



PERGAMON

History of European Ideas 26 (2000) 225–264

www.elsevier.com/locate/histeuroideas

History of
European
Ideas

Book reviews

Carl Schmitt after the deluge: a review of the recent literature

Legality and Legitimacy: Carl Schmitt, Hans Kelsen and Hermann Heller in Weimar

David Dyzenhaus, OUP, Oxford, 1997

Carl Schmitt's Critique of Liberalism: Against Politics as Technology

John McCormick, CUP, Cambridge, 1997

Carl Schmitt and Authoritarian Liberalism

Renato Cristi, University of Wales Press, Cardiff, 1998

The Challenge of Carl Schmitt

Chantal Mouffe (Ed.), Verso, London, 1999

Carl Schmitt: The End of Law

William E. Scheuermann, Rowman and Littlefield, Oxford, 1999

The Enemy: An Intellectual Portrait of Carl Schmitt

Gopal Balakrishnan, Verso, London, 2000.

Carl Schmitt has been read widely in recent years, and he has been made serviceable for very different agendas. Paradoxically, although the reception of Schmitt for right-leaning positions still dominates debate in Germany, most readings of Schmitt in the USA and Britain are articulated from left-oriented or left-liberal perspectives: this is the case with all the works treated here.

It is not difficult to see why Schmitt should so preoccupy the reflections of liberal and even left-leaning intellectuals. As both Scheuermann and Cristi diversely argue, liberal thinking is profoundly challenged by Schmitt to reflect on and beyond its own common preconditions concerning the rule of law, the conditions of pluralism, and the co-existence of economic and political autonomy. Readers and interpreters on the left, for very different reasons, are also directly addressed by his ideas. Many perspectives developed by Schmitt invite a plausible reception in a left-oriented critique of liberal democracy. Such perspectives include the following arguments: that under the conditions of late capitalism political democracy is a concept without substance, and that capitalist democracy is incapable of forming democratic consensus; that parliamentary democracy merely reflects a spurious illusion of unity, whilst in fact resting solely on pragmatic and technical bargains between economic interest-groups; that the concept of democracy fostered by the bourgeoisie cannot be harmonized with that fostered by the proletariat, and that the parliamentary order is always hamstrung by this antagonism at its core; that liberal-democratic systems, owing to their insubstantial character, tend to engender anti-liberal modes of governance, either

of a corporatist, or party-dictatorial nature. Connecting all these points is the broader claim, fundamentally welcome to the left, that the parliamentary system negotiates the inevitable tensions between the groups which it incorporates by making technical adjustments to the system of legality. *Legality*, in Schmitt's sense, therefore directly obscures the fact that the parliamentary order can never possess *legitimacy*.

These are obviously useful and striking ideas, neatly and polemically formulated by Schmitt. However, the directness and accuracy of many of Schmitt's diagnoses still do not vindicate his contemporary appeal. Indeed, the fact that such reflections often beguile readers on the left is particularly surprising, because there is nothing in these ideas which is not anticipated by Marx himself. The early Marx prefigured Schmitt in many of these points; he too indicated that the apparatus of liberal political democracy cannot mediate the divergent interests of citizens into an integrally cohesive will, [1] and he too attacked the ideological foundation of liberal concepts of *legality* [2]. The fact that left-oriented intellectuals now turn to the far right for repetition of Marx's own arguments thus reflects a spectacular crisis of intellectual confidence.

Additionally, in fact, many of Schmitt's ideas have long since been integrated into the canon of socialist and radical-liberal theory. A whole line of socialist, or left-liberal theorists, from Max Adler, to Franz Neumann, to Otto Kirchheimer, to Jürgen Habermas, to Ulrich K. Preuß, have set about making sense of Schmitt for the left. It is therefore arguable that the most valuable implications of Schmitt's thinking for left-oriented reflection have already been elaborated. Max Adler's concept of the solidaristic coercive order, perfectly fusing social and political democracy, might be seen as the reception which is most faithful to Schmitt's ideas [3]. Kirchheimer's juridical claim that democracy and capitalism cannot co-exist, because under the conditions of capitalism the judiciary inevitably gives private law (legality) absolute primacy over publicly agreed principles (legitimacy), might be viewed as the most polemically inspired deployment of a Schmittian perspective in left-leaning debate [4]. Habermas's recuperation of Schmittian themes in his liberal-republican claim that modern political and juridical systems have detached themselves chronically from the discursive sources of political legitimacy might be seen as the most commonly acceptable way of making Schmitt's work useful in a critical perspective.

In each of these respects, moreover, what is taken from Schmitt in debate on the left and the liberal left is merely a question about the relation between legality and legitimacy—a question, thus, which had already been extensively formulated before Schmitt. Schmitt's assertion that in modern (capitalist/parliamentary) orders legality does not reflect legitimacy, and in fact obviates the formation of a legitimate common will, merely radicalizes the argument, countersigned diversely by Hegel, Marx and Weber, that systems which base themselves on privately negotiated contracts cannot be legitimate. Therefore, although Schmitt might have contributed to debate on this most central question of German political theory, the questions posed and answered under the banner of a left-wing Schmittian perspective would (or could) have been posed equally clearly without his assistance.

On these grounds, consequently, it might be claimed that the interest of the left and the liberal left in Schmitt has thus far justified itself in a rather inadequate manner. The challenge is not to read Schmitt's works to see if certain bits of them repeat ideas which are already commonplace on the left; nor is it simply to reiterate Schmitt's own original conviction that his ideas infallibly identify the blind-spots of liberalism. Schmitt might in fact be most productively interpreted if his works were examined for reflections which are not general currency amongst his adversaries, but which supplement other positions in vital ways. As this has not yet been undertaken, the question of what Schmitt might have to offer those who, unlike himself, believe neither that government should be conducted by quasi-accountable administrative elites, nor that the operations of the legal order should be impermeable to abstract normative preconditions, remains tantalizingly unanswered. Viewed in these terms, it is difficult to read these works without some sense that the real point has been missed: that someone ought to take responsibility for the simple yet complex task of saying what (if anything) Schmitt might have to say which is important, and which is not found anywhere else. Reading Schmitt either as a warning to liberals or as an unlikely olive branch to the left might be full of intellectual intrigue, but its value is limited.

