

Writings on War

To E.P.W.

WRITINGS ON WAR

Carl Schmitt

Translated and Edited by
Timothy Nunan

polity

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Translator's Introduction

The jurist for the *Reich* remains an enigma. For the reader encountering the work of Carl Schmitt (1888–1985), a highly original German philosopher and jurist, for the first time, his oeuvre can seem an eclectic collection.¹ Some of his interpreters would present him as an “apocalyptician of counter-revolution,” someone who sought the coming of a new global political order to arrest a global wave of cosmopolitanism and universalism in the twentieth century.² Others view him as a writer, who, however engaged in analysis of the major issues of his day – the League of Nations, the occupation of the Rhineland, the Japanese occupation of China, to name a few – can be resurrected as a “diffractive surface for contemporary political debates”; others, as one whose thought might buttress ideologies from the European New Right to the American Left and democratic pluralism.³ Still others see Schmitt’s name as inextricable from National Socialism: a cynical intellect who furthered his career with articles on Jewish influence in German jurisprudence and how “The *Führer* Protects the Law.”⁴ These diverse receptions raise two questions: who was Schmitt, and what can one take from his writings on war for today?

A very short biography may help with the first question. Schmitt was born in 1888 in Plettenburg, Germany, in the Rhineland. He led an academic career as a professor of law at several German universities. At the same time, he wrote and lectured on a wide range of concerns: parliamentary democracy, sovereignty, executive power, the League of Nations, Roman Catholicism, Bolshevism and modernity; and the rise of the United States. In 1933, Schmitt joined the Nazi Party and was appointed to a chair in law in Berlin. He became the President of the Union of National Socialist Jurists and provided legal and intellectual justification for the Night of the Long Knives as well as the expulsion of Jews from the legal profession in Germany. After 1936, when he was sharply criticized by SS press organs, he retained his academic post but lost prominence within the Party. He devoted himself to a study of

Hobbes and contemporary international jurisprudence. After the war, Schmitt was detained by Allied forces, but never charged with a crime. He did not return to an academic position afterwards, instead corresponding from Plettenberg with a wide circle of European thinkers and continuing to write and publish until his death in 1985 at the age of 96. His critical position towards both Western liberalism as well as Soviet Communism made him a controversial thinker.⁵

As for the second question, all three of the texts presented in this volume might seem obscure documents of interest only to specialists, but they actually remain important for several reasons. Firstly, they give purchase on the major questions of international law that persist today. What is the definition of war? Does neutrality exist? What is the legal difference between war and “interventions,” economic sanctions, and troop deployments in foreign lands? On what basis of legitimacy can parties be prosecuted for war crimes? How – and where – should pirates and international terrorists be punished? Is global governance workable?

Secondly, Schmitt's writings provide an original revisionist narrative of interwar European history. Schmitt saw the United States of the 1920s and early 1930s not as an isolationist second-tier power, but rather as the dominant international superpower with legal-conceptual hegemony over both the world and the League of Nations. He presents Hitler's Greater German *Reich* as an emerging European power attempting only to levy the same modern methods of hegemony on Europeans that the British Empire and the United States had applied for decades to Latin Americans, South Asians, Arabs, and Europeans. And Schmitt begins to develop an account of nineteenth- and twentieth-century European history that defines the overseas colony as the central element hindering European internecine war, a narrative he would develop further in *The Nomos of the Earth*.

Finally, Schmitt's life and work represent both a model and a bugaboo for how intellectuals can relate to power.⁶ On the one hand, Schmitt remains deeply appealing as an exponent of German Catholic erudition, an intellect as much at home writing on Dante, Mozart, Dostoevsky, Hobbes, ancient philosophy, Catholic legal history, or Spanish imperial history as he was in his juridical critiques of the League of Nations and Versailles. But Schmitt also was an intellect capable of furnishing intellectual support for the Röhm Purge and for Germany's occupation of Eastern Europe. He reported that the dream of his career would have been to represent the Nazis in front of the IMT* at Nuremberg. This nexus between Schmitt's audacious intellectual range

* International Military Tribunal.

and his mephitic relationship with National Socialism makes him a pregnant case study for how twentieth-century intellectuals related to power.

What, then, about Schmitt's relationship with National Socialism? Any honest reader of Schmitt has to bear this in mind while nonetheless recognizing that his thought deserves to be examined. To be clear: it is not a coincidence that this collection covers the dates from 1937 to 1945. The contention raised by the first studies of Schmitt – that 1936 constituted a “watershed”⁷ for Schmitt and that after 1937 he merely “turned to international law and international relations, a domain that he thought would leave him out of the limelight” – cannot be seriously maintained in light of the texts presented here and their context.⁸ Part of the mind readers have to engage with here is one that could produce an erudite historical treatment of European diplomatic and intellectual history in service of violence and domination.⁹ Still, we might focus on how to read Schmitt's writings not looking to pillory him, but to engage seriously with arguments from another end of the political spectrum – a way in which we might seek to imitate Schmitt.

