J. Kam Shapiro’s *Carl Schmitt and the Intensification of Politics* is volume 14 of *Modernity and Political Thought*, the Rowman & Littlefield series in contemporary political theory. Shapiro’s work follows publication of Shadia Drury’s *Aquinas and Modernity: The Lost Promise of Natural Law*, Diana Coole’s *Merleau-Ponty and Modern Politics after Anti-Humanism*, and Kennan Ferguson’s *William James: Politics in the Pluriverse* (volumes 13, 12, and 11, respectively), and new editions of the original ten volumes in the series. Initially designed to include only ten volumes, *Modernity and Political Thought* has been expanded to include, in addition to the works by Shapiro, Drury, Coole, and Ferguson, forthcoming studies of Karl Marx by Wendy Brown, Aristotle by Mary Dietz, Thomas More by Peter Euben, Publius by Jason Frank, Sigmund Freud by James Glass, J. S. Mill by Kirstie McClure, John Rawls by Donald Moon, Friedrich Nietzsche by David Owen, David Hume by Davide Panagia, William Connolly by Kathleen Skerrett, Niccolo Machiavelli by Miguel Vatter, and Sheldon Wolin by Nicholas Xenos. Moreover, we expect this list to grow in the future. As those who are familiar with these authors’ previous works will expect, their forthcoming studies adopt a variety of approaches and pose diverse and creative questions about these figures in political theory. Contributors to *Modernity and Political Thought* critically examine ways in which major political theorists shape our understanding of modernity—not only its origins and constitution but also its overt and latent problems, promises, and dangers.
In his earlier study, *Sovereign Nations, Carnal States*, Shapiro originally came to Schmitt by way of the body. Schmitt’s politics, he holds, are grounded in a profound understanding of a people’s affective intensities and energies, all ideally manifest in a central national-political authority. As Shapiro demonstrates in this earlier work, Schmitt did not arrive at this realization alone, but was influenced by Georges Sorel, by Eduard Spranger, and—most importantly—by G. F. W. Hegel. Nor, Shapiro argues, was Schmitt’s ideal the only possible use of these affective intensities, as Walter Benjamin’s similar but potentially redemptive and antifascist politicizations show.

How these divergent interpretations emerge from attention to what Shapiro identifies as “somatics” takes some explanation. Hegel, Schmitt, and Benjamin all recognize the importance of bodily practices of habit, emotion, and capacity. To take the body seriously, in Shapiro’s words, as a site of “an intersection of forces and thresholds of organization where the confluence of the material and the intelligible is negotiated,” (12–13) as do each of these authors, means to focus on situated processes involving intellect, will, and corporeality. All avoid the common pitfalls of thinking of bodies as somehow prehuman (the unchanging biological ground from which an isolated humanity emerges) or, conversely, merely a social formation (an effect of ideology or some other, more “real” systematization).

They are not alone here, and Shapiro describes a triumvirate of other, more overtly somatically oriented, theorists to clarify the methods and stakes: Augustine, Nietzsche, and Derrida. Each of these authors hearkens to somatic practices as both disciplinary and world-creating. Each recognizes the appetites and demands of the body as excess, as realms of experience irreducible to meaning, faith, and intellect, and as subtending, as both supporting and undermining connections, identities, and localities. In the face of this realization, each also suggests methods and traditions used to shape and intensify the body’s energies and capacities. Bodies, the three argue, site and localize values and modes of being, and because they do so quite overtly they provide the springboard for Shapiro’s discussion of a more complex somatics.

Augustine, for example, famously decried carnal desire. Even when the soul desired purity, the body would repeatedly pull it toward sin—this, he argued, was the message of the Fall. But, Shapiro notes, Augustine’s solution is not simply to privilege the soul over the body, but instead to train the body to resist temptation. Once so trained, Augustine promises, the body can become habituated to the good. Yet this process is not easy—habits are difficult to develop, those of the body deeply rooted. Thus the will needs to be ever-conscious of the possibility of the separation from God. Confession,
for Augustine, serves to set the willed, would-be habituation (leading to the desired communion with God) against the sensuous and habituated pulls of the body, with the cycle continually fed through the impossibility of resolution.

Nietzsche also suggests disciplines of the body, of thought, and of morals as the preconditions for their development. Unlike Augustine, Nietzsche sees the productive nature of such practices as open-ended—they need not operate according to a monotheistic god’s clear instructions. Nor can disciplines be reduced to habits of denial, as they are assumed to be by Augustine. Invention, thematization, appropriation, and guesswork all comprise forms of training that develop the self. We re-create ourselves from these groundworks of practices, groundworks already woven within our bodies and our environs.

But Nietzsche’s approach is more than merely an appreciation for affective life, wherein one pays attention to one’s passions for example. Shapiro points out that habit “is already operant in affect” (39). What we like or dislike, what intrigues or repels, arises from our personal genealogies, histories already developed within and inscribed upon our bodies. The point is neither to reduce selfhood to the body, nor to free the intellect from it. Nietzsche’s goal, instead, is to develop, repeat, multiply, and learn to control the varieties of affective potentiality available to all. In doing so, one opens up latent creativities both within the self and within the work of being; one becomes an artist rather than a consumer. Shapiro shows that this cannot be mere liberation or, conversely, mere moderation. Instead, it is a pluralization of “habits, of possible configurations of experience and action” (47). The appreciation for alterity within one’s own experience can result in an appreciation for the alterity of others: their lives, their opinions, their cultures.