Despite this reservation, however, each of these works has certain undeniable merits, and all of them warrant more or less qualified recommendation. Perhaps the easiest to endorse without obvious reservation is Balakrishnan's work—if only for the simple reason that it is the best biographical work on Schmitt in English. It is not equal to the German biography by Andreas Koenen, but it provides a discriminating inquiry into the background to Schmitt's work. It is very good on his relation to political Catholicism in Germany (although his connection with Brüning seems to be slightly simplified), and it is exemplary on his overall position within the spectrum of conservative positions in the late Weimar Republic. Indeed, the work gives such a discerning and even-handed treatment of Schmitt that its title appears almost completely gratuitous: was it imposed by the publisher? The collection of essays edited by Chantal Mouffe also contains valuable pieces, although many of them are already available elsewhere. The essay by Jorge E. Dotti on Schmitt and Marx stands out in this work as a very important—if rather inchoate—argument, whose continuation is eagerly awaited.

Dyzenhaus's work is distinct from the other books considered here, as it does not attempt a broad treatment of Schmitt's thinking, but sets out a comparative study of Schmitt, Hans Kelsen and Hermann Heller, treating their commentaries on the legitimacy of constitutional suspension in the late Weimar period. Most of Dyzenhaus's individual arguments can be rubber-stamped without any great difficulty. He is predictably (but not inappropriately) critical of Kelsen's pure normativism. His reflections on Schmitt's constitutional position are nuanced and insightful. He stresses that Schmitt does not seek to overthrow the constitutional fabric of the republic (p. 71), but in fact to engender a constitutional framework much in line with the tenets of the second part of the original Weimar Constitution, basing the political system on homogenous principles of order. On that basis, also, he clearly demonstrates that Schmitt's collaboration with the NSDAP marked a

break with his earlier legal thinking, not its consummation. This book also deserves broad attention because of the way in which it relocates Hermann Heller at the centre-stage of Weimar political debate.

Despite the significance of his treatment of Heller, however, it is on this issue that Dyzenhaus is at his weakest. In fact, although he shows a breadth of historical and sociological knowledge which is unusual amongst legal theorists and historians, his reflections on Heller in some respects show an uncharacteristic narrowness of perspective and an unwillingness to understand Heller's legal ideas against the wider context of his political intentions. His very positive appraisal of Heller over Schmitt and Kelsen rests on the assertion that Heller developed his concept of politics around a notion of active, participatory citizenship (p. 187), and that this model constitutes a crucial counter-point to Kelsen's formal-liberal and Schmitt's decisionistic paradigms of political existence. Dyzenhaus even argues that Heller's position represents a superior antecedent to Habermas's liberal republicanism (p. 219).

This favourable assessment depends in part, however, on a rather odd interpretation of Heller as a liberal; an interpretation which positions Heller's ideas expressly in the context of liberal-republican discourse. Heller, however, was not a liberal. He was in fact a socialist, who was closely involved with the Weimar SPD, and whose writings belong to the revisionist debates of the mid- to late Weimar period. Moreover, Heller's concept of participatory citizenship is the anthropological core of an inquiry into the possibility of consensual transition from a private economy to a common economy. What Dyzenhaus construes as a theory of political democracy is, therefore, really a theory of social democracy. It should also be noted in this respect that Heller was among the ranks of the SPD-theorists after March 1930 who supported the Brüning cabinet, and who thus tolerated the abandonment of the democratic order. In his works of this time, in fact, Heller expressly argued that only an authoritarian, executive-led political system might provide a foundation for social democracy, and that such a state might ensure the satisfaction of the material interests of the proletariat [5].

On two contrasting fronts, consequently, Dyzenhaus's invocation of Heller as an early proponent of interactive citizenship might be considered misguided. Firstly, although Heller emphatically values the institutional achievements of liberalism, he argues that these achievements are merely preparatory work for the real political objective: they must now in fact be deployed to overcome liberalism, in order to effect the transition to a socialist economy [6]. Secondly, like many major thinkers associated with the Weimar SPD, Heller accords to the state itself an autonomous, co-ordinating role, which empowers it to establish and maintain the material enabling conditions for true citizenship. Indeed, at the heart of Heller's thought is always the square circle of classical Social Democratic ideology. He argues namely that the modern state is produced out of the interactions and antagonisms which characterize civil society under late capitalism, but he also believes that the state can obtain a degree of class-neutral control over these antagonisms in order to palliate economic conflicts and reconcile chronic imbalances of economic interest. Like many thinkers in the classical tradition of secular communitarianism, Heller ultimately argues that citizens are only able to reconcile the differences between themselves if

their actions are pre-formed by a historically mediated (homogenous) cultural community [7,8].

These cultural and authoritarian tendencies in Heller's thinking move him away from the model of interactive citizenship for which Dyzenhaus seeks to recruit him. Therefore, although the rejuvenation of interest in Heller is historically very welcome, a more politically differentiated perspective is needed. Contrary to Dyzenhaus's broader thesis, it might be argued that Heller's ultimate willingness to tolerate the non-Nazi authoritarianism of Brüning's cabinet actually gives extra grist to the Schmittian mill. One implication of Schmitt's decisionism, after all, is that Social Democracy in its revisionist, corporatist and welfarist forms cannot on its own produce a sustainable ethic of government. Dyzenhaus's rather implausible attempt to read Heller as a radical liberal therefore also undermines his parallel critique of Schmitt.

