theme to its logical conclusion.

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[299] Treitschke, *Politics*, vol. I, p. 23.
[300] Ibid., p. 296.
[301] Ibid., p. 296.
[302] Ibid., p. 296. Although this is reminiscent of what has come to be called "soft despotism" in Tocqueville, Treitschke does not cite Tocqueville in his *Politics*. cf. Alexis de Tocqueville, *Democracy in America*, George Lawrence, trans. (New York: Perennial, 2000) pp. 690-695.

He should have pointed out that there is an irony in the relationship of the individual to the democratic form of regime, which is that, though liberal individualism calls for individual rights and restrictions on the scope of the activity of the state, democracy is itself emboldened by the claim to represent the mandate of the people to violate these supposedly inalienable rights. It is not to be doubted that the reason why Treitschke does not pick up on this theme is that, firstly, democracy was a limited thing in his age, his main examples of it being classical Athens, Switzerland, the United States, and sometimes France. Secondly, and more importantly, Treitschke understands democracies as inherently fragile, and not suited to the national character of most nations.

Treitschke's main sources on politics are Hegel and Aristotle. Democracy is not a major theme in Hegel, because he rejects the Aristotelian classification of regimes as antique, because "purely quantitative distinctions" with regard to the number of rulers "are only superficial and do not afford the concept of the thing."[303] Treitschke rejects Hegel's logic on this, declaring: "In political science, as in so much else, we have to go back to the Ancients for our guiding principles and our profoundest ideas."[304] Treitschke does exactly this, borrowing not only the idea of the democratic state form, but also the idea that it is almost always bad. According to Treitschke, democracy is bad because monarchy can guarantee more freedoms than it can. As proof of this, he suggests that any Swiss who publicly questions his country's institutions would be "stoned in the streets!"[305] Democracy is also bad because the principle of equality is demonstrably false, and the nation that ignores them must eventually "fall back on violent measures

[303] Hegel, *Philosophy of Right*, p. 176.
[304] Treitschke, *Politics*, vol. II, p. 276.
[305] Ibid., p. 275.

like the exploitation of the rich."[306] Democracy is also not inherently reasonable, for as he notes in a citation he attributes to Schiller, "Majorities are folly, and reason has always lodged among the few."[307] In support of this, he naturally cites the example of the Committee of Public Safety in revolutionary France, which he accuses of being as tyrannical as Philip II of Spain, though they claimed to act in the name of the majority.[308] Treitschke holds that democracies also tend to select mediocrities to rule over them because truly noble natures are not appreciated by the democratic herd, which is also incidentally the reason why "Goethe will never be as popular an author as Schiller."[309] Democracies are also subject to the base passion of envy, are apt to be unduly swayed by demagogues, are prone to degenerate into dictatorships, can only be noble when bolstered by the institution of slavery, require expensive elections that are more costly than even the most opulent royal court, are typically as reactionary and corrupt as Tammany Hall, etc., etc., etc.[310]

Given his understanding of democracy, Treitschke holds it to be a happy circumstance that Europe is, to his mind, infertile ground for the emergence of it. Treitschke contends that democracy can only take root where there is a real basis for democratic equality. Democracy is suited for colonies and new settlements, for places without long-established political traditions.[311] He allows that this is possible in the new

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[306] Ibid., p. 274. Yet Treitschke also likes to note that democracy allows more economic freedom than any other state form. (Ibid., pp. 286-289) He does not follow this to the conclusion that a democratic government may be justified in "exploiting" (i.e., taxing) the rich, because it is the economic freedom in democracy that creates so much wealth.

[307] Ibid., p. 277.

[308] Ibid., p. 278. Treitschke feigns ignorance of the possibility that the name of the majority may be claimed falsely as justification for base and barbarous acts, just as the name of a king or a god may be.

[309] Ibid., p. 283.

[310] Ibid., pp. 273-329.

[311] Treitschke does not consider the political arrangements of native people on either the North or South American continents to be in any way relevant to their current or future political development.

world, though he strongly suspects that the American experiment with a democratic republican regime will be eventually replaced by the rule of "the practical dominion of the Stock Exchanges."[312] Treitschke's insight into democracy is driven by Aristotle's claim that the driving principle behind democracy is an absolute equality of a kind that tolerates no distinctions.[313] Given that Europe is characterized by great social inequality, democracy would be far less likely to arise, and even less likely to survive.[314] Moreover, the political traditions of Europe are monarchical, and not democratic, so circumstances must be truly exceptional for a democracy to ever emerge.[315] The "relatively long continuance" of republican government in France he puts down to "the total incapacity of the old dynasties to rule."[316]

This brings to light one of the chief historical developments that emerged between Treitschke's and Schmitt's time, which is the crisis of monarchical and dynastic legitimacy in Europe. Treitschke is fully aware that individual royal dynasties could topple, and in the case of the much reviled (by him) House of Guelph, this is his preferred outcome.[317] He does not, however, foresee a generalized crisis of monarchical or dynastic legitimacy, yet this is arguably what happens. In fact, according to Schmitt, this development has its origins in the nineteenth century, when the states of continental Europe saw "the elected legislature widen its political influence over the monarchical regime."[318] Historically, because the legitimacy of the monarchical regime in both France and Germany was based upon the strength of the army and the bureaucracy, it

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[312] Ibid., p. 305.
[313] Aristotle, *Politics,* Ernest Barker, trans. (New York: Oxford University Press, 1995), pp. 144, 179, 208, 233-235.
[314] Treitschke, *Politics*, vol. II., p. 305.
[315] Ibid., pp. 305-306.
[316] Ibid., p. 306.
[317] Ibid., p. 68.
[318] Schmitt, *Verfassungslehre*, p. 304.

would ultimately require the revolt of the bourgeoisie to diminish and ultimately end monarchical rule.[319] The nineteenth century saw the victory of the bourgeoisie of the various nations of the European continent established not in democratic regimes, but in parliamentary regimes on the English model, which is exactly what this class preferred, given that the liberal bourgeoisie stood between absolute monarchy and "proletarian democracy.[320] The rule of this class was based on its self-understanding as a cultured and propertied class.[321] Such an arrangement could not last, however, given that the liberal governments established themselves on the basis of "no taxation without representation," and so, rather than ceasing to collect taxes from uneducated or propertyless citizens, governments extended suffrage, at first to elections for the lower house, and then generally.[322] So it came to pass that continental Europe changed from absolute monarchy, to liberal parliamentarianism, to modern democracy.[323]

In the process of this shift, the basis for political obligation is effectively destroyed, according to Schmitt. Under the absolutist monarchical regime, there was the belief that supreme political authority came from God, and so to disobey the ruler was to invite divine sanction. Of course, such arrangements are untenable in modernity, and so Schmitt points instead to the strength monarchical regimes had at their disposal through the offices of the army and the bureaucracy, coercive mechanisms the monarchical regimes of France and Germany used to remain viable far longer than would have otherwise been possible. Yet it was ideas, and not force, that ultimately mattered, and so

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[319] Ibid., 307.
[320] Schmitt, *Verfassungslehre*, p. 309.
[321] Ibid., pp. 310-312.
[322] Ibid., p. 312.
[323] Simply put, "A dynasty cannot be seen as the fundamental principle of all political life, the way the people or the nation can." Ibid., p . 81.

all Western European states would succumb to "the extension of democratic ideas and institutions:" "Even where powerful social forces defended themselves, such as in the Prussian monarchy, no intellectual force that could have defeated democratic beliefs reached outside its own circle of adherents."[324] Although Schmitt writes as though the advance of democracy was furthered by the maneuverings of classes, parties, and other interested actors, in the end it is a battle between concepts which has ended in "the victory of democracy."[325]

Such a victory comes at a high price for Schmitt. While Schmitt accepts that a modern democracy is a mass democracy, he also imposes upon it the ancient principle of identity, which is to say the identity of the rulers and the ruled. Yet the people are no longer represented by a king governing according to the guiding principle of honor, nor by a parliamentary aristocracy ruling by virtue of their status as cultured and property-owning persons: instead, the people emerge in all their fractiousness onto the political scene. They are supposed to govern themselves, but are ungoverning and ungovernable. This marks, of course, the ultimate intrusion of civil society into the political, and instead of duty as we find it in the properly political state, we find only the politics of interest. The interests of any individual are apt to be abused if he is not a member of a party capable of protecting him, not only from violators of the public peace, but from the depredations of the government as well: "If within the state there are organized parties capable of according their members more protection than the state, then the latter becomes at best an annex of such parties, and the individual knows whom he has to

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[324] Schmitt, *The Crisis of Parliamentary Democracy*, p. 22.
[325] Ibid., p. 22.

obey."[326] The ultimate consequence of modern democracy, with its intrusion of civil society into the domain of the political, is exactly the same as described by Treitschke a generation earlier, which is that "Germany (would) be disintegrated by the warring of innumerable social groups."[327]

According to Schmitt, then, modern democracy threatens to destroy political duty as it is properly understood because it replaces the *protego ergo obligio* that had existed since the first primordial state with nothing more than the politics of self-interested individuals who belong to self-interested groups out to secure their share of the spoils of political power. Such a government, lacking a monarch who can stand above the pettiness of civil society and see to the defense of the nation for the good of all, lacking even a class of parliamentarians whose interest in their own property makes the preservation of the public order a matter of self-interest, must inevitably lead to the *bellum omnium contra omnes*: in this final state of affairs, the state is incapable of defending anyone, and so no one is obliged to obey it. This is the quantitative total state, the ultimate development of liberal democracy, and the ultimate intrusion of civil society into the realm of the political. In it, the state must meet the endless political demands of innumerable social groups, and yet, while it is asked to do everything, in the end the parties can do nothing, because "they produce no inner authority of their own."[328]

The question must be asked if it is really as bad as all that. On the one hand, Schmitt here makes a political prediction that empirically speaking did come true: the German state did undergo a crisis, and one might argue that this represented a failure of the Weimar constitution and of democracy in Germany, and one might read Schmittian

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[326] Schmitt, *The Concept of the Political,* p. 52.
[327] Treitschke, *Politics*, vol. I., p. 49.
[328] Schmitt, *Legality and Legitimacy*, p. 92.

mechanisms into historical events in hindsight.[329] Here, however, it is worthwhile to note the ambiguities and ambivalences that accompany Schmitt's exposition on the form of regime and political obligation. In the first place, it is clear that what is damning about modern democracy for Schmitt is the unlimited demands that the pluralistic party state places on the state in constructing the identity of state and civil society. So, alongside Schmitt's description of the quantitative total state, there appears his description of the qualitatively total state.

In his construction of the qualitatively total state, Schmitt seeks to accommodate the inevitable emergence of democracy as a social force with a form of regime that is divorced from liberal elements, which are mainly the division of powers, checks and balances, and parliamentary government by discussion. These elements, according to Schmitt, are suited for the liberal parliamentary regime that have no place in a modern democratic regime, because the rule of the bourgeois has been replaced by the rule of the majority.[330] Moreover, Schmitt argues that the problem of the intrusion of civil society into the political, the thorniest problem of modernity, can be accommodated if and only if a substantial homogeneity of the people can be achieved. In other words, the problem of the state becoming nothing more than a mechanism for the doling out of social welfare goodies for members of various groups, or the problem of the degeneration of a war of all against all, can be resolved if there are no meaningful political groups within society.

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[329] Certainly, Schmitt does some of this, and his later notes and addenda to later editions of his Weimar-era work are all specifically calculated to make himself seem prescient.

[330] "If parliament truly integrates the entire people in the specific sense of a political unity, then it does so using the prerequisites and foundation of the bourgeois concepts of property and educational attainment (*Bildung*). It is very questionable whether the same system of integration deserves any consideration at all in a state with masses of industrial workers." Schmitt, *Verfassungslehre*, p. 313.

Surely, however, Schmitt cannot wave a magic wand and prevent all social differences from becoming political differences. Schmitt struggles with the problem of homogeneity, of finding some dimension that will save the requirement that the ruler and the ruled be identical.[331] In *The Concept of the Political,* this is based on war—in essence, Schmitt argues that it suffices that we are alike enough to our enemies for them to lump us into a group. No matter what the political realities, what matters most is the idea that we are under threat, which obliges us to seek protection, which obliges us to obey. In this instance, Schmitt adopts the guise of a political thinker whose "realism can frighten men in need of security."[332] The substance of our equality is therefore the same as in Hobbes: we are truly equal, truly the same, in the sense that we are equally vulnerable and in need of protection, and are therefore obliged to obey. Moreover, it the state's status as a political unity is ever threatened, then, too, is every citizen obliged to do his part for the state.[333] The individual is protected, and so can live, not just a bare life, but perhaps even a good life, as only the state can accomplish the ethical and legal norms needed for secure living. In such a way, Schmitt transforms the abstract individual of liberal political thought into a being that may be truly political as he understands the political.

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[331] Schmitt, *Verfassungslehre*, p. 234.
[332] Schmitt, *The Concept of the Political*, p. 65.
[333] "If state unity becomes problematic in the reality of social life, then a situation that is unbearable for each citizen arises, because the inapplicability of the normal situation brings the irrelevance of every ethical and legal norm for which it is a prerequisite. Then the ethics of state assumes a new content, and it takes on a new task, to work at the conscious realization of that unity, the duty to achieve a bit of concrete and actual order so that the situation will return to normal. Then, hard by the duty of the state, that is subjugated under ethical norms, and nearby the duties opposing the state, there appears another, entirely different type of state-ethical duty, namely the duty to the state." Carl Schmitt, "Staatsethik und pluralisticher Staat," in Carl Schmitt, *Positionen und Begriffe im Kampf mit Weimar—Genf—Versailles, 1923-1939* (Berlin: Duncker & Humblot, 1988), pp. 151-165, p. 165. Compare with Heinrich von Treitschke: "As soon as the state calls out 'Now it concerns me and my existence,' then awakens in a free people the highest of all virtues, one that cannot thrive so greatly and limitlessly in peace, the spirit of sacrifice." Treitschke,"Das constitutuionelle Königthum in Deutschland," p. 536.

All in all, however, Schmitt is genuinely uncomfortable with individualism in the study of politics. Although the grounds for political obligation established in *The Concept of the Political* could be the grounds for an individual to obey the state, in general Schmitt deals with the individual as a member of a group—perhaps groups within civil society, but preferably as a member of the people. If what is bad about democracy is that it abolishes the division between civil society and the state, and democracy appears to be inevitable (whether as a type of regime or a broader historical force), then one possible solution is to reconceptualize civil society as the people. The concept of civil society, as we have seen, is to the traditional German way of thinking the embodiment of selfishness, of economic interests, and of a potentially never-ending conflict between social groups. The concept of "the people" (das Volk) as bearers of sovereignty is a possibility raised by Hegel which he quickly rejects, effectively treating "the people" as indistinguishable from civil society.[334] Schmitt does not contradict this concept of the people, but instead uses two concepts of the people.[335] The first is effectively Hegel's, a conception of the people as unorganized and unorganizable, by definition "not ruling, not representing, not exercising official functions."[336] The people in this guise can offer acclamation and exist politically in that there is such a thing as "public opinion," but are otherwise politically inert. The other concept of the people is the one capable of actual political rule, and that is "The people as citizens participate in the regular procedures of voting and elections."[337] Such a people knows its political duty, and are susceptible to

[334] "Taken without its monarch and the articulation of the whole which is the indispensable and direct concomitant of monarchy, the people is a formless mass and no longer a state." Hegel, *Philosophy of Right,* p. 183, see also p. 198.
[335] Schmitt, *Verfassungslehre*, p. 277.
[336] Ibid., p. 241. See also p. 83.
[337] Ibid., p. 277.

political rule, even if it is the political rule of the bureaucratic structures that they erect over themselves. This suggests the possibility of a modernity in which the people rule and are ruled by themselves. Such rule has a decisiveness unmatched in modern politics, because it eschews the faith in discussion or legality in favor of "concrete commands, which are directly executable or easily obeyed," that suspend what could otherwise be an endless legal appeal or parliamentary discussion, so that "The best thing in the world is a command."[338]

This functional definition of the people accommodates the historical reality of functioning representative democracies without in any way disallowing Hegel's understanding of the sovereign people as inconsistent with the idea of the state. Hegel's condemnation of the people is based on his understanding of them as identical to civil society, which is comprised after all of the politically neutered burghers, whereas Schmitt's conception of the people in a democracy as the politically active people gives them a specifically political status that would presumably render them less repugnant. Moreover, the people thus conceived are "substantively homogeneous," which means that in such a democracy the state "is not based on a contract, but on the homogeneity and identity of the people with itself."[339] Schmitt's preferred form of homogeneity is based on nationality, on a concept of national unity grounded upon "the same language, the same historical destiny, traditions, and memories, the same political goals and hopes."[340]

We see, then, that Schmitt sees that political duty is threatened by the democratic attempt to identify civil society and politics, and so he tries to arrive at a type of democracy he believes is viable, which entails the reconceptualization of those who are

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[338] Schmitt, *Legality and Legitimacy*, p. 9.
[339] Schmitt, *Verfassungslehre*, p. 230.
[340] Ibid., p. 231. See also pp. 232-233.

ruled not as civil society, but as the people, an ethnonationally homogenous mass that may be the legitimate bearer of sovereignty because it contains no meaningful divisions. For Schmitt, democracy "rests on the principle that not only are equals equal but unequals will not be treated equally. Democracy requires, therefore, first homogeneity and second—if the need arises—elimination or eradication of heterogeneity."[341] This means that the people must be capable of maintaining its homogeneity, of dealing with national minorities. Because the very basis of the state, democratic equality (i.e., democratic sameness) has, since the nineteenth century, "existed above all in membership in a particular nation, in national homogeneity," the people must be capable of taking whatever steps are necessary to preserve that homogeneity.[342]

This sounds like an ominous precursor of the Holocaust. It is likely, however, that the example he had in mind was not Germany in the 1930's, but Austria-Hungary at the close of the First World War. Schmitt had lived through the decline of the Ottoman and Habsburg empires, the last great multi-ethnic empires in Europe, which left Europe "divided into states, and indeed mostly into nationally homogenous states, which try to develop democracy internally on the basis of national homogeneity...."[343] The modern nation therefore exists in an international context wherein all states are homogenous and build democracy upon the basis of that homogeneity.

For both Treitschke and Schmitt, nationality plays an important role in providing some foundation for the state that is, in effect, natural. Yet the conception of the modern nation-state as ethnically homogenous is immediately apparent as one that is especially problematic for Germany. The concept of German identity arose first as a linguistic and

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[341] Schmitt, *The Crisis of Parliamentary Democracy*, p. 9.
[342] Ibid., p. 9.
[343] Ibid., p. 11.

cultural, but not political, concept. Politically, we may say that the natural condition of Germany is divided—we find it so in antiquity, when the most meaningful political and social unit was the tribe. For some time, the empire provided unity for those Germans under its control, but after the death of the Roman Empire it is replaced by the Holy Roman Empire. For much of its existence, German emperors who sought unity were faced with staunch opposition from Rome.

Germany was united only in 1871, but not really as "Germania" so much as "Greater Prussia." After the decisive defeat of this greater Prussia, the task was to create a new basis for the German identity as a nation-state, and it is here that this brief historical excursus reaches its point, because it is evident that there is no natural or even historical basis for such a German homogeneity. The most important sphere of unity for Germans was cultural, yet this is a very imperfect tool for political unification, for while the political requires differentiation, the vast majority everywhere participate in cultural life to such a small degree that they would be effectually excluded from the constitution at a time when modernity demands precisely their inclusion.

From the vantage point of the United States, Germany appears ethnically and racially homogeneous, even today. To the extent that we believe that this is true, we have bought the myth of racial Germanness promulgated with such success by the NS-regime. To anyone with even a basic knowledge of European history and geography, the idea of a racially and ethnically homogeneous German people is transparently ridiculous. Treitschke was, after his own fashion, deeply racist, yet the history of the German race he builds is one that is created by selectively borrowing from the truth, not by constructing

an out-and-out lie.[344] Unlike later German racists, who were to concoct a story of primordial racial purity, Treitschke tells the truth about the ethnic diversity of those who are culturally German—and even makes a virtue of it:

> The normal condition, however, is that the unity of the state should be based on nationality. The legal bond must at the same time be felt to be a natural one, rising automatically out of a blood relationship either real or imaginary (for on this point nations labor under the most extraordinary delusions). Almost all great nations, like the Athenians, call themselves autochthonous, and boast, nearly always without cause, of the purity of their blood. Yet it is just the State-constructing nations, like the Romans and the English, who are of the most strongly mixed race. The Arabs and the Indians are of very pure blood, but no one can say that they have been particularly successful State-builders; their strength lies in quite other directions.
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> When we consider the ways of Germany we find that the inhabitants of large parts of Hesse, of Hanoverian Lower Saxony, as well as East Friesland, Westphalia, and perhaps Northern Thuringia also, are of quite unmixed Germanic blood. We can recognize this even at the present day.... No one, however, would try to maintain that the creative political strength of Germany resided in these unmixed Germanic stocks. The real champions and pioneers of civilization in Germany in the Middle Ages were the South Germans, who have a Celtic strain, and in modern times the North Germans, who are partly Slav....
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> In the powerful mill through which a nation is ground when it mingles with another, the softer sides of the character are easily destroyed, but the power of the will is fortified. So it is; and to that you must add that there is no such thing as a purely national history, for the process of give and take and the influence of cosmopolitan forces will almost entirely form the basis of historic life.[345]

We see here, then, that both Schmitt and Treitschke hold that the real source of unity, of obligation, is ultimately to be found in nationality, but the definition of nationality as having its basis in some sort of racial purity is historically laughable.[346] Treitschke tries, in part, to develop a concept of German nationality based on a common Central European heritage as the people that has, through thousands of years, been strengthened by

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[344] Treitschke's anti-Semitism was ridiculed by Nietzsche. See Friedrich Nietzsche, *Ecce Homo*, R. J. Hollingdale, trans. (New York: Penguin, 1991), pp. 84-87.
[345] Treitschke, *Politics*, vol. I., pp. 281-282.
[346] The same is probably true of any other European nation.

intermixing with others. No matter what the mechanism, it is clear that Treitschke's conception of the political role played by nationality is very much like that of Schmitt, because nationality is the substance around which the will of the people is "fortified." What can the substance of such a will be, if not, as it is in Schmitt, "the same historical destiny, traditions, and memories, the same political goals and hopes?"[347]

Schmitt's concern with nationality, like so much else, stems from his desire to strengthen the state. The central fact of the modern age, according to Schmitt, is "that nations continue to group themselves according to friend and enemy."[348] Note that Schmitt, who is always careful with his language, argues that it is *nations* and not *states* that are the bearers of enmity. Although Schmitt writes that any aspect of our lives can become political given sufficient antagonism, here he expressly gives predominance to nationality as the significant category for determining friend and enemy. States are legitimately political because they are capable of deciding between the public friend and the public foe, and they do so, Schmitt declares, on the basis of nationality.

The fundamental tendency of mankind to divide itself into groups of friend and enemy is both a problem and a solution for Schmitt. On the one hand, this tendency is what makes the rational order that states impose within their borders possible. While the state is not an academy of arts, its pacification of potential friend-enemy groupings within civil society makes cooperation possible. If the state becomes strong enough to accomplish this, "rational distinctions would again be possible, particularly the distinction between state administration, autonomous economic administration, and the

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[347] Schmitt, *Verfassungslehre*, p. 231.
[348] Schmitt, *The Concept of the Political*, p. 28.

individual domain of freedom."[349] In other words, a strong state has all the characteristics of the political order described by Hegel, and this is made possible by the tendency of men to organize into inimical groups. The problem of this, however, is that there is also the possibility that the politically meaningful groups will be those *within* an existing state.[350] If this happens, then the Hegelian political order breaks down, and Schmitt believed that the Weimar period was characterized by just such a breakdown.

Schmitt's conception of political obligation is therefore presented in contrast to individualistic liberalism, with its emphasis on rights, rather than duties. Instead of a state that is a mere servant of the individual, the state is worthy of our obedience because it protects us and makes so many other fine things possible. As Treitschke writes, "We must always maintain the principle that the state is in itself an ethical force and a high moral good."[351] This is not a contradiction of the formula of *protego ergo obligio*, but a supplement to it. This is yet another difference in emphasis we see between Treitschke's work and Schmitt's. Treitschke writes endlessly of the moral grandeur of the state, and of the smallness of the individual when compared to its majesty. In Schmitt, this theme has receded, to be replaced by more theoretical emphasis on the need for substantive homogeneity. Political duty is based upon the principle of identity: individuals obey the political unity, the people, because they are the people, which by definition has no political divisions within it.