Intriguingly, Shapiro also includes Jacques Derrida as the third member of this somatic group. In the popular imagination Derrida remains firmly tied to deconstructive approaches to textuality (often misrepresented as an anything-goes approach to interpretation, wherein a work means anything the deconstructionist wants it to mean). In contrast, Shapiro finds in Derrida a careful and unending attention to the structural components of language and its conditions, situated irrevocably alongside the simultaneous understanding that utterances constantly play off against and exceed these conditions. For Derrida, an “organon of iterability”—the conditions under which the sayable is sayable—can never be disentangled from “ruptures of presence”—the transportation of those conditions into creative and unexpected contours. Language cannot exist without demarcations and delimitations, in other words, but neither do such forms predetermine its usages or potentialities.
Creative deployments of these kinds may seem restricted to language, but within the Derridian universe language and metaphysics operate together. The conditionalities of language (and the freedoms contained therein) are parallel to, or even constitutive of, the conditionalities of morality, ethics, and presence (and the freedoms contained therein as well). This has two important results. First, as in Nietzsche’s work, such developments combine habit and ethics into an overarching framework of will and negotiation. Second, it explicitly recognizes the destructive and violent elements of all ethical and political decisions, actions, or utterances: each exists within and beyond the boundaries of morality, law, ontology, and epistemology.

Each of these preceding thinkers, Shapiro argues, responds to the demands made by the somatic passions. But from what historical conditions do our contemporary passions emerge? Shapiro identifies Hegel as tying these divergent strands of affect and tradition into an overarching political theory, one that relies upon habit at both the personal and the national level. For Hegel, to become habituated is not to remove individual willfulness, as might be supposed, but to negotiate its proper place in public, social space. Within the nation (as for any communal identity), purely individual will poses a problem. Being both subjective and particular, such will tends toward “the unmarshaled inclinations of the individual” (64). In order to operate politically, the will must therefore be subjected. But this subjection must depend upon a social and relational manner: the individual, for Hegel, emerges from the complex relationships between universalism and singularity.

Shapiro describes Hegel as undermining the simplistic notion that habituation can be divided from rationality, in part by rejecting the univocity of Cartesian mind-body dualism. Habit “appears out of the negation of domination of feeling by mind, which imposes itself on the body” (73) but this is not a one-way path, as “the autonomy of the intellect itself is grounded in and depends upon the organization—and thus containment—of feeling accomplished by habit” (74). Habits are thus developed—they can emerge from desires and goals, from attention as much as lack of attention. In fact, Hegel points out, life without habituation becomes meaningless, merely a set of fleeting and fragile connections. Only through the consolidation of the attachments of everyday life, the internalization of these contingencies, can we act freely. One must learn to drive an automobile, but not until the mechanics of driving are habituated can one negotiate driving’s complex challenges or simultaneously engage in other behaviors or conversations. Habit is freeing.

Not until the body is properly habituated, then, can it truly become part of civil society. Shapiro attends particularly to Hegel’s later writings, wherein society is seen as helping to inculcate the proper habits (under the term “edu-
cation”) for communal identity. The uneducated, unsocialized man remains particular, idiosyncratic, and unable to truly join with his fellow humans; the properly habituated man conceptualizes his actions and behaviors in terms of community, rank, and role. These habits are not universal, Shapiro reminds us, since they vary according to nation, class, and situation. Indeed, many organizational habituations may even overtly conflict with one another.

Thus the need for “police,” a term that far exceeds the constabulary. For Hegel, Shapiro argues, policing includes all institutions established to control disruption and “regulate the contingency intrinsic to the complex interconnections of civil society” (87). This idea of the police as a transdisciplinary set of forces, with both regulative and productive power, will later influence the political theorizing of Foucault, Pasquino, and Rancière. For Hegel, policing has an administrative side (that of the state), a regulative side (that of community), and a temperamental side (that of habit). The last one, no less than the first two, comprises a central recondition for the maintenance of order. What Hegel never develops, Shapiro points out, is a grand unified theory of policing that shows how these various administrations connect to and reinforce one another.

Carl Schmitt provides the specifics of such a theory. Though Shapiro’s 2003 discussion of Schmitt in Sovereign Nations, Carnal States is more narrowly focused and less historically minded than the present volume, there he developed an understanding of Schmitt as a theorist particularly attentive to somatic politics. Like Hegel, Schmitt sees collective identity as dependent upon the harmonious combination of emotional training. For Hegel, this necessitates plural sources of affective organization (e.g., town, family, class) as well as the processes of policing that channel these sources into an organic state structure. Schmitt’s challenge, on the other hand, is to build a model of sovereign authority and national unification in a period when growing social mobility and the increasing power of mass culture have undermined the stability of habits associated with Hegel’s organic order.

Schmitt’s fame rests on his particular theorizations of nationalism and sovereignty, which Shapiro now elaborates upon in Carl Schmitt and the Intensification of Politics. But it is the affective dimension of Schmitt’s political theory from Shapiro’s earlier book that sets the stage for the various dimensions of centralized politics he studies in the current volume. The underpinning of a successful politics, according to Schmitt, is the formal mobilization of collective emotional identifications. According to Shapiro, Schmitt takes from Sorel the idea that mythology—through its simplification of complex emotional resonances into a unified narrative—can generate energies bearing political potentialities. Where Sorel sees these narrative simplifications
as mobilizing political action against capital, Schmitt sees the potential for the unification of states and people.

