

With Friends Like These...

Carl Schmitt, Political Ontology, and National Socialism

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University of Virginia Graduate Student Conference

March 26, 2009

Charlottesville, VA

“The political enemy need not be morally evil or aesthetically ugly; he need not appear as an economic competitor, and it may even be advantageous to engage with him in business transactions. But he is, nevertheless, the other, the stranger; and it is sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in the extreme case conflicts with him are possible.”
Carl Schmitt, *The Concept of the Political*¹

“The acceptance of the manysidedness of spontaneous life might lead again without delay to an unfortunate pluralistic splitting of the German people into denominations, tribes, classes, estates and interest groups, unless a *strong State* uplifts and guarantees the whole of the political unity over the multitude of forms.”
Carl Schmitt, *State, Movement, People*²

In Spring 1933, Carl Schmitt made a decision that would alter his reputation for the rest of his life: at the urging of his colleagues, he joined the National Socialist German Workers’ Party.³ While he briefly benefited as a prestigious theorist for the Reich, his career was quickly destroyed: despite being found not guilty at the Nuremberg Trials, he was banned from teaching in universities for the rest of his life, living outside the academy until his death in 1985.

Although his reputation was markedly tarnished for a generation of Western political theorists – none of his work was translated into English until 1976 – his work has achieved something of a renaissance among left-leaning writers in recent years.⁴ One camp in particular has creatively attempted to translate what are ostensibly some of Schmitt’s most distasteful principles – the necessity of social homogeneity and the friend-enemy – into a distinctly democratic praxis. These agonists, led by Chantal Mouffe, attempt to cleanly transition from Schmittian antagonism and hegemonic unity into a politics that recognizes the inescapability of another type of conflict: the dissonant character of a difference-laden *demos*.

¹ Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago: University of Chicago Press, 1996): 27.

² Carl Schmitt, *State, Movement, People*, trans. Simona Draghici (Corvallis, OR: Plutarch Press, 2001): 37.

³ Claudia Koonz, *The Nazi Conscience* (Cambridge, MA: Harvard University Press, 2003): 58.

⁴ George Schwab, “Introduction,” in *Political Theology*, trans. George Schwab (Chicago: University of Chicago Press, 1985): xl.

While I am highly sympathetic with the goals of democratic agonists, I will argue that they are ultimately mistaken in drawing from Schmitt. While both are predicated upon the encounter between the Self and the Other, they are ontologically incommensurable. Mouffe implies that conflict lies upon a sort of continuum, with respectful agonism at one end and ruthless antagonism at the other. I argue that this is a category mistake, that agonism and antagonism are qualitatively distinct. The former is built upon an ethos of critical responsiveness and a Pathos of Distance, where the space between Self and Other is one to be explored and articulated; the latter relies upon a people that constitutes itself as separate and distinct, with a thick concrete wall replacing the space of identity\difference. When Mouffe articulates herself in alignment with the former, she is thoroughly un-Schmittian; when she allies with the latter, she is making concessions to a brutally anti-democratic theory.

Schmitt's Nazism is especially problematic for Schmitt's agonistic rescuers. This question has vexed students of Schmitt since 1946, with explanations ranging from raw opportunism to a vain effort to save the German state from despotism.⁵ However, most readings tend to overlook the most important motivator: Schmitt's basic commitments were compatible with his beliefs about Hitler and the Nazi Party, commitments which held the state as an ontological foundation of political society. Mouffe's attempt to rehabilitate Schmitt requires a satisfactory rebuttal to the fascist elements of his work, and she does not provide one.

This paper is composed of three sections. The first section will outline Mouffe's case for Schmitt, while outlining her explicit breaks from him and the points on which I

⁵ Joseph Bendersky, "The Expendable Kronjurist: Carl Schmitt and National Socialism," *Journal of Contemporary History* 14, no. 2 (April 1979): 315. Interestingly, Bendersky represents both of these positions at different points in the article.

am sympathetic to her approach (1). The second section maps Schmitt's ontological commitments and demonstrates their incommensurability with Mouffian agonism. It unfolds Schmitt's ontology in three layers: his friend-enemy distinction, his statist decisionism, and his belief in foundational action (2). In the third and final section I attempt to erect an even higher wall between antagonism and agonism by developing ontological continuity between Schmitt's pre-1933 and Nazi-period work.