It is in this spirit that I have structured the introduction to these three works, published here as authorized English translations for the first time.¹⁰ While these works hardly form the entirety of Schmitt's output on international law or war, I have selected them in particular as the major book-length texts on international law that Schmitt produced during the years of the Nazi dictatorship have not yet been translated into English – a gap in the story.¹¹ This collection aims to make Schmitt's thought on that topic during those crucial years, 1933–45, available to English-speaking audiences.¹² I have divided the introduction into three sections, each corresponding to one of the three texts in this volume and providing a cursory summary of the argument of each text. In each section, I offer and answer an interpretative question about each of the texts. The point is not that these short essays be taken dogmatically, only that they raise provocative further questions for readers, some of whom may be reading Schmitt for the first time. First, with regard to *The Turn to the Discriminating Concept of War*, I ask to what extent Schmitt's positions on foreign policy represent a development of his position in his 1927 work *The Concept of the Political*. Second, with regard to *The Großraum Order of International Law with a Ban on Intervention for Spatially Foreign Powers*, I inquire as to the relationship between Schmitt's *Großraum* theory and Nazi *Lebensraum* theory.¹³ And third, with respect to *The International Crime of the War of Aggression and the Principle “nullum crimen, nulla poena sine lege,”* I ask to what extent that text can be read as Schmitt's apology for his participation in Hitler's Greater German *Reich*.

The Turn to the Discriminating Concept of War (1937)

They intermingle with that wicked band
of angels, not rebellious and not faithful
to God, who held themselves apart.

Loath to impair its beauty, heaven casts them out,
and the depths of Hell do not receive them,
lest on their account the evil angels gloat.
(Dante, *Inferno*, III, 37–42; Robert Hollander, trans.)

The Turn to the Discriminating Concept of War, originally delivered as a lecture to a session of National Socialist jurists in Munich in October 1937, was, as alluded to above, not Schmitt's first foray into international relations.¹⁴ In his previous treatments of the international system, Schmitt had established himself as an acerbic critic of the League of Nations and American imperialism. In a 1925 lecture before a gathering of the Catholic *Zentrums-Partei* in Cologne for the millennial celebration of the Rhineland,¹⁵ Schmitt described the technologies of hegemony that the League had supposedly done away with: American "interventions" in Cuba, the Dominican Republic, Haiti, and Panama; the British "mandate" over Palestine and Iraq; and the "internationalization" of canals, mines, and factories.¹⁶ All of these concepts, he argued, were means for Western powers to suppress these other nations' sovereignty without openly professing to do so. As Schmitt put it with regards to the "internationalization" of coalmines in the Saarland, "thus can a nation literally have the ground taken out from under its feet even though it still bears the name of a free and even sovereign nation."¹⁷ Schmitt would further develop these themes in his 1932 Königsberg lecture, "USA and the Forms of Modern Imperialism in International Law," which elaborated on the Monroe Doctrine, the USA's "official absence but effective presence" in the League and its use of "interventions" to control Latin America.¹⁸ Central to both lectures was the question of how Germany could assert itself as a great power against these new "grammars of imperialism." But Schmitt also vented real anger in his lectures, a moral outrage that even his most ardent prosecutors would have to recognize before denouncing him. "How," asked Schmitt, "is a jurisprudence possible that still dares to speak of 'peaceful occupations' in light of bloody battles, in the face of ten thousands of dead, that hands over the word and the concept of 'peace' to the most gruesome scorn and derision?"¹⁹

Schmitt's 1932 talk, while superficially about American-European relations, was structured by his thoughts on sovereignty that he had laid out five years beforehand in *The Concept of the Political*. "No human coex-