Schmitt therefore expands the realm of the state to clearly include art, which excites the passions and leads them into the service of the people. Far from being irrelevant, Nazi Germany’s infatuation with film (for example, the expertise of Leni Riefenstahl) and aggressive posture toward the contemporary art of the period (the dissolution of the Bauhaus and the infamous “Degenerate Art” exhibition) become examples of a government looking to solidify its own aesthetic modes in the service of the German people. Shapiro describes Schmitt’s argument that all of the “most varied human endeavors, from the religious, economic, moral, and other antitheses” can be utilized to develop the centralization and unification of state power. In this recognition, Shapiro argues, Schmitt allows for and encourages a vast range of contemporary theoretical investigations of bodies, micropolitics, and antipluralizations, including those of Foucault, Butler, Deleuze, Žižek, and Laclau and Mouffe.

The idea that affective intensities are a basic part of the forming of national and community identifications certainly shows their political nature. But if the political somatic holds such power, it also holds the opposite potential, the possibility to undermine the unifications of state and capital. Shapiro finds such a resource in the work of Walter Benjamin, whose recognitions of fascism’s aesthetics encourage such a reversal.

The modern world has reconfigured the experience of art, Benjamin famously argued. No longer tied to spatial or temporal authenticity, the work of art has lost its claim to authority. Mechanical reproduction allows for thousands of identical paintings, the same cinematic encounter in multiple spaces and times, the domestication of the concert hall. This, in turn, dissolved the traditional “human sensory apparatus,” and led to the dissolution of self-contained, authentic human being. Multiple, fragmented, confused, even perverted, forms of humanity have emerged in its place—the perverse in attempts to build or return to “authentic” cultural formulations.

Shapiro notes that Benjamin’s reading of modernity could initially be mistaken for Schmitt’s. However, where Schmitt hopes to subsume these various experiences into a universal state somatics, Benjamin has a more complex and more ambitious hope. On the one hand, he recognizes the increased technologization of the modern world as a constraining choice, one that even potentially eliminates the possibility of individual action. But on the other, Benjamin finds the ability to create new collectivities through these technologies. Following Marx (in function if not in form), Benjamin
argues that technologies can help realize critical, even revolutionary, collectivities.

Take cinema, for example. Shapiro points to Benjamin's readings of film wherein the fragmentary social becomes a potent collectivity. Filmic representation of the commonplace—say, a domestic scene—can heighten our attention in two intriguing and related ways. The first, and most obvious, is to the particularities of existence, the commonality between putatively distant people, emphasizing their connections across time and space, which could result in a heightened sense of collective injustice and therefore action. The second, and for Shapiro more original, is to the affective and even nonsensuous aspects of potentials in life. Attention can break or reshape habits. Benjamin hopes that filmic technology can refigure the body not to create passive consumers but to activate latent revolutionary potentialities. Insofar as the response to a film (or any work of art) exceeds mere mental engagement, the excess activity transforms the audience's own visceral responses into potentiality.

“Distraction” is Benjamin’s peculiar term for his hopeful somatic. The ability to be distracted, to complexly incorporate different registers of attention into one’s makeup, leads to bodily potentialities. In part this is represented as an awakening from the slumber of mass capitalism, but is not an individualized, particular awakening—instead it is the concrete reperception of the masses toward revolutionary ends. These reperceptions, Benjamin argues, become collectively habituated, practiced, created: they configure politico-social spaces of collective existence through habituations that in and of themselves resist fascist subsumption. It is ultimately these habits that allow for a collective revolutionary consciousness to take shape.

But this cannot be a predictable consciousness; the habits of distraction cannot be predetermined. These are only potentialities, not principles. Laughter, for example, stands as an archetypal physical event, one that, for Benjamin, “provides better opportunity for thought than convulsion of the soul.” Laughter does not necessarily lead to a certain and formally predetermined thought; instead, it leads to the opportunity to think, the ability to notice the slippages between a statement’s intention and its meaning. Laughter displaces the flawless surfaces of the modern, allowing for the emergence of critical distance and recognition of, for example, the alienation of contemporary life.

These Benjaminian understandings of somatic potential encourage Shapiro’s return to Schmitt. Schmitt, like Benjamin, held an expansive vision of politics, one in which “the political” informed and depended upon a vast
range of bodily experience, communal self-fashioning, and the guidance and encouragement of an avant-garde. For both, the people and the political are cosubstantial. Yet where Benjamin’s ideals have never come to fruition (or have done so only briefly), Schmitt’s have been built and rebuilt: through European fascism, nationalist movements, the building of an international system of sovereignty, political autochthonies, a half-century-long friend/enemy distinction, wars on terror. Contemporary politics has learned Schmitt’s lessons and continues to deploy them in intriguing and threatening ways. Shapiro thus returns to Schmitt for an understanding of contemporary tactics and practices, ones that combine the sensate, the affective, the ideological, and the representational; in short, modern politics.