1: The Apologist Case

The defense of Carl Schmitt has taken numerous forms. Some approach him with a limited goal, seeking to undermine the charges that he was a true believer Nazi, but going no further than suggesting that he is at least a worthwhile to engage. Others are significantly bolder, arguing that there are important and inescapable elements of truth in Schmitt's conception of the political. The "case for Schmitt" outlined here will focus on the latter. Specifically, it focuses upon Chantal Mouffe's efforts to transfer Schmittian antagonism into a vigorous defense of democratic agonism.

This section is composed of two sub-sections. In the first sub-section (1A), I outline Mouffe's theoretical appropriation of Schmitt, focusing upon her analysis of the friend-enemy distinction and Schmitt's ideas on political unity. In the second sub-section, I outline the points on which she explicitly breaks from Schmitt (1B). In the spirit of critical responsiveness, I will attempt to be as generous and accurate as possible. Nevertheless, section 2 will reveal that Mouffe's attempted hybridization of antagonism and agonism is untenable, and that in doing so she either departs too far from Schmitt or strays too far from a defensible idea of democratic politics.

IA: Agonism and the Friend-Enemy Distinction

In “Carl Schmitt and the Paradox of Liberal Democracy,” *The Return of the Political*, and the introduction to *The Challenge of Carl Schmitt*, Chantal Mouffe attempts to stitch a seamless connection between Carl Schmitt’s bellicose antagonism – a position he succinctly summarizes by stating that “the specific political distinction to which political actions and motives can be reduced is that between friend and enemy” – and agonism, a body of work seeking to reconcile democratic theory to the inherent conflict of politics.⁶ Mouffe produces a partially convincing case, noting that Schmitt’s friend-enemy distinction is conflict-oriented and that disagreements over the basic character and contents of the political community will always exist. This sub-section outlines Mouffe’s defense of Schmitt.

Chantal Mouffe addresses several areas in which agonism and Schmittian antagonism align in opposition to universalist liberalism. According to Mouffe, Schmitt recognizes that liberalism is “incapable of grasping the nature of the phenomenon of politics” insofar as “its individualism prevents it from understanding the formation of collective identities.”⁷ On one level, Schmitt and Mouffe agree with other critics of traditional rationalist liberalism by rejecting the “disengaged self,” that “slippery subject” who “generates distance from its background...and foreground” in exchange for “an accelerating mastery of them.”⁸ In this understanding, an independent and rational

⁶ Schmitt, *The Concept of the Political*: 26.

⁷ Chantal Mouffe, *The Return of the Political* (London: Verso, 1993): 122-123.

⁸ Stephen K. White, *Sustaining Affirmation: The Strengths of Weak Ontology in Political Theory* (Princeton, NJ: Princeton University Press, 2000): 4.

individual cannot be abstracted from her “thick” sources; rather, she is always already embedded within a social-political milieu.

In Mouffe’s view, the “real” political – political life that is not founded upon unrealistic foundations of universal rationality – manifests itself in two ways in Schmitt’s thought. First, he recognizes “that ‘homogeneity’ is a condition of possibility of democracy,” writing in the preface to the second edition of *The Crisis of Parliamentary Democracy* that “Democracy requires...first homogeneity and second – if the need arises – elimination or eradication of heterogeneity.”⁹ While acknowledging that Schmitt’s eventual membership in the Nazi party renders this sentiment “chilling,” Mouffe goes on to argue that his homogeneity is built upon a specifically democratic notion, namely that democracy “requires the possibility of distinguishing who belongs to the demos and who is exterior to it.”¹⁰ The lesson is that universal or global democratic institutions are inherently problematic, as “democracy always entails relations of inclusion-exclusion.”¹¹ While Mouffe rejects Schmitt’s affirmative conclusion – that there should be a “moment of closure” to the political, where included and excluded groups are firmly delineated – she nevertheless concurs on the substantive import of democracy’s in-out distinction: the fundamental element of the political is *conflict*, in this case conflict over the composition of the *demos*.

Mouffe takes this homogenizing impulse as the “friend” side of Schmitt’s famous friend-enemy distinction. Liberalism fails to “[recognize] the need for such a form of commonality” in democracy. Although Schmitt is frequently “taken to task for

⁹ Chantal Mouffe, “Carl Schmitt and the Paradox of Liberal Democracy,” *The Challenge of Carl Schmitt*, ed. Chantal Mouffe (London: Verso, 1999): 39.