Scheuermann's work is also recommendable—especially for its reflections on Schmitt's works of the later 1930s and 1940s, and for its examination of Schmitt's impact on American jurisprudence and social theory. This reading of Schmitt, although far less sympathetic than that of others treated here, is also based on the premise that Schmitt's political theory incisively attacks the weaknesses of liberal governance and liberal theory, and thus poses a deadly serious threat to the parliamentary-democratic order, which Scheuermann specifically defends (p. 59). Above all, Scheuermann interprets Schmitt's doctrines as an attempt to overcome the problem of *radical indeterminacy* in the tradition of liberal legal interpretation (p. 137). He views Schmitt's (alleged) insistence on social/racial homogeneity as the most stable foundation for legal interpretation as a malignantly plausible response to the internal insufficiencies of liberalism, against which all liberal reflection must arm itself (p. 122). Generally, Scheuermann treats Schmitt as an essentially juridical problem, and he gives little space to the philosophical motives for Schmitt's anti-liberalism. He implies in effect that all aspects of his thinking which do not reflect his endorsement of concrete-order principles after 1933 are little more than occasional reflections or strategically planted red herrings (pp. 26, 122). This perspective is narrated as a facts-of-the-case story about Schmitt's theoretical development from proto-Nazi, to fully paid-up Nazi, to rather absurdly unrepentant ex-Nazi.

Scheuermann is certainly correct to argue that the issue of legal indeterminacy constantly preoccupies Schmitt's thinking. He is also correct to assert that Schmitt attempts to project an internally cohesive model of political order as a solution to this problem. This is surely what Schmitt means in his attempt to make law *political*. In a truly political order, Schmitt implies, all negative elements of the liberal-parliamentary order—basic rights, liberty of opinion, liberty of contract, freedom of party-political coalition, etc.—would be reorganized as integrally positive relations towards the state, and represented and enforced as such in the executive [9]. On this basis, as Scheuermann recognizes, Schmitt imagines a true political order as a system of coercion in which every legal norm would be transfused by a uniform ethic of state, made *present* in the executive.

Despite the broad accuracy of Scheuermann's diagnoses, however, his theoretical claim that Schmitt seeks nothing more than to collapse law into a unitary coercive

system, tuned perfectly to the shifting motives of Hitler's party (p. 136), neglects certain fundamental aspects of Schmitt's thinking. What might be discussed with greater focus, for example, is the fact that Schmitt generally claims that legal determinacy, or politicized law, is primarily guaranteed by the executive. Before 1933, but even to a lesser extent in his post-1933 works, Schmitt views legal determinacy not as the result of the fusion of law and party, but rather of the separation of the executive from all pluralist social or corporatist groups—in which he includes (expressly before 1933, implicitly thereafter) *political parties* [10,11]. This has significance for two reasons. Firstly, Schmitt's identification of the executive as the author of determinate law opposes the legal orthodoxy of National Socialism, which avoided ceding any coercive or representative power to institutions not absolutely regulated by the party [12,13]. Secondly, Schmitt's predilection for the strong executive might also be seen as a concrete trace of his very early normativist or neo-Kantian presuppositions. Throughout his development, Schmitt repeatedly uses the term *re-presentation* as a central concept for imagining the terms of legal determinacy. He uses this term to imply that the plural antagonisms of human society cannot be internally mediated to constitute a unitary and determinate political will, and that, consequently, political legitimacy must be engendered and maintained on the foundation of certain representative principles. At the heart of this argument about representation are two convictions: firstly, that law obtains determinacy only at that point where it represents ideas of order which are not the same as the motives of human organization in civil society; secondly, that representation occurs in the executive, which is symbolically detached from civil society. By emphasizing the law-giving role of the executive, Schmitt in fact still practically subscribes to an antinomical model of legality, for he makes the politicality of law contingent upon its representative validation by an order which is substantially distinct from extra-political operations.

Scheuermann's attempts to show up continuities between Schmitt's writings of different periods is always illuminating. Indeed, his general thesis that Schmitt's collaboration with the Nazis was more considerable than is often alleged is supported with exceptional empirical documentation in this work, and it leaves little scope for objection. Nonetheless, it is arguable that his overall interpretation of Schmitt confuses two very distinct problems. He sees Schmitt, firstly, as a theorist of radical determinacy, resolved to create unitary conditions for the interpretation and enforcement of law. At the same time, however, he implies that the insistence on such determinacy reflects a deeply held hostility to all normative, or metaphysical residues in law, and a belief that the principles of determinacy can only be constructed on the foundation of national, social and therefore legal homogeneity. Against this reading, it might be argued that Schmitt actually sees legal determinacy and social homogeneity as two quite distinct issues, which should not be conflated. In the 1930s Schmitt did ordinarily identify legal determinacy with the 'coherent ethnic and intellectual spirit of National Socialism' (p. 131). However, at other junctures, even in the 1930s, Schmitt also emphasizes that legal determinacy should not be exclusively construed in categories which are based in objectively existing sociological or historical conditions, and that the foundation of legal unity or the

unity of state might in some ways have to be profoundly indifferent to the foundation of social (or national) unity [14]. There remain, in any case, sufficient neo-Kantian or post-metaphysical elements in Schmitt's juridical thinking to resist the bracketing together of determinacy and social/national homogeneity, as proposed by Scheuermann.

The two outstanding works in the recent literature on Schmitt are those by Renato Cristi and John McCormick. These works are outstanding, however, for very different reasons. McCormick's work is exceptional for the breadth of its perspective and for the radical challenge which it presents to Schmitt-scholarship. Cristi's work is exceptional for developing and consistently defending a single strong argument, which alters many common preconceptions about Schmitt. Cristi argues that Schmitt's political theory, centred on his insistence on the separation of state and society (p. 188), is an example of 'conservative liberalism' (pp. 175, 149), which upholds an authoritarian system guaranteeing maximum autonomy to private economic interests. These claims are not entirely new. They have surfaced in tantalizing manner in some of the German literature [15], and they were also central to some of the very early reflections on Schmitt [16; 13, p. 75]. Cristi, however, develops these points to make a broader claim about liberalism; namely, that Schmitt's own authoritarian liberalism actually illuminates a susceptibility to authoritarian tendencies which free-market liberalism almost necessarily includes. Above all, Cristi uses this argument to impute a suppressed comradeship between Hayek and Schmitt (p. 23).