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Notes


In the past fifteen years, Carl Schmitt has gone from obscurity to cliché. Along with numerous translations and critical commentaries, several extensive studies of his work are now available in English. It should no longer be necessary to justify a serious appraisal of his contributions to political theory (though this is still sometimes demanded). Rather than provide such a justification, or another general introduction to his writings, this book focuses on Schmitt’s reformulation of sovereignty in an era of rapid technological, cultural, and social transformation. While it follows other studies by linking his work to current political questions, it also closely examines his arguments in several key works. Like most clichés, those surrounding Schmitt contain elements of truth that belie substantial underlying complications. Rather than a consistent position or a linear progression, Schmitt’s political and theoretical arguments display recurrent, at times sharp vacillations. These inconsistencies are treated here as symptoms of conceptual and political aporias more than psychological or biographical idiosyncrasies. The study is therefore organized around Schmitt’s changing responses to theoretical and political challenges to sovereign authority, roughly following a historical order. The introduction situates Schmitt’s defense of sovereign authority in the context of a general philosophical and political crisis posed by the economic, cultural, and technological upheavals surrounding the crises of the interwar period. Subsequent chapters outline Schmitt’s various responses to these challenges in more detail, distinguishing three main concerns: Schmitt’s critique of liberalism, his formulation of an authoritarian alternative, and the turn of
his gaze beyond the nation-state during and after the Second World War. Chapters 2 and 3 examine Schmitt’s various attempts to recuperate sovereign authority, focusing on his shift in emphasis from Catholic jurisprudence to plebiscitary democracy and “decisionism.” These attempts are often distinguished between conservative and radical, or religious and secular postures. As I argue, however, such distinctions are confounded by Schmitt’s description of a supraregal executive who both represents and forms a collective will. I therefore focus on the complex techniques by which sovereign power and representation are established in both secular and religious contexts, including not only laws and institutions but also aesthetics and rhetoric. Chapter 4 takes up these concerns in Schmitt’s postwar critique of international law and his analysis of partisan warfare. A final chapter ventures broader speculations regarding Schmitt’s use in and relevance for contemporary discussions of global law, sovereignty, and warfare.

Notes

While writing, it is easy to forget the contributions even of those on whom one most depends. I gratefully recognize some of the latter here, with a nod to all the others I omit. Morton Schoolman commissioned the book for Rowman & Littlefield and provided detailed comments at several stages. Without him it would neither have been undertaken nor completed in its current form. Many of the ideas in this study were inflected and refined through years of ongoing conversations with Jason Frank. Isabella Winkler has also been a frequent interlocutor whose recognition and critical assessments are both crucial sources of inspiration. Julie Weber provided both close readings and a broader perspective on the opening and closing chapters. For the past two years, Ana Acena has supported me in all ways, not least by reading several chapters and asking many probing questions. Jennifer Jordan and Dominik Göbel each helped me with some translation questions, though they certainly bear no responsibility for my errors. Kennan Ferguson read the work closely and offered good suggestions at later stages.
Carl Schmitt’s reemergence as a political theorist of major interest has been described as symptomatic of a return to sobriety. In the decade following the events of 1989, giddy celebrations of a “new world order” composed of open markets and liberal constitutions were cut short by a proliferation of local and transnational conflicts. Starting with the ethnic cleansing and eventual partition of the former Yugoslavia—a premonition of the civil wars and genocides to follow—liberal democracies found themselves engaged in militant and polemical struggles with old enemies in new guises, and vice versa. More recently, in a global war declared against these enemies, they have mingled with religious and ethnic distinctions and compromised their own constitutions. The failure of the liberal state to contain the volatility of global markets and capture popular imaginations has inspired a familiar range of reactionary nationalism and messianic globalism. Schmitt, meanwhile, has remained topical. His critical analyses of the centrifugal potentials of liberal democracy, political theology, global politics, and asymmetrical warfare, as well as his formulations of authoritarian democracy, resonate with a variety of current concerns. Yet his writings and their implications have also been the subject of sharply divergent interpretations, partly in response to a changing political climate. In the 1990s, Schmitt provided a beleaguered Left with an acute and satisfyingly contemptuous diagnosis of an ostensibly depoliticized neoliberal order. More recently, his work has been seen as foreshadowing the repoliticization of that order in an authoritarian direction. For some, the move to Schmitt is symptomatic of threats posed to secular pluralism and
the neutral state by demands for stronger forms of popular sovereignty and political identity (on both Left and Right). ⁴ For a few, Schmitt inadvertently provides resources for a radical democratic pluralism. ⁵

Schmitt has thus become a diffractive surface for contemporary political debates, more frequently serving as an “affectively charged symbol” than an object of critical analysis. ⁶ While his work has become widely available, it is more often cited than closely read. In this respect it is hardly unique, as textual interpretations are always in some respects polemical acts on the part of motivated parties. Nor would Schmitt himself likely have been surprised by the diversity of his appropriations. Indeed, as I will argue further, one could very well apply Schmitt’s analysis of polemical interpretations to current deployments of his own writings. However, his work is particularly susceptible to controversy, due to its peculiar combination of a highly charged historical situation, interdisciplinarity, and political ambivalence. Schmitt criticized liberal democracy from a variety of perspectives amidst its greatest crisis and failure, playing a complex role in the evolution and eventual collapse of the Weimar Republic before joining the Nazi Party in 1933. While consistently antiliberal, Schmitt demonstrated persistent uncertainties regarding the limits and possibilities of constitutional, religious, and popular sources of sovereign authority and power.

As Gopal Balakrishnan has suggested, part of Schmitt’s appeal is that the elusiveness of his position reflects that of our own. ⁷ Many of the challenges Schmitt faced, while especially acute, remain familiar. His career illustrates the possibilities and dangers involved in a reconstruction of democratic sovereignty in an age of military, economic, and social dislocation. In addition to their political relevance, his writings combine historical and sociological analysis, metaphysical interpretation, and polemical rhetoric. They therefore comprise a fascinating intersection of discursive and political strategies. In the rest of this chapter, I examine this intersection, focusing on Schmitt’s efforts to distinguish a source of popular sovereignty in an age of global flows and social complexity. As I argue, a close analysis of these efforts reveals a complex set of tactics and dissimulations at work not only in Schmitt’s texts, but also in the practice of sovereign power and representation.