¹⁰ *Ibid.*: 40.

¹¹ *Ibid.*: 43.

neglecting” political friendship, he in fact recognizes “friendship” as the process of coalescing that liberalism reduces to a procedural abstraction.¹² For Schmitt, the conclusion is clear: “there is no place for pluralism within a democratic political community.”¹³ This is where Mouffe explicitly breaks with Schmitt. While Schmitt yearns for closure of political unity, Mouffe seeks to continuously defer the moment of homogenization. The next sub-section will detail Mouffe’s explicit breaks with Schmittian theory.

1B: Departures from Schmitt

In order to transfer from Schmittian antagonism to agonistic democracy, Chantal Mouffe must make several significant breaks from Carl Schmitt. She does this by identifying what she calls Schmitt’s “false dilemma”: while agreeing with Schmitt on “the deficiencies of the kind of pluralism that negates the specificity of the political association” and the necessity “to constitute the people politically,” she does not believe this should close off the possibility of pluralism.¹⁴

According to Mouffe, Schmitt makes a key mistake by assuming that the “unity of the state must...be a concrete unity, already given and therefore stable.”¹⁵ In her view, this conclusion is misguided, and obscures his version of the conflictual nature of democratic politics, which “does not consist in the moment when a fully constituted people exercises its rule” but in “the very struggle about the definition of the people,

¹² Ibid.: 47.

¹³ Ibid.: 48.

¹⁴ Ibid.: 49.

¹⁵ Ibid.: 50.

about the constitution of its identity.”¹⁶ For Mouffe, the struggle of agonism is this struggle for the constitution of the *demos*; she envisages politics as a continuing struggle for “articulation,” and one that can never be closed or completed.¹⁷ Schmitt’s vision of the political, on the other hand, entails a contradiction: if the political unity is as fragile as Schmitt implies, then “the existence of such a unity is itself a contingent fact which requires a political construction,” yet in his work “unity is presented as a *factum* whose obviousness could ignore the political conditions of its production.”¹⁸ Mouffe seeks to recognize the reality of the political unity, but also to recognize the perpetual disagreement over its definition.

Although these are presented as points of departure between herself and Schmitt, it is important to recognize that her analysis is more hybridization than outright rejection. Although agonism is a permanent state without closure, Mouffe’s agonism is oriented toward a concrete “end,” namely the definition of the *demos*. In one sense, this is an appropriate rendering of agonistic theory: agonism is not a deliberation between *this* and *that* conception of the political ideal, but an unavoidable encounter between *Self* and *Other*; politics does not take place on the solid, common ground of universal rationality, but is embedded in identity\difference.

This conception of the political community is not just defensible. It is correct. However, Mouffe takes a right turn in her encounter with Schmitt. The political is conceived not just as a recognition of difference, but as the struggle to *close off* the opposing difference. Although Mouffe stresses “the importance of leaving this space of contestation forever open,” identity’s inherent orientation toward closure remains –

¹⁶ Ibid.: 51.

¹⁷ Ibid.

¹⁸ Ibid.: 50.

groups and individuals struggle over *differing definitions of the bounds of political community*. The struggle not only occurs between peoples, but is also a struggle of the People. Mouffe cannot shrug away this element of the Schmittian ontology lest she throw out the baby with the bath water.

In the next section, I will work from this foundation to map Schmitt's ontology. In doing this, I will demonstrate that Schmitt's errors involve much more than bath water.

2: Problems with the Schmittian Ontology

As seen above, the agonistic attempt to salvage Carl Schmitt focuses upon Schmitt's attacks on a certain universalistic understanding liberalism. In this reading, it is liberalism that suppresses the possibility of difference, while Schmitt's antagonism and decisionism merely recognize reality: that the political always inevitably involves conflict and difference, and – no matter the insufficiency of Schmitt's solution – the key goal for political theorists is to navigate the seemingly incommensurable struggle between sometimes violently different theories of democratic legitimacy. But how compatible are the agonistic and Schmittian perspectives? In this section, I will argue that Schmittian antagonism and democratic agonism are more deeply conflicting than Chantal Mouffe and others recognize. Because Schmitt is oriented toward a statist and action-centric ontology, his theory is significantly more dangerous than his apologists admit.