The association of Schmitt with certain aspects of the liberal doctrines which he claims to revile is a crucial argument. Indeed, it might simply be regretted that Cristi does not pursue this association to yet more radical and controversial conclusions. For example, throughout his work Schmitt claims to oppose the classical-liberal founding of state-authority on private-legal compacts, and he repeatedly argues that the formalization of law in the modern parliamentary order is due to the fact that this order gives abstract codification to relations of economic exchange, and is underpinned by a technical balance of economic interests. The foundation of his legal perspective, especially his hostility to neo-Kantian juridical perspective, thus expressly includes a critique of legal forms specific to liberal capitalism. However, Schmitt's model of true political legitimacy never envisions anything more than a purely symbolic overcoming of the private-legal, or utilitarian basis of politics: he simply argues that the executive should generate representative principles of order which are not directly concerned with the economy, and which thus leave the sphere of economic autonomy unregulated. Likewise, Schmitt's cure for the formalist malaise of liberal law is simply to suggest that the authorship of law should be transferred from the elected legislature to the executive: in fact, to the bureaucracy in the executive [17]. Rather than opposing the formality of law, thus, he merely intimates that bureaucratic formality is preferable to debated formality, and he directly replicates the formal system of legality, which he rejects in the sphere of civil or private law, in the public-legal operations of the administration. On these grounds, therefore, Cristi's generally excellent argument might be expanded to include the claim that Schmitt's supposed overcoming of liberal law accomplishes

nothing more than a reproduction of the formal principles of liberal law in more authoritarian manner.

If there is a case against this reading of Schmitt, it might relate to the at times slightly indiscriminating grasp of German liberalism which Cristi's work demonstrates. Generally, Cristi bases his definition of liberalism on the classical-liberal ideology of private liberty and economic autonomy, structurally guaranteed by the constitutional state. He also implies that this is the manifestation of liberalism with which Schmitt was most familiar, and he argues that the constitution of the Weimar Republic endorsed such liberal principles (p. 132). However, Schmitt's own most direct experience of liberalism was in fact conditioned by the corporatist and welfarist liberal perspectives which were prevalent in Weimar Germany. For example, the Weimar Constitution was itself to a large extent drafted by notable liberal politicians and theorists—but it was not in any obvious, or classical way a liberal constitution. On the contrary, it was strategically written as a post-liberal quasi-collectivist document, containing guarantees of property, exchange and contract, but also making extensive provision for redistribution, workers' co-determination through collective bargaining, and broad societal corporatism. Looking through a cross-section of liberal positions which might have confronted Schmitt in early twentieth-century Germany (from Weber, to Naumann, to Preuß, to Rathenau), there is little or no evidence of support either for the de-politicization of the civil sphere, or for the liberation of the political superstructure. This raises the question of whether Schmitt's attachment to early liberal ideas was in any way meaningfully 'liberal' in his own historical context. During the mid- to late Weimar era, in which Schmitt refined his position on the state-society relation, the organized bodies which might conceivably have sanctioned such perspectives were the DVP (German Peoples' party) after 1929 [18], the heavy-industrialist community represented by the RDI (Imperial Association of German Industry) [19–21] the DNVP (German National Peoples' party) after 1928¹ and perhaps the business-friendly components of the Catholic Centre party. Only the former of these can be reasonably classified as a liberal organization (and even here this taxonomy is questionable). In short, the 'liberal' ideas which Cristi imputes to Schmitt can only be very loosely attached to any established liberal group or association. Following this rather general definition of liberalism, Brüning himself would have to be viewed as an authoritarian liberal: like Schmitt, he too favoured a reduction of welfarist intervention, a reduction of taxation, limiting of workers' co-determination, and legislation designed to favour the progressive sectors of the economy [23–25].² However, if the term 'liberal' is applied in such contexts its meaning becomes almost impossibly attenuated.

¹ On the pro-industrial shift in the DNVP under Hugenberg after 1928, see [22] D. Abraham, *The Collapse of the Weimar Republic: Political Economy and Crisis*, 2nd Edition, Holmes & Meier, New York, 1986, p. 302.

² For a more favourable view on Brüning, see [26] W.L. Patch, *Heinrich Brüning and the Dissolution of the Weimar Republic*, CUP, Cambridge, 1998, pp. 172–219.

These observations do not mean that Cristi's thesis is wrong, but they do suggest that Schmitt's (alleged) liberalism might have to be positioned against other, far more influential variants of liberal theory in modern Germany. Indeed, this problem is not exclusive to Cristi. Scheuermann's repeated claim that Schmitt's critique of liberalism is in fact directed against socialism, and actually contains a defence of the dualist state/society model in early liberalism (pp. 57, 86), could also require some differentiation in light of this. In any case, the suggestion that Schmitt is not primarily anti-liberal, but anti-socialist, omits to consider both the extent to which standard liberal positions in post-Bismarck Germany were often sympathetic to collectivist and welfarist arguments, and the fact that standard socialist positions in the Weimar period also managed to be ambiguously supportive towards freedom of economic interaction and the authoritarian executive—principles obviously held dear by Schmitt [27,28].

It might, in fact, be argued that Schmitt is not only sympathetic to classical-liberal positions, but also to certain aspects of post-liberal liberal theory in early twentieth-century Germany. His debt to Weber, most evidently, is clear enough. In certain respects, however, his attempt to construe property and ownership as 'substantive values' (p. 207) also mirrors Friedrich Naumann's quest, directly embedded in the Weimar Constitution itself, to shift liberal thinking away from its foundation in negative or private-legal ideas of contract towards a model of integrative government, in which ownership defines a positive relation to commonly elaborated political interests, not a negative relation against these [29]. One implication of this is that both strands of German liberalism—the classical type exemplified by early theorists, as well as the collectivist type represented diversely by left-leaning liberals around the *Verein für Sozialpolitik*—were equally inclined, under certain conditions, to promote authoritarian models of order. Indeed, Schmitt marks the point, in both traditions, where the authoritarian possibility in liberalism is concretely realized. Reflection on these matters would surely not invalidate Cristi's argument, but it might make it still more convincing.