Schmitt composed his best-known works amidst the violent political and economic upheavals following the first wave of capitalist globalization and its collapse with the First World War. In these works, Schmitt described a general crisis of state sovereignty resulting from the combined challenges of corporate capital, international political organizations, bureaucratic administration, organized social groups, and the emergence of mass culture in the wake of new technologies of communication. Above all, Schmitt sought to
prevent the sovereign state from being absorbed by these groups and forces. The state, for Schmitt, was properly a site of “pouvoir constituant” (constituent power), responsible for collective will-formation and its constitutional expression, though his understanding of the exact relationship between law and power varied over time. In his defense of the sovereign state, Schmitt struggled with the threats to political autonomy highlighted by Hegel, and especially Max Weber, with whom he had studied. On one hand, centralized legislation and decision-making were jeopardized by the plurality of bureaucratic functions and agencies required to manage bourgeois economies and the social order in which they were pervasively integrated (what Schmitt came to call the “quantitative total state”). On the other hand, liberal society was itself being organized into various “social” groups, particularly capital and labor associations that, in turn, were channeled by political parties. Just as flexible and rapid administrative reactions were necessitated by foreign and domestic pressures, along with rapid military, economic, and technological developments, the autonomy of the political administration (not to mention journalists and academics) was jeopardized by competing parties and unstable coalitions. Rather than integrating antagonized social groups, public policy and law were instrumentalized by them, or by professional politicians seeking their votes. As Schmitt described it, the depoliticization of government was met with the politicization of society.

Along with these general challenges, the parliamentary system of the Weimar Republic suffered a unique combination of domestic and international pressures. Not only was the Republic itself a new government, parliament had always been a weak source of national integration in Germany due to its history of estate-based representation. The Weimar Constitution did not distinguish political parties from economic associations, preventing them from serving as “organs of popular will-formation.” Moreover, popular faith in liberal tenets of representation and rational will-formation had been shattered by the collapse of the European state system, the devastating violence of World War I and the economic crises of its aftermath. Other factors included cultural conflicts aroused by the avant-garde culture of Weimar Berlin and the Republic’s association with a humiliating capitulation to foreign powers after military defeat. Liberal elites were ill prepared to manage the combination of these crises with the dynamics of mass politics. As Max Horkheimer described it, the republican government was characterized by fragmented bureaucratic offices and lacked charismatic leadership. Under these conditions, radical parties (Bolshevik or Fascist) were able not only to capture political offices, but even to mount direct challenges to the state outside legal channels. Finally, in the aftermath of Versailles, corporate
capital and foreign powers imposed severe military and economic sanctions on the administration, forcing budgetary adjustments and jeopardizing its claims to autonomy.

Schmitt’s various responses to these challenges derive an impression of coherence from their common opposition to liberalism. From the perspective of classical liberalism, Schmitt noted, sovereign authority is a contradiction, as a lawful order is presumed to result from the free association of private individuals or the deliberation of parliamentary representatives, governed only by neutral rules and procedures. Schmitt’s rejection of the neutral state and his commitment to personal authority were thoroughgoing and strongly motivated, taking metaphysical, historical, and palpably aesthetic forms. He rejected out of hand any immanent or organic synthesis of interests and values, whether in parliament or the public sphere, both of which he associated with outmoded Enlightenment models of rational consensus. He found the prospect of democratic integration from below, much less a democratic pluralism, inconceivable. One might say he was pathologically skeptical of democratic or republican virtue. However, he shared this attitude not only with a distinguished reactionary tradition but also with contemporary critics from across the political spectrum. The rationalist pretense that parliamentary procedures generate public consensus by resolving social conflicts through shared norms of discussion and debate, Schmitt noted, had been widely discredited in an age of party propaganda, mass media, bureaucratic specialization, professional politicians, and violent class struggle. Authors as diverse as Lenin, Sorel, and Walter Lippman described an irrational public that was an alternately passive and volatile conduit of emotion and power. Rather than a source of democratic identity, parliament had become an echo chamber for the chaotic struggles of social and economic factions. Nor was any of this lost on a public disenchanted, insecure, and (especially in the case of military veterans) traumatized by the horrors of the First World War. Rather than a sphere of discussion and rational consensus, as Schmitt observed, parliament was (justly enough) viewed with cynicism or suspicion, seen as a more or less transparent screen for factional competition and elite control.

Dismissing the liberal conceit of a “self-organizing” society, Schmitt sought a political authority capable of integrating fractured groups and interests. The source and nature of this authority varied. However, Schmitt consistently refused to sublimate sovereign power in mechanical conventions or procedures. As Ellen Kennedy has argued, Schmitt therefore repudiated both formalism and realism. Each reduce politics to “facts,” whether a legal constitution or a socio-economic (and territorial) status quo, and so hypostasize
either the will or the body of the people, rendering themselves unfit in times of radical transformation. During Weimar, Schmitt was especially critical of legal positivism, exemplified by the jurist Hans Kelsen. Legal norms, Schmitt emphasized, rested on a corresponding social order—a “normal situation”—and so ultimately depended upon judicial or political decisions regarding when to adopt them in the first place, to determine the proper circumstances of their application, or ultimately to suspend them in the face of a more general threat to order as such. He thus sought a source of such decisions beyond the reach of the unruly forces of the market, parliamentary parties, and social movements. Practically speaking, this came to mean a relatively independent personal executive who could identify and respond to constitutional challenges by radical parties, economic interests, or international enemies with a broad range of economic, military, and police powers.

