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# CARL SCHMITT - THE HOBBSIAN OF THE 20TH CENTURY?\*

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JACOB ALS THOMSEN  
*University of Roskilde, Denmark*

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## Introduction

Undoubtedly Carl Schmitt should be regarded as one on the most significant political thinkers of the twentieth century - and certainly one of the most controversial. As one of the leading legal scholars and most profound conservative intellectuals of Weimar Germany Schmitt enjoyed in the 1920s a reputation far beyond the borders of Germany. A brilliant stylist and a truly original thinker whose critique of the ideas and institutions of liberal democracy came to fascinate generations of political thinkers of the right as well as of the left, amongst others: Leo Strauss,<sup>1</sup> Hans J. Morgenthau<sup>2</sup> Walter Benjamin,<sup>3</sup> Karl Mannheim, Otto Kirchheimer, Franz Neuman, Herbert Marcuse and Jürgen Habermas.<sup>4</sup>

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\* Direct all correspondence to Jacob Als Thomsen, Department of History and Social Theory, University of Roskilde, Denmark.

<sup>1</sup> On the relation between Leo Strauss and Carl Schmitt see Heinrich Meier, *Carl Schmitt and Leo Strauss: the hidden dialogue* (Chicago and London: The University of Chicago Press, 1995).

<sup>2</sup> On Morgenthau's relation to Schmitt see "Fragment of an Intellectual Autobiography: 1904-1932," in Kenneth Thompson, Robert J. Myers (ed.), *Truth and Tragedy: A Tribute to Hans J. Morgenthau*, (New Brunswick and London: Transaction Books, 1984), pp. 15-16.

<sup>3</sup> On Walter Benjamin's relation to Schmitt see Samuel Weber, "Taking Exception to Decision: Walter Benjamin and Carl Schmitt," in *diacritics* 22, nos. 3-4, Fall-Winter, 1992, pp. 5-18.

<sup>4</sup> On Carl Schmitt's influence on the Frankfurter School, see Ellen Kennedy, "Carl Schmitt and the Frankfurter School," in *Telos*, Number 71, Spring 1987, pp. 37-66, and the comments to this article by Martin Jay, Alfons Söllner and Ulrich K Preuss in the same issue. *Telos* made a following special issue on Schmitt (*Telos*, Number 72, Summer 1987).

Schmitt was born in 1888 in the small town of Plettenberg in the Sauerland and raised as a catholic. He studied law in Berlin and Strassburg graduating from The University of Strassburg in 1910. Under the influence of the German defeat in the WW I (where Schmitt served in the state-of-war section of the general staff in Munich), the dissolution of the Second Reich and the following political chaos of the Weimar republic, Schmitt, as a professor of law and a very active publicist, became one of the sharpest critics of the modern, liberal parliamentary state, and in a broader sense of individualistic liberalism. Concerned for the public order and the threat to it from radical political forces (communists and Nazis) he, from a conservative position during the 1920s and 1930s, pointed to what he took to be the weakness of the liberal construction of the state embodied in the Weimar constitution, and refuted legal normativism in favour of decisionism.

Schmitt's reputation as a political thinker is primarily based on a number of brilliant works from the Weimar period, in which he addressed the fundamental problems of political theory; the nature of sovereignty, the basis of constitutionalism, the purpose and limits of political power and the legitimacy of the state.<sup>5</sup> Schmitt tried to address these questions - which had preoccupied Machiavelli, Hobbes, Locke, Rousseau, and Kant - to the industrialised society of the twentieth-century, arriving at a harsh critique of the liberal concept of politics, parliamentary democracy and the liberal constitutional state. Among Schmitt's central ideas was the thesis that democracy negates liberalism and liberalism negates democracy (*Die geistesgeschichtliche Lage des heutigen Parlamentarismus*, 1923), his concept of the political as essentially being the distinction between friends and enemies (*Begriff des Politischen* (1927/32), and his definition of sovereignty as a question of 'who decides on the exception' (*Politische Theologie*, 1922). Following his political thinking and fear of political chaos Schmitt in the later years of the republic, as a constitutional advisor to the Hindenburg government, provided the legal and theoretical justification for the extensive use of emergency powers by the Reich president under Article 48 of the Weimar constitution.

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<sup>5</sup> The literature by and on Carl Schmitt is vast, for a bibliographical overview that includes the later literature on Schmitt see e.g. Andreas Koenen, *Der Fall Carl Schmitt. Sein Aufstieg zum "Kronjuristen des Dritten Reiches"* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1995), Paul Noack: *Carl Schmitt. Eine Biographie* (Berlin, Frankfurt a.M. : Propyläen Verlag, 1993), Dirk van Laak, *Gespräche in der Sicherheit des Schweigens. Carl Schmitt in der politischen Geistesgeschichte der frühen Bundesrepublik* (Berlin: Akademie Verlag, 1993). Monographies on Schmitt in English see e.g. George Schwab, *The Challenge of the Exception. An Introduction to the Political Ideas of Carl Schmitt between 1921 and 1936* (New York & Westport, Connecticut & London: Greenwood Press, 1989), Joseph W. Bendersky, *Carl Schmitt. Theorist for the Reich* (Princeton: Princeton University Press, 1983) and Paul Gottfried, *Carl Schmitt. Politics and Theory* (New York & Westport, Connecticut & London: Greenwood Press, 1990).

Although few doubt the significance of his work, Carl Schmitt remains one of the most controversial figures in modern political philosophy. Often described as a fascist, a nihilist and an opportunist, and as a 'prophet of the totalitarian state', to many people he came to symbolise the intellectual undermining of parliamentary democracy in Weimar Germany and the coming to power of the Nazis. The major reason for Schmitt's controversiality is the fact that he after the Enabling Act of March 1933, took a conciliatory attitude towards the Nazis and decided to become their self appointed ideologist or 'Crown Jurist'. Although Schmitt had supported the use of emergency powers to keep the anti-republican political forces from power in the final years of the republic, and in his 1932 publication *Legalität und Legitimität* had warned against the possible coming to power by legal means by the communists or National Socialists, Schmitt joined the Nazi Party in May 1933 (the same month as Martin Heidegger). During the following three years he published a series of articles defending the new Nazi-state. In July 1933 he became a member of the Prussian Council of State and was appointed to head the professional group of university professors in the National-Socialist Jurist' Association the same year. Schmitt's situation became precarious during 1936 when he was attacked in the Gestapo organ *Das Schwarze Korps*, which led him to withdraw from public life. Anyway he was interned by the Americans in September 1945 and imprisoned for more than a year, though he was never formally charged.<sup>6</sup>

Because of Schmitt's association with the Nazi-regime in 1933-36 he was banned from post-war academic life as the political theorist or 'Crown jurist of the Third Reich' and for a long time his works was largely ignored outside Germany. As more recent studies have shown Schmitt remained, however, a central source of inspiration for political thinkers, notably on the far left or the far right.<sup>7</sup> During the 1980s and especially after Schmitt's death in 1985,

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<sup>6</sup> The interrogation Reports of Carl Schmitt have been translated and commented by Joseph Bendersky in *Telos*, Number 72, Summer 1987, pp. 91-129.