istence,” he said in Königsberg, “is possible without an open and clear authority.”²⁰ Without a legitimate and transparent authority, members of a community had no higher organ to appeal to in order to resolve conflicts in the community. For Schmitt, “open and clear authority” did not mean “functioning government” or a stable political system: even in situations of vassal states, counter-kings, military occupations, and revolutionary wars, a concept of authority still existed. Civil wars and rebellion against tyrannical rule, for example, could lead to long periods where it remained unclear who factually controlled power, but both rebels and unjust tyrants “present themselves to the world as political eminencies with the entire risk of the political” even as they misused their power.²¹ The point was that both legitimate rulers, as well as those with pretensions to rule, would present themselves as sovereign in public: “[They] demand obedience and loyalty, with justice or injustice, but at any event in full openness. [They make a claim] to an eminency and represent it. The publicity that lies in this representation is accepted as self-evident. This belongs, indeed, to the concept of authority.” Schmitt also presented a theological version of this argument to his Catholic audience.²² The aforementioned instruments of hegemony, he argued, forced Christians to abandon their “general duty to be subject to authority,²³ since ‘every authority is from God’ (1 Romans, 13).”²⁴ It was, Schmitt argued, impossible for Christians “to grant respect to authority, and indeed, both external respect, *reverentia externa*, as well as inner respect, *reverentia interna*” if the governmental apparatus was “in the service of foreign powers.” In opposing the French occupation of the Rhineland and the abuses of mandates, protectorates, and other forms of hegemony,²⁵ they could nobly demonstrate their “sense for the fundamental foundations of honesty and candidness for public life” and fulfill their duty as a Christian. In both its secular and theological form, Schmitt’s argument was almost the same: modern tools of hegemony, like proxy governments or puppet regimes, were not just sinister tools of *Realpolitik*. Worse, they destroyed the structures of sovereignty and authority necessary for human community.

Given Schmitt’s interest in the relationship between theories of sovereignty and international relations, we might ask how much Schmitt’s positions in *The Concept of the Political* also structured his analysis in his 1937 lecture.²⁶ *The Turn to the Discriminating Concept of War* is a review of four contemporary works in international jurisprudence that also analyzes the changes in how the League of Nations defined war for its international system and the potentially catastrophic result. At stake for Schmitt here is the regulation of war. In the opening third of the lecture, Schmitt reviews two works by Georges Scelle and Hersch Lauterpacht.²⁷ Scelle, a French jurist, saw states as mere “social

phenomena” and envisioned a federal world order coordinated by the League of Nations; Lauterpacht proposed that an international court with the League Charter as its constitution could make every conflict between states litigable and thus abolish war. Although these jurists had different approaches, both sought to dethrone the state as the subject of international law and replace it with a universalistic world order. The middle third of the lecture concerns short essays by two British law professors, John Fischer Williams and H.D. McNair, both of whom tentatively identified the problem of neutrality within the League of Nations. Schmitt then proceeds to expand and to articulate the two English jurists’ concerns in the third section of the work. Prior to the Treaty of Versailles, so goes Schmitt’s argument, war was a legitimate institution of state policy between states that were either ruled by princes who, if not Christian, met a corresponding standard of civilization (the Ottoman sultan). Such an order revolved around a “non-discriminating” concept of war: both warring parties had their reasons for war, but no secular authority on earth could objectively declare one side just and the other unjust. This in turn allowed for the permissibility of neutrality in international relations, since it was justifiable to remain neutral with respect to a conflict where one could not be objectively certain as to which party was in the right.

From Schmitt’s point of view, however, Versailles and the League of Nations revolutionized the concept of war, transforming it into a “discriminating concept of war,” hence the title of the work. The League – or, in theory, any international organization – claimed not only the universal right to define which side of a conflict was objectively just and unjust, but also, more significantly, the authority to declare this decision binding on all neutral parties. One now faced, instead of wars that were clearly regulated under international law, conflicts rebranded as “interventions” and “pacification actions” on the one hand (when the League approved a war) and as “crimes,” “insurgencies,” or “acts of terrorism” on the other hand (the terms for the opponents of the League), or even as nothing at all, when the League neither sanctioned nor condemned the action (as in the case of the Japanese invasion of Manchuria). And insofar as one could never remain neutral in the face of crime, the Versailles international system abolished the concept of neutrality. Rather than serve as the building block for a stable postwar order, Schmitt argued, Versailles created the League of Nations as a tool for American, British, and French imperialism to define opponents of their foreign policy aims as murderers, robbers, or pirates and exterminate them in “just wars.”

While superficially an in depth literature review and discussion of contemporary problems in international jurisprudence, Schmitt’s talk drew heavily on concepts he originally developed in *The Concept of*