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[349] Carl Schmitt, "Strong State and Sound Economy: An Address to Business Leaders," Renato Cristi, trans., in Cristi, *Carl Schmitt and Authoritarian Liberalism*, pp. 212-232, p. 232.
[350] Schmitt, *The Concept of the Political*, p. 37.
[351] Treitschke, *Politics*, vol. I, p. 106.

CHAPTER 6

Power

> The concept of the state presupposes the concept of war, because the essence of the state lies in power.[352]
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> The concept of the state presupposes the concept of the political.[353]

The first quote is from Treitschke, the second from Schmitt. When we add to Schmitt's quote his understanding that, "The political is the most intense and extreme antagonism," we find that they are saying exactly the same thing, because Schmitt makes it clear that that, "War is still today the most extreme possibility."[354] This similarity between Treitschke and Schmitt ought to be all the more striking because this realization of Schmitt's is taken to be Schmitt at his most incisive, his most novel, and it is the leitmotif of his most enduring work.

For both Treitschke and Schmitt, power serves as the opponent of any other purpose or value that might otherwise be attributed to the state as a highest value. Both repeatedly emphasize the sovereignty of the state with regard to the exercise of power, which must be done for reasons of state and not economics, morality or religion. This decisive autonomy of the state and of the political (in Schmitt's sense) elevates the ends of the state to the highest value. This is not to say that the state becomes a threat to freedom, but rather the contrary—the state is the guarantee against foreign domination. Moreover, only the institutions of a truly strong state, the army and the bureaucracy, can serve to stand as a bulwark against the threat of civil society, which constantly seeks to

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[352] Treitschke, "Das constitutuionelle Königthum in Deutschland," p. 533.
[353] Schmitt, *The Concept of the Political*, p. 19.
[354] Ibid., pp. 29, 35.

politicize its own particular ends, to the detriment of the welfare of the nation, the common good.

All power is the power to act, and so political power is rooted in executive branch of government. Once again this shows the consistency with which Schmitt opposes liberalism, which typically takes the representative legislative branch of government to be its standard bearer. If parliament gives expression to apolitical liberal points of view, those associated with the bourgeoisie and civil society, then the executive branch expresses the political viewpoint, the point of view of the state. Soldiers and bureaucrats are therefore Schmitt's natural allies in his struggle against liberalism. These are more than alliances of convenience for Schmitt, as he has good reason to believe that soldiers and bureaucrats represent a natural constituency for his argument that the state is in need of support. These are exactly the men most likely to agree with Treitschke's aphorism that "the essence of the state lies in power." States do not exist in a theoretical vacuum for either Treitschke or Schmitt, and so, in addition to the ability to preserve the state from internal disturbances, states must develop sufficient international power so that they are not vulnerable to other states. As Treitschke writes, "If the existence of the State is necessary and reasonable, it follows that it has to assert itself in relation to all other states."[355] The means whereby a given state accomplishes this is through power, power derived from the people acting in the context of the state's institutions.

If we are to read Schmitt for whatever purpose, we must understand his account of political power, because this concept is the site of much of his fight against liberal democracy. The German word *Macht* has all of the senses that the English word *power*

[355] Treitschke, *Politics*, vol. II, p. 391.

has.[356] It means blunt, raw, physical power, and it also means authority. For Schmitt, these two things can and do go together, as we see, for example, when an authoritative state marshals the raw power of the people. For Treitschke, the understanding of power as both brute strength and authority is even simpler: the power of the state is supreme, and if it is not, it should be. Power, for Treitschke, cannot be underestimated in its significance for understanding politics, and the state. Both power-as-strength and power-as-authority, may be directed inward, acting on civil society as a neutral force, and outward, as a nation in a world of nations.

Both Schmitt and Treitschke hold that power is the essence of the state, but the nature of that power in any given moment is unclear. In this, they are proceeding directly from Hegel, who wrote that a strong civil power could come about even in a circumstance wherein the civil power is itself weak, but the military is strong, as in the case of Rome: in other cases, "nowadays, for example," the reverse could be the case.[357] Though Hegel is vague with regard to the origins of such power, and the confound between power understood as physical force versus authority was certainly not overcome by him, he was quite clear in describing the state as being by its "nature an objective and powerful institution."[358] Both Schmitt and Treitschke adopt this view of power as an essential aspect of the state, yet there is some development with regard to the thinking on civil power. While Treitschke sees the state as capable of standing above civil society, for Schmitt, such a relationship is impossible, given the inevitable trend towards the democratic politics of the identity of state and civil society. To understand the state as a power qualitatively higher than civil society and standing above it is nonetheless to

[356] Etymologically, it is closely related to the English word *might*.
[357] Hegel, *Philosophy of Right*, p. 285.
[358] Ibid., p. 169.

understand the state as power, and Schmitt's answer to the problems posed by the politicization of civil society is the *intensification of the political power of the state.*

Though Schmitt is sometimes inconsistent, he does not think the institutional arrangements of the Second Reich are well-suited for political modernity, as the emergence of democratic politics has severely weakened the inner authority of the state. The main difference in Treitschke and Schmitt's approaches to the power of the state are that Treitschke seeks—or, more accurately, believes he has found—the answer to the question of how to reconcile political freedom with the power of the state, whereas Schmitt is mainly interested in how to adapt the power of the state so that the state itself will survive modern politics without becoming the mere instrument of some pluralistic faction. Although the questions are different, the answer in each case is the same: a strong state that gives expression to its power inwardly and outwardly, a state whose power resides in its capacity to control its subjects while standing above civil society, protecting the balance between the state and civil society by reserving the realm of the political to the state.

Power and the Relationship between Civil Society and the State

We have already seen how Treitschke and Schmitt argue that war imposes upon citizens a political duty to defend the state against foreign and domestic threats, and that a citizenry so obliged can be a great source of power for a regime. Though this tells us much about their concept of power, it does not fully describe the content of this power, merely its purpose. To understand the *Machtstaat* conception of power, it is essential to understand that it arises not in a vacuum, but in polemical opposition to the liberal

conception of political power. Liberals are, on principle, distrustful of political power as such, and therefore contend that power should be limited by checks and balances, and by separation of powers. Political liberalism looks upon the subject of political power from the position of the subject, and arose from the historical experience of repression and oppression that marked the wars of religion. Political writers of this time in Protestant lands looked upon Catholic absolute monarchs as particularly abominable, and so constructed a conception of political power that would be the opposite of that wielded by such men: where their power was bolstered by the Church, liberal power would be secular, and separate from it; where their power was invested in one man, liberal power would be functionally divided between branches of government; where their power was absolute, liberal power would be limited.

The *Machtstaat* is clearly a reaction to such a conception of power, state, and politics. According to Treitschke, the state is "the people united as an independent entity," but this is simplified into "the public force for Offense and Defense. It is, above all, power which makes its will to prevail."[359] If the liberal state has a guard serving as a night watchman, then the *Machtstaat* has an entire brigade of guards, who not only watch at night, but also march in the public square daily. Liberal theory is, by comparison, little concerned with the development of military superiority. Treitschke puts this down to the unique geographical position of England, which has meant that it may rely on its navy alone for security.[360] Treitschke is probably correct to note that, for a continental state such as Prussia or Germany, bordered by strong antagonists such as France and Russia, the army is an essential element of the state. Unlike English-language liberals,

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[359] Treitschke, *Politics,* vol. I, p. 22.
[360] Ibid., p. 391. This is also a theme for Schmitt. See Carl Schmitt, *Land und Meer* (Stuttgart: Klett-Cotta, 1954), pp. 51-54.

Treitschke assigns primacy to the army, putting the chapter on its constitution as the first in the section of his *Politics* dedicated to the administration of the state.[361]

This emphasis on the indispensability of the army is leveled right at the Anglo-American liberal tradition, which sees standing armies as suspect, liable to become an oppressive tool of the ruler, and expensive as well. For an understanding of the state that sees its essence in power, that sees war as "the *examen rigorosum* of States," however, the army is the true measure of a state's worth.[362] The army also serves to foster a feeling of comradeship among the citizenry, as "An Army organized on a really national foundation is the sole political institution which binds citizen to citizen, for only there do all the sons of the fatherland feel themselves united."[363] Presumably, barracks life, which takes men out of the context of the family and civil society, provides a unique opportunity for the state to indoctrinate men, and fellow-feeling is presumably fostered by the privations of such a life. The army is therefore the mirror image of civil society: where civil society is slothful, it is vigilant; when civil society is pacifistic, it is martial; whereas civil society is the site of discord and strife, it is the locus of unity and harmony. For Treitschke, military service helps to fuel national sentiment and, hence, undergird loyalty to the state.

This does not mean, however, that Treitschke would condone military government. Indeed, since the army is "the organized political Power of the State, it can be nothing but Power, and may possess no will of its own."[364] Preserving the political neutrality of the army within the state is "the very cornerstone of a nation's political

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[361] Treitschke, *Politics*, vol. II, pp. 389-448.
[362] Ibid., p. 396.
[363] Ibid., p. 390.
[364] Ibid., p. 399.

freedom," and only "a stern military discipline" prevents an army from taking sides in domestic politics, an event that Treitschke correctly portrays as tyrannical.[365] Although the essence of the state is war, the instrument of war cannot be political in the sense of domestic politics, and instead must be subject to "the duty of unconditional obedience" to the duly constituted governmental authority.[366] Contrary to liberalism, then, which is apt to see in a large standing army a threat to liberty, the army is the guarantor of liberty.[367] When we understand that life in civil society is something apt to make men soft and selfish, the life of the soldier seems noble, as it does for Treitschke. Treitschke adopts Clausewitz's view of warfare as the continuation of policy by other means, and goes beyond him by seeing the army also as a form of political participation, and so that attention to martial matters reinforces the state and the citizen in their ability to play their proper political roles: "The State is no Academy of Arts, still less is it a Stock Exchange; it is power, and it would be gainsaying its very nature if it neglected its Army."[368] Though Treitschke elsewhere writes that the State can and should take on the role of an arts academy as part of its vocation if civilization should advance to such a state that this is warranted, it can *never* be a stock exchange.[369] The decisive difference between the two is that the stock exchange is simply a site of individual greed and does not, in Treitschke's view, enhance the power of the state one iota.

Schmitt never refutes the idea that the state is power. Instead, at least to begin with, he leaves it open as to what the state is "in its essence."[370] In *The Concept of the*

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[365] Ibid., p. 399.
[366] Ibid., p. 399.
[367] Ibid., p. 401.
[368] Ibid., p. 391.
[369] Treitschke, *Politics,* vol. I, p. 24.
[370] Schmitt, *The Concept of the Political*, p. 19.

Political, Schmitt flirts with defining the state as power. The second footnote in *The Concept of the Political* deals with the subject of "definitions of the state that utilize power as the decisive factor."[371] This footnote differs from the first footnote in *The Concept of the Political*, which deals with the distinction between politics and civil law, which, according to Schmitt, should not be politicized.[372] In that instance, Schmitt seeks to make a distinction between his theory on the political and one he finds objectionable (i.e., the confusion of the antithesis of law and politics with the antithesis between public and civil law), whereas in the second footnote he is distinguishing his theory from a viewpoint he finds attractive, but rejects. The reason for this rejection is peculiar: it is because power is conceived of "mostly as state power," and thus it is not useful for avoiding the circularity of state and politics.[373] He then gives us a series of quotations from Weber and Triepel, without in any way arguing that they are inconsistent with the understanding of the political he develops.[374] Even a cursory examination of the quotes reveals that they are, in fact, viewpoints in sympathy with Schmitt's own.[375]

So Schmitt avoids the outright equivalence between power and the state that Treitschke makes.[376] This is in part due to a recognition that other political powers may be powers, and not yet be states. The development of modern military technology means,

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[371] Ibid., pp. 20-21.
[372] Ibid., p. 20.
[373] Ibid., p. 20.
[374] Ibid., pp. 20-21.
[375] Ibid., pp. 20-21. One quotation from Triepel will serve to illustrate Schmitt's sympathy to his approach: "The essence of politics is ... combat, the winning of allies and of voluntary followers."
[376] Even in Treitschke, the equation state = power is a rhetorical oversimplification. It is incorrect to regard it as simply power for its own sake, but rather power for a higher purpose, such as the well-being, survival or even the cultural health of the nation. So, although the state is not an academy of arts for Treitschke, nonetheless "we must not forget that the State should go upon the principle that art is not a luxury but an absolute necessity for a nation which wishes to keep its place in the van of civilization." Treitschke, *Politics,* vol. I, p. 150. Encouragement of the arts is certainly to be counted as a legitimate function of an advanced and civilized state for Treitschke, but only after its primary duty of attending to security has been fulfilled.

in part, that political powers within society may avail themselves of it and threaten the political monopoly of the state:

> Every state strives to obtain the means of power that it needs for its political rule. The definite distinguishing characteristic of the authentic state is actually that it does just this. Also, today we are all under the influence of the immense increase in power that every state is experiencing due to the increase in technology, especially the new power resources provided by military technology.... Every political power is obliged to arm itself with these new weapons. If it does not have the strength and the courage to do it, then another power or organization will, and that is then precisely the political power, i.e., the state.[377]

And here it is that we find the main reason why Schmitt avoids defining the state as power simply, which is that he has seen Germany develop into a weak state, both in terms of its military and in terms of its ability to protect itself against rival claimants to political power.[378] So Schmitt, having seen a weak state in reality, must admit it is a possibility, and therefore the state cannot be defined simply as power, even it is true that, as Schmitt believes, any state that is weak will not long endure. Nonetheless, this ultimately leads to what is a fairly minor qualification: striving after necessary power is the "definite distinguishing characteristic of the authentic state."[379] This is an apparently minor but

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[377] Carl Schmitt, "Weiterentwicklung des totalen Staats in Deutschland," in Carl Schmitt, *Positionen und Begriffe*, pp. 211-216, p. 212. The section omitted following the ellipsis is as follows: "Modern technical means afford even a small state and its government such possibilities for action that the old conceptions of state power and resistance to it pale in comparison. The only remedy against the total state is an equally total revolution. Compared to the modern possibilities of power, the long-established imagery of mobs in the streets and barricades seem like a children's game."

[378] Schmitt wrote this in January, 1933. This was during a decisive time, of course, just prior to Hitler's appointment as Chancellor. What Schmitt hopes to end is the situation wherein everything had become "tactical means of the struggle of every party against every other and all parties against the state and the regime." (Ibid., p. 212) Concretely, this would have probably meant for Schmitt the assumption of power by Schleicher, who would have presumably used fascist-like total power in order to prevent the fascist assumption of total power. For more on Schmitt's historical role at this time, see: Lutz Berthold, *Carl Schmitt und der Staatsnotstandplan am Ende der Weimarer Republik* (Berlin: Duncker & Humblot, 1999).

[379] Schmitt, "Weiterentwicklung des totalen Staats in Deutschland," p. 212. "die sichere Erkennungszeichen (sign, distinguishing characteristic) des wirklichen (real, actual, genuine) Staates."

decisive accommodation to the reality of the weakness of the Weimar state; no longer is every state power, but every state should strive to possess power.

The Weimar Republic appeared, in late 1932 and most of January of 1933, to have developed into a pluralistic political war of all against all, a quantitative total state. In this context, the qualitatively total state, which Schmitt calls "an especially strong state" that "is total in the sense of the quality and the energy," that "does not allow to develop within it any powers that are inimical to, restrictive or divisive of the state. Such a state can distinguish between friend and foe. In this sense, as I have said, every genuine state is a total state."[380] The development of new technology stands as a possible means whereby the state itself may resist the development of the quantitative total state. The quantitative total state, whose capabilities are squandered in the internecine squabbles between parties and groups, is the result of failure to implement the qualitatively total state, whose energy, courage, and strength are used to increase of the power of the state, which in turn maintains the political and social peace within the state.[381]

Schmitt's teaching on the total state can be confusing, since he sometimes refers simply to the total state simply, relying on context to supply which total state is meant. The content of his teaching on the total state is relatively simple, however: either the state will become a quantitative total state, wherein the state becomes the mere instrument of competing factions and groups within civil society, or the state asserts it power, its *qualitative distinctiveness* as a force above society, and becomes a qualitatively total

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[380] Ibid., p. 213. Although Schmitt himself does not use the word corporatism, there is a strong correspondence between corporatism and what he describes as the total state. The qualitatively total state corresponds to fascist corporatism, and the quantitative total state corresponds to liberal corporatism.
[381] That new technology is a source of hope for Schmitt contradicts McCormick's thesis that argues that new technology is precisely what Schmitt sees as being wrong with modern politics. McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology*, pp. 31-82.

state. The key is the courage and the strength to use the power of the state to stand up against particularistic interests, do decide upon the political foe and defend the established constitution. Though Schmitt clearly has Schleicher or someone like him in mind in 1933, this view of political power and how it should be used is consistent with what Schmitt had written before.

Schmitt's modification of the view that equates the state with power also avoids authoring a line of circular reasoning, through the equation of the state with politics and politics with power and the state as power. What Schmitt then strives for is a way to reinsert power into politics without engaging in just this sort of circularity. This he does in the beginning of section 5 of *The Concept of the Political*, which is the section on the determination of war and enmity, and which follows section 4, the section on "The State as the Form of Political Unity."[382] His definition is: "To the state as an essentially political entity belongs the *jus belli*, i.e., the real possibility of deciding in a concrete situation upon the enemy and the ability to fight him with the *power* emanating from the entity."[383] Once again, this is only subtly different from Treitschke's insistence that "the essence of the state is power."[384] The state now appears as more definitively political in Schmitt's sense, in that the state is not just any sort of power, i.e., the power to intervene in property disputes, to regulate civil law, to decide divorces between couples, etc., but

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[382] The section titles are omitted in the Schwab translation, but are to be found in Duncker & Humblot's publication of the text of 1932. See: Schmitt, *Der Begriff des Politischen,* p. 7. Though Schmitt promises to define the state in Section 4, it is not until the very beginning of Section 5 that he chooses to put it succinctly with all its elements.

[383] Carl Schmitt. *The Concept of the Political.* p. 45. Emphasis added. This definition is to be preferred to that which is presented in the earlier section, because it brings together the two elements of a: *determining when and whether an enemy exists* and b: *actually fighting him* in a way not done in the preceding section. Note, too, that the word Schwab translates here as "power" is "Kraft" and not "Macht." This is absolutely correct, and supports the view that power is a critical concept for Schmitt's concept of the state, because "Kraft," "Macht" and "Stärke" are all synonyms, just as "power," "might" and "strength" are in English.

[384] Treitschke, *Politics*, vol. II, p. 391.

specifically the power to decide upon the enemy and the ability to fight him. This makes it clear that Schmitt uses the concept of power mainly in the same sense Treitschke does, which is primarily as brute military force, rather than some concept of authority emanating from something else. If anything, this is a refinement of Treitschke, because it makes clearer something Treitschke assumes, i.e., that the state should be a neutral power standing above civil society. Thus, the state is not power and its essence is not power, but power remains fundamental to understanding the state and to the actual functioning of the state as a political entity. This is why Schmitt's conception of the relationship between power and the state should be seen as a refinement of Treitschke's, and not an outright refutation of it: the normative impetus behind both is the same, though Schmitt is far more aware of the problems confronting the national-liberal conception of the state.

Schmitt's version of the *Machtstaat* holds that as that war is a fact of political life, men must seek protection in the state, and it is through power that the state secures the lives of its people. Liberalism, as an ideology that advocates the doctrine that the peaceful bourgeoisie should head the state rather than the potentially oppressive political class, fails to see why it is that states maintain armies at all. Schmitt's emphasis on power is meant as a correction to such liberal ideas, and is directed against the "night watchman" liberal state, which, in Schmitt's view as well as Treitschke's, would not be up to the task of defending the nation if called upon to do so. The concept of the liberal night watchman state represents for Schmitt the intrusion of the ideas of civil society into the political, as it is the result of the demands of civil society for a state that does little other than protect property, and do this cheaply: the scope of the state is therefore dictated by the people's consent.

Schmitt is unwilling to base the legitimacy of the state on such a thing, as he understands any state that justifies itself on such a basis to be inherently weak, because we always have the option of freely dissolving any contract to which we are a party, if it should become inconvenient. Schmitt also maintains that, if we consent to grant the state power so that it may protect us, then the basis of the legitimacy of the state is not that consent, but power.

> Obedience is, of course, not capricious, but is somehow motivated. Why do the people give their consent to power? In some cases from trust, in others from fear, sometimes from hope, sometimes from despair. Yet they always need protection and they seek this protection in power. The linkage of protection and obedience remains as the single explanation of the power granted by the people. Whoever doesn't have the power to protect another person doesn't have the right to require obedience from him. And conversely, whoever looks for protection and accepts it does not have the right to refuse to obey.[385]

Consent is, of course, there, but it is the power to protect that forms the real basis of the legitimacy of the state. The need for protection is universal, but consent may not be forthcoming, so instead protection becomes the ground for political obligation. This duty to obey is unlimited, because we do not have the right to choose which of the state's edicts to obey, any more than the state has the right to select which of its citizens are protected and which are not. Of course, it is also not feasible for any person to refuse to accept the state's protection, unless they submit to be protected (and therefore also obligated) by another state.

The need for submission to the state is polemically directed once again at the all-too-individualistic bourgeois, who tends to his own needs rather than the demands of the state. The consent of the governed would be nice, but is not necessary, seeing as how the

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[385] Schmitt, "Gespräch über die Macht," p. 14.

legitimacy of the state is based on protection. The emphasis on submission to power is the same in Treitschke as it is in Schmitt; "A step forward has been taken when mute obedience is transformed into rational inward assent, but it cannot be said that this is absolutely necessary.... Submission is what the state primarily requires; it insists upon acquiescence; its very essence is the accomplishment of its will.[386] For both Schmitt and Treitschke, the critical act of political submission is the willingness to sacrifice oneself for the nation, because no functioning military can operate without this requirement. If the most important form of political power is military might, the only nations capable of existing are those that can command this sort of submission, what is often euphemistically called "the ultimate sacrifice." This power of the state, what Schmitt calls "an enormous power," "implies a double possibility: the right to demand from its own members the readiness to die and unhesitatingly kill enemies."[387] This inner-directed power, the power to demand that citizens become soldiers, thus becomes outward-directed power, as absolute obedience would impart an advantage in battle. This also serves to shift the locus of conflict from within the nation-state, as in the eternal conflict between the various factions in civil society, to outside its borders.

Such a power, the power of the state, is not the only power for Schmitt, nor the only politically significant one. Schmitt's theory is one of historical development, and so in order to determine what the given power relationship is at any given point, it must be determined what the relevant point of inquiry is in the historical development of the state. Schmitt identifies three eras of the state: the era of the absolute state of the seventeenth and eighteenth centuries, the era of the neutral state of the "liberal nineteenth century,"

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[386] Treitschke, *Politics*, vol. I, p. 23.
[387] Schmitt, *The Concept of the Political*, p. 46.

through to the next stage that Schmitt saw developing in the late 1920's and early 1930's, the "total state of the identity of state and society."[388] Despite Schmitt's insistence on history and "concreteness," however, such labels can be confusing. For example, the greatest political actor in the historical development of Germany in the nineteenth century was Bismarck, yet how do we reconcile his historical legacy—which was formed in opposition to political liberalism—with the liberal label Schmitt uses for the entire nineteenth century? Schmitt's answer is based on his interpretation of nineteenth century German history, on the relationship between Prussia and the Reich. The historical expression of the *Machtstaat* in Germany took place in and through Prussia, while the liberal social and economic state found its expression elsewhere in the Empire: "Universal suffrage, like other liberal demands, were realized in the Empire, but not in Prussia; liberalism was, in a manner of speaking, dumped upon the Empire, whereas Prussia believed its state, its army, and its administration to be safe from liberalism. The cleavage between liberalism and conservatism thereby became in a dangerous manner a distinction of domestic politics between the empire and Prussia."[389] True, this distinction between the empire and Prussia was dangerous, but Prussia made up fully two thirds of the empire. What is truly remarkable in this passage is that here Schmitt describes liberalism as having been held in check in Germany. This is something exceptional, as throughout Schmitt's career, he depicts liberalism as inexorable in its development and dissemination, spreading the tendrils of its remarkably consistent logic ever wider until it encompasses all. That Prussia was able to restrain it is, for Schmitt, the highest possible praise.

