

Carl Schmitt's Hobbesian State

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Worried commentaries about the U.S. turn toward policies based on the philosophy of Hitler's "Crown Jurist" Carl Schmitt, have appeared recently in German newspapers. For example, one in the *Frankfurter Allgemeine Zeitung*, with the headline "Boomerang: America Unmasks Itself with Its Criticism of the BND [German intelligence service]," begins by discussing the Iraq War, undertaken against "international law." The Frankfurt daily wrote: "You can't concentrate your attention on German participation in the Iraq War, without at the same time, turning your attention to the American initiators of the great Bush project, to increase the space of a lawless state of exception." (This "state of exception" phrase comes directly from Schmitt.)

Such sorts of commentary reflect the increasing worries of many Europeans over the possibility of an administrative coup with a "fascist" stamp in the U.S.A. This neo-conservative strategy was set in motion after the events of Sept. 11, 2001, and was buttressed with the teachings of the Nazi "Crown Jurist" Schmitt, as LaRouche and his international movement have exposed in many published locations. Signs of this Schmitt doctrine can be seen in U.S. projects and slogans such as "the Patriot Act," "pre-emptive war," "Guantanamo prison camp," "illegal NSA surveillance," "rendition of terrorist suspects into third countries," and "CIA overflights."

Vice President Dick Cheney and a group of leading lawyers and jurists around him, as well as members of the U.S. Supreme Court, are trying in this way to reshape the U.S. Executive as a "unitary executive," or "unitary plenipotentiary power," which is derived from the axioms of Carl Schmitt. At root, this involves a trio of Schmitt's ideas: the friend-enemy concept as the essence of the political system; the "state of exception" ("the sovereign is he who decides on the state of exception"); and the idea of the "*Führerprinzip*," according to which the might of the Führer makes right.

At the same time, as *EIR* has reported, there is a growing resistance to the Schmitt thrust in Washington and the entire country, led by Democratic political figure Lyndon LaRouche and the mobilization by the LaRouche Youth Movement, and joined by leading Democratic Senators and Representatives, and also a few Republicans (such as former Deputy Treasury Minister Paul Craig Roberts, who has raised the question

of impeachment).

We look here at Schmitt's views that gave a "legal" backup to the Nazi state, Schmitt's embrace of Thomas Hobbes, and the contrast of both of them with with the philosophy of Gottfried Leibniz, whose ideas were behind the U.S. Constitution.

Carl Schmitt: 'Crown Jurist' of the Nazis

At the end of the Second World War, Schmitt was questioned by the deputy to the chief prosecutor of the U.S.A. at the Nuremberg Trials, Robert M.W. Kempner, who asked Schmitt whether he admitted that he had theoretically prepared the way for the National Socialists (Nazis) to power. Schmitt vehemently denied this. At that time, he was released, without being charged, after nearly two years of imprisonment. His permission to teach was revoked, and he went to Plettenberg, in the Sauerland region of the German state of North Rhine-Westphalia.

As an "independent scholar," he then tried to discuss his Nazi theories in informal circles in postwar Germany. These included the Academia Moralis, the Erbach Discussion Circle, and the Rhine-Ruhr Club in Düsseldorf, where Schmitt once met Hitler's former Economics Minister, Hjalmar Schacht.

In the Carl Schmitt Archive in Düsseldorf, there are about 18,000 of Schmitt's letters: Many of them are his correspondence with contacts in Spain under Franco; others were with contacts in Italy, France, the United States, and Germany. Schmitt had especially intensive contacts in the 1950s in Spain. As one can learn from his correspondence with Armin Mohler, he counted among his acquaintances in Spain, the Marqués de Valdeiglesias, a friend of the "Spanish Charles Maurras, Maeztu," as well as Javier Conde.

Schmitt visited Spain in 1951 and was enthusiastically greeted in many cities. He reported that he was glad to see that there was a lot of interest among Spanish jurists in Armin Mohler's book, *The Conservative Revolution*, which had just appeared, published in Basel.

In 1953, Henry Kissinger attempted to bring Schmitt into collaboration with his Harvard magazine *Confluence*. Intellectuals from the United States and Europe should, as Kissinger wrote in a letter to Schmitt, exchange views on current problems in politics, philosophy, and culture.

A Schmitt renaissance began in the United States and Europe with the events of Sept. 11, 2001. This is shown especially clearly in France, where the neo-con Interior Minister, Nicholas Sarkozy, is becoming ever more Bonapartist. Sarkozy recently called for altering the Constitution of the French republic, to give the President the role of a "President Leader"—that is, to give him plenipotentiary powers, *à la* Schmitt, while relegating the office of Prime Minister to purely administrative tasks.