the Political. That work, which first appeared as a series of lectures in May 1927 and was later modified in 1932 and 1933 republications, had already contained several concrete observations on politics in the real world and international organizations.²⁸ The distinction between friend and enemy that respective political communities made, Schmitt claimed, was crucial to the very existence of political community as such. Political communities (nation-states or empires, for example) could take any number of measures to condemn or repudiate war as a tool of foreign policy, but it was still impossible for states to “escape from making this fateful distinction between friend and enemy.”²⁹ For such political communities, the alternative to making this decision was either to surrender its sovereignty to another collectivity that would protect it against foreign enemies and make the friend–enemy decision for it (here, Panama or Cuba in the 1920s would serve as an example)³⁰ or simply to “disappear.”³¹ The crucial point, however, was that any universalistic organization like the League of Nations would attempt to deny political communities the ability to make the friend–enemy distinction, namely by pretending to encompass *all* countries of the world under the banner of “humanity.” Schmitt granted that the distinction between friend and enemy, and hence the concept of the political, would cease to exist “if the different states, religions, classes, and other human groupings on earth should be so unified that a conflict between them is impossible.”³² But this was manifestly not the case in 1927: “if and when this condition will appear, I do not know. At the moment, this is not the case.”³³ The real problem following from this was that organizations depicting themselves as champions of mankind (like the League) “generated a murderous self-righteousness,” since their enemies, as the enemies of “humanity,” were by definition *hostis generis humanis* and had to be exterminated.³⁴ And even if Schmitt’s own friend–enemy distinction explicitly admitted the possibility of physical destruction of the enemy, there remained in his view a certain decorum to the *Kampf*. The enemy, in his view, was an existential fiend to be overcome, an enemy with dignity, something greater than “vermin, a trouble maker, pirate, [or] gangster.”³⁵

This brings us to one connection between *The Concept of the Political* and *The Turn to the Discriminating Concept of War*.³⁶ Schmitt’s main concern in the text, the discriminating concept of war, with its claim to be a binding decision on the justice of a war for third parties, extends his concern in *The Concept of the Political* with the ability of political communities to make their own friend–enemy distinctions. Schmitt puts this in plain terms:

Should a neutral state find itself in a position where it must decide on the justice of a war conducted by one state against another, is that third party

free to enter the war on the side on which it thinks justice lies, and hence become a war-conducting party? [. . .] A simple either-or raises itself to be considered; and this is an either-or that has real force: "Either one is neutral, or one is not."³⁷

Indeed, given Schmitt's concerns in *Concept*, this question did have real force. The League's claim to decide otherwise-neutral states' positions towards wars in distant corners of the world amounted to nothing less than the wresting away of those states' sovereignty.

Schmitt's analysis of the League's regulation of war in *The Turn to the Discriminating Concept of War* also extended and clarified his analysis of universalistic organizations in *The Concept of the Political*. On the one hand, the attempt of the Versailles Order to criminalize warfare was incoherent. Any attempt to analogize war through crime would fail: one could not plausibly say that a murder victim found him or herself on the unjust side of a crime in the same way one might say that Poland was on the unjust side of a war in 1939.³⁸ More than that, however, Schmitt extended his remarks to organizations that claimed to represent humanity. He argued that it was impossible to institute a universalistic organization that purported to be a federal organization for all human political communities. Schmitt supposed that a universalistic organization could in theory conquer the world and so usher in an age in which "there would no longer be any wars between the nations of the planet, neither just nor unjust wars." But this could only occur if the League developed a tremendous military and waged a "decisively final war of humanity," "a war of annihilation" against all nations that placed themselves outside of the League's "humanity." In terms of *The Concept of the Political*, the point is that universalistic organizations with a non-discriminating concept of war senselessly ratchet up the friend-enemy distinction. Even if past friend-enemy conflicts between political communities descended into bloodshed and war, Schmitt implies, these wars "owed [their] justice, honor, and worth to the fact that the enemy was neither pirate nor gangster, but rather a 'state' and a 'subject of international law.'"³⁹ There is, Schmitt suggests, something noble about viewing the opponent in war as an enemy that must be overcome as an equally justified combatant in a battle, as opposed to a bandit. The wars and repressions of universalistic organizations, however, because of their claim to represent all of humanity, made the friend-enemy distinction an extreme one, between humanity/not-humanity, the latter of whom is now "totally morally disqualified [and] no longer recognized as a legitimate form of life."⁴⁰

These, of course, are only some of many concerns one might have with *The Turn to the Discriminating Concept of War*.⁴¹ For instance, even though Schmitt presented the lecture at a time when the Spanish Civil

War was one of the main issues in international politics, he mentions the conflict in the text only in passing: in an ambiguous footnote, he seems to defend the German bombing of Guernica insofar as it demonstrates to liberal commentators precisely what the shift from “war” to “interventions” and “pacification actions” amounts to.⁴² Direct evidence for Schmitt’s lack of attention to the Spanish Civil War is scanty; he had presented one of his articles at a conference in Barcelona and had many contacts in Spanish right-wing circles, but his only written reference to the war came in 1963.⁴³ One Schmitt biographer, Gopal Balakrishnan, has made several suggestions: one might posit, shakily, that even in light of Germany’s active support of the Nationalist cause, Schmitt wanted to avoid being associated publicly in any way with Roman Catholicism after the SS had denounced him as a Catholic thinker in 1936.⁴⁴ Another possibility is that Schmitt simply did not support the Nationalist cause himself and thus wanted to avoid commenting on the war in his public appearances. Another question with the text is why it contains very few anti-Semitic remarks. Schmitt, following the spirit of his suggestion in a 1936 lecture to cite Jews as such in scholarly literature, goes out of his way to mention that Harold Laski, an English scholar, is a “Jewish professor” teaching at the same institution as another Jewish scholar, Hersch Lauterpacht, but Schmitt’s tone throughout is measured and professional.⁴⁵ The point here may be that *The Turn to the Discriminating Concept of War* was directed primarily at an international audience. While it aimed to discredit an organization, the League of Nations, that Germany had broken with, and while it demanded a new world order, Schmitt’s lecture sought to coolly situate these actions and demands in a broader, pan-European scholarly discussion, as well as to normalize and legitimize Germany’s actions in a way that might still speak to European lawyers. Indeed, Schmitt’s enormous concern in the talk with the rights of neutral countries bespeaks a concern with how *international* institutions should be arranged, rather than simply focusing on Germany’s demands regardless of the sovereign claims of other nations.