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[388] Carl Schmitt, "Die Wendung zum totalen Staat," in *Positionen und Begriffe*. pp. 166-178, p. 173.
[389] Carl Schmitt, "Neutralität und Neutralisierungen," in *Positionen und Begriffe*. pp. 309-334, p. 315.

And what was it that enabled Prussia, not Germany, but Prussia, to withstand liberalism? In part, the creation of a liberal zone within the Empire, but also the "state, its army, and its administration."[390] Prussia withstood liberalism because it was a *Machtstaat*, a state based on power, upon the strength of its army and its bureaucracy.[391] We have seen this formula already in Hegel, and its further development by Treitschke. We see all the more clearly how Schmitt continues on in this tradition when we look to his writings as a public intellectual. Although Prussia was not able to eliminate liberalism as a political force within the empire, it was able to contain it, to minimize it, and to maintain the Prussian state as a powerful force standing above civil society. Schmitt describes the Prussian state as one that owes its vitality to two institutional pillars, the army and the bureaucracy—so much so, in fact, that they contribute something of their essence to the state itself, so Schmitt has no hesitation in calling Prussia a "Militär- und Beamten-staat," a military and bureaucratic state. In developing a theory of the state that views the military and bureaucracy as its essential pillars, Schmitt was not constructing an original theory, but adopting a common opinion and understanding of the essence of the state. For example, Treitschke's prominent student, the historian Otto Hintze, wrote an essay on the theme of the "military and bureaucratic state."[392] The army and the bureaucracy stand as pillars of state power, but they do not stand unopposed.[393] The army stands in opposition to other national armies, but also to

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[390] Ibid., p. 315.
[391] "The monarchical regime in the nineteenth century retained an independent power based upon the army and the bureaucracy and was only obliged to diminish and finally give up its power by way of a bourgeois revolution." Schmitt, *Verfassungslehre,* p. 307.
[392] Otto Hintze, "Der preußische Militär- und Beamtenstaat im 18. Jahrhundert," in *Regierung und Verwaltung, Gesammelte Abhandlungen zur Staats-, Rechts- und Sozialgeschichte Preußens* (Göttingen: Vandenhoeck & Ruprecht, 1964), pp. 419-428.
[393] Carl Schmitt, *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten,* (Hamburg: Hanseatische Verlagsanstalt, 1934), p. 11.

internal enemies of the state, if need be. The bureaucracy stands in opposition to civil society as a neutral force. Historically, however, both the army and the bureaucracy found their most important domestic opposition from the legislature, according to Schmitt.

Like most modern conservatives, Schmitt's ideal state is situated in the past. It is, of course, Prussia, and specifically the Prussia "after the princely absolutism of the eighteenth century and before the liberal constitutionalism of the nineteenth century" that marks the apogee of the German state, "achieving a specific type of perfection and classicism."[394] According to Schmitt, Hegel's political theory specifically concerned this Prussia in a concrete political and historical sense, and his "philosophical conception of the 'neutral, yet endlessly fruitful'" power refers historically to that of the Prussian king.[395] Resistance to liberalism could be successful in Prussia because it was "a strong state, with full and undivided rule concentrated in the state," that also had the good fortune to be "intellectually superior to the invading western body of thought."[396] Even the later success of left-Hegelianism for Schmitt is only "an expression of the unquestionable intellectual superiority of the Prussian state."[397] Bald force is not enough, unless it is accompanied by equally powerful justifications and rationalizations.

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[394] Schmitt, "Neutralität und Neutralisierungen," p. 332. At this point, Germany had yet to become a constitutional state with meaningful representation of the people. It is precisely this development, the split between the "Prussian soldier-state" and the constitutional system of the Second Reich, wherein the Reichstag was powerful, that constitutes for Schmitt that which is least appealing about the Second Reich, which reaches its historical climax in the "victory of the civilians over the soldiers" supposedly enshrined in the Weimar constitution. See: Schmitt, *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten*, p. 8.

[395] Ibid., p, 332. That Schmitt is absolutely insistent that we read Hegel historically in this concrete way should also serve to justify reading Schmitt in exactly the same way.

[396] Ibid., p. 332.

[397] Ibid., p. 332.

That Prussia should be a model for Schmitt is not a thing one would expect from most of the English-language literature on Schmitt. As one author notes "We can only stress that the sources of Schmitt's antiliberalism are Catholic and mostly French."[398] The claim presented here is a strong one, because Schmitt's cultural and religious origins in the Catholic Rhineland would tend to bias him against Prussophilia. It is true that, in his philosophical and theoretical works, Schmitt lays heavy emphasis on Catholics from "Maistre and Bonald to Maurras, from Bloy to Sorel ... and, above all, the Spaniard Donoso Cortés."[399] Yet even a cursory investigation of the indexes of Schmitt's works shows that the aforementioned writers are all less well represented than Hegel, who is always the most commonly cited author in Schmitt's works.[400] Also, which influences are most considerable touches significantly upon the question of which elements of Schmitt's theory are most noteworthy and of the greatest interest. If we proceed from Schmitt's standpoint as a Rhenish Catholic who has written a book on political theology, we might proceed to find those theological elements most interesting. If we assume contrariwise that we must proceed from Schmitt's political position, which is that he is a German, then and only then can Schmitt the specifically political thinker be encountered, and it is only then that we can understand his position in the tradition of the German theory of the state.[401]

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[398] Carlo Galli. "Carl Schmitt's Antiliberalism: Its Theoretical and Historical Sources and its Philosophical and Political Meaning." *Cardozo Law Review*, 21 (2000): 1597-1617, p. 1604.
[399] Ibid., p. 1604.
[400] For example, in the collection *Frieden oder Pazifismus?*, which includes over 900 pages spanning over fifty years, Donoso Cortés is mentioned twice and Hegel, eleven times. For the *Verfassungslehre,* the corresponding figures are Cortés, zero, Hegel, seven; for *The Crisis of Parliamentary Democracy* it is Cortés, zero, Hegel, fifteen; for *Begriff des Politischen,* it is Cortés, three, Hegel, twenty-six. While this is a crude measure, it should also be noted that it probably undercounts Hegel's contributions to Schmitt's theory, because, while Hegel's concepts and categories were well-known enough to Schmitt's readership that he could use them without necessarily referencing Hegel each time, Schmitt could not do this in the case of Cortés or any of the other authors listed.
[401] A theory which, as has been argued already, is based in part upon a critique of civil society that Schmitt adapts into a critique of liberalism.

It is true that Schmitt's intellectual frame of reference included the work of writers from across Europe, and that he does cite broadly. It is also true that most of his sources are German, and, when he is writing on a theme that is of central importance to his project, he tends to rely on German sources. This is certainly not because he did not have others available to him, but rather because he preferred that his theory remain distinctly German, or at least that it appear to be home-grown. Schmitt explains the need to avoid over reliance on foreign concepts in his essay on the "USA and the Forms of Modern Imperialism in International Law:"

> It is an expression of real political power, if a great people is able to itself determine the kinds of speech and even kinds of thought of other peoples, to determine their vocabulary, terminology, and concepts. We are admittedly in a lamentable political slumber as Germans, not only in the world, but also within Europe, and as a German, in these remarks on American imperialism, I feel like a beggar in rags speaking of the riches and treasures of strangers.[402]

Here Schmitt shows, already in 1932 or 1933, an appreciation of the phenomenon known today as intellectual imperialism, which has since become a common complaint in Europe and other parts of the world. Schmitt is rejecting what he views as the justification of American imperialism through the redefinition of political and legal concepts. So while he can make use of Bodin, Cortés, and, of course, Hobbes, in the main he must rely on authentically German concepts and authors in constructing an opposing vocabulary of resistance. If Germany is to be strong again, Schmitt must borrow concepts from a time when Germany was strong. As we have seen, Schmitt regards Prussia of the early nineteenth century to be the model of the German

[402] Schmitt, "USA und die Völkerrechtlichen Formen des modernen imperialismus," p. 365.

Machtstaat: his goal is to resurrect its power at a time when its outward form has become obsolete.

More than anything else, the relationship between the state and civil society illustrates the continuities and differences between the political theories of Treitschke and Schmitt. The continuity between their theories lies in their common fear of the fractiousness of civil society, of the potential for disunity that is portrayed as a threat to the very being of the state. The differences lie in Treitschke's optimism that the fractiousness of civil society can be contained, as opposed to Schmitt's pessimism that it is no longer possible.

Treitschke argues that "there is in fact no actual entity corresponding to the abstract conception of civil society which exists in the brain of the student."[403] By this he means that, unlike the state, which "is a unit," civil society "has no single will, and we have no duties to fulfill towards it."[404] For him, civil society is an abstract scholarly concept, and while society itself has a concrete existence, it is only as an assemblage of groups, which exists only as a motley hodgepodge, not as a unit, as the state does. Such a hodgepodge is composed of a multitude of interests, and as such Treitschke's understanding of society it is inherently chaotic: "Society is composed of all manner of warring interests, which if left to themselves would soon lead to a *bellum omnium contra omnes*, for its natural tendency is towards conflict, and no suggestion of any aspiration after unity is to be found in it."[405] Treitschke offers his view of society in opposition to one he attributes "to the empirical Scottish philosophy of the eighteenth century which only took into account the animal impulses in human nature and set up the crazy

[403] Treitschke, *Politics,* vol. I, p. 45.
[404] Ibid., p. 45.
[405] Ibid., pp. 45-6.

contention that the brute in man could raise man above the brute."[406] Treitschke rejects the liberal idea that such a thing as "self-interest, properly understood" can create harmony within society, arguing that self-interest is more likely to be expressed in "passion and stupidity," pointing out that it is unreasonable to expect "rogues and assassins" to be "sensible enough to see that they would be more comfortable if they did not stab or rob their neighbors," and that "The most terrible of all wars are those provoked by social differences.... Social passions once let loose are always appallingly fierce and foolish, and no class can boast of being superior to another in this respect."[407] For Treitschke, the enlightenment appeal to the reasonableness of man is itself an unreasonable dogma. Man's reasonableness is absolutely insufficient for the attainment of anything like peace and order: "Law and peace and order cannot spring from the manifold and eternally clashing interests of society, but from the power which stands above it, armed with the strength to restrain its wild passions."[408] This, of course, is the *Machtstaat*, but this formulation makes it very clear that the power of the state is not itself amoral "Machiavellian" power, but is justified because it makes civilized life possible.

According to Balakrishnan, Schmitt felt that it was no longer possible in Germany for the state to stand above civil society: "The state in the more highly industrialized world was ceasing to be an autonomous actor and becoming little more than a neutral meeting ground for the ongoing hammering out of a social equilibrium."[409] Schmitt accepted the claim of Social Democrats Otto Bauer and Otto Kirchheimer that "the

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[406] Ibid., p. 46.
[407] Ibid., pp. 46-7.
[408] Ibid., p. 47.
[409] Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt,* p. 123.

institutional forms of this social equilibrium were so entrenched in the structure of modern industrial relations that if either the workers or the capitalists were to try to break out of it, and impose their will on the other group, the result could only be 'a fearsome civil war.'"[410] Schmitt's understanding of civil society as essentially a *bellum omnium contra omnes* is exactly the same as that of Treitschke. Only a strong state would be capable of resisting the powerful centrifugal forces of such an intense clash of political interests.

For both Schmitt and Treitschke—and probably for the majority of Germans, up to the end of the Second World War—the proper relationship between the state and civil society is that the state should stand above civil society. Yet if one is to argue for the power of the state over civil society, one must somehow deal with the liberal critique, originally leveled against monarchy but later expanded to include all strong states generally, that a powerful state is dangerous to liberty. Excepting Hobbes, all the major theorists included in the liberal canon make exactly this point. For Treitschke, such a conception of political liberty is a manifest fraud, precisely because it obscures the role of the state in securing freedom. Like many conservatives, Treitschke turned to the French Revolution in order to demonstrate what he regarded as the folly of the democratic conception of freedom. For Treitschke, the democratic ideal of political freedom can be said to exist "if the legislative power is separated from the executive and judicial and each citizen is equally entitled to select representatives to the National Assembly."[411] For Treitschke, this version of political freedom is historically invalidated, because when

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[410] Ibid., p. 123.

[411] Heinrich von Treitschke, "Die Freiheit," in *Historische und Politische Aufsätze*, vol. 3 (Leipzig: Hirzel, 1871), pp. 1-42, p. 9. "wenn die gesetzgebende Gewalt von der ausübenden und von der richterlichen getrennt sei und jeder Bürger gleichberechtigt die Abgeordneten zur Nationalversammelung wählen helfe."

these conditions were met in revolutionary France, the result was "The most hideous despotism that Europe has ever seen."[412] According to Treitschke, the emphasis on such measures as equal voting rights separation of powers in the procedural conception of democracy are inadequate protections against the tyrannical impulses of the people, which is understood as a majority of the people rather than the entire people: "what prevents this majority from proceeding just as tyrannically as an unprincipled monarch?"[413] To say that the state is the enemy of freedom is, for Treitschke, nonsense, because it is precisely the state that is capable of preserving the freedom of the whole people from those majorities who would tyrannize minorities and individuals. For Treitschke, experience has taught the hard lesson that "Political freedom is politically limited freedom."[414] Limits to political freedom must be politically established, because the unlimited right of the majority invites tyranny. In this account, therefore, the danger to political freedom lies not in a state that is over strong, but in a state that is not sufficiently strong to restrain the passions of the mob: "It is not only the power of the state that can be tyrannical; the unorganized majority of society can, through the slow and inconspicuous, but irresistible, working power of their opinion, subjugate the passions of the people to their spiteful force."[415]

The *strong* state, instead of being the greatest danger to freedom, becomes in Treitschke's theory of the state the greatest guarantor of freedom. The similarity between Schmitt's and Treitschke's thought in this regard is striking, as may be seen in this quote:

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[412] Ibid., p. 9. "Die scheußlichste Despotismus, den Europa je gesehen."
[413] Ibid., p. 9. "was hindert, daß diese Mehrheit ebenso tyrannisch verfahre wie ein gewissenloser Monarch?"
[414] Ibid., p. 9. "Politische Freiheit ist politisch beschränkte Freiheit."
[415] Ibid., p. 13. "Nicht bloß die Staatsgewalt kann tyrannisch sein; auch die nicht organisierte Mehrheit der Gesellschaft kann durch die langsam und unmerklich, doch unwiderstehlich wirkende Macht ihrer Meinung die Gemüther der Bürger gehässigem Zwange unterwerfen."

> When the unity of the state falls away, different social groups as such will probably make the decisions of their own accord—that is, on the basis of their group interests. But in the case of the single individual, experience tells us that there is no place for his freedom other than what the strong state guarantees. When socials pluralism is opposed to state unity, it means nothing other than abandoning the conflict of social duties to the decision of social groups. And that means the sovereignty of social groups, but not the freedom and autonomy of the single individual.[416]

The similarity between Schmitt and Treitschke's arguments is that they are attempting to undermine the liberal argument against the strength of the state by demonstrating that a doctrine that is supposed to liberate the individual is nonetheless quite compatible with some sort of tyranny. The locus has also changed somewhat, in that Treitschke argues against the tyranny of the majority, whereas Schmitt fears the tyranny of pluralistic groups.

The power of the state is often described by Schmitt as being sovereign. One of Schmitt's most well-known formulations is that "All significant political concepts of modern political theory are secularized theological concepts."[417] If we read Schmitt in a vacuum, this thesis sounds original. Although he gets the quote wrong by universalizing a comment intended only to apply to modernity, Balakrishnan is correct to note that Schmitt addresses the issue but makes only limited application of it before dropping it.[418]

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[416] Carl Schmitt, "Ethic of State and Pluralistic State," p. 201.

[417] "*Alle prägnanten Begriffe der modernen Staatslehre sind säkularisierte theologische Begriffe.*" Schmitt, *Political Theology*, p. 49. In order to appreciate Schmitt as a political rather than a theological theorist, it is worthwhile to remember that these political concepts are indeed *secularized* theological concepts, and that Schmitt here specifically excludes pre-modern political concepts, which may, indeed, be purely political, for example, the state. Finally, to the extent that Schmitt is attempting to achieve a linkage between modern politics and Roman Catholic theology, such a linkage also connects up with politics again, as the modern Roman Church is rich in things it has borrowed from the ancient Roman state.

[418] Though Schmitt asserts that this secularization applies to all modern political concepts, Balakrishnan rightly points out that "this claim, however striking, taken literally, seems manifestly implausible, and Schmitt did not even attempt to prove that it applied to other core concepts of political theory, like "state" and "constitution." In fact, the only concept he discussed in these terms was the concept of sovereignty." Balakrishnan, *The Enemy,* p. 47. Schmitt could have attempted to ground modern conceptions of political theory on theological concepts—the people having its analogue in the faithful, the state having its analogue

As Balakrishnan notes, the only concept Schmitt actually defines in theological terms is sovereignty, which is the secularization of the power of God. Given that this is the case, why has this quote acquired such renown in the Anglo-American Schmitt reception, yet usually without reference to the concept of sovereignty? One possible explanation is that it seems both bold and novel. Especially for those who are troubled by what they perceive as the amorality of political life, the observation that all modern political concepts are secularized versions of theological concepts from a more devout era, holds forth the possibility of a return. Is that Schmitt's intention? No: such a return for him is clearly impossible. Why, then, does he raise the issue? Here he is doing one of the things he does well and often, tracing an idea back to its origin. Although Schmitt holds that clearly impossible under conditions of modernity to retheologize politics as an expression of Christian faith, the theological origin of politics does raise the possibility of the substitution of an explicitly political theology for Christian theology.

The secularization of the theological is associated in Schmitt's mind with the rise of modernity. Despite the potentially rich theoretic insights that could be garnered from broadening the inquiry into the theological origin of political concepts, he makes only very limited application of what is a broad claim. This may be because it is only those concepts that are specifically modern political concepts that are secularized theological concepts. Concepts such as the state and the constitution are not specifically modern, and therefore they are not included in Schmitt's examination. Despite the importance that others have given this formulation, Schmitt does make only limited use of this historical device, perhaps because he knows that it cannot bear further scrutiny. There are many

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in the church, the constitution having its analogue in the Bible, etc.—but such a foundation could only be an analogy, given the clearly pre-Christian origin of concepts such as "the state" and "the constitution."

possible analogies that may be drawn between theology and political theory: what much of the Schmitt reception has failed to address is whether the one Schmitt draws is correct. Is he right to argue that political sovereignty is a derivation of God's omnipotence? To answer this question, it is appropriate to proceed, as Schmitt often does, terminologically and etymologically. The word sovereignty, and its German cognate, *Souveränität*, come through the down to us from the Old French *soverain*, which in turn derived from the Old Latin *superanus*. First used in English at about 1050, it occurs in Chaucer's *The Franklin's Tale* at line 602 to refer to a queen: "Salewed hath his soveryn lady deere." Shakespeare has Rosencrantz use it to refer to the royal power in *Hamlet*: "Both your Majesties Might, by the sovereign power you have of us, Put your dread pleasures more into command Than to entreaty." The word sovereign was clearly used to refer to royals long before the modern era. Moreover, the idea that the absolute power of the king was somehow related to the omnipotence of God also was older than modernity. Schmitt's account of the theological origin of sovereignty can therefore only refer to Chapter VIII of Book I of Jean Bodin's *Six Books of the Commonwealth*, which was the first time the word sovereignty was used to describe the omnipotence of kings.[419]

Carl Schmitt knew Bodin's work well, and it is noncontroversial to name Bodin as the originator of the modern conception of sovereignty, or at least as the first to attach the label sovereignty to a concept that was surely preexisting. We should therefore not be surprised that Karl Löwith, Schmitt's contemporary, argued that the western view of progress is a secularized version of the story of redemption, salvation, and judgment found in Christianity.[420] Both present processes of secularization that took place at

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[419] Jean Bodin, *Six Books of the Commonwealth* (Oxford: Blackwell, 1967).
[420] Karl Löwith, *Meaning in History (*Chicago: University of Chicago Press, 1949).

roughly the same time: the idea of the secularization of Christian eschatology is one Löwith identifies with the late eighteenth century, and Schmitt's secularization of the theological finds its origins at the inception of modernity. Though Löwith, a former student of Heidegger, published his version of the secularization theory in 1949, and he was certainly familiar with Schmitt's work, we should not therefore conclude that his work is intended as an elaboration of Schmitt's more general theory.

Both Schmitt and Löwith are working from a within broader understanding of the significance of secularization that is particular to German intellectual life. The development of secularization as a phenomenon of political consequence was noted much earlier by Treitschke:

> Not until the splendour of the Holy Roman Empire was in German hands did German kingship begin its fuller, richer expansion. Then the growth of the cities forced the state to adopt both new aims and wider activities. Experience teaches that the State is better fitted than any other corporate body to take charge of the well-being and civilizing of the people. Briefly put, what was the great result of the Reformation? The secularization of great portions of the common life of men. When the State secularized the larger portion of the Church's lands it also took over its accompanying public duties, and when we reckon how much the State has accomplished for the people's culture since the Reformation, we recognize that these duties fall within its natural sphere. It has accomplished more than the Church performed throughout the whole of the Middle Ages.[421]

In Treitschke's account, the secularization resulting from the Reformation is even broader than in Schmitt's—it is not only a secularization of the theological into the political, but of "great portions of the common life of men." Treitschke's narrative also draws our attention to the historical foundations of German thinking on the secularization as a condition of modern politics. Although the secularization of church land took place elsewhere in Europe when kings came into conflict with Rome, only once did such

[421] Treitschke, *Politics*, vol. I, p. 75.

secularization give rise to the birth of a new state, and that is the secularization of the lands of the Teutonic Order in 1525. According to Treitschke, this "transformed the ecclesiastical State into a secular principality, and to our perpetual benefit built a pillar for the foundation of the Prussian monarchy."[422] It is thus possible to trace a connection from Weimar Germany back to a Prussian state tradition that has its origins in the largest theocracy in European history.

Political theology, as it finds its expression in the writings of Treitschke and Schmitt, has three elements. The first is that they cast politics in terms of a fundamental either/or, a choice between good and evil. This is how political theology is most broadly understood, and it certainly applies to both Schmitt and Treitschke. The second element, which is either the premise of the first or a logical extension of it, is that politics is the theological made secular. The third element is largely stylistic: given that politics has as its basis a secularized version of the religious struggle between good and evil, and that the political itself is a secularized realm that was once theological, it is natural to adopt theological language in discussing politics. During the time when Treitschke was in vogue in the United Kingdom as the intellectual herald of the Great War, one British commentator took note of Treitschke's theological leanings:

> In a pamphlet of mordant irony addressed to "Messieurs les Ministres du culte évangélique de l'armée du roi de Prusse" in the dark days of 1870, Fustel de Coulanges warned these evangelical camp-followers of the consequences to German civilization of their doctrines of a Holy War. "Your error is not a crime but it makes you commit one, for it leads you to preach war which is the greatest of all crimes." It was not impossible, he added, that that very war might be the beginning of the decadence of Germany, even as it would inaugurate the revival of France. History has proved him a true prophet, but it has required more than a generation to show with what subtlety the moral poison of such teaching has penetrated into German life and character. The great apostle of that teaching was

[422] Treitschke, *Politics*, vol. II, p. 54.

> Treitschke who, though not indeed a theologian, was characteristically fond of praying in aid the vocabulary of theology. ... "The doctrines of the apple of discord and of original sin are the great facts which the pages of history everywhere reveal."[423]

Although Treitschke cites the classical example of the apple of Eris, it has its biblical equivalent in Genesis 3:15, an example Schmitt was fond of citing when referring to the ineluctable nature of enmity.[424] It is this example—original sin—that Schmitt secularizes into the proposition that "man is a dangerous animal."[425] Given this, only a strong state can preserve order.