This section is comprised of three sub-sections. In the first sub-section (2A), I will demonstrate the irreconcilable difference between agonism – with its emphasis upon critical responsiveness – and Schmittian antagonism, a state-centered and marginalizing perspective. The second sub-section (2B) bases Schmitt's friend-enemy distinction in his

decisionist model of political action, an orientation I argue closes off the space for the Pathos of Distance. The third and final sub-section (2C) situates Schmitt's antagonism and decisionism within a strong ontology of action: the meaning of the state (and the meaning of the people for Schmitt) is derived from its unfettered and free action, an ontological standpoint that disables the possibility of agonism.

2A: Schmitt's Antagonism

In *The Concept of the Political*, Carl Schmitt develops the orientation that he considers foundational to all types of political life:

The specific political distinction to which political actions and motives can be reduced is that between friend and enemy. This provides a definition in the sense of a criterion and not as an exhaustive definition or one indicative of substantial content. Insofar as it is not derived from other criteria, the antithesis of friend and enemy corresponds to the relatively independent criteria of other antitheses: good and evil in the moral sphere, beautiful and ugly in the aesthetic sphere, and so on. In any event it is independent, not in the sense of a distinct new domain, but in that it can neither be based on any one antithesis or any combination of other antitheses, nor can it be traced to these.¹⁹

The political is not a "distinct new domain," but it is fundamentally different from and unrelated to other orientations. In this sense, Schmitt's famous friend-enemy distinction is a foundational claim. The distinction is not open to dispute and conversation, as in Chantal Mouffe's agonistic appropriation, but is a rigid duality setting the terms of associational life. In this sub-section, I will argue that Schmitt's strong political foundationalism and its implications render his political ontology basically unsalvageable as a liberal-democratic theory. Most importantly, I will contend that the distinction leaves out an important Nietzschean concept that distinguishes the antagonistic from the

¹⁹ Schmitt, *The Concept of the Political*: 26.

agonistic: the Pathos of Distance.²⁰ While the presence of deliberation-confounding heterogeneity is an important theoretical point, antagonism and agonism understand disputation in a way that is distinct in kind, not just in degree.

Schmitt seeks to make his meaning perfectly clear on the nature of the friend-enemy distinction: “The friend and enemy concepts are to be understood in their concrete and existential sense, not as metaphors or symbols, not mixed and weakened by economic, moral, and other conceptions, least of all in a private-individualistic sense as a psychological expression of private emotions and tendencies.”²¹ As I will argue at length in the next sub-section, the concepts of friend and enemy cannot be understood outside the confines of the state’s decision-making. What is important here is that Schmitt’s political rests upon a distinction between what *is* and what *is not* of the state. The enemy constitutes the Other, that against which the state defines itself and from whom an existential threat can be posed. In Schmitt’s own words, the enemy constitutes “the other, the stranger; and it is sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in the extreme case conflicts with him are possible.”²²

The Other as enemy is the first categorization that separates antagonism from agonism. Although Schmitt takes pains to distinguish the friend-enemy duality from the struggle between good and evil, he nevertheless acquiesces to William Connolly’s “second problem of evil”: “the proclivity to marginalize or demonize difference to

²⁰ William E. Connolly, *Identity/Difference: Democratic Negotiations of Political Paradox* (Minneapolis: University of Minnesota Press, 1991): 85-86.

²¹ Schmitt, *The Concept of the Political*: 27-28.

²² *Ibid.*: 27.

sanctify the identity you confess.”²³ The identity of the enemy is a constant potential, and frequently a real threat to the identity of the in-group (the State) in Schmitt’s political ontology. When the bearer of difference is marginalized as an enemy, there is no room for the politicization of distance, whereby *difference* is recognized as a necessary component of *one’s own* identity.

Friend-enemy antagonism precludes the space within which the pathos of distance emerges. “[An] agonism in which each treats the other as crucial to itself in the strife and interdependence of identity\difference” can only emerge within an open terrain of critical responsiveness.²⁴ The friend-enemy distinction explicitly closes off this space by defining the Other as a threat and as an outsider to the political community. Schmitt’s ruthless insistence upon homogeneity in the political community as the basic definition of the political depoliticizes the *interior* politics of the state. The implication – that is, a unitary *Volk* embodied by its leader – is clearly a key affinity which would eventually draw Schmitt to the Nazi ideology.