In France, both the left—for instance, the heirs of Raymond Arons—and the right, around Alain de Benoist (*Nou-*

velle Droit), together discussed a 2003 bibliography of Carl Schmitt's working correspondence, which went intensively into the following themes posited by Schmitt: liberalism, a critique of parliamentarianism, the theory of the partisan, and dictatorship. In Italy, Schmitt has found an echo among intellectuals and anarchists, like Toni Negri and some students of Schmitt's late friend Norberto Bobbio. And in Germany, the head of the Siemens Foundation, Prof. Heinrich Meier, who among other things published the collected works of Leo Strauss, in 2004 published a postscript to his book titled *The Teaching of Carl Schmitt*.

The Fascist Kernel of Schmitt's Thought

Schmitt was the Crown Jurist of the National Socialists. His studies of Article 48 of the Weimar Constitution, his essays "The Dictatorship" and "Der Führer hat Recht") [which can be translated as "The Leader Is Right" or "The Leader Is the Law"—ed.], smoothed the way to power for the National Socialists.

Schmitt joined the National Socialist Party on May 1, 1933 in Cologne, and he accumulated a large number of influential functions with the beginning of the National Socialist government. For example, he was a member of the Prussian State Council (under Göring), a member of the Academy of German Law, the Group Head of the Law Teachers, and a member of the High School Commission responsible for all legal teaching chairs. In addition, he was the publisher of the jurists' newspaper, and the series called *The German State in the Present*. He took up wide-ranging leadership tasks in many juridical committees, and polemicized against the "abolition of German law by Jews."

Schmitt worked on many Nazi laws (*Reichsstattthaltergesetz*, *Gemeindeordnung*), and in the Summer of 1934 he defended the murder of Hitler's associates Ernst Röhm and others as "necessary for the state" and a law-creating act of the Führer.

Schmitt's partisanship for the Nazi state grew from his pathological hatred of liberalism and parliamentarianism. For him, a populist dictator was more "democratic" than a parliamentary system. He sharply criticized the liberal "night-watchman state," and called the middle class a mere debating class, and the parliament a discussion club of incompetent decisions.

As a great admirer of the British philosopher Thomas Hobbes, whom he identified in his *Glossarium* as his "brother," Schmitt was committed to the idea that man is evil by nature. He considered Hobbes's position that man's natural condition is "war of each against all," as the "actual condition of politics," not simply a mental construct.

In his 1932 work *Der Begriff des Politischen* (*The Concept of the Political*), Schmitt presented several of his basic thoughts. For him, the core of the politics and basis for the state is the "friend-foe identification," and wars and civil wars belong to the essence of political conflict. Thus, politics is not



The newspaper of German jurists of Aug. 1, 1934 featured Carl Schmitt's article, "The Führer Protects the Law." It appeared shortly after Hitler's "Night of the Long Knives" (June 30, 1934), in which he ordered the murder of many political opponents. Schmitt proclaimed that Hitler's actions were both legal and courageous, since it is the Leader who both is and creates the law.

an effort to establish reasonable, just solutions to matters of law and values, and society is not responsible for the "common good" or general welfare. In fact, Schmitt reportedly said that he hated even hearing the words "common good." Rather, society, in Schmitt's view, is devoted to the battle for victory over its internal and external enemies, and if necessary, the physical liquidation of those enemies. To this end, the institution of the state is brought into being.

In contrast to Plato, Thomas Aquinas, and Gottfried Wilhelm Leibniz, Schmitt rejected natural law. Therefore, according to his theory of the state, it is all the same whether man in the state of nature is either good or bad, and whether man regards the determination of friend or foe according to natural law or according to some other ethical value system. "There remains the noteworthy, secure observation, which is unsettling to many, that all genuine political theories consider men to be evil, that is, they consider man as in no way unproblematic, but as a creature with a dynamically dangerous nature," commented Norbert Campagna about Schmitt in his

2004 book *Carl Schmitt—An Introduction*.

For Schmitt, as for Campagna, there is no metaphysical basis in natural law for the state. Thus Schmitt explicitly pointed out at the beginning of his *Verfassungslehre (Theory of the Constitution)* that “the pure model of the constitution, as the liberal idea of an absolute *Rechtstaat* [state of laws] expresses it . . . was only possible as long as the metaphysical expressions of civilian natural law are believed in.” Schmitt further insisted that “natural law has lost its infallibility.”