As a public legal theorist, Schmitt focused especially on the constitutional definition of executive power in the “state of exception” (Ausnahmezustand). In the critical situation he occupied, extensive powers were required (and not infrequently used as provided under Article 48 of the Weimar constitution) to ward off threats to the social and institutional status quo. Initially, such measures were invoked to deal with violent civil conflict and later to manage economic adjustments necessitated by international debts and the global depression. Indeed, in Weimar “Crises . . . were the rule rather than the exception.” Yet even in these circumstances, Schmitt’s preoccupation with the possession and exercise of supraregional authority stands out. As he famously wrote in Political Theology, “The exception is more interesting than the rule. The rule proves nothing; the exception proves everything: It confirms not only the rule but also its existence, which derives from the exception. In the exception the power of real life breaks through the crust of a mechanism that has become torpid by repetition.” Schmitt is thus commonly associated with the subordination of legal norms to sovereign, personal power. However, as Balakrishnan has argued, Schmitt was also deeply concerned with the “nebulous factor of ‘legitimacy’” linking power, law, and a substantial order, though their relationship often remained obscure in his own writings. Sovereign power was constitutive in that it identified and shaped the conditions in which norms applied. It was legitimate, or “representative,” in that it thereby served, or as Schmitt would have it, conserved the unity of law and a higher order, however conceived. Even when promoting executive supremacy, Schmitt adopted a conservative rather than revolutionary posture, one he associated with the figure of the Katechon, or “restrainer” of the apocalypse described in Paul’s second letter to the Thessalonians. Schmitt’s challenge was to elevate sovereign power above abstract
norms or volatile interests, and at the same time to maintain its status (or its appearance) as representative of an underlying (or overarching) unity, or, in the form of the oft-cited paradox, to put exceptional authority in the service of a normal situation.

How could sovereign power over dynamic technological and economic processes be extracted from struggles between antagonized social interests and at the same time be (democratically) legitimated? In the brief, volatile history of the Republic, Schmitt’s attempts to resolve tensions between political form and constituent power, or norm and exception, shifted between Catholic rationalism and authoritarian nationalism, constitutional reform and conservative revolution. Balakrishnan suggests Schmitt’s shifts in position and perspective reflected the instability of his times—the absence of a “hegemonic center of gravity”—as well as his changing institutional affiliations. These factors, for example, make sense of Schmitt’s reversion to a more robust constitutionalism in his Verfassungslehre, which he composed during the relative stability of the Republic between 1924 and the economic collapse of 1929. They make less sense of his relativistic approach to sovereignty in The Concept of the Political, the first version of which was composed at roughly the same time. In the following chapter, I trace key aspects of these shifts in several texts from the early twenties to early thirties. However, rather than emphasizing biographical or tactical explanations for Schmitt’s changing perspectives, I focus on the details of his arguments, which reveal a dynamic conception of the relationship between tradition and innovation, norm and decision, organic traditions and their strategic deployment. In particular, I explicate this dynamic conception through a comparison of three instances in which it appears: The Catholic Complexio Oppositorum (1923); the Marxist myth of class struggle and its nationalist variant (1923); and the “polemical” opposition of friend and enemy (1932).

Placing these instances along a continuum, I argue Schmitt’s work in the late 1920s and early 1930s combines a search for legitimate sovereignty with an increasing sense of its synthetic character. Along these lines, I read Schmitt’s development around his claim in Political Theology that “all law is situational.” That is, I interpret his move toward “relative” models of sovereign power as an adjustment to the heightened pace of social disintegration, a move that culminated in his turn to decisionism and plebiscitary dictatorship. As this approach makes clear, George Schwab’s characterization of this movement as a transition from “the church, the possessor of veritas, to the state, the possessor of potestas” obscures tensions in both Schmitt’s religious and secular models of sovereign authority. In both cases, the paradox of the sovereign exception, whereby political power shapes the underlying ideas, in-
terests, and values it purports to express, at once “representing” and “constituting” political form, was negotiated rather than dissolved by a clear choice between the two. In short, I argue legitimate or “representative” authority was not abandoned, nor simply reasserted, but instead transformed, its source shifting from an ethos of belief to a pathos of identification.

Rather than accuse Schmitt of self-contradiction, then, my aim is to elucidate the techniques by which he reformulates his defense of sovereign authority. In the mid-1920s Schmitt largely abandoned his search for traditional (Catholic) authority in favor of a leader who could both draw from and direct the energies of mass democracy. However, he drew a parallel between divine and democratic modes of constituent power. Neither the Will of God nor that of the People are reducible to positive statutes, nor can either speak directly; each require a representative authorized to make extra-legal political decisions. Hence, both Catholic and democratic sovereignty rest on popular faith in a visible figure who represents an invisible order. But whence such faith in a secular, pluralistic society? As parliament had lost any plausible connection to a unified public, Schmitt turned to the executive. In collective hostility to a common enemy, and in the popular trust (Vertrauen) of the people in the personal competence of their leader, Schmitt found sources of “form” that rendered constituent power representative yet largely unaccountable, thus facilitating broad discretion in response to social conflicts. In Schmitt’s turn to what is sometimes seen as a “relativistic” model of political authority, we thus find a continuum along which the substance of legitimacy becomes increasingly vague, dissolved of content to the point where ultimately—starting with The Concept of the Political—a sovereign decision mobilizes an amorphous fund of popular energies, a kind of standing reserve of affective intensity.

Whether Schmitt imagined that popular acclaim placed supralegal authority in the service of substantial forms of collective life (whether ideological, cultural, or racial) or was itself shaped by political action and rhetoric was not always clear. As I argue, this uncertainty is inherent to the dynamic relationship between form and power outlined above. However, in his attempts to establish legitimate authority, Schmitt dissimulated such complexities and contradictions. Indeed, this dissimulation was central to his depiction of the personal authority of the executive as more properly “representative” than parliament, perhaps the most properly fascist aspect of his writing prior to 1933 (after which he took up the legal defense of Hitler’s rule and a more vulgar anti-Semitism). Hence, his earlier formulations of constituent power are understandably read in the light of his subsequent justification of Hitler’s executive supremacy. While it has been
convincingly argued that this was not Schmitt’s ultimate aim (at the time, emergency measures were used precisely to prevent a capture of legal power by anticonstitutional parties), critics such as William Scheuerman and John McCormick are justified in describing Schmitt’s jurisprudence as logically consistent with fascism. In any case, it harmonized with fascist modes of juridical self-representation. In *Legality and Legitimacy* (1932) Schmitt described presidential plebiscites as a form of “substantial” legislation, thus dissolving distinctions between law and decree, altering and destroying the constitution, as well as legal and personal authority.