The Turn to the Discriminating Concept of War was a qualified success. In June 1938, the *Reich* Foreign Minister Joachim von Ribbentrop sent Schmitt a letter thanking him for articulating the German position with regard to the League so convincingly.⁴⁶ Swiss reviewers also positively assessed Schmitt’s contribution to European discourse on neutrality law and the League.⁴⁷ At the same time, the work seemed incomplete: it only criticized the international system of the League and did not propose anything in its place, besides suggesting that the discriminating concept of war be junked – a problem that Schmitt himself later conceded. For the immediate future, Schmitt would devote himself to a study of Thomas Hobbes’ *Leviathan*, but less than two years after

Schmitt had criticized the Versailles international order in *The Turn to the Discriminating Concept of War*, he would respond to his critics with his “answer to the question” of what he had to replace the Versailles order.

The Großraum Order of International Law with a Ban on Intervention for Spatially Foreign Powers (1939–1941)

That today *Großräume* are forming, and thus a war is flaring up, is in no way worse and more terrifying than other earthquakes in earlier centuries. *Deos video ascendentes*. Why should I fear the Behemoth more than the Leviathan? Your great military and maritime author Castex, whom I read with tremendous pleasure, also says that world history is a battle between land and sea. *La mer contre la terre*. Until Christ returns, the world will not be in order.⁴⁸ (Schmitt, Letter to Pierre Linn, 1939)

Schmitt's 1939 lecture *The Großraum Order of International Law with a Ban on Intervention for Spatially Foreign Powers: A Contribution to the Concept of Reich in International Law* and its subsequent incarnations as a book have a reputation.⁴⁹ “Infamous,” one Schmitt scholar calls it.⁵⁰ A recent history of the Nazi Empire calls it “hard-hitting.”⁵¹ Soon after Schmitt gave the lecture, the British press presented him in most sinister terms. “Herr Hitler and Professor Schmitt will now, it is believed, devote themselves to completing the framework of this conception, and the Führer will soon give it to the world as his justification for Germany's relentless expansion,” reported the *Daily Mail*. *The Times* reported on the same day: “Hitherto no German statesman has given a precise definition of his aims in Eastern Europe, but perhaps a recent statement by Professor Carl Schmitt, a Nazi expert on constitutional law, may be taken as a trustworthy guide.”⁵²

And yet Schmitt was hardly the “key man” in Hitler's policy, as the *Daily Mail* claimed elsewhere. He had given the lecture not in front of statesmen, but only in his capacity as a law professor at a pair of three-day conferences at the Christian Albrecht University in Kiel; one was to celebrate the 25th anniversary of the university's Institute for Politics and International Law, the other a gathering for National Socialist law professors. Both were chaired by Paul Ritterbusch, the university rector and legal scholar, a committed Nazi since the early 1920s and Schmitt's friend.⁵³ This was no policy meeting. Instead, the purpose of the conference was to provide “a model for the way German professors could make themselves useful to the war effort by providing concepts and catch phrases for educated opinion. [. . .] Academics from a whole range of disciplines came together to generate a body of literature which

portrayed Germany's war aims in an ennobling, world-historical light."⁵⁴ In line with this, Schmitt speaks several times in the text of the danger of his scholarly concepts becoming "talked to death" or "turned into chatter" (*zerreden*).

Schmitt addresses many different themes in *Großraum*, but for the purposes of an introduction, perhaps the best point at which to enter is his discussion of the American Monroe Doctrine in Section II.⁵⁵ For Schmitt, the Monroe Doctrine as declared in 1823 was a revolutionary principle in international law because it was the first real *Großraum* ("great space") principle. In the Doctrine, the United States declared not only parts of the Americas but also the entire Western Hemisphere (a planetary way of thinking) off limits to colonization or intervention by the monarchic-dynastical regimes of Europe. The Monroe Doctrine, in Schmitt's mind, was a *Großraum* principle because it connected three things: first, a "politically awakened nation," (the United States of America); second, a "political idea" with "a certain opponent in mind, through which this political idea gains the quality of the political" (democracy as opposed to absolute monarchy); and third, "a *Großraum* ruled by this idea, a *Großraum* excluding foreign interventions" (the Western Hemisphere).⁵⁶ Among all contemporary empires, even the British Empire, the United States alone had fully developed a *Großraum*.