Even more than Cristi's work, however, McCormick's book on Schmitt is indispensable reading. It is excellent in a number of respects, both in its brave attempt to position Schmitt centrally within the philosophical and political debates of the Weimar Republic, but also in its extremely detailed periodization of Schmitt's work, and the close scrutiny of the relation between different texts. Even seasoned readers and critics of Schmitt are likely to find their knowledge of the fissures and continuities between Schmitt's writings significantly expanded by this book. In short, therefore, at present this work can reasonably be viewed as the key perspective in Schmitt scholarship in the English-speaking world, and it will take a very major work to move Schmitt research decisively onwards from this position. However, such a work might ultimately become necessary, as many of the arguments which McCormick sets out are questionable.

McCormick's work is in some respects beset by problems similar to those which affect Scheuermann's book. His position also turns on the argument that Schmitt's entire opus constitutes an attempt to overcome the antinomies of liberal legal philosophy and sociology by conceptualizing *politics* as the irreducible source of

governmental and legal legitimacy. Schmitt's primary objective, we are thus informed, is to supersede the residually Kantian dualities which persistently plague modern legal thought (especially that of Weber and Kelsen), and to resolve the Kantian antinomy between legality and legitimacy by founding law in a unitary political existence. Importantly, McCormick draws a close parallel here between Schmitt and Georg Lukács. He sees Schmitt's writings of 1923 as parallel counter-models to Lukács's own attempt, set out in *History and Class-Consciousness*, to overcome the epistemological antinomies of Kantianism by proposing a model of political knowledge and action, which unifies legality (theory) and legitimacy (praxis) on the ground of a realized unity of political consciousness (p. 58).

This pairing of Lukács and Schmitt relies on three assumptions which are fundamental to McCormick's overall reading of Schmitt. Firstly, he considers Schmitt to be an existentialist theorist, of the Heideggerian (anti-metaphysical) variety. He claims that Schmitt theorizes the political as a way of explaining how human consciousness might dismantle the metaphysical substrates which persist in Kantian politics and epistemology, in order to liberate human practical agency as the internally self-legitimizing foundation of political order (p. 54). Secondly, he also sees Schmitt—like Heidegger and Nietzsche—as a mythomaniac thinker, who views myth as an emphatically this-worldly cognitive order, in which human consciousness and human motivations dislocate themselves from all normative and antinomical (metaphysical) problems. Thirdly, in consequence, McCormick—like Scheuermann—also argues that Schmitt's concept of politics is designed to eliminate all indeterminacy from law, and to politicize law as the function of an integrally post-metaphysical, post-normative, post-epistemological political totality. The positions of Schmitt and Lukács are therefore viewed as parallel examples of radical resistance to the technical reification of human consciousness, and to the metaphysical-epistemological elements which still cause and prolong this reification. *Existence, myth and politics* (McCormick argues) thus act as the crucial components in Schmitt's attempt, in antagonistic symmetry with Lukács, to overcome Kantian politics by proposing a unified foundation of knowledge and being upon which to base political order.

It might, however, be argued that Schmitt cannot be finally aligned to any of the positions which are ascribed to him here. Above all, it is informative to observe that the philosophical text which most directly relates to *History and Class-Consciousness* was not written by Schmitt at all. It was in fact Heidegger's *Being and Time*. In this work Heidegger responds in considerable detail to Lukács's endeavour to accord decisively post-epistemological agency to the proletariat, and he follows Lukács in attempting to develop a unitary model of human praxis which evades both the (alleged) formalization of reason and the abstract separation of cognition and action in neo-Kantian philosophy. Like Lukács, Heidegger was also deeply preoccupied by Weber, and there are grounds to suggest that he viewed Weber as his most pressing political and philosophical adversary [30,31]. Most importantly, however, both Heidegger and Lukács assert that human consciousness in its given historical/material situation can (under certain conditions) produce and shape itself as a historically integral unity, and that it can thus overcome the formal-universal

reification which it suffers through metaphysics (Heidegger) or through bourgeois epistemology (Lukács). What this means, in political terms, is that the true political order will not require legality: it will simply *be* legitimate, on the ground of the post-Kantian cognitive unity of its constituents.

Reflection on Lukács can therefore certainly help to clarify what type of theorist Schmitt was not. It is difficult, though, to see any claim to support a direct equation between these thinkers. Schmitt's reflections of the 1920s and early 1930s presuppose that the true political order creates its unity and identity by representing certain political qualities, which do not reside in the unitary consciousness of its constituents, and which cannot be conceived outside the antinomial orders of theology and metaphysics. Although Schmitt certainly claims that politics must be prior to law, he does not—unlike Heidegger and Lukács—suggest that in the legitimate order there will be no law. In fact, in some respects Schmitt actually bases his concept of the political in a pre-secular figuring of the original Kantian theorization of legality and legitimacy. Whilst Kant argues that political legitimacy depends on the prior circumscription of politics by universally deducible and defensible laws, Schmitt implies that political legitimacy depends not on its correspondence with laws, but on its capacity to distil and express the universal-anthropological quality of human politicality. Thus, although apparently opposed to Kant's positioning of legality prior to legitimacy, Schmitt always remains in some respects a Kantian: he always sees legitimacy as the reflection, in legal form, of certain common defining attributes of human cohesion and unity. Kant conceives of universal law as the anthropological articulation of human (second) nature, and thus as the only true foundation for the legitimate order. Schmitt opposes this by explaining justifiable law as the corollary of legitimacy—but he views legitimacy itself as the crystallization of certain prior attributes of human (second) nature, which are given form in laws. In other words: Schmitt grounds legitimacy in a concept of human agency, in which *legality* is always integrated as a prior pre-reflexive property. Despite his anti-Kantian rhetoric, therefore, he still indicates that law is originally prior to politics, and that legality is originally prior to legitimacy: legitimacy is the corollary of certain attributes (or properties) which are anthropologically stabilized *before* politics. In this respect (as Cristi might confirm), Schmitt actually sustains the basic positions of a quasi-metaphysical, and therefore liberal political anthropology, in which properties are anterior to praxis. Contrary to McCormick's reading, consequently, Schmitt sees the truly political moment in politics not as a mode of being in which humanity collapses into closed worldliness, but in which it refers—however rhetorically and dialectically—to some anthropologically unique ethical source. For these reasons, it is extremely difficult to see how Schmitt can truthfully be seen to endorse the repudiation of the metaphysical legacy, and of all anthropological privileging of human attributes, which is undertaken by both Heidegger and Lukács.³ If Schmitt can in any respect be placed