<sup>7</sup> On Schmitt's influence after 1945 see e.g. Ellen Kennedy, "Carl Schmitt in West German Perspective," in *West European Politics*, Vol. 7, No. 3, 1984, pp. 120-27, Dirk van Laak, *Gespräche in der Sicherheit des Schweigens. Carl Schmitt in der politischen Geistesgeschichte der frühen Bundesrepublik* (Berlin: Akademie Verlag, 1993), Dirk van Laak, *Der Nachlass Carl Schmitts, in Deutsche Zeitschrift für Philosophie*, Vol. 42, Number 1, 1994, pp. 141-154, Paul Gottfried, "The Nouvelle Ecole of Carl Schmitt," in *Telos*, Number 72, Summer 1987, Wolfgang Schieder, "Carl Schmitt und Italien," in *Vierteljahrshefte für Zeitgeschichte*, heft 1, januar 1989, pp. 1-21, Reinhard Mehring, "Vom Umgang mit Carl Schmitt. Zur neueren Literatur," in *Geschichte und Gesellschaft* 19, 1993, pp. 388-407, Günter Maschke, Carl Schmitt in Europa. Bemerkungen zur italienischen, spanischen und französischen Nekrologdiskussion, in *Der Staat*, Band 25, Heft 4, 1986, pp. 575-599, Armin Mohler, Schmittistes de droite, Schmittistes de gauche, et Schmittistes établis, in *Nouvelle école* 44 (Spring 1987), pp. 29-66, Ulrich K. Preuss, "Political Order and Democracy. Carl Schmitt and his influence," in *Poznan Studies in the Philosophy of the Sciences and the Humanities*, Vol. 33, 1993, pp. 15-40.

interest in Schmitt's work received a remarkable renaissance, especially among post-Marxists and among the different groupings of the new right, notably in Germany and France. In fact today Carl Schmitt, together with his old friend Ernst Jünger, have become almost mythological figures, and Schmitt is the central philosophical reference point for the more intellectual parts of the new radical conservatives in Continental Europe. A glance in periodicals like the German *Junge Freiheit* or the French *Nouvelle école* leaves little doubt of this.

However, one might judge the political thinking of Carl Schmitt, he - as Ulrich Preuss has noted - 'could not have gained the paradigmatic significance if his work had lost all relevance after the eradication of the Nazi regime or if it had slumped to a mere object of *Geistesgeschichte*. His rise to a "case" appears only understandable if his work has still some significance for us...'<sup>8</sup> However, a central question in the debate about Carl Schmitt remains what led him to collaborate with the Nazis in the first place? Was it a result of ambition and intellectual pride, an act of personal opportunism or does the answer lie in the axioms of his political philosophy? In my opinion it is not possible to point to any single factor which can explain Schmitt's conciliatory attitude towards the Nazis. As Schmitt's American biographer Joseph Bendersky has put it 'the reasons for his collaboration lie in a labyrinth of personal involvement, closely intertwined with his basic political philosophy'.<sup>9</sup> Thus, it is not the purpose of this paper to give a complete analysis of the background for and the intentions contained in Schmitt's association with the Nazis, but to point to one possible explanation in Schmitt interpretation and use of one of his major sources of inspiration: Thomas Hobbes. In looking at Schmitt's interpretation of Hobbes Leviathan, my primary intention will be to point to ways in which this a) can illuminate the neo-hobbesian aspects of Schmitt's own theory of politics and his view on the state, and b) can explain for Schmitt's political manoeuvring during the 1930s and his view of the Nazi-state.

### Schmitt's interest in Hobbes

Carl Schmitt's long-term interest in Thomas Hobbes is well known and, to anyone familiar with the writings of Carl Schmitt, it is easily inferred from his writings. The clearest expression of this interest is the fact that Schmitt subsequently turned his lectures on Leviathan into a book in 1938, entitled

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<sup>8</sup> Ulrich K. Preuss, "Political Order and Democracy. Carl Schmitt and his Influence." In *Poznan Studies in the Philosophy of the Sciences and the Humanities*, Vol. 33, 1993, pp. 15-40, pp. 15.

<sup>9</sup> Joseph Bendersky, "The Expendable Kronjurist: Carl Schmitt and National Socialism, 1933-36," in *Journal of Contemporary History*, Vol. 14, 1979, pp. 309-28, pp. 310.

*Der Leviathan in der Staatslehre des Thomas Hobbes - Sinn und Fehlschlus eines politischen Symbols.*<sup>10</sup>

Even in the beginning of the 1930s, before his lectures on Leviathan, Schmitt's admiration for Hobbes was known. This can be seen in his correspondence with Leo Strauss.<sup>11</sup> In his famous (and notorious) (1927/1932) work *Der Begriff des Politischen* he had focused attention on what he conceived as being Hobbes' central concern - his protection-obedience axiom - which, in a modified version, Schmitt made his own,<sup>12</sup> and in 1937 he had published a smaller article titled *Der Staat als Mechanismus bei Hobbes und Descartes*<sup>13</sup>. As Paul Gottfried has put it, Schmitt's 'association with Hobbes became' in fact 'so firmly fixed in Schmitt's own mind that both his disciples and his critics now take it for granted'.<sup>14</sup>

Schmitt's book on Leviathan is interesting in several respects. Seen in it's historical context of 1938, after 5 years of Nazi-rule and after the attacks on Schmitt's person in 1936, *Der Leviathan* can be read as a critical comment to

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<sup>10</sup> This first edition was published by Hanseatische Verlagsanstalt AG., Hamburg-Wandsbek, 1938, on the fiftieth birthday of Carl Schmitt and on the three hundred and fiftieth anniversary of Hobbes' birth. A second printing appeared in 1982 in Köln: Hohenheim Verlag. The latest available edition in German came out in 1995 on Klett-Cotta; Stuttgart, with a commentary by Günter Maschke. An English translation has been published recently by Greenwood Press, translated by George Schwab and Erna Hilfstein, with an introduction by George Schwab, entitled *The Leviathan in the State Theory of Thomas Hobbes: meaning and failure of a political symbol* (West Port, Connecticut & London: Greenwood Press, 1996).

<sup>11</sup> In a letter to Schmitt dated 10 of July 1933, Leo Strauss asks for information on and a recommendation from Schmitt to participate in a 'critical edition of the works of Hobbes'. Published in Heinrich Meier, *Carl Schmitt and Leo Strauss: the hidden Dialogue* (Chicago & London: The University of Chicago Press, 1995).

<sup>12</sup> "No form of order, no reasonable legitimacy or legality can exist without protection and obedience. The protego ergo obliigo is the cogito ergo sum of the state. A political theory which does not systematically become aware of this sentence remains an inadequate fragment. Hobbes designated this (at the end of his English edition of 1651, p. 396) as the true purpose of his Leviathan, to instill in man once again "the mutual relation between Protection and Obedience;" human nature as well as divine right demands its inviolable observation". In *Carl Schmitt The Concept of the Political* (Chicago & London: The University of Chicago Press, 1996), pp. 52. Schmitt published an early version of his article in 1927 in *Archiv für Sozialwissenschaft und Sozialpolitik*, Band 58, Heft 1 (1927), pp. 1-33. The English translation is based on the expanded monographic edition that was published in 1932 by Duncker & Humblot, Berlin.

<sup>13</sup> This appeared in *Archiv für Rechts- und Sozialphilosophie*, vol 30, pp. 622-32. It appears in an English translation as an appendix in *The Leviathan in the state theory of Thomas Hobbes*. See note 10.

<sup>14</sup> Paul Edward Gottfried, *Carl Schmitt. Politics and Theory* (New York & Westport, Connecticut & London: Greenwood Press, 1990), pp. 39.

the Nazi-regime, and as a key to the question of where Schmitt placed himself between Nazi-communitarianism and Weimar individualism. In this respect it becomes central in the interpretation of Schmitt's role as 'the Crown Jurist for the Third Reich' and for the question of continuity versus discontinuity between the pre-1933 and the post-1933 Schmitt. Both favourable and critical commentators of Schmitt have thus focused attention on *Der Leviathan* as a key to the understanding of Schmitt's own political theory and his concept of the state. Not surprisingly it has been used both in order to show a totalitarian and a more liberal nature of Schmitt's work.