Schmitt, writing in the 1920's and 1930's, cannot possibly seek to supply a reinvigorated German empire with the political concepts it needs in order to give free expression to its national power. The historical events of the nineteenth century, from the Revolution of 1848 onwards, make anything like a real restoration of the Prussian empire impossible. All that is possible, therefore, is "a victory over the age of neutralization and the simultaneous rescue of everything that was strong and vital in the German state of the nineteenth century."[426] However, given the ugliness of the alternative, the quantitative total state, this would be enough. For Schmitt, the way forward is to arrange matters so that civil society could be properly restrained, as they had been under the Prussian state of the first half of the nineteenth century. Though this was no longer possible on the basis of monarchical dynastic legitimacy, though the intellectual preservation of "everything that was strong and vital in the German state of the nineteenth century," i.e., the army and bureaucracy that had served the monarchy, it would be possible to preserve

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[423] J. H. Morgan, ed & trans., *The War Book of the German General Staff* (New York: McBride & Nast, 1915), pp. 53-54.
[424] Meier, *The Lesson of Carl Schmitt*, p. 59.
[425] Schmitt, *The Concept of the Political*, pp. 58-60.
[426] Schmitt, "Neutralität und Neutralisierungen," p. 333.

the *Machtstaat*. In a sense, the army and bureaucracy would form a monarchical core around which a state based upon a different form of legitimacy could be constructed.[427] This would necessitate the political neutralization of the legislature, the branch of government that gave expression to the particularistic interests of civil society and which threatened to turn Germany into a quantitative total state. Schmitt therefore seeks to make use of these institutions in such a way as to counterbalance the legislature, so that the state could once again serve as a neutral power over civil society.

Outer Power: The Army

As we have already seen, the fact of war and enmity is the foundation upon which the Schmittian *Machtstaat* rests, and so one might rightly expect that the army has a special role to play for Schmitt. The army defends the state against inner and outer enemies, quite naturally, but in the normal state of things this power is directed against the external enemy, as normally there is no internal enemy to fight.[428] Schmitt holds that the army is an institution particularly well-suited to Germans, because "The German people has soldierly qualities like few other peoples."[429] Although Schmitt does not reveal whether the source of this plentitude of Teutonic martial aptitude lies in German history or is an innate property of German individuals, he does claim that these abilities

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[427] In the nineteenth century view of the state, the conduct of foreign relations and military affairs are seen as essentially monarchical. These are exactly the areas under which the Crown retained most rights when it obliged itself to be bound by a constitution.

[428] Given his focus on the exception, Schmitt does not spend much time developing or describing normal situations, but that the army is usually directed at an external enemy is a logical consequence of his theory, as any state that has significant political (in Schmitt's sense of friend and enemy) divisions is likely to be split up through civil war. Schmitt, *The Concept of the Political*, p. 32. Also, under "normal" conditions, states are strong enough to prevent threats to their continued existence as the decisively political unity/entity.

[429] Schmitt, *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten*, p. 8.

have found their expression in "the Prussian soldier-state," which was "the political embodiment of this disposition and which made the continuation of the German people as a political unity possible."[430] The army is therefore vital not simply because it is the organization whereby the state expresses its strength in the protection against foreign and domestic enemies, but also because it was, historically, the actual, concrete means whereby the German people were constituted as a political entity.[431]

The army, a specifically Prussian institution, had served as one of the pillars of the German state prior to 1918. Schmitt's assertion of the primacy of the army as a national political institution is in sympathy with the traditional nineteenth century German view of the state, as the Prussian Army served as the actual and concrete institution whereby the German people's political status as a political unity was historically realized. As mentioned earlier, one of the sources of this tradition, received when Schmitt was quite young, was Treitschke.[432] Schmitt discovered the history of nineteenth century, it appears, at the same time that he learned of the saying that "history is written by the victors:"

> Gradually, I then encountered the winners of my time and their historians. In so doing, the sociological significance of the adage regarding the victorious historian became clear to me. Now it meant that the great historians are the national-liberal historians of the Bismarckian Reich: Sybel, Treitschke and their successors. In comparison, the defeated Austrians or French did not come into consideration, and the Danes, Poles and Ultramontanes were not spoken of at all. Of course, as the First World War drew nigh, already one could sometimes also hear a warning, namely that we must gather ourselves together in order to avoid assuming the role of the loser. Otherwise, in addition to all the other misfortunes of

[430] Ibid., p,. 8.
[431] This may also be grounds for caution in applying Schmitt's theory more broadly. Given that he seeks a solution to Germany's problems, and he sees Germans as particularly suited to soldiering, it may well be that Schmitt's prescription of a strong state based on the army would be suitable only in a nation with military aptitude similar to that of the Germans.
[432] Schmitt places this at the time when he was a boy, "around 1900," or at about the age of twelve. Schmitt, *Ex Captivitate Salus: Erfahrungen der Zeit 1945-47*, pp. 25-26.

> a lost war, we would suffer having the historians of the winner triumph over our historians.[433]

At a tender age, Schmitt would have learned from Treitschke not only the importance of victory in war, but also the significance that the Prussian army played in uniting the German people. Here, Schmitt claims that Treitschke serves as a model for him as a "winner of his time."

Schmitt desires to be a winner of his time, too, and part of this lies in writing a sort of history that binds the nation together. Although he is writing as a political theorist rather than a historian, his political theory is nonetheless historically informed, and has the same objective as Treitschke's historical writings. By constructing a political theory that reconstructs and resurrects the elements of the Prussian state that made it most successful in its greatest historical accomplishment, the unification of the German people into one state, Schmitt seeks to create an ideal realm, a conceptual world, that will shape men's acts in such a way as to lead to positive change in the concrete world, i.e., a unified German people, militarily strong and internally unified, capable of repeating the accomplishments of the age wherein Prussia's army changed the destiny of Europe.

The first detail in Schmitt's theory of the role of the army is that there must be one. For Schmitt, a demilitarized nation is not really worthy of nationhood, as it is completely incapable of engaging in the definitive act of statehood, i.e., warfare. A nation that is demilitarized is in an unnatural situation that cannot long endure, as it must either take up arms or be crushed by its neighbors.[434] Liberal theory, as Schmitt understands it, holds the opposite view, that the army is a burden to civil society and that

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[433] Ibid., pp. 25-26. Treitschke, as a public intellectual and historian of the nineteenth century, of course wrote about the string of victorious wars that created modern Germany, i.e., the Danish-Prussian War of 1864, the Austro-Prussian War of 1866 and the Franco-Prussian War of 1870.
[434] Schmitt, *The Concept of the Political*, p. 53.

it should be as small as possible. Schmitt holds that this view is English in origin, and stems from their unusual geographical position, which enables England to get by with a powerful navy and little in the way of an army.[435] Schmitt takes the opposite stance, holding that the military is much more likely to serve as protection against subjugation from without than it is to be the instrument of tyranny from within.

Of course, Schmitt also desires that the German Army embody features that anyone would regard as necessary for an army, i.e., that it be strong, that it be capable of victory, etc. As we have seen, war plays an important role in Schmitt's theory, in providing the "enemy" whose existence is a precondition of the political, in providing a check on the selfishness of civil society, and even a moral gravity that would be lacking from human life if the possibility of war were not present. If the political is the distinction between friend and enemy, and war is the customary means whereby states express their power, then the preeminently political institution of the state is its army. The ideal army is strong and victorious, and so it should not, at this point, be a surprise that it is the Prussian Army that Schmitt reckons to be the very acme of military achievement: "In the nineteenth century, the Prussian-German Army became most illustrious, serving as the model military organization for the Eurocentric world of that time."[436] According to Schmitt, the nineteenth century system of liberal antitheses sets "economy, industry, and technology" against "state, war, and politics."[437] Schmitt's preference for the army and martial things is part of this broader preference for "state, war, and politics," which stands opposed to civilian life, which he understands as selfish, riskless, and apolitical. To advance the cause of the political, to turn the attention of the

[435] Schmitt, *Land und Meer*, pp. 51-54.
[436] Schmitt, *Theorie des Partisanen*, p. 39.
[437] Schmitt, *The Concept of the Political*, p. 75.

people away from such slavish activities as industry and finance, Schmitt calls for introducing military service that would truly be universal, a true people's army.

The creation of a people's army would in no way contradict Prussian military tradition; in fact, it would be a continuation of trends not new to Prussia.[438] It might be objected that making soldiers out of the whole of the citizenry would be to penetrate the state with the influences and corruption of civil society, but in reality what Schmitt seeks is the opposite: to infuse the people with a properly martial and disciplined mindset. Such practices had historically been quite fruitful militarily for Prussia. According to Treitschke, the Landwehr, particularly after the reforms of 1859, served ably as a strategic reserve component, and were part of the reason for the extraordinary success of the Prussian military in the nineteenth century: "The Prussian Army system is the nation in arms, and to that extent it is the embodiment of national characteristics and virtues."[439] Again, for Treitschke as well as Schmitt, we see that bearing arms is presented as an arena for the expression of the virtue of the people. When Schmitt laments the loss of seriousness in the peacefulness of modern life, part of his solution is that military discipline can reform the character of the citizenry so that they are loyal and subservient to the state.

That civilian selfishness and self-interestedness should be opposed to soldierly selflessness and service is yet another example of a typically Schmittian dichotomy. Although Schmitt's antagonistic dualities of reason versus force, economy versus state,

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[438] The history of the Prussian Army in the nineteenth century is one of movement from a professional (i.e., "mercenary") force to a true national army, with service becoming ever broader: from Scharnhorst's admission of commoners into the officer corps, the introduction of universal service in 1814, the creation of the *Landwehr*, and Roon's reforms of the 1860's. For a history of the Prussian Army, see Treitschke, *Politics*, vol. II, pp. 389-448.

[439] Treitschke, *Politics*, vol. II, p. 166.

business versus war, etc., are well-known, the distinction between civilian and soldier in Schmitt is less well-studied, yet arguably as significant as any of these, and should be placed alongside all the others as a component of this dualistic system of oppositions.[440] The intrusion of civil society into the domain of the state is quite naturally accompanied by an elevation of civilians at the expense of soldiers. This idea is alien to Germany, or at least to Prussia, which, as a soldier-state, included the military in its constitution. According to Schmitt, one of the foreigners responsible for the propagation of the subjugation of the military to the civil is Herbert Spencer, who advances "the philosophy of the progress of humanity as a development from feudalism to trade and industry, from the political to the economic, from the soldier to the industrialist, from war to peace."[441] According to Schmitt's version of Spencer's account, this means that the soldier in the Prussian/German mold is a "feudal reactionary," a "medieval figure" who stands in the way of progress and peace.[442] One might suspect that Schmitt, with his great skepticism of progress discourse, could himself use almost exactly the same language in praise of the Prussian soldier. This idea of progress proposed by Spencer and others is profoundly inimical to the state and the military, and is part and parcel of a worldview that sees economics as destiny.

According to Schmitt, this anti-military way of thinking is entirely foreign, and entirely British in origin, even if it arrived in Germany "imported by way of France or Belgium."[443] Its fundamental concepts and norms, which include for Schmitt that war is understood as a "*Wirtschaftskrieg*," or trade war, are "certain signs of a worldview that is

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[440] Schmitt, *The Concept of the Political,* p. 75.
[441] Carl Schmitt, "Totaler Feind, totaler Krieg, totaler Staat," in *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939,* pp. 268-273, p. 272.
[442] Ibid., p. 272.
[443] Ibid., p. 273.

total in itself."[444] In contradistinction to the Prussian soldier-state, "The English constitutional ideal ultimately raised the subordination of the soldier under the civilian to the level of a basic principle."[445] This subordination is an important component of the encroachment of civil society into the political, and into the state, and so must be overcome. According to Schmitt, the period from 1848 to 1918 was marked by a struggle against this foreign idea of subordination of the army to civilian authority, rather than to royal authority as had been the case historically.[446] Naturally, he saw this as undesirable, as civil society tends to seek to limit and restrict the military, which would tend to greatly weaken it. It is telling, therefore, that in 1937, Schmitt writes, "Germany today has overcome this dichotomy (between civil society and the army) and so develops its soldierly strength in complete unity."[447] Although what we should make of Schmitt's Nazi-era work became a question after the war, at the time he wrote as though the Nazi state had completely overcome the dichotomy between civil society and the state, as though the Nazi-era Wehrmacht represented his ideal of what a German army ought to be.

Obviously, one of the things that the Wehrmacht did at this time was to become much stronger. That Schmitt would approve of this is entirely consistent with the vision of politics presented in the *Concept of the Political*. The ability to take men out of civilian life and make them into soldiers is a decisive advantage on the part of the army in its struggle with civil society, not simply because the army itself grows stronger while

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[444] Ibid., p. 272.
[445] Ibid., p. 272.
[446] Ibid., p. 272. This political struggle was, needless to say, quite involved. For an excellent history of the Prussian Army during this period, see: Gordon A. Craig, *The Politics of the Prussian Army: 1640-1945* (New York: Oxford University Press, 1964).
[447] Schmitt, "Totaler Feind, totaler Krieg, totaler Staat," p. 273.

society grows weaker, but because military life has a transformative power for the civilian: "If, as has been said, total mobilization eradicates the distinction between soldier and civilian, so this can also have the consequence that the soldier changes into a civilian, just a civilian may change into a soldier or both may change into something new."[448] Yet even the civilian who has been discharged from the military has been transformed, and may be recalled into service, i.e., plucked from civil society into the service of the state. Even when he is a civilian, he is integrated into the Prussian soldier-state, and is so inclined to be friendly to the state, and not hostile to it as a member of the selfish civil society would be.

Schmitt's hope is that the army might serve as a school for the development of the nation. The work in which Schmitt addresses civil-military relations most comprehensively and definitively is *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten*, published in 1934. In this mainly overlooked work, Schmitt describes the nineteenth century as an era defined by the conflict between the civilian constitutional state and the Prussian soldier-state.[449] This dichotomy is part of the entire series of oppositions that make up the conflict between the state and civil society that have been mentioned already, i.e., politics versus economics, war versus peace, selfishness versus duty, etc. What Schmitt brings to light here that he does not elsewhere is the explicitly martial component of this set of dichotomies, and he also grounds the matter concretely in history in such a way as to clearly bring out the fact that he is writing as a German patriot concerned for the future of his country, and that the things that concern him are not emergent, but have historical origins dating back into the

[448] Ibid., p. 273.
[449] Schmitt, *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten*, pp. 9-14.

eighteenth century. This essay is also unusual in that it ends on a hopeful note, holding forth the promise not only that Germany will be saved, but also that it already has been saved, by the National Socialist movement of the German people.[450]

Schmitt depicts Germany as a house divided between liberal, civilian-bourgeois constitutionalism and the Prussian soldier-state. Schmitt argues that constitutionalism itself only emerged as a civilian-bourgeois demand for concessions by the monarchy, and that this constitutionalism embodied a "polemical concept of 'civil society,' that was a remonstrance to the concrete, monarchical military and bureaucratic state as it existed at that time, declaring anything outside of this state to belong to society."[451] The constitution created a parliament, which served to give institutional expression to the selfish and particularistic impulses of the various groups within civil society. In contrast, however, the army and bureaucracy remained as monarchical institutions, and so the struggle between civil society and the state revolved around them. Yet the Army played an active role in the lives of men after universal military service was instituted as part of the reforms following the Prussian defeat at Jena. Schmitt thought the Army could effectively combat the political emergence of civil society through its ability to mold the character of individual men. Schmitt cites the *Gesetz über die Verpflichtung zum Kriegsdienste* of 1814, which calls the Army "the great school for the education of the nation," but he allows that the Army has been unable to play this role, because "It was decisive that the Army could and would only serve as the school for the nation only with regard to war, and war appears, in the thought of this (the nineteenth) century, to be a

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[450] Ibid., p. 49.
[451] Carl Schmitt, *Der Hüter der Verfassung* (Berlin: Duncker & Humblot, 1996), p. 73.

rarity, an extreme, isolatable, and swiftly settled matter."[452] It appears, then, that universal military service could and did, according to Schmitt, serve to provide an appropriate education for the nation, but that this education was effectively limited to times of war by the nineteenth century view of war.

If a way could be devised to counteract civil society's view of war as an infrequent event, or if a way could be found for the Army to serve as the school for the education of the nation in peace as well as war, then the Army could serve as a powerful buttress against the encroachment of civil society through the development of what Schmitt calls the naturally soldierly qualities of the German people. Schmitt must argue for the assertion of these qualities against individualistic liberalism, which sees the army as a restriction of freedom, for its power to order men to fight is seen as "lack of freedom and repression," which therefore leads to "an entire system of demilitarized and depoliticized concepts."[453] This alternative is embodied in the quantitative total state, the state that no longer stands as a neutral force over civil society, but which has become the instrument of particularistic interests.

In the absolute Prussian state of the eighteenth century, Schmitt believes that we see the state and civil society relating as they ought to. In the nineteenth century, we see a balance or neutrality between the state and civil society, with civil society gaining the upper hand. The main constitutional problem of the nineteenth century was that the Prussian government changed from the traditional state to one with a mixed basis: "The Prussian constitution of 1850 attempted to connect the military- and bureaucracy-state

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[452] Schmitt, *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten*, p. 23.
[453] Schmitt, *The Concept of the Political*, p. 71.

with the bourgeois constitutional state."[454] For Schmitt, this contradiction is ultimately irreconcilable, leading to failure of the state. Eventually, we see in Weimar the absolute defeat of the traditional relationship between civil society and the state. Schmitt follows this story of degeneration closely in *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten*. The age of political absolutism is also the age of the traditional Prussian soldier-state, and the age of liberal constitutionalism is marked by a series of conflicts between the army and parliament, which gradually led to "The victorious triumph of bourgeois constitutionalism over the Prussian-German 'Militarisms.'"[455] The historical result of this, though not the final result, was inadequate political leadership during the First World War, the loss of that war, and the consequent victory of the foreign, anti-military ideal, which was incarnated in the Weimar Constitution: "The constitutional concepts of the western powers triumphed only at the expense of Germany; the existential connection between the nature of the army and the state's constitution as a whole was ignored, and this Weimar system believed that there could be a people's state without a people's army, an unarmed democracy. An attempt was made to organize universal suffrage without universal military service, a public citizenry without a public service—an astounding monstrosity."[456] The quantitative total state, as Schmitt formulates it, is an injustice, a violation of the basic principles of fairness. Though everyone demands everything of it, no one really owes it anything, except perhaps taxes, and it is always possible to cheat the taxman. Moreover, and even more destructively, in the most absolutely total qualitative state, even the army, the

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[454] Schmitt, *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten,* p. 11.
[455] Ibid., p. 41.
[456] Ibid., p. 45.

means whereby the people expresses its will and power to protect itself, is handed over to pluralistic groups, so that, "In the end, every party in the ruling coalition has its own share of armed power, and the most terrible of all civil wars becomes inevitable."[457] This reveals again what is, for Schmitt, the essential connection between the nature of the army and the nature of political rule, and so it would be quite natural for him to interpret the collapse of what he regarded as an excessively pluralistic regime in this manner.

As we have seen, Schmitt regards duty as an essential component of man's political life, and the army serves as a vehicle for the fulfillment of that duty. It holds the potential to serve as a school for the education of the nation, so long as the nation rejects the liberal concept of war as a trade war and understands that the nation is potentially under threat even when it is at peace. That the conflict between the army and parliament, between the army and civil society, between homegrown Prussian militarism and foreign pacifism lasted a hundred years is due to the success of those who went before Schmitt, who fought against the ideas that were eventually embodied in the Weimar constitution. . When Treitschke writes, "Nothing but bitter experience has taught the average man to feel, as he does today, that military duty stands immeasurably above financial considerations, and that it is best kept alive by a system of universal service," he gives voice to a spirit of service to the state that Schmitt feels helped to hold back the historical tide of what they would both depict as the slavishness to pecuniary concerns embodied in civil society.[458]

The political significance of the Army is the same for Treitschke as it is for Schmitt: it is a national school for the education of the people, a means whereby the duty

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[457] Ibid., p. 27.
[458] Treitschke, *Politics*, vol. I, p. 138.

of the citizen-soldier may find its expression as a counterweight to the selfishness of civil society, and, most importantly, an urgent theoretical necessity that arises from the perilous essence of politics. Given Treitschke's understanding of the state as power, it is but a small further step for him to endorse the army as the means whereby the state expresses that power: "It is then the normal and reasonable thing for a great nation to embody and develop the essence of the state, which is power, by organizing its physical strength in the constitution of the Army."[459] The army is the public force for offense and defense, taking the form of organized physical strength, i.e., men under arms.[460] Under this conception of the state as power, a state is more like a state, is truer to the essence of what states in general are, if it has a large number of men organized into effective combat units. In this respect, according to Treitschke, "We have already seen how superior large States are to small ones," in that population provides a sound basis for national power, and large national armies.[461] With regard to the army, therefore, Treitschke's desiderata closely match the concrete actuality in late nineteenth-century Germany.

To validate the army as a central institution of the life of the people that serves to incorporate the people into the state as it fulfils its primary functions of offense and defense is to assert the primacy of the political as the principal domain of human collective existence. It was exactly this that Treitschke sought to assert against liberals and socialists who sought to define human destiny in economic terms. In order to defend the army as a critical institution of the state from what Schmitt would have called the neutralizers and depoliticizers of his day, Treitschke must refute the foreign liberal notion that the army is a danger to civil society. Treitschke is in agreement with Schmitt when

[459] Treitschke, *Politics*, vol. II, p. 395.
[460] Treitschke, *Politics,* vol. I, p. 22.
[461] Ibid., p. 113.

he ascribes an English origin to the idea that the army is potentially tyrannical; again like Schmitt, he holds that this outlook is due to particular peculiarities of English history that are not applicable to Germany. Treitschke allows that the view of the army as a potential tyrant is due to the English experience under Cromwell of living "under the heel of the Army."[462] Treitschke argues that this experience does not falsify the German understanding of the army as the guarantor of national power, constituted on a national basis, precisely because Cromwell's Army were "adherents of a particular religious sect, and represented only part of the nation."[463] The English understanding of a standing army as a potential danger to liberty is therefore a misunderstanding of the nature of the problem, which was not that the army in Protectorate England played too large a role in national life, or that it was too large, but simply that it was not a true national army, only a sectarian one. As such, the New Model Army was not the means of expressing the power of the state, but rather the means of expressing the power of one faction that had assumed national power without reconstituting itself on a truly national basis.

The army, far from threatening freedom, is for Treitschke actually the guarantor of freedom: "There could be no freedom without military power ready to sacrifice itself for freedom's sake."[464] In contrast to liberalism, which sees freedom as being where the state is not, Treitschke welcomes the power of the army and the state in no uncertain terms. Treitschke's *Machtstaat* is not only a stronger state, but also a free one: "It is a false development which seeks for freedom from the state and not within it. The power

[462] Ibid., p. 392.
[463] Ibid., p. 392.
[464] Treitschke, *Politics*, vol. II, p. 396.

of the state and the liberty of the people are inseparably connected."[465] In this description of the *Machtstaat*, it is in no way inevitable that a powerful military will take over the government, or embroil the nation in needless conflicts, or impose excessive burdens on the people. Treitschke allows that these things could be the case in an army improperly constituted, but contends that such things are impossible with a truly national, rather than professional military: because the army is composed of the people, it will show restraint towards the people, because the army is composed of the sons of all the nation, its rulers will not needlessly throw their lives away, and because the army has no will of its own, it will not seize the reigns of power.[466]

More importantly, however, the army is, according to Treitschke, actually constitutive of the freedom of the nation as it is an instrument and institution of the political unity of the German nation. Again, in opposition to the English idea that the army presents a threat to freedom, Treitschke contends "a strong, well-equipped Army is also the foundation of all political freedom, sp that no State is to be pitied which possesses powerful military force."[467] It is only the armed force of the military that makes the political unity of the nation possible, and which safeguards it from external domination. This is entirely consistent with Treitschke's ideal that defines the state not as "freedom from the state," but "freedom within it."[468]

When Schmitt writes that the Prussian soldier-state accomplished the political unity of the German people, he refers not only to the concrete fact that Germans of all

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[465] Treitschke, *Politics,* vol. I, p. 152. Ulrich Langer argues that the conception of freedom as freedom "within the state" rather than freedom "from the state" is a central component of Treitschke's effort to construct a specifically German ideal of political freedom. See Langer, *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten,* pp. 165-246.
[466] Treitschke, *Politics*, vol. II, pp. 387-448.
[467] Ibid., p. 391.
[468] Treitschke, *Politics*, vol. I, p. 152.

classes and regions bore arms together under the Prussian banner in the cause of national unification, but also because the army as "the people under arms" helps to constitute the unity of the nation in itself. Prussia implemented a "primordially German, soldierly constitutional ideal."[469] For Schmitt, the constitutional ideal of Germany is inextricably bound up with the fact that Prussia is a land power that fights in land-based wars, and so the characteristics of the national political unity are shaped by the nature of the Prussian military, which became, during the age of continental warfare, a "'levée en masse', the 'nation armée' and the 'people under arms.'"[470] Just as Prussia was confronted as a continental power by English sea power in the nineteenth century, so, according to Schmitt, did the Prussian state confront itself with the English concept of war as naval war, which is always "a war against the trade and industry of the opponent, and therefore a war against noncombatants, an economic war."[471] The English naval war is a forerunner of total war, which acknowledges no distinction whatsoever between soldier and civilian.