³Heidegger repeatedly distances his thought from anthropological positions. See [32] M. Heidegger, *Sein und Zeit*, Niemeyer, Tübingen, 1986, p. 301 and [33, 34].

in an existential canon, he is related most closely to the conservative-liberal quasi-Kantian existentialism of Karl Jaspers.

Against this background, in fact, it is also arguable that Schmitt cannot be linked with existentialism in any meaningful way. Obviously, Heidegger and Schmitt concur minimally in seeking to counteract the technical inauthenticity of the parliamentary order. However, this alone does not make Schmitt an existentialist. All perspectives within existentialism—from Kierkegaard, to Heidegger, to Rosenzweig, to Jaspers—insist that human existence becomes valid whenever it defines itself as an absolutely historical agency, and thus produces, *in* and *as* history, binding terms for its own self-authorization. Even where he veers most glaringly into the post-historicist orbit of National Socialist philosophy, however, Schmitt does not—unlike Heidegger—claim that politics has its dignity as a mere expression of the objective exigencies of national history. Even after 1933, he continues to impute a specific anthropological dignity to politics, which he construes as a distinct mode of law-giving authority. This would be inconceivable in the post-metaphysical anthropology of Heidegger, and in the post-juridical activism of Lukács.

This leaves the questions of technology and myth, which are McCormick's most central concerns. Schmitt's concept of myth, we are told, is intended to prescribe an antidote to the technical reification of occidental reason. In his reflections on myth, accordingly, Schmitt follows Nietzsche, Heidegger, Jünger and Spengler (p. 116), in constructing a closed system of inner-worldly meaning, which creates an undifferentiated horizon for human interpretation and action. Above all, McCormick claims that Schmitt's world-view is based in a strategic reconstruction of Roman Catholicism, which he sees as a potent myth, uniquely equipped to resist the extreme 'contentlessness' and the anarchic 'embrace of the technical' which characterize Soviet Russia (p. 95).

McCormick's thesis on Schmitt hinges largely on the extent to which we are prepared to accept Schmitt's own claim that he wishes to counteract the functionalization of human consciousness and the technical debasement of modern order (p. 63). There are, however, two dialectical arguments for claiming that McCormick's interpretations of this are not entirely accurate. Firstly, it should be noted that myth means a number of very different things, especially in the 1920s and 1930s. McCormick relates Schmitt primarily to the concepts of myth propagated by Nietzsche, Heidegger and Spengler. These thinkers argued that myth forms an absolutely inclusive totality of all areas of human operation, transfusing all spheres of human agency and cognition; indeed, Heidegger and Spengler also gave a special place to technology as a contemporary system of mythical signifiers. Schmitt's ideas on myth, however, are strongly opposed to such preconditions. His commitment to Catholicism, for example, is guided by the belief that Catholic myth always obstructs the closed unity of humanity with its worldly forms, and is hostile to technology precisely because it sees in technology a false synthesis of human being with the technical means of its material reproduction [35]. Schmitt's views on myth might therefore be more legitimately linked to the neo-Kantian concept of myth set out by Jaspers and Cassirer, which interprets myth as a mode of expression in which human consciousness articulates, but does not finally realize, its own transcendental forms.

Most importantly, McCormick never clarifies how purely mythical thinking, supposedly exemplified by Schmitt, could in any way be equipped to oppose the power of technicity. If it were conceived exclusively as a unitary system of immanent meanings, myth could not produce terms for such opposition.

Secondly, in his late-Weimar writings Schmitt's suppressed Kantian and metaphysical debts ultimately generate a perspective on technicity which directly contradicts McCormick's analysis. In the last years of the Weimar Republic (1930–33), Chancellors Brüning, Papen and Schleicher instituted an authoritarian system of government by presidential cabinet. These cabinets introduced legislation without parliamentary support, often directly contravening the stipulations of the constitution. In this system, the political apparatus fell into line behind powerful economic lobbies, and the bureaucracy of state, accountable only to the presidential cabinets and thus largely detached from its obligation to the parliamentary legislature, became the primary location of decision-making power [36–38]. Schmitt played an important advisory role in the late-Weimar cabinets, and there are good reasons to assume that such techniques of governance were closer to Schmitt's heart than any others. Yet in many respects these governments perfectly consummated the triumph of technocratic principles of bureaucratic-capitalist domination over political substance. These governments were far more strongly determined by technical or economic imperatives than the earlier elected Weimar cabinets, and they enjoyed far less popular support than the system by which they were replaced—that of the NSDAP.

In his strong support for the late-Weimar presidential system, therefore, Schmitt might be seen as an anti-technical theorist of government who also, like other anti-technical theorists such as Heidegger and Spengler, finally makes accommodation for the technical principles which he seemingly despises. McCormick's case for Schmitt as a consistently anti-technical theorist is, consequently, highly problematic. However, unlike Heidegger and Spengler, the origins of Schmitt's compromise with technical government are not found in his mythical thinking, but actually—however paradoxically—in the neo-Kantian dimension to his outlook. If Schmitt opposes technology because he rejects the absolute worldly identity of humanity with its technical means, he is, dialectically, also prepared to endorse even the most technical and bureaucratic system of government for quite similar reasons. The strong bureaucratic executive can still, at least, *represent* itself as a location in which the transformation of supra-positive juridical principles into legal facticity can occur. In sum, Schmitt opposes technology and technocracy for reasons directly counterposed to those enunciated by McCormick, but he also ultimately affirms technology and technocracy on the basis of intellectual and metaphysical convictions which McCormick does not acknowledge. Cristi in fact comes closer to a cogent examination of Schmitt's compromise with more functionalist political principles.