As is clear from Schmitt's commentary on *Leviathan*, Schmitt saw a set of striking parallels between his own times and conceptualisations and those of Hobbes. The notes he wrote during his post-war confinement dwell on these parallels.<sup>15</sup> Like Hobbes in seventeenth century England; Schmitt saw himself as being confronted with political instability and the threat of civil war. And as Hobbes had done before him Schmitt saw the problem as originating in the absence of a strong single authority and they both pointed to the state as the ordering principle.

As Hobbes had been before him Schmitt was preoccupied with the fear of chaos and the concern with physical safety and public order. Perhaps more than any other political thinker since Hobbes Schmitt can be identified with this concern for public order at the expense of individual freedom. Like Hobbes Schmitt stressed the centrality of violence in the human experience and he associated sovereignty with 'power being exercised on behalf of groups locked in conflict'. As Paul Gottfried has noted, both favourable commentators of Schmitt, such as Julien Freund and Günter Maschke and liberal democratic critics, such as Helmut Rumpf, agree on these parallels.<sup>16</sup> Rumpf notes on this comparison: 'Hobbes is conservative to the extent that the stability of the civitas is more important for him than the significance of individuals and social interests. He is a political realist to the extent that he knows that the Behemoth of the Revolution threatens the Leviathan constantly; this tenacity and vigilance are required for the maintenance of state authority....Insofar as Carl Schmitt held a similar perspective, a similar function was attached to his work or parts of it'.<sup>17</sup>

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<sup>15</sup> Carl Schmitt, *Ex Captivitate Salus. Erfahrungen der Zeit 1945-47* (Köln: Greven Verlag, 1950).

<sup>16</sup> See Günter Maschke's appendix to Carl Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes* (Stuttgart: Klett-Cotta, 1995) and Julien Freund, "Les lignes de force de la pensée de Carl Schmitt," in *Nouvelle Ecole*, 44 (Spring 1987), pp. 12-14.

<sup>17</sup> Helmut Rumpf, *Carl Schmitt und Thomas Hobbes. Ideelle Beziehungen und aktuelle Bedeutung. Mit einer Abhandlung über: Die Frühschriften Caarl Schmitts* (Berlin: Duncker & Humblot, 1972), pp. 122. Here in translation from Paul Gottfried, *Carl Schmitt. Politics and Theory* (New York & Westport, Connecticut & London: Greenwood Press, 1990), pp. 39.

Schmitt shared with Hobbes the anthropological assumption that human nature was fundamentally dangerous and the state of nature, the primal human condition, was, therefore, characterised by chaos.<sup>18</sup> According to Schmitt, the fundamental human condition and the basis of human interaction is therefore conditioned by conflict, and any 'genuine' theory of politics must accordingly presuppose 'man to be evil, i.e., by no means unproblematic but a dangerous and dynamic being'.<sup>19</sup> Hence one of Schmitt's main criticisms of liberal political theory was that it does not acknowledge this condition, but on the contrary rest upon an idea of rational reasoning and the belief that conflicts of interest can be solved through rational discussion. To Schmitt this is a dangerous illusion that does not take into account the fact that sudden human conflicts are of a fundamentally antagonistic nature and cannot be solved through rational discussion.<sup>20</sup> To Schmitt the religious wars were an example of this.

### Schmitt's interpretation of Hobbes

The best sources for the study of Schmitt's view on Hobbes are his *Begriff des Politischen* from 1932 and his book on Leviathan, *Der Leviathan in der Staatslehre des Thomas Hobbes*, from 1938. In these works Schmitt both admires and criticises Hobbes. In *Der Leviathan* he on the one hand celebrates Hobbes for being the first political thinker to have realised the decisionist substance of state politics. And on the other hand he argues that Hobbes' theory erred in some crucial ways which, contrary to his own intentions, made him the precursor of the constitutional state based on positive law.

As the subtitle of Schmitt's book indicates (*Sinn und Fehlschlag eines politischen Symbols*) Hobbes' first mistake was his choice of symbol. In the Old Testament the Leviathan was the giant sea dragon that no power on earth could withstand. It rises from the sea and overwhelms Behemoth the land

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<sup>18</sup> As Leo Strauss pointed out in his *Notes on the The Concept of the Political*, there is also a fundamental difference between Schmitt's and Hobbes' definition of the state of nature: 'For Hobbes, it is the state of war of individuals; for Schmitt, it is the state of war of groups (especially of nations). For Hobbes, in the state of nature everyone is the enemy of everyone else; for Schmitt, all political behavior is oriented toward friend and enemy.' In "Notes on Carl Schmitt, The Concept of the Political" in Carl Schmitt, *The Concept of the Political* (Chicago & London: The University of Chicago Press, 1996), pp. 90.

<sup>19</sup> Carl Schmitt, *The Concept of the Political* (Chicago & London: The University of Chicago Press, 1996), pp. 61.

<sup>20</sup> Marxism was to Schmitt a better foundation in that it identified a fundamental conflict of class. However, in relation to Schmitt's catholicism its *ateism* and singular focus on materialist reasons for this conflict made it just as problematic.

power. In the Jewish-Christian tradition this symbol had always been a hateful image, something, which according to Schmitt, Hobbes was not aware of. Unintentionally, the substance of the modern state, as represented by this image, was therefore misunderstood in the centuries to follow, as something abnormal and contrary to nature.

Hobbes' second major mistake was that he distinguished between "faith" and "confession" and declared the state neutral with respect to its citizens' religious beliefs ("confession"). In Schmitt's opinion this had serious consequences, in that the space Hobbes reserved for private religious belief became the gateway for the subjectivity of bourgeois conscience and private opinion. A gateway through which these phenomena gradually unfolded their subversive forces. History had shown that this private sphere had extended into the bourgeois public sphere and, via the authority to legislate in parliament, bourgeois society had finally overthrown the Leviathan. In *Der Leviathan* Schmitt shows this degeneration of the state by constructing an anti-Semitic genealogy of the enemies of Leviathan. He started with Spinoza who (as a Jew) approached religion from the outside and opened up a dangerous breach for individual freedom of thought. This genealogy continues with Moses Mendelsohn, the Rosicrucians, the freemasons and illuminates orders of the late eighteenth century, and ends with the 'emancipated' Jews; Heine, Börne and Marx.<sup>21</sup> The result of this process had been a neutralisation of the Hobbesian state, turning it from a myth into a machine. As the subjectivities proliferated and gained in power they demanded that the state be objective. The result of this would be the complete neutrality of the state.

Schmitt maintained that to Hobbes there had been three Leviathans: the mythical monster, the representative person and the machine:

In the forefront stands conspicuously the notorious mythical leviathan, that has assimilated god, man, animal, and machine. Next to it serves a juristically constructed covenant to explain the appearance of one sovereign person brought about by representation. In addition, Hobbes transfers - and that seems to me to be the gist of his philosophy of state - the Cartesian conception of man as a mechanism with a soul onto the "huge man", the state, made by him into a machine animated by the sovereign-representative person.<sup>22</sup>

However 'in the eighteenth century the leviathan as *magnus homo*, as the godlike sovereign person of the state, was destroyed from within', and 'to an increasing extent the state was perceived as a mechanism and a machine'. This

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<sup>21</sup> Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), chapter V and VI.