Schmitt's primary argument in *The Großraum Order of International Law with a Ban on Intervention for Spatially Foreign Powers* is that Germany should follow America's example and develop a *Großraum* principle for Continental Europe. In order to develop this claim, Schmitt introduces the concept of *Reich*, "the leading and bearing power whose political ideas radiate into a certain *Großraum*."⁵⁷ Just as the United States of America, with its "ideals of assimilation and melting pots," is the *Reich* of the American *Großraum*, the Greater German *Reich* will serve for the European *Großraum*.⁵⁸ Instead of assimilation, however, the German *Reich's* political idea will be the "the respect of every nation as a reality of life determined through species and origin, blood and soil."⁵⁹ Scholars often criticize Schmitt for providing few concrete details here, but his description of the New Order gives the impression that every Eastern European racial group will be encouraged to live as a homogenous group and not be forced in any way to assimilate into a racially foreign nation-state. This, as it seems, is to be accomplished through state-sponsored forced migration, with the forced migrations of 1939–40 involving Germans, Hungarians, Romanians, Bulgarians, and other Eastern Europeans as the model.⁶⁰ Still, the Jews are an exception: Schmitt argues that "the Jewish problem" is "completely and thoroughly unique" and that the Jews are racially alien from all other Europeans, but he does not articulate what precisely is to be done with them.

Großraum served many purposes as a text. First, *Großraum* represents Schmitt's sound reading of trends in international politics in the 1930s and 1940s; states as such had begun to seem less important, and the globe was increasingly dominated by entities – the United States and the states of Central America and the Caribbean under its control; the Soviet Union, encompassing the Baltic States, the Caucasus, Central Asia, and the Slavic lands of the former Russian Empire; the British Empire; the “East Asian Co-Prosperty Sphere” – that fulfilled some but not all of the qualities of a Schmittian *Großraum*: political ideas with opponents in mind, “politically awakened nations,” and some sense of encompassing the globe. Second, the text amounted to Schmitt moving away from the overly statist principles that had got him into trouble in the mid-1930s; Schmitt replaces the concept of the state he had used in earlier texts like *State, Movement, Volk* (*Staat, Bewegung, Volk*) and *The Concept of the Political* with the more amorphous *Reich*.⁶¹ And third, Schmitt sees *Großraum* as his answer to the conundrum recognized in *The Turn to the Discriminating Concept of War*. In *Großraum* theory, he argues,

we have the core of a new way of thinking about international law, one that proceeds from the concept of nation and thoroughly allows the elements of order in the concept of state to exist; one, however, that is capable of doing justice to the spatial conceptions of today and the real political vital forces in the world today; one that can be “planetary” – that is, that thinks in terms of the globe – without annihilating nations and states and without, as does the imperialistic international law of the Western democracies, steering the world out of the unavoidable overcoming of the old concept of state but into a universalistic-imperialistic world law.⁶²

Schmitt's *Großraum* lecture has to be read within the context of the scholarly and political discussion in the German *Reich* of the late 1930s and early 1940s – a dialogue that used the American Monroe Doctrine as justification for German imperialist policies. Already on March 4, 1939, Foreign Minister Joachim von Ribbentrop had made reference to the Monroe Doctrine in meetings with Sumner Welles, the American Deputy Secretary of State, by claiming that any future partition of Poland was a purely German and Soviet affair.⁶³ Whereas the other lectures from the Kiel conference were published as a single volume, only Schmitt's lecture was published as a separate book; soon, Nazi theorists appropriated and sometimes criticized Schmitt's concept of *Großraum* as proved useful for their racial-geopolitical tracts. Werner Daitz, a chemical engineer who had become an economic consultant for the NSDAP, attempted to combine the idea of *Großräume* led by the dominant economic and political powers of the day with race theory.⁶⁴ In a 1941 essay,

he criticized Schmitt's vision of *Großräume* for ignoring the primacy of racial homogeneity:

The non-intervention principle founded by *Carl Schmitt* is therefore not characteristic for the *essence* of a *Großraum*. The non-intervention principle does not say anything, after all, about the natural essence and the natural content of a genuine *Großraum*. – On the basis of the non-intervention principle a *Großraum* could be filled with peoples of the most diverse families of peoples, with Chinese, Malay, Negros, Indians, and Whites. [. . .] Through the implementation of the non-intervention principle, a genuine *Großraum* with a natural inner cohesion can never be founded and asserted, as one sees with this example.⁶⁵