Schmitt’s readers have attributed differing levels of self-consciousness to his complicity with Nazism, depicting him as opportunistic, earnest, or naive by turns. Simona Draghici, for example, finds Schmitt “persistently puzzled” by the “indefinite extension” of the exception. William Scheuerman argues “Schmitt’s marriage to Nazism stems immanently from core elements of his jurisprudence.” Yet these are not mutually contradictory possibilities. As Schmitt understood, jurisprudential norms cannot strictly determine the course of their practical applications, each of which can be figured, *ex post facto*, as an expression of legal principles. Nazism necessarily arose upon a plurality of enabling conditions without therefore being preordained. Giorgetto Agamben mistakes logic for destiny when—opposing Schmitt’s attempt to render the exception to a juridical category—he argues “the end of the Weimar Republic clearly demonstrates that . . . a ‘protected democracy’ is not a democracy at all, and that the paradigm of constitutional dictatorship functions instead as a transitional phase that leads inevitably to the establishment of a totalitarian regime.”

Regardless of how one interprets Schmitt’s accommodation to Nazism after 1933, however, his prior depiction of an independent source of decision belied a political reality of which he could hardly have been unaware. In the early thirties, prior to Hitler’s appointment as chancellor, Article 48 was invoked to support the essentially bureaucratic rule, or “economic dictatorship” of Brüning and Hindenberg. As Chris Thornhill argues, Schmitt’s defense of sovereign dignity was therefore linked to the same technical resolutions of antagonism he denigrated in parliamentary rule. “Despite Schmitt’s (self-proclaimed) hostility to merely technical or administrative politics . . . his critique of technical government has little more than a metaphorical or gestural quality.” Yet these gestures nonetheless served a vital purpose. While dispensing with the substantial order he describes in his Catholic writings, Schmitt’s turn to formalistic decisionism with its superficial, yet absolute legitimation “provides the perfect model for the fluid, non-substantive codes of an authoritarian bureaucracy.” As Catherine Colliot-Thelene argues, the
instrumentalization of law is not thereby restrained so much as “hidden by the suppleness of belief.”36 Needless to say, the capture of public belief was a crucial value for Schmitt. Like Weber, he may have hoped to link a charismatic executive to a technocratic administration, thus containing the energies of mass politics in relatively stable institutional and legal forms. Many of the conservative elites who supported Hitler had similar misapprehensions. As John McCormick has argued, Schmitt’s history reveals the extreme dangers of this approach. Rather than channeling collective antagonisms in stable institutions, fascism amplified and destabilized them, mobilizing a rapid substitution of symbols and enemies, each of which became so many occasions for the synthesis of political form and will. In the course of a chaotic, excessive drive for legitimacy, administrative apparatuses and technologies became instruments of imperialist war and genocidal violence.

Despite Schmitt’s overarching commitment to sovereign authority, then, it is not easy to summarize his approach. His work is characterized not only by fluctuating political postures but also a complex blend of form and genre, including medieval theology, constitutional law, sociology, history, and psychology. In particular, the persistence of theological terms in Schmitt’s later writings is a major source of their ambiguity, further complicating the shift from traditional elites to plebiscitary mass democracy. As a result, a definitive account of Schmitt’s theory of the exception or “the political” has proved elusive, and his commitments have been variously described as religious, aesthetic, or strategic.37 These controversies indicate a complex relationship between these terms and their mutual refashioning in Schmitt’s arguments. More generally, I argue, the inextricability of these terms in Schmitt’s writings mirrors their practical combination in political action. Some of Schmitt’s closer readers have therefore dispensed with attempts to privilege one perspective or another and instead explored their interplay in his texts. For different reasons, Jan-Werner Müller thus dismisses any search for an “essence” to Schmitt’s thinking,38 and Balakrishnan describes Schmitt as an intellectual “bricoleur,” and political “schizophrenic,” characterizing his oeuvre—borrowing Schmitt’s own terms—as an “explosively unstable combination . . . Complexio Oppositorum.”39 In his testimony at Nuremburg, Schmitt described what he called the “Carl Schmitt myth” in similar fashion: “Carl Schmitt is quite a peculiar individual, not just a professor; he is also a composite of various other individuals.”40

Schmitt’s challenge was to generate coherence out of the same combination of ideas and perspectives that renders his own work so “explosive.” Both his successes and failures are instructive. As Müller points out, Schmitt effectively combined pragmatic simplicity with a capacious use of metaphor
and hyperbole. Comparing Schmitt to Burke, he argues, “Language was to persuade and even to mobilize—its aesthetic quality was essential, not accidental.” It could thus be argued that the aesthetic, rhetorical, and gestural dimensions of Schmitt’s theory of sovereignty are those most urgently in need of analysis. Rather than accuse Schmitt of aestheticizing politics, I suggest one can find in his work a very useful illustration of aesthetic dimensions of present forms of popular sovereignty, that is, the various ways a democratic people are symbolically and rhetorically constituted and linked to political authority. Schmitt’s vacillations between harsh objectivity and surplus passion (Balakrishnan) or “realism and impressionism” (Müller) mimic the fraught combination in modern politics of administrative power and popular enthusiasm. His attempt to distinguish legitimacy from propaganda, law from power, and conservative from revolutionary politics can be seen as an ironic, or tragic, demonstration of their entanglement. Yet Schmitt also illustrates the means by which such entanglement serves political power, particularly in his discussions of myth, oratory, and the historical role of religious imagery. Finally, his combination of strategic, polemical, and critical perspectives provides us with an instructive guide to their interplay in political struggles.