By stressing the connection between naval war and total war, between the nature of warfare and the nature of the states and armies that fight wars, Schmitt is criticizing the liberal story of progress, as propagated by Herbert Spencer, "namely the philosophy of the progress of mankind as a development that proceeds from feudalism to trade and industry, from political to economic, from soldiers to industrialists, from war to peace."[472] Although Spencer depicts the Prussian soldier as a "feudal reactionary" standing in the way of progress, Schmitt affirms that the opposite is true, that the Prussian

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[469] Schmitt, "Totaler Feind, totaler Krieg, totaler Staat" p. 277.
[470] Ibid., p. 274.
[471] Ibid., p. 270.
[472] Ibid., p. 272.

army, its soldierly constitutional ideal, and the continental concept of warfare is more civilized, as only it maintains the older, less brutal concept of enmity. Total war does not uphold the concept of enmity, making the soldier the "tool of the leading economic power groups" rather than the state, so that he is not fulfilling his duty as a member of the political unity, but rather serves as a pawn fighting for the of advancement pecuniary private interests.[473] An army of such soldiers is not a people's army, with independent standing constitutive of political unity, but little better than a mercenary force at the service of whichever pluralistic group comes into power.

In both Schmitt and Treitschke, we see that the Prussian Army is presented as the self-conscious antagonist of the British liberal concept of warfare as economics, the warfare of blockade and economic strangulation. In contrast, the Prussian Army is a pillar of the state, a means whereby the individual man is made to appreciate the majesty of the political community, an institution that "binds citizen to citizen," and is more truly constitutive of political unity than the representative branch of government:

> It is not the German parliament, as was formerly hoped, that has become the real and effective bond of national union, but the German Army. We may rather say that our Imperial parliament brought a renewal of the old hatreds and calumniations, while the army trained us to a practical unity. The King is the natural leader in war, therefore since the army embodies the idea of national solidarity in so striking a form, it is particularly suited to the nature of monarchy.[474]

Here, Treitschke presents the army as an alternative bearer of the unity of the people and of the nation. Unlike parliament, which explicitly emphasizes differences between the people, the army is a leveling institution, one that eradicates difference in the name of

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[473] Ibid., p. 271.

[474] Treitschke, *Politics,* vol. II, p. 390. Here, as elsewhere, Treitschke is very willing to assume that what is, is natural, and therefore good. He uses this argument quite often for things that he supports, and the reverse for things of which he disapproves: if something is held to be bad, then its foreign origins must be tracked down so that it may be appropriately characterized as unnatural.

honor, loyalty, and unity. Also, in Treitschke's time, soldiers were personally bound to the state, in the form of the oath sworn to the king. Treitschke claims that "The political oath is necessary to protect the State from continual revolts and risings," and that the experience of a thousand years has shown that "it is essential for the army."[475] Doubtless, the power of the oath helps to ensure that "the simple man" comes to understand that "the state is one and he himself is a part of the whole."[476] In explicit contrast to "trade, art, and science," i.e., the main elements of life in civil society, the army is national rather than cosmopolitan, and integrates the individual into the state "more directly than any other institution."[477] Military service is therefore a kind of tonic against both the selfishness and cosmopolitanism of civil society, both broadening and narrowing the individual's scope of view so that the state occupies the central position.

Although it is often noted that Schmitt's theory strongly favors the executive versus the legislative, Schmitt's preference for the military over the civil is usually overlooked.[478] Yet, as we have seen, Schmitt takes the world to be a series of opposed opposites, and the executive, the monarchy, the army, and the bureaucracy are all allied with one another as components of the same historico-theoretical aggregation of concepts and institutions arrayed against those put forward by liberalism, economics and civil society. Schmitt takes the army and the bureaucracy to have been important bulwarks of princely absolutism: "The absolute state has attained its form since the sixteenth century,

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[475] Treitschke, *Politics,* vol. I, p. 194.
[476] Treitschke, *Politics,* vol. II, p. 390.
[477] Ibid., p. 390.
[478] An interesting exception to this is to be found in John P. McCormick's introduction to Jeffrey Seitzer's translation of *Legalitat und Legitimität.* See John P. McCormick, "Introduction," in Carl Schmitt, *Legality and Legitimacy*, Jeffrey Seitzer, trans. (Durham: Duke University Press, 2004): xiii-xliii, p. xxix.

precisely from the breakdown of the medieval, pluralistic rule-of-law state based on feudal classes, and relies upon the army and bureaucracy for support. Therefore, it is essentially a state of the executive and the regime."[479] For Schmitt, it also works the other way around, which is to say that the executive is in its essence monarchical and so are the army and the bureaucracy. This latent monarchical element must be preserved in order to secure the state against the potential chaos of the parliamentary state, which recognizes only the representation of the people in their heterogeneity and so abolishes all political unity. For the army, the solution is to make it a people's army, a universal army that helps to constitute the nation as a political unity. For the bureaucracy, the answer is somewhat different.

Inner Power: The Bureaucracy

Schmitt acknowledged that it would be no longer possible for the bureaucracy to stand, as Hegel would have it, "above" civil society, as a neutral force. At the same time, to hand the bureaucracy over to parliamentary parties would be to abolish the power of the state by putting it into the hands of particular interests. Schmitt's desired compromise, if it was no longer possible to have the bureaucracy stand "above" civil society as it did in the service of the king, is to hold out hope that an independent bureaucracy can serve as a check on a what he sees as the inevitable fractiousness of civil society; "Nevertheless, it is consciously retained as an impartial dimension; it, according to the will of the constitution, should not stand under civil society."[480] Thus, while the

[479] Schmitt, *Der Hüter der Verfassung*, p. 75.
[480] Ibid., p. 149.

system of monarchical legitimacy has collapsed, Schmitt hopes to still make use of the powerful and independent bureaucracy that developed: "the great tradition of the German professional bureaucracy should continue in a democratic state," serving as a check on the grasping particularism of civil society.[481] Though developed under the monarch, the German bureaucracy is detachable from it, and may indeed serve to bring stability even under democracy, a form of regime which, according to Schmitt, is inclined in modernity towards pluralism and disorder.

Of course, any modern state, even states Schmitt would regard as completely degenerate pluralistic states, must have a bureaucracy. What Schmitt points to hopefully is the continuance of a certain kind of bureaucracy capable of challenging the claims of pluralistic liberals: "The German bureaucracy has never been merely a 'machine' in the sense it is used in western liberal democracies. Otto Meyer rightly said of this bureaucracy that it is 'the learned bureaucracy, occupying all authoritative positions, is most of all not a tool, but an independent power within the state.' That is the historical reality that established a theoretical and philosophical system through Hegel's theory of the state as the realm of objective reason."[482] The German bureaucracy as Schmitt describes it is set apart from other western bureaucracies because it derives independent authority by virtue of two things: it is not the "machine" or "tool" of the party in power, and it is composed of learned men occupying positions of authority. Recalling Treitschke's doctrine of "not freedom from the state, but freedom within it," Schmitt sees in this tradition of bureaucratic independence and authority not as a threat to liberty, but a bastion of it.

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[481] Ibid., p. 149.
[482] Carl Schmitt, *Staat, Bewegung, Volk: Die Dreigliederung der politischen Einheit* (Hamburg: Hanseatische Verlagsanstalt, 1933), p. 29.

Once more, we find that Schmitt argues that it is not his depiction of German political institutions that arises in opposition to foreign liberal individualistic ideology, but rather the institutions themselves. In calling for the restriction of the power of the institutions of the state, liberalism seriously overstates the danger of the state to the individual, as Schmitt sees it. While Schmitt's sarcasm is usually a bit dry and reserved, in this passage he seems unable to restrain his contempt for the liberal emphasis on the individual at the expense of the state:

> Thus, the liberal constructs of the state and constitution only reckon with a simplistic and straightforward confrontation of state and private individual. Only when we begin with this confrontation is it a natural and sensible enterprise to erect an entire edifice of legal protections and facilities to protect the helpless, vulnerable, poor, isolated individual from the powerful "Leviathan"-state.... Yet this all becomes quite absurd as soon as strong collective associations or organizations occupy the stateless-unpolitical sphere of freedom and these non-governmental (albeit not at all unpolitical) 'self-organizations' always more firmly and forcefully envelop the individual on the one hand, and confronts the state under different titles (as the people, as society, as the free citizenry, as the productive proletariat, as public opinion, etc.) on the other.[483]

What Schmitt desires in a state is the photonegative of that which the liberal state treats as ideal. Instead of proceeding from the standpoint that the individual is vulnerable to the state, Schmitt assumes that the individual is vulnerable without the state. Instead of assuming that the various non-governmental groups of civil society constitute the realm of freedom, Schmitt believes that they are a threat to freedom, insomuch as they totally encompass the individual and intrude wrongly into politics when they should remain apolitical.

The answer to the threat to national unity posed by such groups is a state that is as independent from such groups as the liberal state is dependent upon them, that is as

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[483] Ibid., p. 24.

strong as the liberal state is weak, that safeguards the power of the bureaucracy at least as well as the liberal state safeguards the individual. Moreover, the independence of the bureaucracy—which is to say, its independence from civil society, from parliament, and from parties—makes it far less likely that the individual will come to danger from it, according to Schmitt, because the locus of the threat to individual freedom is to be found in civil society and not the state. Of course, given the broad social expanse that is called "civil society," the bureaucracy must be powerful, if it is to safeguard the state and the individual against the particularism of the various pluralistic factions within civil society. Although it may seem paradoxical, Schmitt believes that the state is only dangerous to the individual when it is weak. The most busybody state of all is the quantitative total state, as its weakness makes it responsive to all parties indiscriminately, and so it "intervenes in every area of life," which is a natural consequence of it having "no inner authority of its own."[484] Because it must search "indiscriminately for legalizations, legitimations, and sanctions," the pluralist state "becomes total out of weakness, not out of strength and power."[485] In contrast, the strong state is orderly and its elements are subject to control, so that, "A strong state is the premise of a sound life, characteristic of its different ranks."[486] As is so often the case with Schmitt, therefore, what liberals presume to preclude the possibility of individual political liberty is actually the precondition of it, and what they presume to be agreeable to individual liberty actually makes it impossible.

If the army, in Schmitt's account, obtains its worth to the state by incorporating the individual into the state on a mass basis, the bureaucracy is necessarily more elite, as

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[484] Schmitt, *Legality and Legitimacy,* p. 92.
[485] Ibid., p. 92.
[486] Carl Schmitt, *State, Movement, People,* Simona Draghici, ed. & trans. (Corvallis: Plutarch, 2001), p. 37.

part of its authority is derived from the status of the bureaucrats as learned men occupying positions of authority. Given that the German bourgeoisie considered itself to occupy a special position due to *Bildung und Besitz* (culturedness and possession), the bureaucrat who obtains his status by virtue of his education and the possession of a special position within the bureaucracy must be considered to be something of an essentially bourgeois element within the state, with the essential difference that Schmitt's civil servants do not engage in activities for their own profit, but for service. Schmitt held out the hope that, even in the development of a quantitative total state, the bureaucracy would use its position to generate sufficient legitimacy to secure their own position, and in turn the interests of the state itself. Under no circumstances must the civil service be reduced to what he holds it was in the Weimar era, when it was "compelled ... to organize as an interest group."[487] It would have "elements of a genuine elite in the sociological sense of the word, an elite that is capable of producing authority and legitimacy.... Such an elite would have qualities like incorruptibility, separation from the world of striving for money and profit, education, sense of duty, and loyalty."[488] Schmitt declares that "the German professional civil service of the nineteenth century" does bear all the marks of "a state reinforcing political elite," with one critical difference: it lacks "the ability and willingness to risk the political."[489]

Thus, the bureaucracy could form the core of a dictatorial elite that would safeguard the state against the claims of pluralist groups, yet Schmitt does not believe that this can happen. The German bureaucrat, as he depicts it, is neither willing nor able to "risk the political," which is yet another similarly between bureaucrat and bourgeois.

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[487] Ibid., p. 17.
[488] Schmitt, *Legality and Legitimacy,* p. 13.
[489] Ibid., p. 13.

The bureaucrat, in other words, has bought into Hegel's conception of the civil service as standing above politics, of being a politically neutral force in the service of the state, yet Schmitt believes that Germany is no longer well-served by this commitment to political neutrality, as the enemies of the state—the pluralists—do not honor it themselves. Schmitt writes that it was sufficient for the German bureaucracy to stand "above civil society" so long as the state was primarily a state based on social and cultural politics: once the state became endangered, such an arrangement was no longer sufficient to ensure its survival, as the bureaucracy would not give up the neutrality that was part of its traditional essence and could not recognize the enemy of the state as the enemy of the state.[490]

Schmitt expresses admiration for the state insofar as it is able to take action, and regards this as an essential measure of the state's worth. Given what he regards as a powerful assault on the power of the state by the particularistic interests of civil society, it is consistent that he is regularly critical of the liberal concept of "checks and balances" as unnecessary, and even dangerous, impediments to the exercise of state power. In Schmitt's preferred state, the bureaucracy can brook impediments to its smooth operation no more than the army can suffer interference in its sphere of activity. Although most students of political science would conceptualize checks and balances as a question of the relations between branches of government, it is worth noting that the aspect of checks and balances Schmitt sees as most important is that they are "a system of checks and controls of state and government."[491] Schmitt in no way capitulates to the liberal theory of separation of powers, nor to the theory of checks and balances. His teaching on this is

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[490] Schmitt, *Staat, Bewegung, Volk: Die Dreigliederung der politischen Einheit*, p. 29.
[491] Schmitt, *The Concept of the Political,* p. 61.

exactly consistent with his other teachings on the state and bureaucracy, namely that the question of how rule ought to be exercised is not primarily one of how to protect the poor, vulnerable individual person from the rapacious brigandage of the state, but rather how it is that the state is to govern effectively, given both the empirical fact of competing loyalties to pluralist groups and the pluralist ideology of civil society that threatens to undermine the life of the state.

Treitschke's political theory also upholds the understanding of the Prussian state as based on the army and the bureaucracy: "Our bureaucracy is equal to the army as an essential support of the monarchy."[492] The major essential difference is that he is writing at a time when the military- and bureaucratic state had yet to collapse, and so the bureaucracy and the army are still described as supports of the monarchy, rather than the state in general.[493] Like Schmitt, Treitschke assumes what he calls the political viewpoint of the state when investigating the power of government, which is to regard the matter "from above, from the point of view of government, and the question asked, 'what safeguards its authority?'"[494] Again, like Schmitt, he associates what he calls "the social view of the state" (i.e., the question regarded from the viewpoint of civil society) with liberalism, and charges that it is "naïve egotism" that is obsessed with "individual happiness."[495] Again we see the state as vulnerable and in need of reinforcement in its relationship to a civil society that threatens to overwhelm it with, at best, selfish demands and, at worst, civil war. Treitschke's work also anticipates Schmitt's by his effort to

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[492] Treitschke, "Das constitutionelle Königthum in Deutschland," p. 546.
[493] Treitschke holds that all states have an essence distinctive of states of that type, a *staatswesen* that informs what is possible politically. Yet Treitschke depicts monarchy as being the prototypical state, as being more statelike than other types of states: "It is an ancient experience that monarchy presents more fully than any other form of government a tangible expression of political power and national unity." Treitschke, *Politics*, vol. II, p. 59.
[494] Treitschke, *Politics*, vol. I, p. 49.
[495] Ibid., p. 49.

distinguish German bureaucracy from other western bureaucracies by contending that it is independent from the legislature, and that it is composed of learned men occupying positions of authority. By and large, then, the description of the bureaucracy, as well as the normative evaluation of it as a support for the state, is the same in Treitschke as it is in Schmitt, with the minor caveat that Treitschke views it as a support for the power of the monarchy, whereas Schmitt sees it as an institution that, though developed out of the monarchy, has become a support for the German state in general.

Treitschke's teachings on the bureaucracy are much informed by his reading of foreign political theory. Just as English liberals hold that the army is a potential tool for oppression, they are fearful of a powerful bureaucracy, and so we find writers such a Spencer adopting a strongly anti-statist position in Treitschke's time.[496] Against these liberals, and like Schmitt, Treitschke sees the bureaucracy as not at all a danger to liberty. Treitschke holds that the civil service of Germany is much to be admired, in contrast to that of England, because, rather than serving as a tool of parliament, it is instead an "independent bureaucratic body consisting of the King's servants, which, while standing outside parliament, confronts it and addresses it in the name of the Government."[497] Thus, the bureaucracy's independent status ensures the rule of law and the stability of government, essentially forming a check on the legislative branch of government. Like the army, the Prussian civil service predated the German parliament of the nineteenth century and, again like the army, served the king. Additionally, as Treitschke notes, the German bureaucracy addresses parliament in the name of the government, not vice versa. Given the view that sees the members of parliament as representing only their particular

[496] Herbert Spencer, *The Man versus the State (*London: Williams & Norgate, 1884.)
[497] Treitschke, *Politics*, vol. II, p. 154.

interests, the bureaucracy, as the servants of the state, can claim to represent Germany as a political unity. This claim of authority leads to more power in the hands of the bureaucracy, that it, in turn, is able to employ to help secure national political unity: "a vigorous-minded Civil Service, which, by its achievements, its social standing, and by the support of the Crown, wields a genuine power, and we need desire no change in this respect."[498]

If the state is to truly stand above society, it must be neutral with regard to the various factions and elements within civil society—furthermore, any bias on the part of the bureaucracy is liable to discredit the state, and thereby undermine the vital role the bureaucracy plays as an instrument of state power. Therefore, although he argues that the bureaucracy must be independent, its processes must be fair to all and can in no way be arbitrary. According to Treitschke, the German bureaucracy does a good job of this. Treitschke praises the German bureaucracy as socially neutral, in that "No doubt the average official often suffers from an imperfect sense of proportion, but he is not concerned to vindicate the interests of his own class against the great forces of society; his object is to safeguard the authority of the Government with which he feels himself identified."[499] Indiscriminate favoritism can in no way be in the interest of the state, and so one of the positive effects of individual bureaucrats coming to identify themselves so closely with the state is that they will apply the law with favor and prejudice toward none. It is a requirement of practical German unity that East-Prussian officials be moved to Nassau, and Hessians moved to Silesia; only the particularistic Philistine bemoans it when the national state exercises its right reason in such a measured and cautious

[498] Ibid., p. 179.
[499] Ibid., p. 535.

way."[500] Although Treitschke in no way argues for anything like "descriptive representation" in the bureaucracy, he allows that shuffling bureaucrats around has great benefit, as it is "recruited from such various sources, and presents such different types of education that generally we may safely expect social justice at the hands of the monarchical bureaucracy."[501] All in all, Treitschke holds that the Prussian legacy with regard to fairness is a very positive one that carries on into the latter half of the nineteenth century, observing, "The reputation for equity enjoyed by Prussian Civil Servants was well deserved."[502]

Like Schmitt, Treitschke also praises the intellectual superiority of the German bureaucracy, which he puts down as due to "the intellectual test of examinations that divides the superior officials from their uncertified subordinates."[503] Treitschke allows that this German preference for examinations "is thoroughly deep-rooted in the somewhat theoretic idealism of our race," which, however, "has proved itself to be true."[504] The use of a merit-based system of examinations, introduced in Prussia at a very early date, also serves a legitimizing function, as it ground the status and position of any given official on something less arbitrary than the whim of a monarch or the leader of a victorious political party. Once established in his position, the civil servant enjoys effective life tenure, which enables them to enjoy a degree of independence. Like Schmitt, Treitschke values this independence of the bureaucracy, which he contends is due to the permanence of the tenure of officials, for it is only under conditions of security from arbitrary sanction by politicians that a bureaucracy can "develop the characteristics of trustworthiness and

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[500] Treitschke, *Das constitutionelle Königthum in Deutschland,* p. 550.
[501] Treitschke, *Politics*, vol. II, p. 535.
[502] Ibid., p. 529.
[503] Ibid., p. 435.
[504] Ibid., p. 525.

honour."[505] Furthermore, given that the German Civil Service in the Second Reich was officially an instrument of the monarch, the loyalty of the civil service was supported by an ancient monarchical tradition, and also further reinforced the status of the bureaucracy as a thing set "above" civil society. Furthermore, the bureaucracy in Germany is also depicted by Treitschke as unshakably loyal to the law, that it is inconceivable that, following a victorious revolution in Berlin, that the bureaucracy would serve the winner—for this reason, too, Treitschke calls the bureaucracy a support for the throne in times of trouble.[506]

In the army and the bureaucracy the means whereby the state could resist the "enemies of the state" were present, according to Schmitt, but ultimately they were to suffer a failure of political will. Yet these institutions had long successfully supported the Prussian monarchy, and had found a deep-seated place within the state that could serve as a conservative site of resistance to the increasing encroachment of civil society into the political realm. The language Schmitt uses to describe his admiration for the army and the bureaucracy is highly unusual—usually, the intrusion of civil society into the state is described by Schmitt as an inevitable process, yet the army and the bureaucracy of Germany were able to resist it for a hundred years.[507] Schmitt argues that the gradual weakening of the military- and bureaucracy-state was due to an internal contradiction in the constitution of 1850. This constitution combined the elements of the liberal constitutional-state with the residue of the monarchical state, i.e., the army and the bureaucracy, that were to serve as the effective bearers of "statehood," thus "The state

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[505] Ibid., p. 526.
[506] Treitschke. *Das constitutionelle Königthum in Deutschland,* p. 548.
[507] Schmitt, *Staat, Bewegung Volk*, p. 31.

power-apparatus and the state-bearing organization collapsed together."[508] It is in this context, the context of the thirtieth of January 1933, that Schmitt wrote, "Hegel died."[509] The adaptation Schmitt believed—however earnestly or not—would prove to be the salvation of the German state was the formula of State, (National Socialist) Movement, and (German) people. And yet, even after Hegel's death, "The parts of Hegel's powerful corpus that prove to be enduringly great and German continue on in the new construction."[510] Therefore, the army and the bureaucracy could continue to serve as supports of the state, provided that the state could be constituted on a new basis.

After 1918, the old military- and bureaucracy-state, the state that created and served the Hohenzollern dynasty of Prussia, was dead, yet the bureaucracy and army themselves continued on. Schmitt hoped that the tradition of independence and the strength of these institutions would provide a standpoint of resistance to the particularistic forces of civil society. This would preserve an independent reserve of power with which the state might defend its interests against particularism, while maintaining Germany's status as a European power. Only then could civil society, essentially a *bellum omnium contra omnes,* be held in check through the plentitude of state power.

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[508] Ibid., p. 31.
[509] Ibid., p. 32.
[510] Ibid., p. 32.

CHAPTER 7

The Search for Political Unity

Germany achieved political unity as a nation later than any other major European nation, and, consequently, one sees that this concrete situation gives rise to an absolute insistence upon the unity of the state in conservative German political thought. Günter Maschke begins his exhaustively annotated collection of Carl Schmitt's writings on international law and politics with an expression attributed to Schmitt: "Every sentence is an answer—every answer answers a question—every question emerges from a situation."[511] This absolute insistence upon the concrete situation is typical of Schmitt, and has been the main interpretive guide in developing the understanding of Schmitt presented here. This understanding can be summarized thusly:

1. Carl Schmitt's political ideas belong to the nineteenth century, to the time when Treitschke triumphantly chronicled German ascendancy and the road to political unity, and it is akin to Treitschke's in advocating for the supremacy of the state.