<sup>22</sup> *Ibid.*, pp. 32.

destruction of the Hobbesian state was marked by the development of the concepts of right and law, and the general legalisation of the constitutional state, that transformed the state into 'a positive system of legality'. Now the state had been robbed of any substantive content of its own and jurisprudence was no longer a personal judge pronouncing decisions, but a mechanism dispensing rules: 'The Legislator humanus became a machina legislatoria'.<sup>23</sup>

As Gottfried has observed Schmitt's interpretations of Hobbes had little discernible impact beyond his own followers on the way other scholars read Hobbes. In his time the best-known German study of Hobbes was the one by Ferdinand Tönnies. He conceived Hobbes as a forerunner of the modern liberal state, influenced by the new sciences of the seventeenth century. Contrary to Schmitt, Tönnies related Hobbes' political thoughts to the materialistic premises developed in Hobbes physics and anthropology and saw Hobbes as a proponent of a sovereign regime based on popular consent. To Tönnies, Hobbes viewed civil society as an artificial construction made for the protection of individuals. This was brought into existence through the (implicit or explicit) consent of all who subjected themselves to a sovereign.<sup>24</sup> Tönnies maintained that both Hobbes' *De Homine* and *De Corpore* presented an atomistic view of human nature, which is reflected in the view on social questions in *Leviathan*. This source of his political thinking made Hobbes view on the state, as presented in *Elements of Law* (1640), *De Cive* (1642, eng.ed) and *Leviathan* (1651), points of entry to modern liberal doctrines, according to Tönnies.

Tönnies' interpretation became paradigmatic for the views of other scholars on Hobbes. In his famous comments on Schmitt's *Begriff des Politischen* Leo Strauss referred to Tönnies in criticising Schmitt's appeal to a Hobbesian, but non-liberal political tradition.<sup>25</sup> As in the case of Tönnies, Strauss viewed Hobbes as the 'founding father of liberalism', and he maintained that it was impossible to provide a critique of liberalism on the basis of his work that 'moves beyond a liberal horizon'. In the works of both Tönnies and Strauss, Hobbes reduced the function of government to the protection of 'naked life'

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<sup>23</sup> Ibid, pp. 65.

<sup>24</sup> Ferdinand Tönnies, *Thomas Hobbes. Leben und Lehre*, rpt of 3d ed. (Stuttgart: Bad Cannstatt, 1971), pp. 202-6. Here taken from Gottfried, *Carl Schmitt. Politics and Theory* (New York & Westport, Connecticut & London: Greenwood Press, 1990), pp. 40.

<sup>25</sup> See Strauss' comments "Notes on Carl Schmitt, The Concept of the Political" in *Carl Schmitt, The Concept of the Political* (Chicago & London: The University of Chicago Press, 1996).

and thereby individualised the entire system of natural rights. In his comments to Begriff des Politischen, Strauss writes:

Hobbes, to a much higher degree than Bacon, for example, is the author of the ideal of civilization. By this very fact he is the founder of liberalism. The right to the securing of life pure and simple - and this right sums up Hobbes's natural right - has fully the character of an inalienable human right, that is, of an individual's claim that takes precedence over the state and determines its purpose and its limits; Hobbes's foundation for the natural-right claim to the securing of life pure and simple sets the path to the whole system of human rights in the sense of liberalism, if his foundation does not actually make such a course necessary.<sup>26</sup>

In his work in exile from 1936, *The Political Philosophy of Thomas Hobbes: Its Basis and Genesis*, Strauss attacked Hobbes for disavowing the classical political philosophy of Plato and Aristotle. Unlike these Hobbes had no interest in the Good and the Just. Combining Epicurean sensualism and the materialist philosophy of Lucretius, Hobbes ended up with an ego-centred ethic merged with a materialist science. The atomistic view of society of political liberalism and its focus on individual material interest was a by-product of this Hobbesian Synthesis.<sup>27</sup>

Schmitt did not deny that Hobbes was inspired by the intellectual discoveries of his time, and drew on the new sciences of physics, anatomy and advanced mathematics. But Schmitt was defending Hobbes against those who would interpret him 'superficially' - as strictly a 'rationalist, mechanist, sensualist, individualist'<sup>28</sup>. In Schmitt's opinion, Hobbes remained a reluctant innovator. The degree to which Hobbes served political modernism was despite himself and against his intentions. Thus, Schmitt denied that any kind of constitutionalism or idea of individual freedom was intended by Hobbes.

Instead Schmitt tries to find a traditionalist worldview behind Hobbes' scientific political theory, and denies any kind of necessary correspondence

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<sup>26</sup> Ibid., pp. 90-91.

<sup>27</sup> Leo Strauss, *The Political Philosophy of Thomas Hobbes: Its Basis and Genesis* (Chicago: Chicago University Press, 1952), pp. 1-5, 30-43. Here from Gottfried, *Carl Schmitt. Politics and Theory* (New York & Westport, Connecticut & London: Greenwood Press, 1990), pp. 41. As has been pointed out by several commentators, Strauss' hostile attacks on Hobbes can be seen as a critical confrontation with Schmitt. Strauss completed his book after Schmitt had joined the Nazi party in May 1933. In Strauss' communication with Schmitt before this happened, a much more favourable picture of Hobbes is drawn. In fact an earlier draft of Strauss' work was presented to Schmitt, who liked it and wrote a convincing recommendation for a Rockefeller Foundation Grant. It is, thus, very likely that Strauss' later attempt to underline the modernist, naturalist and antisocial aspects of Hobbes' work was written to criticise his former mentor.

<sup>28</sup> Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), pp. 11.

between the moral doctrines in *Leviathan* and modern technological civilisation. This reading of Hobbes is clearly marked by Schmitt's own contempt for the unconcrete, impersonal and 'soulless' functionalism of modern power structures. Although Schmitt does not deny that Hobbes did not reject the idea of an efficient administration, he stresses that Hobbes set out to devise for sovereigns 'those theorems that might enable them to make proper decisions for their peoples'. He did not envision a mechanised world in which personal decisions would give way to 'administrative acts that call to mind the 'alternating red and green flashes of traffic signals'.<sup>29</sup> In the centuries following Hobbes the Hobbesian state had lost its relation to human authority, however, this development had been against Hobbes' will.

### Hobbes Relevance to Schmitt

The centrality of and intentions behind Schmitt's 1938 work on *Leviathan* have been viewed differently by his various commentators, as has the nature of Schmitt's interpretation of Hobbes. Like most of Schmitt's work *Der Leviathan* possesses a form of argumentation which points in many directions, and leaves the reader in doubt as to what Schmitt really meant. In this respect Helmut Rumpf was correct when he noted that *Der Leviathan* can be interpreted as a critique of the totalitarian system and as 'a totalitarian critique of Hobbes', which makes it difficult to conclude where Schmitt actually stood.<sup>30</sup> Steven Holmes in a highly critical essay on Schmitt noted that Schmitt himself after the war tried to impose the view that his book on Hobbes was 'harmlessly liberal in spirit', thereby trying to hide a strongly anti-Semitic series of arguments and covering up his embarrassing Nazi-sympathies.<sup>31</sup> George Schwab, *Der Leviathan's* English translator and a highly respected commentator of Schmitt (Schwab's book *The Challenge of the Exception* is considered one of the standard works on Schmitt's political ideas in English), argues on the other hand that Schmitt's book on Hobbes shows that 'Schmitt was undoubtedly closer to an authoritarian form of bourgeois liberalism than to Hitlerian Nazism'.<sup>32</sup>

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<sup>29</sup> Here from Gottfried, *Carl Schmitt. Politics and Theory* (New York & Westport & London: Greenwood Press, 1990), pp. 48.

<sup>30</sup> Helmut Rumpf, *Carl Schmitt und Thomas Hobbes. Ideelle Beziehungen und aktuelle Bedeutung in einer Abhandlung über: Die Frühschriften Carl Schmitts* (Berlin: Duncker & Humblot, 1972), pp. 68.

<sup>31</sup> Steven Holmes, *The Anatomy of Antiliberalism* (Cambridge, Massachusetts & London, England: Harvard University Press, 1993), pp. 50.