In the *Glossarium* he made his criticism of natural law in an even more radical form. There he wrote: “Today ‘natural law’ is only the will-o’-the-wisp, phosphorescent product of the decay of 2,000 years of talking it to death.”

In his 1938 book *The Leviathan in the State Theory of Thomas Hobbes*, Schmitt’s deeply pessimistic view of man and his opposition to natural law become overwhelmingly obvious. He shows himself to be on the same footing as Nietzsche and Sorel, who presented themselves as vehemently against religious thinking about the state—that is, a state based on Christian principles.

Hobbes never had any illusions about human nature, Schmitt explained. “He sees that man is much more ‘anti-social’ than an animal, full of anxiety and horrible worries about the future, driven not only by current, but also even future hunger . . . always determined and ready, out of prestige and feelings of competition, to trample reason and logic under foot, in order to gain the next momentary advantage.”

For Schmitt, Thomas Hobbes’s *Leviathan* is a symbol of the political struggle in his unceasing and inexorable discussion of friend versus foe, which reaches into all areas of human production. This “Leviathan” is a “mortal God, who forces everyone into peace (submission) through fear of his power.” Schmitt says: “According to Hobbes, the state is only a civil war which is held back by great continuous force. Thus, the fact of the matter is that a Monstrous Leviathan ‘State’ continuously suppressed the other Monster ‘Revolution.’ ”

Here the sovereign is not the *defensor pacis* (defender of the peace), of a peace turning back to God, but he is the *creator pacis*, the creator of an earthly peace. According to Hobbes, the state’s power has a Godly character, since it would be all-powerful.

There is no right of resistance to the Leviathan, Schmitt said, either under the appeal to a higher, or other, law, nor on the grounds and arguments of religion. The state alone punishes and rewards. The state alone exercises its sovereign power through decree, which, in questions of justice is law and property, and in questions of faith is truth and confession: “*Autoritas non veritas facit legem.*” Not truth, but force makes the law. Nothing is true—everything is command, according to Schmitt.

Leibniz Versus Hobbes

Today’s jurists and lawyers who are in the Schmittian tradition, speak about the necessity for a strengthened “uni-

tary executive,” and are leading a general attack on the American Constitution, which, with its conceptions of “general welfare” and “pursuit of happiness,” is the most significant Constitutional document in international legal history. One of its spiritual forebears was the jurist, philosopher, and scientist Gottfried Wilhelm Leibniz (1646-1716), who in various letters sharply opposed the thesis of Hobbes that “Not truth but force makes the law.”

In his 1702 essay on *The General Concept of Happiness*, Leibniz ironically remarked that an English scholar named Hobbes asserted, just like Thrasymachus in Plato’s *Republic*, that “might makes right.” Were this true, then all judges and courts would be legitimate on the strength of their authority. But might does not allow itself to be separated from the love of wisdom and justice, Leibniz said.

In a forward to his *Codex Iuris Gentium Diplomaticus* (Code of the Diplomatic Law of Nations), which appeared for the first time in German translation at the end of 2005, Leibniz alluded to the uses of this work, above all for natural and international law, in which he especially presents the concepts of “happiness,” “love,” and “wisdom” as the sources of natural law in the midpoint of his deliberations.

“The professor of law places narrow limits on nature,” Leibniz wrote. Yet many people have not yet understood that law is a “moral power,” which is connected to mankind with love. “We shall therefore at best define justice, as that virtue which serves to guide so-called passion toward love of mankind, as love of wisdom, therefore that love which follows the prescriptions of wisdom. . . . But love is all-encompassing benevolence, and benevolence is the disposition toward love. But love is that which delights another with ‘happiness,’ or what amounts to the same thing, makes the happiness of another, the same as one’s own.”

So, there is among people an unselfish love, *Caritas*, which clearly distinguishes itself from the egoistic drive of man, of only seeking one’s own advantage. The more man acquires the strength for *Caritas*, the stronger is his love for God, the source which bestows this strength of love on man. Leibniz wrote: “But Godly love surpasses all other love, because the love of God is linked with the greatest prospects for fulfillment, there is nothing happier than God, and nothing more beautiful, and nothing more worthy of happiness can be thought of than God.”

The love of God and one’s fellow man is closely bound up with wisdom. And wisdom, according to Leibniz, is nothing but the science of “happiness.” “From this source flows natural law, which is divided into three levels,” Leibniz stated: “The law in the proper sense is effective in equitable justice; the equity (fairness) (or in the narrower sense of the word, the love of one’s neighbor) is in the distributive love; and finally, piety (or righteousness) in universal justice. From these come the commandments, to harm no man, for each to care for the other, and to live righteously (or rather piously).”