Schmitt's theory itself, however, had its immediate afterlife in Hitler's *Reichstag* speech of April 28, 1939. After the German invasion of Czechoslovakia, Roosevelt sent Hitler and Mussolini a telegram urging Germany and Italy not to "attack or invade the territory or possessions" of any country on a list of "independent nations" that included all of Europe (except Slovakia), "Russia," Turkey, Syria, the Palestinian Mandate, Egypt, the Arabian Peninsula and Iran until 1949 or, more hopefully, 1964, as well as to participate in American-led talks outside of the League of Nations focusing on disarmament and the lifting of economic protectionism.⁶⁶ Hitler attacked Roosevelt's suggestion as hypocritical: Germany, he argued, had never suggested to the United States how it ought to conduct its affairs in the Americas. He called upon the Monroe Doctrine, stating that "we Germans support a similar doctrine for Europe – and above all for the territory and the interests of the Greater German *Reich*."⁶⁷ The process by which this reference to the Monroe Doctrine entered Hitler's speech is unclear, but after the speech Hans Frank called Schmitt and told him to remain silent "about the true origin of the concept of a European Monroe Doctrine," noting that "the *Führer* prided himself on his originality."⁶⁸

Schmitt's *Großraum* theory may sound similar at first glance to Nazi *Lebensraum* theory, but the relationship between the two is complex and deserves some consideration.⁶⁹ One has to note first of all that the early 1940s were a confusing time for Nazi intellectuals attempting to define the contemporary character of the expanding *Reich* or to suggest how the New Order ought to be ruled. No single Nazi policy of occupation or foreign administration existed, nor did there exist an essential doctrine of *Lebensraum* against which one can compare Schmitt's remarks. On the one hand, theorists like Schmitt, Carl Bilfinger, and (less academically) Daitz sought to define the *Reich* with various concepts. Schmitt, of course, offered *Großraum*. Bilfinger proposed an empire defined

by a core of "Germandom" in communion with Hitler surrounded by many European vassals that were "led" but, importantly, not "ruled."⁷⁰ Daitz viewed the empire as a project of ethnic cleansing and German demographic expansion to the Ural Mountains that would bring the historic territories of Rus' into a "economic, cultural, and legal" European community and lead to a flourishing twentieth-century version of the Hanseatic League and an "Anti-Atlantic Charter."⁷¹ Not that any of this was a good use of anyone's time: despite the mention *Großraum* received in Hitler's *Reichstag* speech, little suggests that leading members of the Nazi regime were interested in such a formal theory of empire that might do anything to limit the dynamism of expansion and genocide to the East.

At the same time, Nazi administrative elites had their own solutions for empire. At one end of the spectrum was Werner Best, a lawyer for the SS who traveled widely to European capitals to study comparative administration.⁷² In a June 1941 essay in a *Festgabe* for Himmler's birthday, Best proposed different categories of German foreign rule for European nations based on the conquered nations' level of civilization and likelihood to resist. He emphasized that each race had and should be allowed to develop its own institutions, but Best was no liberal: the *Führungsvolk* (leading nation), he wrote, might have to "totally destroy (or totally expel) from its sphere undesired groups." The point, however, was that Germany could negotiate favorable trade agreements and leave the policing of Jews, communists, and homosexuals to local national bureaucracies with minimal cost. For instance, while Best was based as the chief administrative officer in Paris, he oversaw the entire French occupation bureaucracy with 200 German officials in the capital and under 1,000 in the entire occupied area. Here was "home rule" for Europe. But Best was also wasting his time, because leading officials such as Hitler, Himmler, and Heydrich had little time for such a policy in National Socialist Europe. In Serbia, for example, Hitler ordered police to shoot 50 to 100 Serbs for every German soldier killed there by partisans, while Himmler later appointed a slavophobe administrator to the country whose watchword was: "I like a dead Serb better than a live one."⁷³ Heydrich, in the Protectorate of Bohemia and Moravia, had more than 400 Czechs executed in a period of two months after his arrival, and his style of administration was seen as the model for German colonial rule until Czech commandos in the Bohemian countryside assassinated him.⁷⁴