Mouffe’s attempt to rehabilitate Schmitt’s account of homogeneity was doomed from the start, and it is clearly one of the key errors in her rehabilitation project. When Mouffe attempts to transfer Schmitt’s obsession with the unitary state onto the dissonant relationship between democracy and pluralization – the way democracy “requires the political moment of discrimination between ‘us’ and ‘them’” – she sets an insurmountable obstacle to the *agonal* element of pluralist democracy.²⁵ Mouffe cannot replace the Pathos of Distance Schmitt rejects, because she recognizes agonism as a struggle to *define the legitimate terrain* of difference. Even if the “space of contestation”

²³ Connolly: xv.

²⁴ Ibid.: 178-179.

²⁵ Mouffe, “Carl Schmitt and the Paradox of Liberal Democracy,” p. 43.

over the “definition of the people” is left “forever open,” distance cannot be approached with critical responsiveness if the struggle for identitarian hegemony is the foundational element of the political.²⁶ The Pathos of Distance cannot occur in a space that is continually and actively being closed off by one’s own identity. The hybridization described in sub-section 1B retains more Schmittian antagonism than Mouffe recognizes.

Moreover, Mouffe commits a contradiction more salient than the one she sees in Schmitt. If the political community is necessarily bounded – a Schmittian point Mouffe concedes – what is the political space within which the *demos* constitutes itself? If it can be left truly open, Mouffe suggests a shred of hope for the “universal” democracy she and Schmitt deride; if the political requires boundedness, she is suggesting a closure that is *prior* to the constitution of political identity. Mouffe either envisions a limited sphere of agonism within extant political frontiers, or she discards an element of Schmittian theory she expressly believes to be central.

In the next sub-section, I will demonstrate how Schmitt’s friend-enemy distinction rests upon his decisionism. Mouffe is not simply picking-and-choosing between palatable and unpalatable elements in Schmitt’s theory, but pulling the rug out from beneath his theoretical edifice. In Schmitt’s theory, the friend-enemy distinction is not an open question, but the fundamental prerogative of the State. Without the State as “decider,” the friend-enemy distinction is meaningless to Schmitt, and the political itself becomes unintelligible.

2B: Schmitt’s Decisionism

²⁶ Ibid.: 51.

Carl Schmitt wrote *Political Theology* immediately prior to *The Concept of the Political*, and there is a striking sense of continuity between the two essays. Lurking above the latter's friend-enemy distinction is his endorsement of a rigid, state-centered decisionism in the former. The right to distinguish between the basically legitimate and the basically illegitimate is not only the mark of a good state, but the definition of sovereignty itself. Schmitt makes this clear in the famous first sentence of *Political Theology*: "Sovereign is he who decides on the exception."²⁷ In this sub-section, I will argue that Schmitt's statism-decisionism renders his political antagonism fundamentally untranslatable into agonistic democracy.

The circumstances of the "exception" – those situations in which the sovereign acts or decides outside of legally or constitutionally codified directives – are somewhat slippery in Schmitt's work. On the one hand, the exception is a response to an "emergency," where "the most guidance the constitution can provide is to indicate who can act in such a case."²⁸ On the other hand, the sovereign entity is the "decider": "[S]overeignty (and thus the state itself) resides in deciding this controversy, that is, in determining definitively what constitutes public order and security, in determining when they are disturbed, and so on."²⁹ The state, then, operates between the lines of the constitutional order; the language of a particular constitutional order is basically indeterminate and incapable of settling all political contingencies, a role that is fundamentally reserved for the sovereign (why the constitutional order is capable of providing concrete "guidance" on "who can act in such a case" is unclear, though the tautological nature of the sovereign-constitution relationship is beyond the scope of this

²⁷ Schmitt, *Political Theology*: 5.

²⁸ *Ibid.*: 7.

²⁹ *Ibid.*: 9.

paper). In Schmitt, the exception is not an “exception” to anything; rather, it is “the constitutive paradigm of the juridical order,” a state Giorgio Agamben recognizes as central to the modern political order.³⁰

At one level, the logic of Schmitt’s critique of liberalism can be understood as a precursor to leftist theories such as Critical Legal Studies – with its emphasis upon legal discourse as a recapitulation of hierarchy – as does Tracy Strong.³¹ Schmitt’s conclusion, however, is precisely the opposite of CLS: the exercise of sovereignty *requires* a strong and unitary state, one that controls the “monopoly to decide.”³² Moreover, the assumptions each ascribe to legal norms are fundamentally opposed: while CLS views legal language as an apparently impartial dissimulation of a rigid power structure, Schmitt views them as a sheen over the reality of chaos. Because there is “no norm that is applicable to chaos,” it follows that “all law is situational law.”³³