To conclude, finally, although all of these books can be recommended with lesser or greater degrees of enthusiasm, those hoping in future to write on Schmitt ought not to be utterly disaffected. Balakrishnan's work is to date the best historical/biographical work on Schmitt in English. Cristi's work incisively and convincingly tackles one implication of Schmitt's perspective. McCormick's work deserves the elaborate plaudits which it has received, for in its range and conviction it describes

the current condition of Schmitt-research. Nonetheless, it should not be considered a definitive work. There is space still, in short, for new debate.

It will be interesting to see, however, whether any future authors (especially those who speak from left or left-liberal positions) will be willing to approach Schmitt from a less oblique angle than is the case in these works. This might, for instance, mean asking whether Schmitt is not after all justified in arguing for an anthropological and foundational category of *the political*, in which politics cannot be identified with the particular interests of people, parties, systems, or with any material forces in civil society (on this project, see: Jorge E. Dotti, in: Mouffe, p. 113). Such an undertaking would naturally involve correcting Schmitt in absolutely fundamental respects; it would certainly reject his own desperately dialectical and formally contentless attempt to theorize the political. However, it would also require reading Schmitt as more than a thinker who on occasions sounds rather like Marx or Trotsky, and who at other times confronts liberalism with insufficiencies, about which liberals should already have very extensive practical and theoretical knowledge. In the context of the present debates on Schmitt, this proposed line of inquiry might follow McCormick in reconstructing the philosophical–anthropological background to Schmitt’s concept of politics—although it might strongly disagree with McCormick about Schmitt’s relation to Kant, and his theory of technology. At the same time, however, it might also follow Cristi in claiming that the failure of Schmitt’s theory of politics lies not in his anti-liberalism, but in his ultimate incapacity to detach his foundational position from certain functionalist perspectives, which actually have their origins in diverse aspects of liberalism.

References

- [1] Karl Marx, ‘Zur Judenfrage’, in: Karl Marx and Friedrich Engels, *Werke*, vol. I edited by the Institut für Marxismus-Leninismus beim ZK der SED Dietz, Berlin, 1956, pp. 347–377; 357.
- [2] K. Marx, *Zur Kritik der politischen Ökonomie*, Dietz, Berlin, 1971, p. 14.
- [3] M. Adler, *Die Staatsauffassung des Marxismus: Ein Beitrag zur Unterscheidung von soziologischer und juristischer Methode*, Wissenschaftliche Buchgesellschaft, Darmstadt, 1973, p. 49.
- [4] Otto Kirchheimer, ‘Verfassungswirklichkeit und politische Zukunft der Arbeiterbewegung’, in: Otto Kirchheimer, *Von der Weimarer Republik zum Faschismus*, edited by Wolfgang Iufthardt, Suhrkamp, Frankfurt a. M., 1976, pp. 69–76, 73.
- [5] Hermann Heller, ‘Ziele und Grenzen einer deutschen Verfassungsreform’, in: Hermann Heller, *Gesammelte Schriften*, vol. III, edited by Martin Drath et al., in 4 vols. A.W. Sijthoff, Leiden, 1971, pp. 411–417; 413.
- [6] H. Heller, *Staatslehre*, in: *Gesammelte Schriften*, edited by Drath et al., Vol. III, pp. 81–397, 235–236.
- [7] H. Heller, *Sozialismus und Nation*, in: *Gesammelte Schriften*, edited by Drath et al., Vol. I, pp. 439–526, 462.
- [8] H. Heller, *Politische Demokratie und soziale Homogenität*, in: *Gesammelte Schriften*, edited by Drath et al., Vol. III, pp. 421–433, 428–429.
- [9] C. Schmitt, *Verfassungslehre*, Duncker and Humblot, Berlin, 1928, p. 186.
- [10] C. Schmitt, *Weiterentwicklung des totalen Staates in Deutschland*, in: C. Schmitt, *Verfassungsrechtliche Aufsätze aus den Jahren 1924–1954: Materialien zu einer Verfassungslehre*, Duncker und Humblot, Berlin, 1958, pp. 359–366, 362.