The real question here is therefore not one about the direct link between *Großraum* and an essentialized concept of *Lebensraum*, but rather where to place Schmitt's theory in a wide spectrum of thought. Those who contest the affinity of *Großraum* theory with the more grisly

varieties of German colonial and administrative theory have several arguments. For one, Schmitt posits the essential element of a *Großraum* to be the “political idea” – not race, nationality, or national culture. Schmitt intended that the European *Großraum*, borne by an ethnically homogeneous Greater German *Reich*, would have the United States of America as its “opponent in mind” – an opponent, that, to be sure, presented “ideals of assimilation, absorption, and melting pots,” and was home to large populations of Jews, Slavs, and African immigrants and former slaves, but also contained millions of first- or second-generation immigrants of German descent. Second, while Schmitt explicitly excludes the Jews from his picture of European *Großraum* as “racially alien,” he describes Central and Eastern Europe – inhabited by Germans, Slavs, Romanians, Roma, Gaguz Turks, and Crimean Tatars – as a space in which there live “many nations and national groups that are not racially alien from one another.”⁷⁵ This does not exactly conjure up visions of racial rights to land. Moreover, Schmitt most often uses the word *Volkstum* for “nation” – a concept that has more to do with cultural heritage, language, and identity than race *per se*. And third, as the case of Werner Daitz illustrates, several contemporary theorists who prided themselves on being *Lebensraum* thinkers attacked Schmitt’s theory of *Großraum* as insufficiently *völkisch* (a term that is hard to translate and was often used as a placeholder for lack of specific criticism, but can perhaps be rendered as “racialist”).⁷⁶

And yet there are several arguments for an affinity between *Großraum* and *Lebensraum*. Perhaps the most compelling of them is that one has to look not at an idealized philosophy of *Großraum* but rather at the policies that Schmitt described in his rhetoric as examples of *Großraum* policy. Regardless of what he says about the centrality of “political idea” to a *Großraum* (as opposed to race), the “political” idea of the German *Reich* in 1939 was not “the respect of every nation as a reality of life determined through species and origin, blood and soil” but rather the cultural genocide of Czechs, Poles, and other Slavic minorities and the murder and ghettoization of Jews. Schmitt celebrates the forced migration of national groups, even in cases where this forced resettlement was dependent upon the deportation of Jews and Poles to ghettos or the General Government, as an example of the new “order based on national groups.”⁷⁷ His characterization of the Jews, who “have of course as little made the hitherto existing spatial theories as little as they have made anything else,” speaks for itself.⁷⁸ The extent to which this was Schmitt really speaking his mind or him adapting to a new rhetorical context – although one in which he had slim chances of seriously influencing policy – remains a matter for speculation.

A more fundamental, but also more speculative problem regarding

the link between *Großraum* and *Lebensraum* is whether Schmitt's image of America and the Monroe Doctrine in *Großraum* served as an ersatz for a deeper-seated fear of Jews. One major theme throughout the text, indeed, part of its title, is Schmitt's concern with the "interference of spatially foreign powers"; in his view, the United States constitutes a "spatially foreign" (*raumfremd*) (Schmitt does not elaborate on this term) entity that interferes with and so determines European politics. Schmitt's concern with America as an interfering agent is quite similar to, for example, Daitz's anti-Semitic rhetoric. In a 1941 article, Daitz wrote the following about the Jews:

Only the Jew forms an exception. Different from all other peoples of the earth, the Jew does not own – and does not want to own – his own living space. The biological law within him only permits him to live as a parasite in the living spaces of other peoples. He thrives all the more in them as they become vitally weak or enter into rot either through him or due to any other reason. It is for this reason that the Jew is linked with every kind of imperialism, which is indeed always directed towards the decomposition of natural orders of life; the Jew is interested in imperialism, is its most loyal companion and advocate and encourages it wherever he can.⁷⁹

In both Daitz's and Schmitt's writings there is an obsession with the Jews' lack of ties to the land, with geography, as well as an anxiety towards alien – be it American or Jewish – interference in Europe. This argument does have some weaknesses. Schmitt is content to grant the Western Hemisphere to the United States as its *Großraum*, whereas Daitz postulates that the Jews neither have nor desire any legitimate *Lebensraum*. The United States, moreover, was not only a convenient stand-in for anti-Semitic anxieties but also the major global competitor with Germany in the 1930s and 1940s. Still, Schmitt's linkage of Jews as the "fermenting agent in the dissolution of concrete, spatially determined orders" with the Western powers in *Großraum* suggests that the geopolitical moment may have given Schmitt the chance to repackage his enemy, the Jew, in a discourse of great powers and *Großräume*.

All the same, Schmitt's vision for a European *Großraum* failed. His vision for a German-led European *Großraum* was incoherent within the framework of Schmitt's own *Großraum* construct. "The European Eastern space," as Schmitt called it, was not a clearly defined geographical space in the same way as the Western Hemisphere, and for all of his talk of "thinking planetarily," Schmitt described the European *Großraum* only in terms of Europe, not as the "Heartland of the World Island" or the Northern Eastern Hemisphere. Europe is not a continent. It was only with his 1942 *Land and Sea* that Schmitt attempted to rearticu-