Schmitt’s critique is not simply a normative attack on liberal mendacity, but an ontological statement on the nature of the political. Underpinning the friend-enemy distinction of *The Concept of the Political* is *Political Theology*’s ruthless decisionism: “the pluralism of associations” does not yield to “the political” until “the decisive friend-enemy grouping” is established.³⁴ The determination of the friend and the foe is the

³⁰ Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: University of Chicago Press, 2005): 7. Agamben here refers to a post-Schmittian tendency in the *practice* of the exception, though it is clear that it was present *theoretically* in Schmitt’s own work.

³¹ Tracy B. Strong, Preface to *Political Theology*, trans. George Schwab (Chicago: Chicago University Press, 1985): xix. Strong also applies the Schmittian exception to Law and Economics, though this connection seems more tenuous.

³² Schmitt, *Political Theology*: 13.

³³ *Ibid.*

³⁴ Schmitt, *The Concept of the Political*: 45.

province of the “one political entity,” the sovereign who “[determines] definitively what constitutes public order and security.”³⁵

Schmitt’s antagonism cannot move so easily to Mouffe’s agonism. While she recognizes that her attempt to “question any idea of the ‘the people’ as already given, with a substantive identity” is “resolutely non-Schmittian,” Mouffe fails to recognize that she is discarding the kernel of Schmitt’s thought that she is attempting to rescue. Moreover, her attack is all too easy.³⁶ While Schmitt clearly casts the *Volk* as a reified entity, it is only through the “political” that it gains order and intelligibility; if there is a *possibility* of a system merely consisting of “revocable service for individuals and their free associations,” it simply cannot be considered “the political.”³⁷

Schmitt’s idea of the state rests upon his ontological preoccupations. Schmitt’s ontology is non-metaphysical to the extreme, but it is also resolutely strong: the composition of the people and the course of right action rest on the authority of the state. The moral is not only determined by the decision of the state, but embedded in its existence. War – the ultimate end of Schmitt’s basic political distinction – is justified not by the self defense of people, but by the self defense of the *existence* of a people.

War, the readiness of combatants to die, the physical killing of human beings who belong on the side of the enemy – all this has no normative meaning, but an existential meaning only, particularly in a real combat situation with a real enemy. There exists no rational purpose, no norm no matter how true, no program no matter how exemplary, no social idea no matter how beautiful, no legitimacy nor legality which could justify men in killing each other for this reason. If such a physical destruction of human life is not motivated by an existential threat to one’s own way of life, then it cannot be justified.

³⁵ Ibid.

³⁶ Mouffe, “Carl Schmitt and the Paradox of Liberal Democracy,” p. 50.

³⁷ Schmitt, *The Concept of the Political*: 45.

Schmitt's decisionism squares the circle of a contradiction identified by Mouffe: while Schmitt fears "the possibility that pluralism could bring about the dissolution of the unity of the state," he also presents "the unity...as a *factum* whose obviousness could ignore the political conditions of its production."³⁸ While Mouffe claims the former position "entails that the existence of such a unity is itself a contingent fact which requires a political construction" – an idea dissonant with the concept of a people as "given" – the reality is grounded in Schmitt's foundational assumptions. For Schmitt, the political community is ontologically constituted by the state; the *Volk* cannot be identified as a "before" identity, but as a people that is always already embedded in the sovereign order. Insofar as this is the case, the state is always capable of antagonism, but agonism is beyond its scope. This is the kernel of his antagonism: the friend-enemy distinction is not rooted in any other set of binary oppositions, but merely in itself. For Schmitt, the State is an ontological foundation.

In the next sub-section, I will unfold Schmitt's ontology one level deeper. Both his decisionist and antagonistic statism is grounded in an obsession with *action*. This preoccupation not only yields the gruff positions outlined above, but also closes off any possibility of political contestability. It also renders Schmitt's most infamous decision more a natural step than an aberration.

2C: Schmitt's Ontology of Action

Taken together, the two sub-sections above point to a puzzle in Carl Schmitt's political theory: on the one hand, he believed whole-heartedly in the unity and order of the "total state"; on the other hand, he seemingly arbitrarily placed the law within the hands of a

³⁸ Mouffe, "Carl Schmitt and the Paradox of Liberal Democracy," p. 50.