<sup>32</sup> From Schwab's introduction to *Carl Schmitt, The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), pp. xxi.

It is worth while dwelling a little on Schwab's interpretation in that it even more clearly than Schwab's biography of Schmitt presents Schwab's central thesis that Schmitt's association with the Nazi-regime was built on 'misjudgement' and 'failure to apprehend or acknowledge the dynamism of nazism' and that Schmitt already in 1938 had returned to a pre-1933 warning against totalitarianism. According to Schwab *Der Leviathan* in this way becomes a central source for understanding both Schmitt's political manoeuvring in relation to the new Nazi-regime in the 1930's and a key to understand Schmitt's concept of the state.

### Schwab's Interpretation of Schmitt: The creed for the qualitative total state

To Schwab, Schmitt's work on Hobbes must be seen in it's historical context of 1938. Most Schmitt scholars share the view that 1936 constituted a 'watershed' for Schmitt.<sup>33</sup> As a consequence of the attacks on him in the SS organ *Das Schwarze Korps* in December 1936,<sup>34</sup> Schmitt withdrew from public life and primarily confined his activities to those associated with his university career. As has been shown by Bendersky and Schwab it seems reasonable to believe that Schmitt was not lying when he later claimed that these attacks caused him to fear for his personal safety.

With reference to this Schwab writes in his introduction to the English translation of *Der Leviathan*: 'it appears to have been no accident that he turned to Hobbes again, for it was Hobbes, as Schmitt repeatedly pointed out, who based his theory of the state on "the mutual relation between Protection and Obedience".'<sup>35</sup> In this context Schmitt's book on Hobbes can be seen as a critical comment to the emerging Nazi-state. Accordingly Schwab argues:

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<sup>33</sup> On the political background for this, see: George Schwab, *The Challenge of the Exception: An Introduction to the Political Ideas of Carl Schmitt between 1921 and 1936*, (New York & London: Greenwood Press, 1989), pp. 141-43, and Joseph W. Bendersky, *Carl Schmitt, Theorist for the Reich* (Princeton: Princeton University Press, 1983), pp. 235-43.

<sup>34</sup> See in particular "Es wird immer noch peinlicher", December 10, p. 2, 1936. In this article Schmitt was accused of opportunism in his anti-semitism, which both lacked a racial aspect and had no connection to his pre-1933 writings and friendship with Jews. A later attack on Schmitt was launched by Alfred Rosenberg in a fifteen-page confidential report of January 8, 1937. This report has been reprinted and commented by Günter Maschke under the title "Das 'Amt Rosenberg' gegen Carl Schmitt: Ein Dokument aus dem Jahr 1937" in *Zweite Etappe*, Bonn, October 1988, pp. 96-111.

<sup>35</sup> From Schwab's introduction to *Carl Schmitt, The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), pp. x.

..that Schmitt used his writings on Hobbes to provide an assessment of and response to emerging political realities. Stated succinctly, because of the Nazi hierarchy's failure to heed his advice on the necessity of forging the new Germany into a qualitative total polity, Schmitt insinuated the demise of the Third Reich. Moreover, as the new polity was degenerating into a quantitative total one-party SS state, one that made a mockery of Hobbes' relation between protection and obedience, Schmitt, disillusioned and frightened, signalled in his writing on the Leviathan that he was reconnecting himself to the pre-1933 Schmitt.<sup>36</sup>

The pre-1933 Schmitt that Schwab refers to is primarily Schmitt's *Starker Staat und gesunde Wirtschaft* <sup>37</sup>which appeared in print in January 1933 only days before Hindenburg appointed Hitler chancellor, and which Schwab views as 'the bridge to his past'. In this article Schmitt defines the difference between a qualitative and a quantitative total state by their ability to distinguish the political sphere (the state) from the non-political domain (society). The qualitative total state in Schmitt's construct is above society and thus in a position to distinguish friend from enemy, whereas the quantitative total state is forced by society to "immerse itself indiscriminately into every realm, into every sphere of human existence. (It) altogether knows absolutely no domain that is free of state interference because it no longer is able to distinguish anything".<sup>38</sup>

As Schmitt had explained already in *Der Begriff des Politischen* the erosion of the boundary between state and society predates the twentieth century, but the form it assumed in Weimar Germany came from the outright competition among a multitude of ideologically antagonistic 'total parties', which succeeded with the use of the parliament in splintering the polity - that is, the government of the state made 'the state the object of their compromises'. In 1932 Schmitt had argued that, in spite of this development, it was not too late to save the republic, since two pillars of the state, the bureaucracy and the Reichwehr, were still in place, as was the President, who had far-reaching constitutional powers under Article 48. Schmitt's solution to the problems, as presented in *Legalität und Legitimität* (1932)<sup>39</sup> and *Starker Staat und gesunde Wirtschaft*, was a depoliticisation of society, which should prevent the societal sphere from becoming a political battleground. Following this line of

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<sup>36</sup> Ibid., pp. x.

<sup>37</sup> Carl Schmitt, *Starker Staat und gesunde Wirtschaft*, in *Volke und Reich. Politische Monatshefte*, February 1933, pp. 81-94.

<sup>38</sup> Carl Schmitt, *Starker Staat und gesunde Wirtschaft*, in *Volke und Reich. Politische Monatshefte*, February 1933, pp. 84. Here quoted from Schwab's introduction to, Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), pp. x.

<sup>39</sup> Carl Schmitt, *Legalität und Legitimität* (München & Leipzig: Duncker & Humblot, 1932).

argumentation he proposed banning political parties that had anti-republican political programmes and proposed abandoning the traditional distinction between the state and society in favour of a triple construction. According to this the state would be designated as the political part, the public sphere as neither strictly political nor strictly private, and society as the non-political part.<sup>40</sup> This idea centred on the creation of an upper house in which organised interests such as industry and agriculture, as well as the professions and vocational groups, would be represented. As envisioned by Schmitt in 1932 this body would not supersede the lower house of the liberal parliament, but would complement it. According to Schmitt in this construct 'a strong state would be in a position to endow the second house with the prestige and authority necessary for the men...to be freed from the allegiance to their interests and would dare...to subject themselves to a consensual decision without the fear of being chased out by their discontented bosses'.<sup>41</sup>

When Schmitt, to his own great surprise,<sup>42</sup> was invited to participate in the Nazi-administration in April 1933<sup>43</sup> and was later asked by Göring to join the Prussian State Council, he - mistakenly in Schwab's view - thought it possible to help forge the Third Reich into this ideal of a meaningful qualitative state. It was thus with a vision, not of a totalitarian Führer state, but of a strong, neutral and authoritarian state acting for the greater good that Schmitt entered the Third Reich. When he realised that this was a mistake, and that the Nazi-regime was rapidly developing into a totalitarian one-party quantitative state, not fulfilling the protection-obedience axiom of Hobbes, he by maintaining his pre-1933 view on state legitimacy, became a critic of the Nazi-rule.

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<sup>40</sup> Carl Schmitt, *Starker Staat und gesunde Wirtschaft*, pp. 89-90. Here from Schwab's introduction to *Carl Schmitt, The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), pp. xii.

<sup>41</sup> Carl Schmitt, *Starker Staat und gesunde Wirtschaft*, pp. 92. Here from Schwab's introduction to Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), pp. xiii.

<sup>42</sup> As both Schwab and Bendersky have pointed out, Schmitt was a 'marked' man when he entered the Third Reich. He was a known Catholic, a close friend to Marxists and Jews (he had dedicated his *Verfassungslehre* (1928) to his Jewish friend Fritz Eisler), he was twice married to Slavs and he had never joined the racist arguments against Jews or others.