2. Schmitt and Treitschke share an understanding of the state is that which is developed by Hegel in *Philosophy of Right*, but this state theory has been altered so that the theme of the state as a power over civil society has become the central theme, with more emphasis on the power of the state, thereby enclosing the Hegelian core of this theory of the state with a Hobbesian outer layer.

3. The main problem confronted by Schmitt is how to recreate the political stability Germany had known before 1918. Schmitt does this in various ways, but mainly he works to recreate the features of the *Kaisarreich* that had worked in the

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[511] Schmitt, *Frieden oder Pazifismus? Arbeiten zum Völkerrecht und zur internationalen Politik, 1924-1978*, p. XXIII.

past, namely by laying a heavy emphasis on war, duty to the state, and the power of the state.

There are, of course, different ways to address Schmitt's political theory. Because he so often wrote in response to shifting political conditions, Schmitt's work often defies attempts to derive a universal theme or area of concern. The three identified here—war, duty to the state, and power—are necessarily broad conceptual categories. Yet, despite this broadness, they do have the advantage of simplifying Schmitt's political theory, which is diffuse in the subjects and contexts it takes up. Schmitt is in favor of war, in favor of duty to the state, and in favor of state power, because these things help protect the political order that he sees as fragile and continually endangered by the threat of civil society. For Schmitt, the state is by nature a unity, but this unity is threatened the more the state is regarded as the tool of private interests in civil society, and all the more when liberalism, the ideology of civil society, becomes dominant in public discourse. In short, though Schmitt sometimes appears ambivalent about the continued relevance of the state/civil society construct as a useful one for the analysis of politics, he nevertheless does not succeed in moving beyond it, and consistently favors policies he believes will bolster the unity of the state against the atomism civil society.[512]

Schmitt was an original thinker who was a member of a longstanding tradition of German conservatism. Nonetheless, the original elements in Schmitt can only be understood if it is first understood what is not original, and how Schmitt's deviations from tradition are also important for understanding his work. For this reason, Schmitt has been treated here primarily as a traditional German conservative, using the work of

[512] On Schmitt's ambivalence toward the state/civil society construct, see Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt*, pp. 102-104.

Heinrich von Treitschke as an interpretive touchstone. That Schmitt is a member of the German tradition of conservatism is well-established in the Schmitt literature, yet even here, there is controversy: many who are inclined to use Schmitt in the search for answers to contemporary problems in political theory tend to understand Schmitt as either radically original, or as a traditional conservative, whereas those who would dismiss Schmitt or who are interested in him only to establish guilt by association with him tend to dismiss either view as indefensible apologetics on the behalf of a confirmed Nazi. Gottfried objects to this position, writing: "Schmitt in fact expounded a modified traditionalist view of the state that had little in common with Nazi theory or Nazi practice."[513] Similarly, Bendersky writes that Schmitt's theory "with its emphasis on traditional institutions, community, and cultural foundations, reconfirms that Schmitt remained primarily a traditional conservative."[514] In this chapter, I will review three themes that loom large in traditional German conservatism, here, again, exemplified by Treitschke, and Schmitt's own work, and examining how these themes are treated in the Schmitt literature. These themes are: the state/civil society divide, executive/legislative dominance, and the relationship between the political and the state.

Civil Society and the State

Many of the mechanisms, concepts, and constructs Schmitt develops are designed to buttress the presumably fragile state against the onslaught of civil society. Schmitt is like earlier German conservatives in advocating a strong state standing above civil society, yet he is different from them in that he depicts the state as vulnerable whereas

[513] Gottfried, *Carl Schmitt: Politics and Theory,* p. 9.
[514] Carl Schmitt, *On the Three Types of Juristic Thought*, Joseph Bendersky, ed. & trans. (Westport: Praeger, 2004), p. 2.

earlier conservatives had faith in the strength of German institutions. This meant that Schmitt was in a lonely place in 1918: his natural allies on the right did not foresee the revolution, while his enemies on the left did, and called it a good thing. Schmitt was alone in foreseeing both the inevitability of the revolution and its costs to Germany, and this event was to influence his preference for a strong state for years to come. Yet Schmitt was not alone in conceptualizing the revolution as a revolution by civil society against the state, for such was the standard conservative view.[515] This view holds that civil society is inherently subject to upheavals, consisting as it does of a latent *bellum omnium contra omnes*, to use Treitschke's conceptualization, and so it may revolt against the state at any point when the state appears weak.[516] This is only the most extreme danger posed to the state, of course, as civil society may also violate the proper relationship between it and the state by using the legislature to transform it into a quantitative total state, wherein the only function of the state is to dole out goodies to various groups within civil society.

It is precisely this problem—the relationship between the state and civil society—that emerges as the central problem in Schmitt's work, the problem that much of his theory seeks to address. There is nothing "provocative" or "original" any more about the claim that civil society endangers the state, which is significant in itself. Carl Schmitt's most provocative and original ideas came about while struggling with a problem that dates back to the nineteenth century, one that Schmitt himself saw as being erased, in that civil society was increasingly infiltrating the state. In this sense, Carl Schmitt's struggle

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[515] As opposed to the Marxist account, which would hold it to be a revolution of the proletariat against the bourgeois state, or a liberal account, which would see it as a revolt of free individuals against an oppressive, imperialistic monarchy.
[516] Treitschke, *Politics,* vol. I, p. 45.

with this conception is similar to what Strauss wrote on Schmitt's relationship to liberalism: though Schmitt sees a horizon beyond concepts of civil society and the state, he is unable to reach it.[517] Thus, though Schmitt expresses admiration for Prussian absolutism of the first half of the nineteenth century and the soldier and civil service-state of the second half, he does not call for the restoration, which is no longer possible, but rather for a state that is strong in the same way, preserving the best of the German tradition of the strong, unified state.[518] Finally, contrary to those who see Schmitt's Weimar-era production as proto-Nazi in character, the state Schmitt describes is strong not because it serves to oppress civil society, but because only a strong state could preserve social and individual freedoms, as a weak state would have to trample upon them out of necessity.

That Carl Schmitt's political theory is motivated by the concern that civil society has made and is making encroachments upon the political realm of the state is a proposition that is strongly supported by the literature on Schmitt. Jerry Muller's analysis of Schmitt frames him as a "radical conservative," which, like what is presented here, affirms that Schmitt is part of a tradition of German conservatism, but is dissimilar in that it emphasizes the ways in which Schmitt breaks from it, whereas here my goal is to examine the continuities. Yet he, too, acknowledges the importance of the state/civil society divide, writing that Schmitt's "analysis of Weimar politics owed much to a Hegelian tradition which criticized contemporary politics for the encroachment of the

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[517] In fact, Schmitt's inability to move beyond state/civil society dualism is part of Schmitt's inability to transcend liberalism. Strauss, "Notes on Carl Schmitt's *The Concept of the Politica,*." p. 107.

[518] Many who were similarly conservative did argue for the restoration after World War I. See Balakrishnan, *The Enemy*, pp. 87-89. In contrast, Schmitt writes about the monarchy as a thing of the past already in 1921: "... the historical value of the absolute monarchies of the 18th and nineteenth centuries that they nullified the power of feudalism and the *Stände*, thereby achieving a sovereignty in the modern sense of the unity of the state." Schmitt, *Die Diktatur*, p. 204.

economic interests of civil society upon the state, a tradition which reached back to Lorenz von Stein and to Marx."[519] Here, Muller has stated the matter exactly right, incorporating both Schmitt's concern for the proper relationship between civil society and the state and his revulsion at "economics as destiny."[520] George Schwab, the scholar who probably has done the most individually in the Schmitt revival in the United States, also stresses the importance of the state/civil society relationship: "Schmitt *constantly emphasized* the importance of the state's capacity of standing apart from society, for it must serve all of society instead of egoistic forces within society.... For a state to be a true state it must not only serve all of society, but the goal of true political leadership should be, according to Schmitt, to serve higher interests, rather than narrow party concerns."[521] Schwab here shows not only the centrality of the state/civil society divide for Schmitt, but also the way it is intimately related to his critique of parliamentarianism.

What is missing from these treatments of Schmitt's conception that civil society is encroaching upon the state is not the recognition that this idea is indeed central or pivotal for Schmitt. It is rather that there is a failure to ask the question of the extent to which any attempts to instrumentalize Schmitt's various solutions to this problem should be conditioned by recognition that the encroachment of civil society upon the state *is* a problem. This requires that we adopt Schmitt's position on the need for unity within the state and his critique of liberal pluralism as conceptually valid. Though it is common to bring up various concrete contemporary concerns that various authors seek to address using Schmitt's proposals, the issue of state/civil society dualism is never one of them.

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[519] Muller, "Carl Schmitt, Hans Freyer and the Radical Conservative Critique of Liberal Democracy in the Weimar Republic," p. 711.
[520] Schmitt, *Der Begriff des Politischen,* p. 76.
[521] Schwab, *The Challenge of the Exception*, p. 77. Emphasis added.

Schmitt is very clear on the point that the qualitative total state, too weak to protect itself against becoming the mere instrument of diverse social passions, would also be too weak to defend itself either from external military threats or to preserve the public peace in the face of the internal discord that would be inevitably engendered by such a state, and yet the failure of this prediction to materialize is treated as a matter of such little consequence that it is not treated at all.

If the predicted problem has failed to materialize as Schmitt predicted, then why is there interest in applying his solution to some other problem? If we accept democracy as good, then why do we also accept the proposition of limited government, which Schmitt tells us evolved out of the bourgeois confrontation with absolute monarchy, a political form that no longer need hold any terror for us in the modern west? One possible reason is Schmitt's definition of man as a dangerous animal. Curiously, however, Schmitt also holds that liberalism denies the prospect that man is a dangerous animal, yet, if this is true, why did the American founders include specific protections of the minority in the Constitution? Moreover, if we do not share Schmitt's belief that the state should stand above civil society, but instead accept the modern welfare state as a political form that successfully responds to the desires of the people, there is little reason to adopt any of Schmitt's reform proposals, or even to accept his critique of liberalism, predicated as it is upon normative assumptions that favor the autonomy of the state as a political unity.

If we are interested in Schmitt as a critic of liberalism, then we should understand the great extent to which this critique relies upon a traditional view of the proper relationship between civil society and the state. Although Schmitt was not a system

builder, the problem of state/civil society dualism is one that is essential to his thought, and is, in fact, a component of his critique of liberalism. Schmitt invites us to question along with him the individualism of liberal political theory, to adopt the viewpoint of the state, to reject the economism of civil society and to look at politics politically. If traditional German conservatism is too state-centered, it may also be the case that liberalism is too inimical to the state.

At the same time, it should be recognized that the quantitative total state does represent a theoretical maximization of state involvement. Although Schmitt does represent it as a concrete historical possibility, and even probability, it is possible to reconceptualize the quantitative total state as a theoretical endpoint, a theoretical maximum of state intervention. A state that is that involved in the lives of citizens must necessarily be one in which freedom is greatly abridged in ways that most liberals would not accept. At the same time, Schmitt's writing on the state/civil society divide also alerts us to the problem that the state may be taken over by civil society, that a set of narrow, particularistic interests could rule, and even obtain a lock on government to ensure a steady stream of benefits at the expense of the common good. Schmitt's lack of faith in institutional checks, balances, and separation of powers reveals a chilling possibility that even liberal democracies could become tyrannical under the right conditions. It is certainly possible to take Schmitt seriously and his suggestions for modern politics seriously without following them through to their authoritarian conclusions, however, but disengaging them from the problems Schmitt hoped to address is an altogether too facile way of dealing with problems Schmitt believed were intractable.

Executive/Legislative Dominance

Schmitt is an enemy of parliament, while simultaneously endorsing democracy based on the identity of rulers and ruled.[522] Although this position contradicts the entire liberal tradition of parliamentary democracy, Schmitt's argument that the equation of democracy with legislative institutions is a dubious one is an insightful contribution—his insistence upon the point that they are actually contradictory is a brilliant one.[523] Although Schmitt is often depicted as an opponent of democracy, in *Die Geistgeschichtliche Lage des heutigen Parlamentarismus* he assails democracy from the democratic point of view, contending that what we understand as parliamentary democracy fails because it is not democratic enough: "That "cunning" of the idea or the institution simply fails to function anymore, and instead of a state will, the end result is merely an aggregate of momentary and special interests, lopsided from every angle."[524] Here, Schmitt introduced the concept of the "state will" as distinct from the mere aggregate of momentary and special interests, the only kind of interest he sees as being possible in a parliamentary democracy. Parliaments are inherently pluralistic, incapable of representing the general will, which is understood as a unitary will, reflecting Schmitt's understanding of the nation as a *politische Einheit.* As a solution to this, Schmitt introduces an obviously monarchical element to the democratic constitution, a strong executive endowed with plebicitary democratic legitimacy, truly capable of representing the state as a political unity.

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[522] Schmitt, *The Crisis of Parliamentary Democracy*, pp. 34-36.
[523] Ibid., pp. 1-17.
[524] Schmitt, *Der Hüter der Verfassung,* p. 88.

Mark Lilla quite rightly points out that the title of the English translation of *Die geistgeschichtliche Lage des heutigen Parliamentarismus* as *The Crisis of Parliamentary Democracy* "is quite misleading, since Schmitt's point is that 'parliamentarism' is not democratic and therefore lacks legitimacy."[525] All agree that Schmitt holds that parliamentary democracy, or the legislature, flounders because of the problem that the general will—or, rather, the will of the state, cannot be determined by the means employed by modern legislatures. As David Dyzenhaus writes: "either the common will is arbitrarily determined by the state, embodied in a strong executive, or it is reduced to whatever uneasy agreements are reached between particular interests."[526] William Scheuerman also reads Schmitt as a harsh critic of parliaments, noting that Schmitt holds that legislators lack the "time necessary to scrutinize legislative proposals; those pulling the strings are party bosses able to manipulate the meanest human instincts; parliament rarely exercises even a minimally critical function in relation to the executive."[527] According to this view of Schmitt's, given that real power will reside with the executive anyway, why not grant this power officially, and reconceptualize the nature of the executive so that it appears democratic, rather than potentially tyrannical.

The theme of Schmitt's critique of parliament, and his insistence on the power of the executive, has been well addressed by the secondary literature. The understanding of Schmitt developed here is in full agreement with the depictions of Schmitt's understanding of parliament as a pluralist institution that serves to facilitate the invasion of civil society into the political. The interpretation of this element of Schmitt's thought

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[525] Mark Lilla, *The Reckless Mind: Intellectuals in Politics,* (New York: New York Review of Books, 2001), p. 60.
[526] Dyzenhaus, *Law as Politics*, p. 110.
[527] William Scheuerman, *Carl Schmitt* (Lanham: Rowman & Littlefield, 1999), p. 194.

is mainly one of emphasis, in that Schmitt's preference of an executive-dominated democracy whose "rule is stricter and harder, whose regime is more decisive than any patriarchal monarchy or cautious oligarchy" can be understood better when it is assessed in the context of the tradition of the *Machtstaat* and Schmitt's own preference for a strong state.[528] Moreover, the critique of checks and balances Schmitt uses as part of his critique of parliamentary democracy has its precursor in Treitschke's critique of the same liberal concept as detrimental to the power of the state. Schmitt's understanding of democracy as containing its state essence in the identity of ruler and ruled also reveals his conservatism in bringing antique concepts to bear to modern political problems, a tendency that is also well understood by framing Schmitt as a member of the *Machtstaat* tradition. In the Weimar era, Schmitt confronted a regime that claimed to be democratic, yet he earnestly felt that any state form or regime must be strong enough to resist the centrifugal forces of pluralism. Any understanding of Schmitt's real view of democracy cannot be a simple one, as Kalyvas acknowledges: "Although Schmitt's thought remained faithful to the strategic goal of discovering an institutional surrogate for monarchical authority in modern, democratic times, he addressed this challenge variously, advancing divergent designs at different moments of his theoretical development."[529] The view presented of Schmitt here has been one that emphasizes what we can agree upon about Schmitt, which is that his vision of a strong executive and weak legislature is an attempt to provide "institutional surrogate for monarchical authority," and as such Schmitt still has in mind the political order of Germany in the nineteenth century.

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[528] Ibid., p. 236.
[529] Kalyvas, "Who's Afraid of Carl Schmitt?" p. 106.

Yet it is clear that all concrete examples of democracies fall short of Schmitt's theoretical democracy based on the expression of a homogeneous state will. Thus, if we understand Schmitt as any sort of proponent of democracy, it is useful to consider him an opponent of "actually existing democracy," just as many western Marxists chose to describe themselves as critics of "actually existing socialism" during the Cold War. If democracy means power to the people, Schmitt's choice is to maximize that power, and do away with the system of checks and balances he regards as impediments to democratic rule: "A threefold separation of powers, a substantial distinction between the legislative and the executive, the rejection of the idea that the plentitude of state power should gather at any one point—all of this is in fact the antithesis of a democratic concept of identity."[530] This conception of democracy—that if it is to be a meaningful form of regime and not a sham, it must throw aside all impediments to the expression of the will of the political unity—is consistent with the emphasis on state power that is developed by Schmitt.

The Political and the State

In the Anglo-American Schmitt reception as a whole, *The Concept of the Political* remains Schmitt's most cited work. This short work is held to have the significance that Ernst Jünger expressed when he called it "an unusual military-technical discovery: a mine that silently explodes."[531] Schmitt deploys this mine against liberalism with the overall objective of rejecting a world devoid of what he regards as moral significance, a world

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[530] Schmitt, *The Crisis of Parliamentary Democracy*, p. 36.
[531] Ernst Jünger, "Letter from Ernst Jünger to Carl Schmitt dated 14 October 1930," in Helmut Kiesel, ed. *Ernst Jünger – Carl Schmitt Briefe 1930-1983* (Stuttgart: Klett-Cotta, 1999), p. 7. Cited in Balakrishnan, *The enemy: An Intellectual Portrait of Carl Schmitt,* p. 132.

wherein economics is destiny and peace is universal. The concept of the political, the distinction between friends and enemies, thereby serves to reintroduce moral seriousness by recentering politics around the possibility of war.

It is also generally agreed that the concept of the political is introduced by Schmitt as a substitute for the state in the study of politics. There is, however, a certain amount of ambiguity in Schmitt's concept of the political that is reflected in the literature. For example, Schmitt writes, "The equation state = politics becomes erroneous and deceptive at exactly the moment when state and society penetrate each other."[532] Yet Schmitt often writes as though there were a functional equivalence between the state and the political, as Kalyvas correctly notes: "Paradoxically enough, although Schmitt sought to distinguish the state from the political, he ultimately returned to a fusion of the two, so characteristic of liberalism."[533] The moral seriousness with which Schmitt imbues the political is transferred to the state. Thus, *The Concept of the Political* is an argument for the absolute autonomy of the state while appearing to be only an argument for the abstract category of the political. Instead, the political becomes the sovereign domain of life: "since the political sphere decides in the most extreme cases, it should also normally govern other spheres of human activity."[534] In this way, Schmitt counters the view that "economics is destiny," affirming the purpose of the state by arguing, "the political is destiny."

What I have presented here is, if not a disagreement with this view, is at least a clarification of it. Given that Schmitt takes a very state-centered view of politics, it does

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[532] Schmitt, *The Concept of the Political*, p. 22.
[533] Kalyvas, "Who's Afraid of Carl Schmitt?" p. 101.
[534] Charles E. Frye, "Carl Schmitt's Concept of the Political," *The Journal of Politics*, 28:4 (November, 1966) pp. 818-830, p. 825.

not fit well with his overall theory to hold that Schmitt aims for the outright *replacement* of the state with the concept of the political. I have suggested that Schmitt sees the state as power, yet that this power has been weakened by the increasing democratization of modernity. This view of the state leads to a great deal of divergence in how Schmitt depicts the state: on the one hand, the state is vulnerable, yet it is also unavoidable, a fact of modern life increasing in its scope. It is in an effort to deal with this unavoidability that Schmitt develops the concept of the political. The concept of the political, the friend/enemy distinction, serves as a powerful justification for the state: given the ever-present possibility of war, even if we were to somehow do away with the state, we would have to reinvent it quickly or risk the existential threat posed by the enemy, i.e., the massacre of an unarmed and pacifistic liberal multitude by the armed enemy. The political is therefore not equivalent to the state, but serves rather as a domain for the autonomous exercise of state power, just as the economy is seen as the domain of bourgeois civil society. Thus, as Müller writes, "Schmitt reaffirmed the distinctiveness of the state by emphasizing the power to demand the sacrifice of the individual's life for the sake of the political unit."[535] We see here how the themes of war, duty, and power are united in Schmitt's concept of the political: the fact of war obligates us to serve as an instrument of the power of the state.

The concept of the political is a particularly powerful tool in Schmitt's argument for a strong state, standing over civil society. Like so much else in Schmitt's work, this concept has an antecedent in Treitschke's political theory, as he also attempted to devise a concept of the political that would oppose the concept of the social: "there is a natural

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[535] Müller, *A Dangerous Mind: Carl Schmitt in Post-War European Thought,* p. 53.

distinction between the social and the political conception of the State."[536] The concept of the political—the friend/enemy distinction—serves to give the state its own domain, and avoids the circularity in defining politics as those things pertaining to the state. It also avoids the actual power position of any given state, while serving as an argument for strong states in general. For Schmitt, the political is as unavoidable as the economic, and touches us more deeply, in that it threatens our lives. Given this fact, the fact of the enemy who threatens our existence, we must ask whether we would rather live under a strong state or a weak one. The way Schmitt conceives of the problem offers only one solution, that we adopt the strong state as our model, because weak states have a way of collapsing that is detrimental even to the interests of bourgeois liberals. At the same time, a strong state is held by Schmitt to be the only state that may sensibly protect the division between the state and civil society, as well as individual freedoms, because "Only *a very strong state* would be able to dissolve this coalescence of all kinds of non-state businesses and interests."[537] Schmitt's answer to the threat posed by external enemies is the same as that he offers for the quantitative total state: a *very strong state.* The role of the political to the state greatly resembles the economic is for civil society, in that it is an unavoidable reality of collective life: in this way, the political becomes a counterbalance to the economic. More than that, because the stakes are higher, indeed, a matter of life and death, the political serves to justify the strong state and to neutralize the economic demands of bourgeois civil society. The fact of external enemies therefore serves to reinforce Schmitt's call for a strong, unified state that is able to avoid the total submission of the state to lowly economic ends.

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[536] Treitschke, *Politics*, vol. I, p. 49.
[537] Schmitt, "Strong State and Sound Economy: An Address to Business Leaders," p. 221. Emphasis in the original.

An additional understanding developed here is that the concept of the political and the state should also be seen in terms of the concrete institutions of state power: the army and the bureaucracy. These specific institutions are ones that Schmitt sees as particularly well suited for the "political procedure" of the "separation of the state from non-state spheres:"

> And first, because we are dealing here with a process that is primarily political, one ought to start with the state. The state ought to again be a state. The first prerequisite is obviously a *bureaucracy,* which is not a prop nor an instrument of party-political interests or aims. today every German feels that safeguarding the *armed forces* unpolluted by party politics is the equivalent to having served Germany and the state. The armed forces were able to elude that murky flood. This can also be an encouraging paradigm for the rest of the German bureaucracy. It demonstrates that non-partisanship and a disposition towards the state are still possible and are not at all utopian.[538]

Here, again, we see that the political "starts with the state," revealing that the political is not really a replacement for the state, but a concept inextricably bound to it. In concurrence with the reading of Schmitt developed herein, Schmitt here depicts the army and the bureaucracy as essential neutral preserves of the state, and he holds out the hope that, while the bureaucracy did (in Schmitt's view) acquiesce to the political will of the political parties then dominant in the Weimar Republic, it might nonetheless develop itself into an independently neutral force of the state, like the army, in effective opposition to the non-state will being expressed in and by the legislature. These institutions are to serve as the redoubts of the state against the onslaught of party politics. This view of the army and the bureaucracy as a neutralizing force serving to restrain the politicization of the affairs of civil society once again demonstrates Schmitt's preference for a *Machtstaat* view of politics, one wherein "Every state is anxious to acquire the

[538] Ibid., pp. 221-223. Emphasis in the original.

power needed to exercise its political domination."[539] At heart, therefore, every state is a *Machtstaat*, and those that do not adopt this practice are unlikely to long endure.