It could be said that Schmitt never achieved the resignation to the contradictory imperatives of Utopia and realism in modern politics that E. H. Carr found missing in Weimar politics more generally. However, it remains unclear today just what form such a resignation might take. Relationships between power, law, and democratic identity remain highly uncertain. Schmitt’s arguments for executive autonomy have been read as apt precedents not only for fascism but also contemporary modes of government faced with destabilizing global flows of commerce, labor, and media. As Ingeborg Maus has argued, “[The] idea of a dynamic and deformed law for which Schmitt gave a theoretical foundation is today what we have in practice in all spheres of the law.” William Scheuerman similarly finds a variety of correlates of Schmitt’s notion of “motorized legislation” in contemporary executive and administrative rule. As was the case in Weimar, current concentrations of power in the executive branch and the expansion of a discretionary administration not only undermine popular accountability, but have also failed to produce a stable social and economic order. Michael Hardt, Antonio Negri, and Giorgio Agamben have gone further, arguing that the rule of law over a stable territorial order may no longer describe the “normal” exercise of sovereignty. Instead, they claim contemporary forms of global sovereignty operate in a “permanent state of exception.”
These last concerns are the subject of the final chapters of this book, which deal with Schmitt’s exploration of alternatives to the nation-state in the aftermath of Germany’s defeat in the Second World War and consider contemporary parallels. In *The Nomos of the Earth* (1950), Schmitt once again found legal norms detached from a normal situation. The correspondence between international law and a “concrete order” of European political institutions and customs was jeopardized by the effects of expanded transnational economic and political forces on domestic cultural and economic relations. These effects were exacerbated by the contradictory policies of the United States under the Monroe Doctrine, which fixed legal boundaries while undermining the sociological substance on which they rested. As we have already seen, Schmitt’s emphasis on constituent power was at odds not only with legal formalism but also sociological positivism. By way of an etymology of *nomos*, Schmitt established a complex model of territoriality that reiterates the dynamic relationship between power and form outlined above at a transnational scale. International law also rests on substantial relations between collectives that are shaped, in turn, by economic, military, and cultural technologies and practices. In the face of intensified global economies and political forms, Schmitt thus moved beyond the nation-state. However, he retained his critique of positive norms asserted in the absence of a genuine correspondence of “order and location” (*Ordnung und Ortung*). In particular, Schmitt rejected a global order in favor of a new plurality of interstate federations or “Grossräum,” a notion previously adapted to justify Hitler’s expansionist policies. Schmitt’s critique of international law highlights the danger of a pretense to legality on the part of great powers, a critique some might find ironic given his earlier complicity with such pretensions. Potential conflict between unstable groupings can only be limited, but never ruled out, he argues, if international norms are subtended by substantial economic, military, and cultural relations that mitigate antagonism. Within a space so constituted, one finds limited forms of war undertaken by “just enemies.” As I argue, Schmitt’s formulations of just enemies and “bracketed” antagonism function as an implicit critique of his earlier focus on a univocal sovereign. In the process, they clarify the relationship between universal norms and political pluralism, revealing complex processes and techniques out of which friends and enemies emerge and by which the violence of their differences can be amplified or mitigated. In Schmitt’s late work, *The Theory of the Partisan* (1963), these insights are brought to bear on the phenomena of partisan, or irregular, warfare. As Schmitt argues, a dynamic combination of legal, rhetorical, and strategic factors drive the channeling of local, bracketed grievances into global ideological polarities. In a concluding chapter, I consider
the implications of this discussion for debates surrounding the definition of enemies in the “war on terror.”

Notes


29. Schmitt, Four Articles, xiii. See also Thornhill, Political Theory, 85 on Schmitt’s “spectacular” misapprehension of Nazi politics.


31. Cf. George Paxton, The Anatomy of Fascism (New York: Vintage Books, 2005), 39, 53–54; Jacob Taubes, The Political Theology of Paul, trans. Dana Hollander (Stanford, CA: Stanford University Press, 2004), 102; Kennedy, Constitutional Failure, 8. Along these lines, it may be pointed out that religious anti-Semitism (such as Schmitt’s) need not imply racial anti-Semitism, though it can nonetheless join it in a common cause.


34. Thornhill, Political Theory, 76.

35. Thornhill, Political Theory, 80.


38. Jan-Werner Müller, A Dangerous Mind, 6.

39. Balakrishnan, The Enemy, 136 and 259, respectively. See also Kennedy, Constitutional Failure, 5–6.


41. Jan-Werner Müller, A Dangerous Mind, 9.

42. Balakrishnan, Enemy, 261; Jan-Werner Müller, A Dangerous Mind, 9. Stephen Holmes similarly refers to Schmitt’s “mixture of sober insight and apocalyptic pretension” (Schmitt, Political Romanticism, back cover).
43. See Schmitt, *Roman Catholicism and Political Form*. Along these lines, Piccone and Ulmen suggest Schmitt’s socio-political contextualization of art “might well provide a challenging point of departure for a cultural critique in the West and a critical culture in the East.” Cf. “Introduction to Carl Schmitt,” 13.