<sup>43</sup> In April 1933 Schmitt was invited to join a commission working on a law empowering Hitler to appoint commissioners to oversee state governments.

To Schwab Schmitt's first major essay in the *Third Reich Staat, Bewegung, Volk. Die Dreigliederung der politischen Einheit*,<sup>44</sup> published in 1933, shows that he was still consistent with his pre-1933 writing in that it posits 'state before movement', thereby arguing against the Nazi-movement's take-over of the state. However, as Schwab admits, Schmitt 'muddled the question of who possesses the monopoly of the political...when he declared that the political emanated from the movement rather than from the state', and 'in asserting that the leaders of the state are also the leaders of the movement'.<sup>45</sup> Already in May 1934 Schmitt, however, returned to an insistence on the supremacy of the state in *Staatsgefüge und Zusammenbruch des zweiten Reiches: Der Sieg des Bürgers über den Soldaten*,<sup>46</sup> by pointing out the Reichswehr's status as the pillar of the state, and by not mentioning Hitler's political brown shirt army. Shortly after this publication Schmitt published another work, *Über die drei Arten des rechtswissenschaftlichen Denkens*,<sup>47</sup> in which he argued for a legal order based on institutions to which individuals would belong depending on their professional, business or political careers. Although Schmitt added that this type of legal order could not be understood outside the context of national socialism, Schwab argues that Schmitt 'by postulating a grassroots form of political legitimacy...implicitly expressed his reservation about one-man rule and his apparent belief that a legal order based on institutional justice had a greater chance of surviving upheavals than other political systems do'.<sup>48</sup>

Thus, it is Schwab's opinion that *Der Leviathan* was a return to a Hobbesian view of the state, which he more or less indirectly had presented in the above mentioned articles from the first two years of Nazi-rule and which had dominated his Weimar writings.

After the attacks on Schmitt's person in 1936 he realised that his past was too compromising, and that his hopes for the new state had been terribly wrong. Realising the nature of the Nazi-state and its danger to his own person

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<sup>44</sup> Carl Schmitt, *Staat, Bewegung, Volk. Die Dreigliederung der politischen Einheit* (Hamburg: Hanseatische Verlagsanstalt AG, 1933).

<sup>45</sup> Schwab's introduction to *Carl Schmitt, The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol* (Westport, Connecticut & London: Greenwood Press, 1996), pp. xv.

<sup>46</sup> Carl Schmitt, *Staatsgefüge und Zusammenbruch des zweiten Reiches: Der Sieg des Bürgers über den Soldaten*, (Hamburg: Hanseatische Verlagsanstalt, 1934).

<sup>47</sup> Carl Schmitt, *Über die drei Arten des rechtswissenschaftlichen Denkens* (Hamburg: Hanseatische Verlagsanstalt, 1934).

<sup>48</sup> Schwab's introduction to *Carl Schmitt, The Leviathan in the State Theory of Thomas Hobbes* (Westport & London: Greenwood Press, 1996), pp. xvii.

he returned to Hobbes' axioms of obedience and protection and noted that 'if protection ceases the state too ceases and every obligation to obey ceases'.<sup>49</sup> Schwab suggests that Schmitt even came close to a constitutional reading of Hobbes in his statement that 'The specific lawstate elements of Hobbes' theory of state and jurisprudence were almost always misjudged'.<sup>50</sup> And he underlined a priority of protection over obedience in his statement 'that it would be a peculiar philosophy of state, if its entire chain of thought consisted only of propelling the poor human beings from the utter fear of the state of nature only into the similarly total fear of a dominion by Moloch or by a Golem'.<sup>51</sup> With reference to this Schwab argues that Schmitt's experience of the one-party SS state led him finally to understand and appreciate Hobbes individualism. This leads Schwab to the conclusion that

Carl Schmitt was undoubtedly closer to an authoritarian form of bourgeois liberalism than to Hitlerian Nazism. The Schmitt whose writings were published in 1938 is more Weimar individualist than Nazi communitarian, more praising of Hobbes as a father of a strong liberal state than as one who formulated a justification for the emergence of the Hitlerian one-party state. It is true that Schmitt's concept of the qualitative total state obligated citizens to obey the legally constituted authority, but their obedience was predicated on their being provided with security of state....What remains of Schmitt's state theory is not totalitarian in nature but authoritarian in form and content, a theory that he developed before Hitler's quest of power.<sup>52</sup>

### Comments on Schwab

Schwab's interpretation of Schmitt's reading of Hobbes in many respects makes sense. Schwab's insistence that Schmitt's book on *Leviathan* to a very large degree should be understood as a response to the historical circumstances in which it came about is obviously important. In this way it seems correct to read *Der Leviathan* as a critical remark on the Nazi-state, and as a product of Schmitt's own growing fears of and disappointment in its 'true' nature. However, Schwab's analysis seems problematic in its attempt to identify the Hobbesian elements of Schmitt's own concept of a qualitative total state, and in its suggestion that Schmitt was coming close to a constitutional reading of Hobbes. In this way it seems to me that Schwab in his reading of Schmitt ends up by underestimating a series of much more communitarian and organic elements in Schmitt's vision of a new state - elements that are less Hobbesian in nature. I shall indicate three problems here:

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<sup>49</sup> Ibid., pp. xviii.

<sup>50</sup> Ibid., pp. xix.

<sup>51</sup> Ibid., pp. xix.

<sup>52</sup> Ibid., pp. xxi-xxii.

Firstly, Schwab's statement that Schmitt came close to underlining a priority of protection over obedience, seems suspect in light of the fact that Schmitt in *Begriff des Politischen* had stated that the state had the right to demand the lives of its citizens:

The state as the decisive political entity possesses an enormous power: the possibility of waging war and thereby publicly disposing of the lives of men. The jus belli contains such a disposition. It implies a double possibility: the right to demand from its own members the readiness to die and unhesitatingly to kill enemies.<sup>53</sup>

In this respect Schmitt opted for a greater kind of obedience than Hobbes, and therefore comes closer to a totalitarian critique of Hobbes than to a 'constitutional reading' as indicated by Schwab. It seems to me that Schmitt had not completely left this view on the state by 1938.

Secondly, Schmitt did not only legitimate his strong state by reference to Hobbes' protection-obedience axioms. Schmitt's vision of a the new strong state was also built on an organic vision that had much more communitarian, volkisch, and excluding elements attached to it. To Schmitt a major problem with the modern liberal constitutional state was its inability to protect itself in situations of exception, as in Weimar Germany. This problem came from its glorification of discussion and compromise (institutionalised in the parliament) at the expense of decision. Schmitt not only refuted this form of government with reference to its inability to govern, but also by arguing that it had nothing to do with democracy. To Schmitt - whose concept of democracy was essentially Rousseauian - democracy is characterised by the identity between ruler and ruled, not by liberty, pluralism and discussion. To Schmitt the task was, therefore, to create a new decisionist state that derived its legitimacy from its function as an organic expression of the national community, something not very far from the Nazi-states volkisch image of itself. In Schmitt's view this organic nature was to be created through a excluding cultural relativism that rejected universal moral principles of "right" and "wrong" as guidelines for politics, and was build on a) a homogenised people, and b) the identification of an (external) enemy. Only if these premises were obtained was the qualitative total state able to exist. This had been the argument in *Die geistesgeschichtliche Lage des heutigen Parlamentarismus* (1923):

The belief in parliamentarism, in government by discussion, belongs to the intellectual world of liberalism. It does not belong to democracy...Every actual democracy rests on

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<sup>53</sup> Carl Schmitt, *The Concept of the Political* (Chicago & London: The University of Chicago Press, 1996), pp. 46.