[539] Ibid., p. 216.

CHAPTER 8

Conclusion

Schmitt is most frequently understood in contemporary political theory as a perceptive critic of liberalism, particularly in the Anglo-American context, yet this is not the only way to understand Schmitt. I have argued that such an understanding of Schmitt is insufficient, because it fails to offer an appreciation of the extent to which Schmitt was concerned with offering a positive program that could be applied to solve Germany's concrete political problems. It is true that Schmitt was not a system builder, and that he entertained different objects of interest at various times in his career, making him hard to pin down. Nonetheless, if we focus on Schmitt as simply a critic of liberalism we are apt to miss the context within which that criticism occurs, and therefore may misinterpret the substance of the criticism itself. Schmitt adopts a conception of politics that relies upon a series of conceptual categories and concepts that are in opposition to one another. Although Schmitt writes that democracy demands the abolition of these categories, Schmitt nonetheless uses them, as he understand the abolition of these categorical antitheses to be a bad thing.[540] Schmitt adopts many of the conservative positions popularized earlier by Treitschke, including the crucial idea that the primary political contradiction in the nineteenth century was between state and society. The problem of modern politics, from this viewpoint, is that society won, and it seeks to dissolve these essentially political contradictions in our own time. The problem that Schmitt never fully resolves is that he views these contradictions as essential, and so they cannot be effectively dissolved, no matter what liberal ideology or politics would demand, except perhaps through a form of false consciousness. Thus, part of his project is to argue for

[540] Schmitt, *The Concept of the Political*, p. 23.

the continued relevance of these oppositions between friend and enemy, land and sea, political and apolitical, state and society, and nationalism and internationalism, in an effort to avoid the victory of the economic over the political.

It was in this effort that Schmitt deployed the concepts and categories that have merited sustained interest in his work: the political, sovereignty, homogeneity, decisionism, the state of exception/emergency, dictatorship, and constituent power. Although these subjects occupied Schmitt for a lifetime, it is possible to sum up the relationships he develops between them in a sentence or two. Underlying these concepts and categories, I have argued, is a fundamental preference for the old order, and a committed search for a way to accomplish the "rescue of everything that was strong and vital in the German state of the nineteenth century."[541] Schmitt has an aesthetic revulsion at the figure of the bourgeois, at the reduction of human life to buying and selling, and an affirmative outlook on war, duty, and power. I argue that this aesthetic does not belong to the category of what one author calls "instinctive preferences," but instead that it reflects a view he shares in common with the nineteenth century advocates of a strong state, such as Treitschke.[542] Schmitt's work from the twenties and thirties, which has been the period of most interest to contemporary political theory, assumes, often in an unspoken way, and sometimes in a deliberately obscure way, a positive normative value for the state theory and institutions of the nineteenth-century Prussian/German *Machtstaat*.

It could be objected that Schmitt often denied a normative component in his theory. To take one element that I have proposed is central, Schmitt specifically states,

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[541] Schmitt, "Neutralität und Neutralisierungen," p. 333.
[542] Gershon Weiler, *From Absolutism to Totalitarianism: Carl Schmitt on Thomas Hobbes* (Hollowbrook: Durango, 1992) p. 164.

"war ... has no normative meaning, but an existential meaning only, particularly in a real combat with a real enemy."[543] Yet it is clear that Schmitt sees war as a struggle for existence on the part of a given political entity, so if we think that the continued existence of a given political entity is good, then a victorious war is good. Moreover, it is clear that Schmitt prefers war to the alternative, which he sees as the victory of apolitical and depoliticizing forces of liberalism. To understand Schmitt, we should understand that his concept of war is opposed to a pacifistic liberal concept of peace that he saw as hypocritically decrying war as a tool of high politics while advocating war for economic advantage: "War is condemned but executions, sanctions, punitive expeditions, pacifications, protection of treaties, international police, and measures to assure peace remain."[544] Although it would be wrong to paint Schmitt as a bellicose drum-beater (as Treitschke often was), he does see war as an unavoidable fact of man's political existence, and certainly preferable to hypocritical bourgeois selective "pacifism." Schmitt's critiques of the bourgeois individual, civil society, and liberalism are all of a piece: they reflect, and are perhaps even dependent upon, an insistence upon moral seriousness and a rejection of the modern way of life, which is seen as essentially pecuniary, risk-free and bloodless.

Schmitt's theory of politics is rendered more comprehensible we think of it as a part of a German tradition of conservative state-teachings that is exemplified by the work of Heinrich von Treitschke, as school of thought that has as its central idea the advocacy of a *Machtstaat*, a powerful state able to preserve itself against foreign and domestic enemies. In the case of Carl Schmitt, who wrote for such a long period of time and so

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[543] Schmitt, *The Concept of the Political,* p. 48.
[544] Ibid. p. 79.

prolifically, it can be hard to draw the dividing line between what is significant in any given case and what is not. Compounding this issue is the problem of works that are available in translation, versus those that are not, have given those scholars specializing in the translation of Schmitt something of a monopoly in determining what is important for Schmitt scholarship in English. A significant concern that arises in this context is the significance of Schmitt's 1933 conversion to Nazism. One of the problems of Schmitt's Nazism for those interested in his political theory is that his Nazi-era work tends to be discounted. For example, all of Schmitt's major Weimar-era works are now either translated, in the process of being translated, or in the process of publication, yet only one of Schmitt's Nazi-era works has been published.[545] This has been a central issue of the debate on the continuing significance of Carl Schmitt. Does his involvement with the Nazis mean we should disregard all of Schmitt's work, only that written while he was a party member, only that written during the entire Nazi era, or all of Schmitt's work after joining the Nazis, to include his post-war production?[546]

The significance of these concerns is that biography and theory intersect in Schmitt in a way that they do for few other writers. Another way to put this question would be to ask what the pivotal date in Schmitt's life and career was. For those who reject Schmitt's work as fascist or proto-fascist, that date would be May 1, 1933, the date when Schmitt joined the Nazi Party. For those who take this view, Schmitt's Weimar era

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[545] The sole exception is: Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes*, George Schwab, trans. (Westport: Greenwood, 1996). This work is significant, however, in that it was written after Schmitt's personal involvement with the party had ended, and was also intended by him as a book on a "safe" (i.e., removed from entanglement with Nazi ideology) topic.

[546] For some, this is a personal as well as academic question. One writer, noting that ten of twelve of his maternal grandfather's immediate family died in the Holocaust, writes of his relatives in "A Personal Note" appended to the end of an article: "Unlike Carl Schmitt, they did not live to be 96 years old or fulfill their individual potential, because they were decreed to be the public enemy, and for so many of Schmitt's ilk, also a very private enemy." Oren Gross, "The Normless and Exceptionless Exception: Carl Schmitt's Theory of Emergency powers and the 'Norm/Exception' Dichotomy," p. 1867

work looks clearly toward the Nazi state as the solution to political disorder, and they read the strong state Schmitt describes to mean fascism.[547] For those primarily interested in Schmitt's work specifically as a legal theorist, the pivotal date might be July 20, 1932, the date of the *Preußenanschlag*, which very well may not have been successful, if not for Schmitt's work on behalf of the Papen regime.[548] For those who are interested in Schmitt's later contributions and the question of his intellectual legacy, the pivotal date would be April 30, 1945, when Schmitt, serving in the *Volkssturm*, was captured by the Red Army.[549] While these approaches are all valid, I am proposing a different understanding of Schmitt. According to the understanding of Schmitt as a fundamentally nineteenth-century thinker, one who follows in the same tradition as Treitschke, the decisive date for understanding Schmitt's career would be November 30, 1918—the date of the proclamation of the abdication of Kaiser Wilhelm II. From that date forward, the Germany struggled for a stable political unity, which would not truly be achieved until reunification in 1989, a full four years after Carl Schmitt's death.

Schmitt's theory of politics is conditioned by history and culture. Schmitt was very much a product of German culture and education, and he writes consciously as a German: in addition to any worth his ideas may have for posterity, Schmitt's work is always intended to be relevant to some present political problem, the most fundamental of which is the problematic status of the state as a neutral authority above civil society in an age of increasingly democratic politics. This means that Schmittian concepts and

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[547] See, for example: Drury, *Leo Strauss and the American Right.*, and Wolin, "Carl Schmitt: The Conservative Revolutionary Habitus and the Aesthetics of Horror." Only recently has a an author attempted specifically to address Schmitt's major works of the Nazi period in a book-length work in English—naturally, she, too takes 1933 to be the relevant date of the "split" in Schmitt's thought. See: Ellen Kennedy, *Constitutional Failure: Carl Schmitt in Weimar* (Durham: Duke University Press, 2004).
[548] See, for example: David Dyzenhaus, "Legal Theory in the Collapse of Weimar: Contemporary Lessons?" *The American Political Science Review*, 91:1 (March, 1997): 121-134.
[549] See, for example: Müller. *A Dangerous Mind: Carl Schmitt in Post-War European Thought.*

categories carry as a "surplus value," the residue of the political history of Europe generally and Germany in particular. This fact has much significance for how we read Schmitt. For example, Schmitt follows Treitschke's lead—and that of the popular opinion in Germany—in understanding that the nineteenth century was liberal in its essence. I have argued that the central effort of all of his subsequent work is to understand what the essence, the *zeitgeist* of the twentieth century would be, and how the political categories and concepts developed in the nineteenth century worked themselves out in our own time. Time and time again, Schmitt consciously uses nineteenth century ideas to attempt to understand politics in the twentieth century. In this sense, he is very much a nineteenth-century figure. If we read Schmitt without such an understanding, we are likely to come to very different conclusions about his work than those developed here.

Schmitt sees connections between ideas and concepts, and often even assumes connections, that own time and place may not lead us to see. Americans attempting to understand the concept of constitutionalism, for example, would have a hard time understanding Schmitt if they imposed our own constitutional history and thinking upon him, because, if we are to understand Schmitt's project, we would need to know that he sees constitutionalism arising at a certain moment in history, espoused by the bourgeoisie in their struggle with monarchical authority. Thus, there is for Schmitt a strong connection between constitutionalism, liberalism, and the bourgeoisie, as well as strong anti-monarchical elements that may not be readily apparent to us. So, even though the American Constitution even a great deal more anti-monarchical than the Prussian Constitution of 1850, there is a strong tendency to overlook how this historical fact

shaped the ideas and values of our constitution. Instead, we are more likely to be interested in the problems of constitution that have developed between the founding of the United States and our present age.

I have argued for an understanding of Carl Schmitt's political theory that is sensitive to context. Carl Schmitt certainly was engaged in a critique of liberalism. Given that this same enterprise occupies much of the attention of contemporary academic political theory, it is therefore tempting to turn to Schmitt to inform either our critique or defense of liberalism. All too often, however, Schmitt is turned to not as the insightful diagnostician of Weimar nor as the veteran in the struggle against liberalism who tried (and ultimately failed) to hold back the liberal tide, but rather as a temporary ally who may be selectively quoted in our own effort against our liberal/anti-liberal debating partners. Yet the general crisis of the state that Schmitt faced and confronted in explicitly Hegelian terms, this problem of the relationship between civil society and the state, is not commonly referenced in those terms by many who use Schmitt today. Schmitt develops the solutions to this problem in a way that is mindful of the context of his place and time, yet today only part of Schmitt's diagnosis of the problem—his critique of liberalism as the ideology of civil society—is used. Even then, it is not applied to the problem identified, but in a new struggle over a liberalism that has been much chastened since Schmitt's time.

It is one of the anomalous details of the Schmitt reception that, despite the fact that there are works by Schmitt during the Nazi period wherein he is careful to include Nazi concepts and categories, these works are sometimes ignored in favor of pre-Nazi era works that are then retrospectively imputed to have a fascist character. For example,

Richter cites Schwab's description of what Schmitt would have liked to see emerge as a new political regime in Germany: "Schmitt's authoritarian or qualitative total state is headed by an all powerful sovereign whose main task is to preserve order, peace, and stability."[550] Richter writes that Schwab is mistaken, at best, in taking Schmitt's 1923 *Political Theology* as his authoritative elucidation of Schmitt's theory of political authority, because "Against the background of horror that had been initiated by Nazism and Hitler's instrumentalization of political authoritarianism, Schwab's judgments simply adopted a cynical character."[551] Richter suggests that Schmitt's work of the Weimar period is somehow proto-fascist, and he accuses Schwab of willfully turning a blind eye toward this, as though the choice were between an entirely Nazified Schmitt or an entirely de-Nazified Schmitt. The understanding of Schmitt I have developed here suggests an alternative understanding of Schmitt, so that the phrase "an all powerful sovereign whose main task is to preserve order, peace, and stability" does not evoke Hitler, but instead the figure of a Kaiser, or Bismarck, sufficiently adapted to make such a thing possible in an era of democratic politics. It makes little sense to hold that Schmitt's Weimar writings fully anticipate the nature of the Nazi regime when there is so much to indicate that Schmitt was himself looking backward at the past as well as forward to the future.

What this means is not that Schmitt should be ignored, or moralistically denounced, any more than he should be made into a heroic figure. It means that, if we find Schmitt's prescriptions and solutions interesting and relevant to our own problems and context, then we should also be aware of Schmitt's own context. Our interest in

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[550] Schwab, *The Challenge of the Exception: An Introduction to the Political Ideas of Carl Schmitt between 1921 and 1936,* p. 73.
[551] Richter, "Carl Schmitt: The Defective Guidance for the Critique of Political Liberalism," p. 1623.

Schmitt should therefore lead not only to an examination of the problems with liberalism, that part of his theory commonly deemed most relevant to our own situation, but also an examination of what Schmitt deemed to be the broader problem, which is that of the increasing strength of civil society relative to the state, and its intrusion into the realm of the state, i.e., the political. This may require a certain amount of openness to the question of whether Schmitt's original understanding of the problem is itself correct, and whether it is not this very same problem in a different guise that confronts us today. We are apt to understand Schmitt to be a theorist of tyranny, retrospectively inserting the historical figure of Adolph Hitler into the shoes of Schmitt's authoritarian sovereign. Yet Schmitt's high praise for the Prussian empire and its historical legacy should give us pause in so doing, as it suggests a different model for Schmitt's strong state. Schmitt saves his praise for the monarchy, the form of government wherein the individual rules for the good of all rather than his own good, as the tyrant does. Schmitt's prototypical statesman is not Hitler, but Bismarck.

If Schmitt's greatest weakness is his readiness to overlook the possibility that his strong ruler may turn out to be a Hitler, his most significant contribution to contemporary political theory may be an increased awareness of the danger posed to the state, and to the individual, when pluralistic particular interests manage to control the mechanisms of the state. Liberals generally see threats to liberty as having their origin in the state, especially in the hands of a too-strong executive. Schmitt points out the contrary danger that he sees as emerging from particularistic interests in civil society. Although liberals put their faith in a system of checks and balances to safeguard liberty from what the founding fathers called "factions," Schmitt doubts the adequacy of such measures, and

calls instead for a bolstering of the power of the state. Liberal enmity to the state has reached a high point in the American political discourse, wherein even payment of taxes is equated with the most onerous oppression: the political theory of Carl Schmitt could be a call to "bring the state back in" to contemporary political theory.

Schmitt offers various solutions to the political problems that had their ultimate cause in the collapse of the Second Reich, solutions that varied over time as conditions changed. Much of the writing on Schmitt has focused on the analysis of Schmitt's solutions and debating their applicability to our own context. Less has been done to examine Schmitt's view of the problem and to determine if and how it is related to those that face us. I have argued here that Schmitt understood his time very much in Hegelian terms, and that Schmitt has the same preference for a strong state in the tradition of Prussia as Heinrich von Treitschke. Schmitt knew that advocacy of a Hohenzollern restoration after WWI was politically untenable: instead, Schmitt used the Prussian state as a baseline model for the construction of his. Though he sometimes feigns indifference to political form (i.e., type of regime), I have argued that this is only apparent, that he prefers the Prussian form of a strong state, a qualitatively total state. The type of regime Schmitt seems to prefer shifts over time, from dictatorship to plebicitary democracy, to fascism, yet, despite Schmitt's ambiguity, I have argued that its essence is always the same. That essence, naturally enough, is to be found in power, the duty that binds men to it, and warfare, which is provides the basic precondition for the state and all politics.

In order to understand Schmitt's political teachings, we must first appreciate his account of the fundamental problems of modern politics, which may be broadly described as the totalization of the state through a liberal legislature unable to give expression to

any common vision, and so concerns itself instead with the furtherance of private interests. Rather than simply allowing this, Schmitt proposes a strong state, a *Machtstaat that* gives voice to the common interest as opposed to the particular good of any interest at any given moment. One of the possibilities Schmitt proposes a strong democracy, one based on equality of those within the democracy that "demonstrates its political power by knowing how to refuse or keep at bay something foreign and unequal that threatens its homogeneity."[552] Of course, it would not require that every unequal or foreign element be held in abeyance, only those that threaten to become political. This would serve to maintain the political neutrality of the conflicts within civil society, thereby enabling the state to assume its proper role as an actor on the international stage, a context wherein it is most certainly not a neutral actor, but one that jealously guards the well being of the nation. Such a state would need to intervene most lightly in society, working primarily to ensure that every citizen feels his political duty, so that he is willing to fight against the enemy when need be, a possibility never justifiable in wholly economic terms.

The total state is a paradoxical creature, which is why Schmitt's conception of the quantitative total state as the regime of civil society is useful. In terms of the liberal thought that increasingly operates as its structuring principle, this state represents the ultimate bargain, offering something for nothing. It promises ever-decreasing rates of taxation, while simultaneously growing the government. It is an especially weak state when it comes to demanding anything of its citizens or resisting the demands of powerful economic interests, but it is completely interventionist, engaging whole-heartedly in the economic life of the country, not through central planning or control, but through the distribution of resources to politically favored groups. In this version of "economics as

[552] Schmitt, *Crisis of Parliamentary Democracy*, p. 9.

destiny," goodies are doled out to every private interest able to hire a lobbyist.[553] In many respects, the liberal states of the West seem to resemble the quantitative total state of Schmitt's critique.

The qualitative total state is conceptually distinct from the welfare state that has long been the subject of conservative criticism. It is similar in certain respects: the welfare state as conservatives depict it is said to lower the dignity of its clients, because it makes them dependent and subject to total intervention in their lives as a condition of receiving benefits. This resemblance to the quantitative total state does not run any deeper than the surface of the matter. Schmitt's quantitative total state, as a polemical concept, is directed against any party, whether proletarian or bourgeois, that attempts to make the state the mere instrument of particularistic interests. Unlike conservative critics of the welfare state, Schmitt is not bothered by issues such as wasting taxpayer money or the need to raise taxes so much as he is by the imposition of an unmanageable burden upon the state. Schmitt is capable of making this argument because he has a definite idea of the purpose of the state, which is higher than the mere fulfillment of the various appetites of the people. Without a clear sense of purpose of the state, without *value* attaching to the activity of the state, the liberal state finds itself under pressure from all directions, that it is unable to resist, as liberal ideology actually defines this situation as pluralism, and attaches a positive value to responsiveness to the various economic interests.

Schmitt's critique of liberal political institutions also has the potential to

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[553] Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge: Harvard University Press, 1965).

contribute to contemporary dialogue on the role of groups in democratic politics. This critique, developed in his *Crisis of Parliamentary Democracy* and elsewhere, is part and parcel of his critique of liberalism as a political teaching that leaves the state defenseless against the demands of civil society. Liberal democracy conceives of democracy as the government of the people, and *eo ipso* good, yet the democratic state itself is viewed with suspicion, and must be subject to checks and balances. Thus, the liberal state cannot stand as a neutral force against the particularistic forces of civil society, because its powers are limited by the system of checks and balances. This possibility was not one that is readily addressed by liberal constitutionalism. According to Madison, the United States Constitution is arranged specifically to prevent the capture of the offices of state by any one group: "a religious sect, may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it, must secure the national Councils against any danger from that source: a rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union, than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State."[554] Madison's hope was that the profusion of groups, the constraints of the vastness of the nation, the system of federalism, and the liberal system of checks and balances would prevent something like rule by an excited minority or mob. It is significant, then, that the social element Madison takes to be the most likely source of a threat to the state—a politicized religious sect—is unlike the threat to the state depicted by Schmitt, which is much more akin to the concept of an interest group than it

[554] Alexander Hamilton, James Madison, John Jay, *The Federalist Papers*. Clinton Rossiter, ed. (New York: Mentor, 1999), p. 84.

is to the idea of "factions." The liberal systems of federalism and checks and balances are incapable of dealing with the quantitative total state because it is the situation wherein diverse groups all make demands, many of which are seemingly small in the grand scheme of things, and which are not mutually exclusive in the way Madison anticipated. Pulled in too many directions, the liberal state ultimately becomes incapable of fulfilling the fundamental role of serving as a political unity.

The core of Schmitt's thought consists of a normative assessment that sees the state as the only means of containing the dangerousness of man, and it is this judgment that informs so much of Schmitt's skepticism towards the concrete practice of liberal politics. The uncomfortable fact is that the state is a necessity, as this is shown most unquestionably during times of crisis, what Schmitt called the "state of exception." The world cannot be made into a risk-free domain of consumption and production, for the enemy always reappears, often in surprising forms. Schmitt's emphasis on the dangerousness of humankind, the fragility of the human life, of peace, and of the state itself, is accomplished to remind us that the political is unavoidable. In Schmitt's account, men in need of protection need a state to protect them, and this state had best be strong if it is to fulfill its duty, which is to be strong, strong enough to resist the encroachment of civil society, which threatens to overwhelm it with particularistic claims, and strong enough to fend off all enemies. In order to accomplish this task, it may be that the state itself must be invested with a certain moral worth, a higher status that enables it, and it alone, to demand of men that they sacrifice themselves for the common good. Treitschke and Schmitt advise us that it is this state, exemplified by the *Machtstaat*, that is an essential part of politics in any age.

Civil society, as Treitschke and Schmitt conceive it, points to the ways in which egalitarianism and pluralism are at odds. According to Treitschke, civil society is the domain of difference, and there is no universal class capable of overcoming its own self-interest: "no class regards society as a whole, but sees only fractions of it...."[555] Classes are liable to use the state for their own ends, and, in practice, the political expression of the particularity in civil society is very likely to lead to the death of democracy in practice, for "All civil society, as we have seen, is aristocratic in nature."[556] If the life of civil society is dominated by the economy, as it is under conditions of bourgeois liberalism, then it is to be dominated by an economic aristocracy. Civil society, in the Hegelian tradition, is the domain of particularity, and it is through the instructional auspices of the institutions of civil society that the individual moves toward the universal, first through the realization that he is a member of civil society working with others, until the individual no longer wills his own ends, ceases to be a private person "whose end is their own interest," and instead enters into the universal, i.e., the state.[557] What is distinctive in Treitschke and Schmitt, characteristic of the Hobbesian turn that makes them theorists of the *Machtstaat*, is that they adopt Hegel's conception of civil society as the domain of particularity, but they hold forth no hope, as Hegel does, that the concrete individual will overcome the particularity of civil society. Civil society, in this theorized version, retains all the nastiness Hegel ascribes to it when he writes, "civil society affords a spectacle of extravagance and want as well as of the physical and ethical degeneration

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[555] Treitschke, *Politics,* vol. II, p. 61.
[556] Treitschke, *Politics,* vol. I, p. 53.
[557] Hegel, *Philosophy of Right*, pp 122-126.

common to them both."[558] For Treitschke and Schmitt, however, there is no hope, as there is for Hegel, that this degradation can be overcome through the attainment of the universal. In Schmitt, this is due to the identification of the state with society, so that the state, instead of standing above civil society, becomes its tool.[559]

The political theory of the *Machtstaat* is conditioned by history, and its mode of inquiry and conceptual framework are historical, like Hegel and unlike Hobbes, which is one reason why it is primarily a Hegelian and not Hobbesian state-conception.[560] Both Schmitt and Treitschke note that the anti-statist thought of liberalism and its bias toward civil society were formed in opposition to the then monarchical state. Both Schmitt and Treitschke are absolutely clear on this point: "For the purpose of protecting individual freedom and private property, liberalism provides a series of methods for hindering and controlling the state's and government's power. It makes of the state a compromise and of its institutions a ventilating system and, moreover, balances monarchy against democracy and vice versa."[561] This insight points to a historical experience that was unique to Germany, and, Schmitt believes, is illustrative of the true nature of liberalism. In Germany prior to 1948, liberals were allied with the forces of democracy against the monarchy, yet thereafter were only too happy to ally with the monarchy against the democrats. Though liberalism may claim allegiance to democracy or representative government, according to Schmitt its only goal is to weaken the state in order to preserve private property. Thus, for Schmitt, liberalism is not associated in any meaningful way with democracy, and actually favors no specific type of regime, unlike any other political

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[558] Ibid., p. 123.
[559] Schmitt, *The Concept of the Political,* p. 22.
[560] In contrast, Hobbes' theory of the development of the state out of the state of nature is a completely ahistorical thought experiment.
[561] Schmitt, *The Concept of the Political*, p. 70.

teaching. It stems from bourgeois social forces within civil society, and it acknowledges only civil society: Liberalism is the ideology of civil society, the apolitical made political.