- [11] C. Schmitt, *Staat, Bewegung, Volk* Hanseatische Verlagsanstalt, Hamburg, 1935, p. 33.
- [12] H. Arendt, *The Origins of Totalitarianism*, André Deutsch, London, 1951, p. 396.
- [13] F. Neumann, *Behemoth: The Structure and Practice of National Socialism*, Harper Torchbooks, New York, 1966, p. 467.
- [14] C. Schmitt, *Der Leviathan in der Staatslehre von Thomas Hobbes. Sinn und Fehlschlag eines politischen Symbols*, Klett-Cotta, Stuttgart, 1982, p. 118.
- [15] A. Koenen, *Der Fall Carl Schmitts: Sein Aufstieg zum "Kronjuristen des Dritten Reiches"*, Wissenschaftliche Buchgesellschaft, Darmstadt, 1995, p. 530.
- [16] H. Heller, *Autoritärer Liberalismus*, in: *Gesammelte Schriften*, edited by Drath et al., Vol. II: pp. 643–653, 652.
- [17] C. Schmitt, *Legalität und Legitimität*, Duncker und Humblot, Berlin, 1932, pp. 68–69, 81.
- [18] H. Booms, *Die Deutsche Volkspartei*, in: E. Matthias, R. Morsey (Eds.), *Das Ende der Parteien 1933. Darstellungen und Dokumente*, Droste, Düsseldorf, 1979, pp. 523–539; 525.
- [19] C. Böhret, *Aktionen gegen die "kalte Sozialisierung" 1926–1930. Ein Beitrag zum Wirken ökonomischer Einflußverbände in der Weimarer Republik*, Duncker und Humblot, Berlin, 1966, p. 101.
- [20] C.-D. Krohn, *Autoritärer Kapitalismus. Wirtschaftskonzeptionen im Übergang von der Weimarer Republik zum Nationalsozialismus*, in: D. Stegmann et al. (Eds.), *Industrielle Gesellschaft und politisches System. Beiträge zur politischen Sozialgeschichte. Festschrift für Fritz Fischer zum siebzigsten Geburtstag*, Verlag Neue Gesellschaft, Bonn, pp. 113–129, 119.
- [21] B. Weisbrod, *Schwerindustrie in der Weimarer Republik. Interessenpolitik zwischen Stabilisierung und Krise*, Peter Hammer, Wuppertal, 1978, pp. 243–244.
- [22] D. Abraham, *The Collapse of the Weimar Republic: Political Economy and Crisis*, 2nd Edition, Holmes & Meier, New York, 1986, p. 302.
- [23] R. Meister, *Die große Depression. Zwangslagen und Handlungsspielräume der Wirtschafts und Finanzpolitik in Deutschland, 1929–1932*, Transfer verlag, Regensburg, 1991, pp. 83.
- [24] M. Grübler, *Die Spitzenverbände der Wirtschaft und das erste Kabinett Brüning. Vom Ende der Großen Koalition 1929/30 bis zum Vorabend der Bankenkrise*, Droste Verlag, Düsseldorf, 1982, esp. pp. 168–170.
- [25] G. Golla, *Zielvorstellungen und Auswirkungen der Brüning'schen Sparpolitik*, Botermann & Botermann, Cologne, 1994, p. 28.
- [26] W.L. Patch, *Heinrich Brüning and the Dissolution of the Weimar Republic*, CUP, Cambridge, 1998, pp. 172–219.
- [27] P.-C. Witt, *Bemerkungen zur Wirtschaftspolitik in der "Übergangswirtschaft" 1918/19. Zur Entwicklung von Konjunkturbeobachtung und Konjunktursteuerung in Deutschland*, in: D. Stegmann et al. (Eds.), *Industrielle Gesellschaft und politisches System*, pp. 79–96, 96.
- [28] G.D. Feldmann, *The Great Disorder. Politics, Economics, and Society in the German Inflation, 1914–1924*, OUP, New York, 1997, pp. 99–155.
- [29] F. Naumann, *Deutsche Grundrechte, Die Hilfe* 12 (1919) pp. 141–142.
- [30] H. Saner, 'Vorwort', in: K. Jaspers, *Notizen zu Martin Heidegger*, Piper, Munich, 1978, pp. 7–21, 14.
- [31] Martin Heidegger, *Karl Jaspers, Briefwechsel 1920–1963*, edited by Walter Biemel and Hans Saner Piper, Munich, 1990, p. 148.
- [32] M. Heidegger, *Sein und Zeit*, Niemeyer, Tübingen, 1986, p. 301.
- [33] M. Heidegger, 'Anmerkungen zu Karl Jaspers' "Psychologie der Weltanschauungen": in: H. Saner (Ed.), *Karl Jaspers in der Diskussion*, Piper, Munich, 1973, pp. 70–100; 97.
- [34] Martin Heidegger, *Phänomenologische Interpretation von Kants Kritik der reinen Vernunft* edited by Ingrid Gölz, in: *Gesamtausgabe*, vol. 25, Vittorio Klostermann, Frankfurt am Main, 1977, p. 70.
- [35] C. Schmitt, *Römischer Katholizismus und politische Form*, Theatinerverlag, Munich, 1925, p. 49.
- [36] Grübler, *Die Spitzenverbände der Wirtschaft*, pp. 187, 353.
- [37] H.A. Turner, 'Alliance of Elites as a Cause of Weimar's Collapse and Hitler's Triumph?', in: H.A. Winkler (Ed.), *Die deutsche Staatskrise, 1930–1933*, Oldenbourg, Munich, 1992, pp. 205–214; 233.

- [38] Ulrich Scheuner, 'Die Anwendung des Art. 48 unter den Präsidentschaften von Ebert und Hindenburg', in: F.A. Hermens, T. Schieder (Eds.), *Staat, Wirtschaft und Politik in der Weimarer Republik. Festschrift für Heinrich Brüning*, Duncker und Humblot, Berlin, 1967, pp. 249–286; 279.

Chris Thornhill

Department of German, King's College London,

Strand, London WC2R 2LS, UK

E-mail address: christophe.thornhill@kcl.ac.uk

PII: S0191-6599(01)00012-2

A land unfit for ideas? British intellectual history, 1750–1950

History, religion, and culture: British intellectual history, 1750–1950

Stefan Collini, Richard Whatmore, and Brian Young (Eds.); Cambridge University Press, Cambridge, MA, 2000, viii + 289 pp., ISBN 0 521 62638 2 (hbk), £40; 0 521 62639 0 (pbk), £14.95.

Economy, polity, and society: British intellectual history, 1750–1950

Stefan Collini, Richard Whatmore, and Brian Young (Eds.); Cambridge University Press, Cambridge, MA, 2000, viii + 283 pp., ISBN 0 521 63018 5 (hbk), £40; 0 521 63978 6 (pbk), £14.95.

I

Few dogmas of contemporary cosmopolitan orthodoxy have thrived so long as the supposed British disdain for ideas. The argument goes something like this. A self-consciously practical people, we have consistently preferred the actual to the possible, the concrete rather than the abstract, the empirical as opposed to the theoretical. A notably conservative race, we have continually passed over the exciting possibilities of radical change in our irrational attachment to traditional institutions. A distressingly philistine nation, we have all too often revelled in our insularity and made a virtue of our ignorance. That has led us not only to deride the message but also to despise the messenger. For ideas are the products of intellectuals. And the British disregard for intellectuals is very well known. Exalted in France, they are neglected on this side of the channel. Their thoughts are ignored. Their talents are belittled. They are kept out of influential positions in government and business. Most remarkable of all, the British have even contrived to keep intellectuals out of academic life. Preferring the exponents of industrious habit rather than speculative contemplation, they