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.<sup>54</sup>

Thus, to Schmitt the foundation of a decisionist state does not only lie in the concentration of power in the state, but rests also on a cultural and politically exclusive practice of defining who belongs to the friends and who to the enemies (here also lies the philosophical background for Schmitt's anti-Semitism, which is based on culture and not on race). One could say that Schmitt here moves beyond Hobbes in that he reserves less space for cultural diversity (e.g. Schmitt's critique of Hobbes' distinction between "faith" and "confession".) By not paying attention to this aspect of Schmitt's concept of the state, one could accuse Schwab of making Schmitt less communitarian and more individualistic than he actually was.

Finally, I will be slightly sceptical of Schwab's attempt to prove that Schmitt 'expressed reservations about one-man rule'..and held the 'belief that a legal order based on institutional justice had a greater chance of surviving upheavals than any other systems do'.<sup>55</sup> As Schwab correctly points out, it is possible to get this impression in reading *Über die drei Arten des Rechtswissenschaftlichen Denkens*. In this respect one can agree with Schwab in that *Über die drei Arten* was an indirect criticism or warning against the dangers of the Führer cult. However one must also pay attention to Schmitt's Weimar critique of constitutionalism to understand where Schmitt really stood in the question of the Führer Princip. It seems to me that Schmitt's 1934 warning in *Über die drei Arten* was more a warning against the concrete Führer than against the idea of a strong man as such, and that the answer to Schmitt's attitude on this point lies in his critique of constitutionalism, as it was expressed in his famous rejection of Hans Kelsen's legal-normativism during the 1920s.

In *Politische Theologie* from 1922 Schmitt had criticised the bourgeois society's unwarranted belief in the legal arrangements of the state and Hans Kelsen's idea that an all-embracing legislation would guarantee the stability of the state. Schmitt's point was that laws cannot anticipate all eventualities, the unpredictable situation - the exception - could by definition never be predicted. This means that the sovereign authority (the state) cannot always be restricted by legal norms. Only an active state - not processual standards - can, through its leaders, act efficiently under changing circumstances. This way of thinking represents a kind of rule scepticism; the validity of a political decision is established 'unabhängig von der Richtigkeit ihres Inhaltes', and

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<sup>54</sup> Carl Schmitt, *The Crisis of Parliamentary Democracy* (Cambridge, Massachusetts, and London, England: The MIT Press, 1985), pp. 8-9.

<sup>55</sup> *Ibid.*, pp. xvii.

when it is decided upon, there will be no further discussion. In other words in politics it is more important that decisions are made, than how they are made. In Schmitt's decisionism the political decisions are neither bound from below by the opinion of the citizens or from above by the norms of the laws.

From this line of argument's it is not surprising that Schmitt had no problems in supporting the use of presidential power under Article 48 in the Weimar constitution, but neither is it clear why he should have been fundamentally sceptical towards the constitutional institutionalisation of the strong man, expressed the Enabling Act of 1933. On the one hand Schmitt's 1932 publication *Legalität und Legitimität* that defended the use of the emergency laws under article 48, and Schmitt's proposal to ban the anti-republican parties shortly before Hitler's take over, can be seen as an attempt to save the republic, which would indicate that Schmitt wanted a kind of presidential dictatorship, but not a Führer state. Most of Schmitt's Weimar writings points to this conclusion, as Schwab and others have rightfully stated. On the other hand, Schmitt's notorious article *Der Führer schützt das Recht* (1934), which was published after the night of the long knives in which Röhm's SA was erased and Schmitt's personal friend Kurt von Schleicher killed, indicates that Schmitt was willing to sacrifice the republic in favour of the strong man. In this article Schmitt was defending the use of (illegal) violence by asserting that the Führer had the right, in moments of extreme danger to the nation, to act as the supreme judge; distinguishing friend from enemy, and taking appropriate measures.<sup>56</sup> Although this article may have been written in an attempt to please the new rulers, that is from opportunism, it cannot only be explained in this way. As G.L. Ulmen has pointed out Schmitt's support of a strong presidential ruler and his later temporal support of the Führer princip (for what ever reasons), reveals a general distrust towards the anonymity of the power structures of the modern state. This distrust can also be found in the thoughts of Max Weber.<sup>57</sup> To both Schmitt and Weber power remained personalised and concrete, but in contrast to Weber, it seems that Schmitt thought it possible to recreate in the modern era a personalised power that rested upon the charisma of a national leader. It seems to me that this belief could have been a crucial factor in his support of both the use of presidential decrees and for Schmitt's later support of the Führer princip at the beginning of the Nazi reign.

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<sup>56</sup> Carl Schmitt, *Der Führer schützt das Recht*, in *Positionen und Begriffe* (Berlin: Duncker & Humblot, 1994) pp. 227-232. This article was originally published in *Deutsche Juristen-Zeitung*, 1. August 1934, Band 39, Heft 15, pp. 945-950.

<sup>57</sup> For an analysis of the relationship between Weber and Schmitt se G.L. Ulmen, *Politischer Mehrwert. Eine Studie über Max Weber und Carl Schmitt* (Weinheim: VCH, Acta Humaniora, 1991).

McCormick's interpretation:  
Schmitt and the need for myth and fear

In a brilliant essay on the reception of Hobbes by Schmitt and Strauss, John P. McCormick has focused attention to the relationship between technology and myth in Schmitt's reading of Hobbes. When Schmitt emphasised that Hobbes' Leviathan had not only been a machine, but also a mythical monster and a representative person, it, according to McCormick, had to do with his own theory of politics and the state, as presented in *Begriff des Politischen*. To McCormick Schmitt's *Begriff des Politischen* was an 'attempt to refound the state solely on its "vital", and inevitably "mythic," element of fear, divorcing it from the "neutralising" elements of science and technology'.<sup>58</sup> In other words, Schmitt (as well as Strauss) tried to 'reformulate' Hobbes as an intellectual foundation of the state, by freeing 'it from the elements that Hobbes himself had found necessary to employ to construct a state on this foundation - natural science and technology'.<sup>59</sup>

The way Schmitt does this is by reading Hobbes historically. Unlike Tönnies and Strauss, Schmitt focuses on the historical circumstances as the key to Hobbes' *Leviathan*. According to Schmitt, Hobbes' new science of politics should be understood in the context of the religious wars caused by the Protestant Reformation and the Catholic Counter Reformation and the English constitutional and social struggles that ravaged seventeenth century England. To Schmitt a sentence like 'For covenants without the sword are but words and of no strength to secure a man at all' showed the fear of civil war that occasioned Hobbes' *Leviathan*. By insisting on the English civil war as the historical background for *Leviathan* Schmitt wanted to show that Hobbes' utmost concern in *Leviathan* was not to formulate a scientific theory of politics, but to warn that the state of nature really existed. Not as factual historical past, but as a politically possible event, threatening any weak state at any time. As Schmitt had stated in *Begriff des Politischen* any political theory has to build on this assumption, and accordingly ought to have the preservation of order as a main goal. As Hobbes had argued in *Leviathan*, and Schmitt in *Begriff des Politischen*, the evil nature of man made it necessary to acknowledge the need for fear in upholding authority. McCormick has pointed to this aspect:

Schmitt recognizes, as did Hobbes, that by frightening "men" one can best "instill" in them that principle - "the *cognito ergo sum* of the state" - *protego ergo obligo* (Concept of the Political, pp. 52). In other words, fear is the source of political order. Human

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<sup>58</sup> John P. McCormick, *Fear, Technology, and the State*, In *Political Theory*, Vol. 22 No. 4, November 1994, pp. 619-652, pp. 645.

<sup>59</sup> *Ibid.*, pp. 620.