The hypothetical world state proposed by Kant and loathed by both Treitschke and Schmitt has never come to pass; yet globalization has raised the possibility of a global civil society, based upon economic intercourse. In the economic realm, national boundaries become increasingly obsolete, as capital is freed from national political restrictions. Hegel's description of civil society appears in this context as a historical prediction of increasing wealth and poverty, but this time, on a global scale, with "the physical and ethical degeneration common to them both."[562] Multinational corporations certainly do not fulfill anything like the universalizing function Hegel ascribed to them, let alone manifest concern for the common good—their only values appear to be pecuniary values. This global economic integration has had the same effect as the much-feared global state, and Schmitt's words on the global state seem apt in this new context:

> The acute question to pose is upon whom will fall the frightening power implied in a world-embracing economic and technical organization. This question can by no means be dismissed in the belief that everything would then function automatically, that things would administer themselves, and that a government by people over people would be superfluous because human beings would then be absolutely free. For what would they be free?[563]

Schmitt rejects the idea that the market is the source of all value, and rejects what he sees as the false dichotomy liberalism imposes upon the realm of the state, characterized by coercion, and economics, characterized by the "freedom" of the market.

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[562] Hegel, *Philosophy of Right*, p. 123.
[563] Schmitt, *The Concept of the Political*, p. 57.

Schmitt raises the possibility of a liberal global order, but emphasizes that this state of affairs would not end the domination of people over people, except that it would restate domination in economic terms. So, for Schmitt, not only does liberalism not necessarily entail greater human freedom, but it may in fact also constitute the worst form of tyranny ever known. It is true that Schmitt thought that oppression and tyranny were more likely to have their source in the economic doctrine of communism than the economic doctrine of liberalism, however, in either event, economics becomes destiny, which is the outcome he found most offensive. A takeover of the state by either the workers or the bourgeoisie would constitute for Schmitt the establishment of the quantitative total state, a state utterly at the service of established economic interests.

It is Schmitt's enduring contribution to modern political theory that he has exposed the deeply schizophrenic attitude of liberal democracy toward the state. On the one hand, liberal democrats *qua* democrats embrace the state as the apparatus of the people's will, while on the other, liberal democrats *qua* liberals are suspicious of the state, seeing it as expensive and a potential threat to individual liberty. Schmitt forces liberal democrats to choose sides, to ask whether they are on the side of civil society or the state, and to reevaluate the worth of the state itself. Ultimately, his political theory, and Treitschke's, is predicated upon an understanding of the state as indispensable for human life. He reminds us that domination can take forms other than the crassest forms of tyranny and slavery, which is, in a strictly procedural form of government with pluralist pretenses that actually puts into practice the rule of an economic elite who pervert the power of the state by systematically putting it in the service of their own particularistic ends. Schmitt warns that civil society is not the font from which all

blessings flow, and may actually be the source of would-be tyrants, strongly motivated by economic self-interest to become involved in the political process. Above all else, Schmitt calls for the institution of real political unity by political rulers who are willing to resist private interests in the name of a state that is strong enough to say *no*.

Works Cited

Ananiadis, Grigoris. "Carl Schmitt and Max Adler." in Chantal Mouffe, ed. *The Challenge of Carl Schmitt.* New York: Verso, 1999, pp. 118-137.

Aristotle. *Politics.* Ernest Barker, trans. New York: Oxford University Press, 1995.

Balakrishnan, Gopal. *The Enemy: An Intellectual Portrait of Carl Schmitt.* London: Verso, 2000.

Bielefeldt, Heiner. "Carl Schmitt's Critique of Liberalism." in David Dyzenhaus, ed., *Law as Politics: Carl Schmitt's Critique of Liberalism.* Durham: Duke University Press, 1998, pp. 23-36.

Bendersky, Joseph W. *Carl Schmitt: Theorist for the Reich.* Princeton: Princeton University Press, 1983.

_____. "Carl Schmitt and the Conservative Revolution." *Telos*, 72 (Summer, 1987): 27-42.

_____. "The Definite and the Dubious: Carl Schmitt's Influence on Conservative Political and Legal Theory in the US." *Telos* 122 (Winter 2002): 33-47.

Berthold, Lutz. *Carl Schmitt und der Staatsnotstandplan am Ende der Weimarer Republik.* Berlin: Duncker & Humblot, 1999.

Berlin, Isaiah. *The Crooked Timber of Humanity.* Princeton: Princeton University Press, 1990.

Blasius, Dirk. "Carl Schmitt: Relevance and Ambivalence." *German Historical Institute London Bulletin*, XXV (2003): 55-63.

_____. *Carl Schmitt: Preußischer Staatsrat in Hitlers Reich.* Göttingen: Vanderhoeck und Ruprecht, 2001.

Bodin, Jean. *Six Books of the Commonwealth.* Oxford: Blackwell, 1967.

Clausewitz, Carl von. *vom Kriege.* Berlin: Ferdinand Dümmlers Verlagsbuchandlung, 1853.

Craig, Gordon A. *The Politics of the Prussian Army: 1640-1945.* New York: Oxford University Press, 1964.

Cristi, F. R. "The Hegelische Mitte and Hegel's Monarch." *Political Theory*, 11:4 (November 1983): 601-622.

Cristi, Renato. "Carl Schmitt on Liberalism, Democracy and Catholicism." *History of Political Thought*, XIV: 2 (Summer, 1993): 281-300.

_____. *Carl Schmitt and Authoritarian Liberalism: Strong State, Free Economy.* University of Wales Press, Cardiff, 1998.

Davis, H. W. C.. *The Political Thought of Heinrich von Treitschke.* New York: Scribner's, 1915.

Dorpalen, Andreas. *Heinrich von Treitschke.* New Haven: Yale University Press, 1957.

_____. "Heinrich von Treitschke." *Contemporary History*, 7, ¾ (July-October 1972): 21-35.

Drury, Shadia B. "Carl Schmitt and Leo Strauss: The Hidden Dialogue." *Political Theory*, 90:2 (June, 1996): 410-411.

_____. *Leo Strauss and the American Right.* New York: St. Martin's, 1997.

Durkheim, Emile. *über Deutschland: Texte aus dem Jahren 1887 bis 1915.* Andreas Gipper trans. Constance: Universitätsverlag Konstanz, 1995.

Dyzenhaus, David, ed. *Law as Politics: Carl Schmitt's Critique of Liberalism.* Durham: Duke University Press, 1998

_____. "Legal Theory in the Collapse of Weimar: Contemporary Lessons?" *The American Political Science Review*, 91:1 (March, 1997): 121-134.

Ebeling, Richard M. "Ludwig von Mises and the Vienna of his Time." *The Freeman: Ideas on Liberty.* 55:3 (March, 2005): 24-31.

Elster, Jon, Claus Offe & Ulrich K. Preuss. *Institutional Design in Post-Communist Societies: Rebuilding the Ship at Sea.* Cambridge: Harvard University Press, 1998.

Feuchtwanger, E. J. "Carl Schmitt: Theorist for the Reich." *International Affairs*, 59:4 (Autumn, 1983): 745.

Franco, Paul. *Hegel's Philosophy of Freedom.* New Haven: Yale University Press, 1999.

Frye, Charles E. "Carl Schmitt's Concept of the Political." *The Journal of Politics*, 28:4 (November, 1966): 818-830.

Galli, Carlo. Carl Schmitt's Antiliberalism: Its Theoretical and Historical Sources and its Philosophical and Political Meaning." *Cardozo Law Review*, 21 (2000): 1597-1617.

Gottfried, Paul Edward. *Carl Schmitt: Politics and Theory*. New York: Greenwood, 1990.

Gross, Oren. "The Normless and Exceptionless Exception: Carl Schmitt's Theory of Emergency Powers and the 'Norm-Exception' Dichotomy." *Cardozo Law Review*, 21 (2000): 1825-1868.

Habermas, Jürgen. "On the Relation between the Nation, the Rule of Law, and Democracy." In Jürgen Habermas. *The Inclusion of the Other*. Cambridge: MIT Press, 1998, pp. 129-153.

_____. *The Inclusion of the Other*. Cambridge: MIT Press, 1998.

Hamilton, Alexander, James Madison and John Jay. Clinton Rossiter, ed. *The Federalist Papers*. New York: Mentor, 1999.

Hausrath, Adolph. *Zur Erinnerung an Heinrich von Treitschke*. Leipzig: Hirzel, 1901.

_____. *Treitschke: German Destiny and Policies*. New York: Putnam, 1914.

Hegel, G. W. F. Phänomenologie des Geistes. Berlin: Akademie Verlag, 1998.

_____. *Philosophy of Right*. T.M. Knox trans. New York: Oxford University Press, 1967.

Hertz, Frederick. *Nationality in History and Politics*. New York: Oxford University Press, 1944.

Hintze, Otto. "Der preußische Militär- und Beamtenstaat im 18. Jahrhundert." in Otto Hintze. *Regierung und Verwaltung, Gesammelte Abhandlungen zur Staats-, Rechts- und Sozialgeschichte Preußens*. Göttingen: Vandenhoeck & Ruprecht, 1964, pp. 419-428.

_____. *Regierung und Verwaltung, Gesammelte Abhandlungen zur Staats-, Rechts- und Sozialgeschichte Preußens*. Göttingen: Vandenhoeck & Ruprecht, 1964.

Hobbes, Thomas. *Leviathan*. Curley, Edwin, ed. Indianapolis: Hackett, 1994.

Holmes, Stephen. "Carl Schmitt: Theorist of the Reich." *American Political Science Review*, 77:4 (December, 1983): 1066-67.

_____. *The Anatomy of Antiliberalism*. Cambridge: Harvard University Press, 1993.

_____. "The Scourge of Liberalism." *New Republic*, 6 June, 1988, pp. 31-36.

Kalyvas, Andreas. "Who's Afraid of Carl Schmitt?" *Philosophy and Social Criticism*, 25:5 (1999): 87-125.

Kelly, Duncan. *The State of the Political: Conceptions of Politics and State in the Thought of Max Weber, Carl Schmitt and Franz Neumann.* New York: Oxford University Press, 2003.

Kennedy, Ellen. *Constitutional Failure: Carl Schmitt in Weimar.* Durham: Duke University Press, 2004.

Kiesel, Helmut, ed. *Ernst Jünger – Carl Schmitt Briefe 1930-1983.* Stuttgart: Klett-Cotta, 1999.

King, Robert G. & Rebelo, Sergio. "Public Policy and Economic Growth: Developing Neoclassical Implications." *Journal of Political Economy*, 98:5 (1990): 126-150.

Koenen, Andreas. *Der Fall Carl Schmitt: sein Aufsteig zum "Kronjuristen des Dritten Reiches."* Darmstadt: Wissenschaftliche Buchgesellschaft, 1995.

Langer, Ulrich. *Heinrich von Treitschke: Politische Biographie eines deutschen Nationalisten.* Düsseldorf: Droste Verlag, 1998.

Lentner, Howard H. "The Concept of the State: A Response to Stephen Krasner." *Comparative Politics*, 16:3 (April, 1984): 367-377.

Lilla, Mark. *The Reckless Mind: Intellectuals in Politics.* New York: New York Review of Books, 2001.

Löwith, Karl. *Meaning in History.* Chicago: University of Chicago Press, 1949.

McCormick, John. "Fear, Technology and the State: Carl Schmitt, Leo Strauss and the Revival of Hobbes in Weimar and National Socialist Germany." *Political Theory*, 22:4 (November, 1994): 619-652.

_____. "Political Theory and Political Theology: The Second Wave of Carl Schmitt in English." *Political Theory*, 26:6 (December, 1998): 830-854.

_____. *Carl Schmitt's Critique of Liberalism: Against Politics as Technology.* New York: Cambridge, 1999.

Megay, Edward N. "Treitschke Reconsidered: The Hegelian Tradition of German Liberalism." *Midwest Journal of Political Science*, 2:3 (August, 1958): 298-317.

Meier, Heinrich. *Carl Schmitt, Leo Strauss und der "Der Begriff des Politischen." Zu einem Dialog unter Abwesenden.* Stuttgart: J.B. Metzler Verlag, 1988.

_____. *Die Lehre Carl Schmitts: Vier Kapitel zur Unterscheidung Politischer Theologie und Politischer Philosophie.* Stuttgart: J.B. Metzler Verlag, 1994.

_____. *Carl Schmitt and Leo Strauss: The Hidden Dialogue.* J. Harvey Lomax, trans. Chicago: University of Chicago Press, 1995.

_____. *The Lesson of Carl Schmitt: Four Chapters on the Distinction between Political Theology and Political Philosophy.* Marcus Brainard, trans. Chicago: University of Chicago Press, 1998.

Migdal, Joel S. *Strong Societies and Weak States.* Princeton: Princeton University Press, 1988.

Morgan, J. H., ed & trans., *The War Book of the German General Staff.* New York: McBride & Nast, 1915.

Mouffe, Chantal, ed. *The Return of the Political.* London: Verso, 1993.

_____. *The Challenge of Carl Schmitt.* New York: Verso, 1999.

Müller, Jan. "Critical Theorist or *Katechon*? New Literature on Carl Schmitt." Book review. In *History of European Ideas*, 24:2 (1998): 161-173.

_____. *A Dangerous Mind: Carl Schmitt in Post-War European Thought.* New Haven: Yale University Press, 2003.

Muller, Jerry Z. "Carl Schmitt, Hans Freyer and the Radical Conservative Critique of Liberal Democracy in the Weimar Republic." *History of Political Thought.* XII: 4 (Winter, 1991): 695-715.

_____. *The Other God that Failed.* Princeton: Princeton University Press, 1988.

Nietzsche, Friedrich. *Ecce Homo.* R. J. Hollingdale, trans. New York: Penguin, 1991.

Nozick, Robert . *Anarchy, State, and Utopia.* New York: Basic Books, 1974.

Olson, Mancur. *The Logic of Collective Action: Public Goods and the Theory of Groups.* Cambridge: Harvard University Press, 1965

Piccone, Paul & Ulmen, Gary, "Uses and Abuses of Carl Schmitt," *Telos* 122 (Winter 2002): 3–32.

Pircher, Wolfgang. *Gegen den Ausnahmezustand: zur Kritik an Carl Schmitt.* Vienna: Springer, 1999.

Rathenau, Walther. *Autonome Wirtschaft.* Jena: Diederichs Verlag, 1919.

Rawls, John. *A Theory of Justice.* Cambridge: Belknap Press, 1971.

_____. *Political Liberalism.* New York: Columbia University Press, 1996.

Rejai, Mostafa & Enloe, Cynthia H.. "Nation-States and State-Nations." *International Studies Quarterly,* 13:2 (June, 1969): 140-158.

Richter, Emanuel. "Carl Schmitt: The Defective Guidance for the Critique of Political Liberalism." *Cardozo Law Review,* 26:5-6,(May, 2000): 1619-1644.

Rolker, Christof. *Heinrich von Treitschke: Werke und Ausgaben.* Universitätsverlag Konstanz, Constance, 2001.

Rosecrance, Richard. "The Rise of the Virtual State." *Foreign Affairs,* 75:4 (July-August, 1996): 45-61.

_____. *The Rise of the Virtual State.* Basic: New York, 1999.

Rousseau, Jean-Jacques. *Social Contract and the Discourses.* New York: Knopf, 1992.

Rupert, Mark. *Producing Hegemony: The Politics of Mass Production and American Global Power.* Cambridge: Cambridge University Press, 1995.

Scheuerman, William. *Carl Schmitt.* Lanham: Rowman & Littlefield, 1999.

Schmitt, Carl. "The Age of Neutralizations and Depoliticizations." Matthias Konzett & John P. McCormick, trans. *Telos* 96 (Summer, 1993): 130-42.

_____. *Der Begriff des Politischen.* Berlin: Duncker & Humblot, 2002.

_____. *The Concept of the Political.* George Schwab, trans. New Brunswick: Rutgers University Press, 1976.

_____. *The Crisis of Parliamentary Democracy.* Ellen Kennedy, trans. Cambridge: MIT Press, 1988.

_____. *Die Diktatur.* (Munich: Duncker & Humblot, 1928).

_____. "Ethic of State and Pluralistic State." David Dyzenhaus, trans., in Chantal Mouffe, ed. *The Challenge of Carl Schmitt.* New York: Verso, 1999, pp. 195-208.

_____. *Ex Captivitate Salus: Erfahrungen der Zeit 1945/4.* Cologne: Greven, 1950.

_____. *Frieden oder Pazifismus? Arbeiten zum Völkerrecht und zur internationalen Politik.* Günther Maschke, ed. Berlin: Duncker & Humblot, 2005.

_____. "Gespräch über die Macht." In *Gespräch über die Macht und den Zugang zum Machthaber/Gespräch über den Neuen Raum.* Berlin: Akademie Verlag, 1994, pp. 9-33.

_____. *Gespräch über die Macht und den Zugang zum Machthaber/Gespräch über den Neuen Raum.* Berlin: Akademie Verlag, 1994.

_____. *Der Hüter der Verfassung.* Berlin: Duncker & Humblot, 1996.

_____. *Land und Meer.* Stuttgart: Klett-Cotta, 1954.

_____. *Le categorie del 'politico.'* Gianfranco Miglio & Pierangelo Schiera, eds. Bologna: Società editrice il Mulino, 1972.

_____. *Legality and Legitimacy.* Jeffrey Seitzer, trans. Durham: Duke University Press, 2004.

_____. *The Leviathan in the State Theory of Thomas Hobbes.* George Schwab, trans., Westport: Greenwood, 1996.

_____. "Neutralität und Neutralisierungen." In Carl Schmitt. *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939.* Berlin: Duncker & Humblot, 1988, pp. 309-334.

_____. *Political Theology.* George Schwab, trans. Cambridge: MIT Press, 1988.

_____. *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939.* Berlin: Duncker & Humblot, 1988.

_____. "Strong State and Sound Economy: An Address to Business Leaders." Renato Cristi, trans., in Renato Cristi. *Carl Schmitt and Authoritarian Liberalism.* Cardiff: University of Wales Press, 1998, pp. 212-232.

_____. *Staat, Bewegung, Volk: Die Dreigliederung der politischen Einheit.* Hamburg: Hanseatische Verlagsanstalt, 1933.

_____. *State, Movement, People.* Simona Draghici, ed. & trans. Corvallis: Plutarch, 2001.

_____. "Staatsethik und pluralisticher Staat." in Carl Schmitt. *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939.* Berlin: Duncker & Humblot, 1988, pp. 151-165.

_____. *Staatsgefüge und Zusammenbruch des Zweiten Reiches: Der Sieg des Bürgers über den Soldaten.* Hamburg: Hanseatische Verlagsanstalt, 1934.

_____. *Theorie des Partisanen.* Berlin: Duncker & Humblot, 2002.

_____. "Totaler Feind, totaler Krieg, totaler Staat." in Carl Schmitt. *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939.* Berlin: Duncker & Humblot, 1988, pp. 268-273.

_____. *On the Three Types of Juristic Thought.* Joseph Bendersky, ed. & trans. Westport: Praeger, 2004.

_____. "USA und die Völkerrechtlichen Formen des modernen Imperialismus." in Carl Schmitt. *Frieden oder Pazifismus? Arbeiten zum Völkerrecht und zur internationalen Politik.* Günther Maschke, ed. Berlin: Duncker & Humblot, 2005, pp. 349-377.

_____. *Verfassungslehre.* Berlin: Duncker & Humblot, 2003.

_____. "Weiterentwicklung des totalen Staats in Deutschland." in Carl Schmitt. *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939.* Berlin: Duncker & Humblot, 1988, pp. 211-216.

_____. "Die Wendung zum totalen Staat." in Carl Schmitt. *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939.* Berlin: Duncker & Humblot, 1988, pp. 166-178.

_____. *Der Wert des Staates und die Bedeutung des Einzelnen.* Berlin: Duncker & Humblot, 2004.

_____. "Das Zeitalter der Neutralisierungen und Entpolitisierungen." in Carl Schmitt. *Der Begriff des Politischen.* Berlin, Duncker & Humblot, 2002, pp. 79-95.

Schwab, George. *The Challenge of the Exception.* Berlin: Duncker & Humblot, 1970.

Spencer, Herbert. *The Man versus the State.* London: Williams & Norgate, 1884.

Spragens, Thomas A., Jr. "The Anatomy of Antiliberalism." *The Journal of Politics*, 57:4 (November, 1995): 1198-2001.

Strauss, Leo. *Natural Right and History.* Chicago: University of Chicago Press, 1965.

_____. "Notes on Carl Schmitt's *Begriff des Politischen.*" in Carl Schmitt. *The Concept of the Political.* Schwab, George, trans. New Brunswick: Rutgers University Press, 1976, pp. 81-107.

_____. "Letter to Carl Schmitt dated July 10, 1933." in Heinrich Meier. *Carl Schmitt and Leo Strauss: The Hidden Dialogue.* J. Harvey Lomax, trans. Chicago: University of Chicago Press, 1995, pp. 127-128.

_____. "Letter to Carl Schmitt dated September 4, 1932." in Heinrich Meier. *Carl Schmitt and Leo Strauss: The Hidden Dialogue.* J. Harvey Lomax, trans. Chicago: University of Chicago Press, 1995, pp. 124-126.

Strong, Tracy B. "Foreword: Dimensions of the New Debate Around Carl Schmitt." in *The Concept of the Political.* George Schwab, trans. New Brunswick: Rutgers University Press, 1976, pp. ix-xxvii.

Thornhill, Chris J. "Carl Schmitt after the Deluge: a Review of the Recent Literature." *History of European Ideas*, 26:3-4 (2000): 225-240.

de Tocqueville, Alexis. *Democracy in America.* George Lawrence, trans. New York: Perennial, 2000.

Treitschke, Heinrich von. *The Confessions of Frederick the Great and The Life of Frederick the Great.* New York: Putnam, 1915.

_____. *Das constitutuionelle Königthum in* Deutschland. In *Historische und politische Aufsätze.* Leipzig: Hirzel, 1870, pp. 745-858.

_____. "Die Freiheit." in *Historische und Politische Aufsätze*, vol. 3, *Freiheit und Königthum.* Leipzig: Hirzel, 1871, pp. 491-625.

_____. *Historische und Politische Aufsätze.* Leipzig: Hirzel, 1871, 4 vols.

_____. *Politics.* Blanche Dugdale & Torbin De Bille, trans. London: Constable & Co., 1916, 2 vols.

_____. *Politics.* Hans Kohn ed. & trans. New York: Harcourt, 1963.

_____. *Vaterländische Gedichte.* Göttingen: G. Grote, 1856.

Wade, Robert Hunter. "The Rising Inequality of World Income Distribution." *Finance and Development,* 38:4 (December 2001): 37-39.

Weber, Max. "Politik als Beruf." *Gesammelte Politische Schriften.* Munich: Drei Masken Verlag, 1921.

Weiler, Gershon. *From Absolutism to Totalitarianism: Carl Schmitt on Thomas Hobbes.* Durango: Hollowbrook, 1992.

Wolin, Richard. "Carl Schmitt: The Conservative Revolutionary Habitus and the Aesthetics of Horror." *Political Theory*, 20:3 (August, 1992): 424-447.

Unknown. *Treitschke: His Life and Works*. London: Jerrold & Sons, 1914.