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beings once confronted with the prospect of their own dangerousness will be terrified into the arms of authority.<sup>60</sup>

In the view of McCormick, Schmitt, on the eve of the Weimar collapse, sought to retrieve this primal source of political order in order 'to make real the terror of what is and what might be so as to strengthen the existing order'.<sup>61</sup> He wanted to elaborate on Hobbes' view of humanity and revive the fear that is characteristic of man's natural condition in three ways: '(1) by demonstrating the substantive affinity between his concept of the political and Hobbes' state of nature, (2) by making clear the ever-present possibility of a return to that situation in the form of civil war, and (3) by convincing individuals - partisans and nonpartisans alike - that only a state with a monopoly on decisions regarding what is "political" can guarantee peace and security'.<sup>62</sup> Schmitt wanted the citizens of Weimar to 'reaffirm the pact that delivers human beings out of the state of nature and into civil society by transferring their illegitimately exercised subjectivity regarding friend and enemy back into the state'.<sup>63</sup> This had been the central argument in *Begriff des Politischen* where Schmitt noted: 'To the state as an essentially political entity belongs the *ius 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'.<sup>64</sup>

McCormick's observations on this relation between myth and fear in Schmitt's thinking seems to me to be very important, in that it does not only explain the historicism and medieval outlook in Schmitt interpretation of *Leviathan*. It also becomes a way of explaining what Schmitt really wanted to obtain by reducing the political to the antagonistic distinction between friend and enemy, as he did in *Begriff des Politischen*. As Leo Strauss had already noted in his comments on *Begriff des Politischen*, Schmitt's definition of the political was so antagonistic that it looked like Hobbes' state of nature: 'In Schmitt's terminology...the status naturalis is the genuinely political status'...Schmitt restores the Hobbesian concept of the state of nature to a place of honor.<sup>65</sup>

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<sup>60</sup> Ibid., pp. 622

<sup>61</sup> Ibid., pp.625.

<sup>62</sup> Ibid., pp. 623.

<sup>63</sup> Ibid., pp.625.

<sup>64</sup> Carl Schmitt, *The Concept of the Political* (Chicago & London: The University of Chicago Press, 1996), pp. 45. Here from John P. McCormick, *Fear, Technology, and the State*, pp. 625.

<sup>65</sup> Leo Strauss, Notes on Carl Schmitt, *The Concept of the Political*, in *Carl Schmitt, The Concept of the Political* (Chicago & London: The University of Chicago Press, 1996), pp. 90.

Not surprisingly Schmitt's view on the nature of politics in this way to many represents an aestheticization of conflict. Many critical commentators of Schmitt have, because of this, characterised Schmitt as an archetypal Weimar exponent of "political expressionism", placing him among conservative revolutionaries like Ernst Jünger. In the words of Richard Wolin, Schmitt is thus making an aesthetisation of conflict, violence, and death 'as ends in themselves.'<sup>66</sup> Although this may be true in the case of Jünger who looked at war as a kind of process of catharsis, it is not true in the case of Schmitt. As McCormick rightly has pointed out, 'Schmitt seeks to make the threat of conflict - of war - felt and feared not as an end in itself...but rather so as to make war's outbreak all the more unlikely domestically, and it's prosecution more easily facilitated abroad.'<sup>67</sup> In other words Schmitt's intention of aestheticizing conflict had a quite different purpose. Pointing to Hobbes, Schmitt, in his own mind, was trying to create the fear of conflict, that Hobbes had showed was a necessary condition for upholding state authority! In this way Schmitt's *Begriff des Politischen* was not only an attempt to describe realities as Schmitt saw them. It was in itself an attempt to re-establish a mythical framework for the State. This awareness of the importance of myth was not something Schmitt only borrowed from Hobbes, but also from George Sorel, who had made this insight the foundation of his theory of revolution. Where Sorel had made the myth of the general strike the foundation of revolution, Schmitt made the myth of conflict the foundation of the state; that is in order to prevent the revolution!!!

It seems to me that one of the reasons behind Schmitt's acceptance and temporal support of the Nazi-regime also had to do with this awareness of myth. He saw in the Nazi movement a combination of fear and myth that could strengthen the weak German state. Schmitt, however, misjudged the power of Hitler and his movement, as did many other of the German conservatives. Instead of delivering a mythical aspect to the state, Hitler overtook the state and created his own violent total quantitative state, disregarding the necessary balance between protection and obedience. By returning to Hobbes, Schmitt criticised this development.

### Concluding Remarks

When one looks at Schmitt's interpretation of Hobbes' *Leviathan* and Schmitt's own attempt to construct a critique of liberalism that could be a

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<sup>66</sup> Richard Wolin, The Conservative Revolutionary Habitus and the Aesthetics of Horror, in *Political Theory*, Vol. 20, No. 3, August 1992, pp. 424-447.

<sup>67</sup> John P. McCormick, Fear, Technology, and the State, In *Political Theory*, Vol. 22 No. 4, November 1994. pp. 626.

foundation of a new political order it is striking how problematic Schmitt's project really was. As Gottfried has pointed out Schmitt's reading of Hobbes was the result 'not of isolated research on a single figure but from an overview of Western political theory and statecraft from the Middle Ages on. Schmitt thought that he stood at the end of the epoch of sovereign states, an epoch that Hobbes both described and justified'.<sup>68</sup> The combination of civil anarchy and demystified authority signalled this erosion of sovereignty. Thus, as Gottfried has put it, 'Schmitt returned to Hobbes, hoping to grasp the fatal flaw that overtook the sovereign state in recent history'.<sup>69</sup> Obviously the problems in this project were immense.

Firstly, Schmitt was in a way trying to overcome the historical development that he himself had described, namely the erosion of the sovereign state, thereby reversing history. Although Schmitt on several occasions, in radical historicist terms, argued that political cultures and theologies were bound to specific epochs, and could not be applied to others, his own preference for a traditional and authoritarian power structure - that ignored the reflexivity of the enlightenment and the bourgeois revolutions - did not harmonise with his view that the present was not reducible to the past.

Secondly, it is a question whether Hobbes political philosophy in itself harmonised with Schmitt's concept of the political. Where Hobbes had unintentionally paved the way for the 'desacralisation' of modern political life through his elements of scientific materialism, Schmitt tried to 'resacralise' the political by distancing himself from the liberals of his age. Schmitt's *Begriff des Politischen* presented the political as being at the same time intrinsically conflictual and existentially meaningful, in that it is the only activity that requires individuals to risk their lives as members of a community. In this respect Schmitt moved beyond Hobbes, who did not require the risking of life in his protection-obedience axiom. In this way one could, as Leo Strauss did, question whether this sacrificial view of the political was congruent with Schmitt's admiration for Hobbes. Schmitt never answered Strauss on this point.

Furthermore, Schmitt's attempt to establish a decisionist concept of the political in which the constitutional state is seen as a problem, also is problematic in relation to Hobbes. As Habermas has noted, 'This scenario...completely disregards the fact that from the beginning Hobbes had developed his concept of sovereignty in connection with the development of positive law. In terms of its very concept, positive law requires a political

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<sup>68</sup> Paul Gottfried, *Carl Schmitt. Politics and Theory* (New York & Westport, Connecticut & London: Greenwood Press, 1990), pp. 50.

<sup>69</sup> *Ibid.*, pp. 50.

legislator who can no longer be tied to the superordinate norms of natural law - and to this extent is sovereign. Thus Hobbes's idea of a sovereign legislator who is bound to the medium of positive law already contains the seed of the development of the constitutional state that Carl Schmitt sees as a great disaster'.<sup>70</sup>

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<sup>70</sup> Jürgen Habermas, *The Horrors of Autonomy: Carl Schmitt in English*, in Jürgen Habermas, *The New Conservatism* (Cambridge: Polity Press, 1989), pp. 131.