“decider.” Some have recognized this as a potential contradiction, an embrace of both rigidity and “occasionalism” – a word he used to decry what Richard Wolin calls the “ad hoc, opportunistic expression of political will.”³⁹ Nevertheless, each of these perspectives seems to flow from a common source: the primacy of unfettered action. While liberal democracy is prone to squabbling and paralysis, the unitary decisionist state is free to move; while conflicting interests and decisions arise in a pluralist democracy, one *Volk* can do as it pleases. In this sub-section, I will argue that Carl Schmitt’s antagonism and decisionism are both rooted in an ontology of unadulterated action, and that this orientation is wholly unsuitable for liberal democracy.

Schmitt’s actionism is most clearly seen in the previous sub-section: because all constitutional and legal prescriptions are at some level dead letter, the total state requires the sovereign ability to “decide on the exception.” The “domestic theory of pluralism” is derided as contrary to “the political itself”; while the pluralistic give-and-take of liberal democracy yields mere “liberal individualism,” the decisionist model alone brings order to the domestic polity.⁴⁰ This action-centrism is straightforward authoritarianism: because open liberalism is fractious, slow, and indecisive, a unified, fast, and decisive state saves the day. Although Schmitt professed a preference for democracy, his limitation to the participants and explicit rejection of the pluralized state suggests a more “totalitarian” model.

Schmitt’s antipathy for pluralism is even deeper, but somewhat more subtle. This more visceral devotion to action is visible in Schmitt’s writings on the conduct and

³⁹ Richard Wolin, “Carl Schmitt, Political Existentialism, and the Total State,” *Theory and Society* 19, no. 4 (August 1990): 393. Wolin solves the puzzle by attributing an inchoate “existentialism” to Schmitt. Although I find his argument unconvincing and somewhat polemical, it is beyond the scope of this paper.

⁴⁰ Schmitt, *The Concept of the Political*: 53, 45.

justifications for armed conflict. As seen in the sub-section above, the Schmittian war is not predicated upon an evil enemy; rather, the enemy is defined simply by virtue of being the enemy. In a certain way, this attitude presages the structural realism of contemporary international relations theorists, most notably Kenneth Waltz.⁴¹ The nature of conflict does not depend upon the “substantial content” of the state, but merely its relationship of opposition to the Other.⁴² The nature of the state and its enemies, then, is devoid of moral, economic, and anthropological components; it is merely by the action of defining and the action of fighting that the state bestows meaning on itself.

Schmitt’s ontology of the state is elucidated most explicitly in chapter three of *Political Theology*. Here, he makes the claim from which the work’s title is derived:

All significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development – in which they were transferred from theology to the theory of the state, whereby, for example, the omnipotent God became the omnipotent lawgiver – but also because of their systematic structure, the recognition of which is necessary for sociological consideration of these concepts.⁴³

The state is not only cast as the “omnipotent lawgiver,” but as an omniscient creator. “A continuous thread runs through the metaphysical, political, and sociological conceptions that postulate the sovereign as a personal unit and primeval creator.”⁴⁴ Schmitt is critical of the “natural” or organic conception of political theology – the idea that “the machine...runs itself.”⁴⁵ However, the juxtaposition of theology and decisionism is potent: the course of politics has been to eliminate a transcendent god and replace him with the state; in this sense, the state is not founded upon any firm metaphysical

⁴¹ E.g. Kenneth Waltz, “Anarchic Orders and Balances of Power,” *International Politics: Anarchy, Force, Political Economy, and Decision-Making*, ed. Robert J. Art and Robert Jervis (London: HarperCollins, 1985) pp. 86-101.

⁴² Schmitt, *The Concept of the Political*: 26.

⁴³ Schmitt, *Political Theology*: 36.

⁴⁴ *Ibid.*: 47.

⁴⁵ *Ibid.*: 48.

foundation, but upon its very status as a *creator*. The actions of the creator include its lawgiving, but more importantly they involve the decision of the exception. The state is ontologically composed of the actions it takes, and – because Schmitt placed the existence of a state prior to the formation of a people – its actions ontologically compose the society.⁴⁶

Schmitt's actionist ontology is the most damning piece of evidence against the agonistic rehabilitation of Carl Schmitt. Unitary action – an idea that underpins both the friend-enemy distinction and Schmitt's decisionism – leaves no room for the agonistic deferral of the political moment. There is no Pathos of Distance, because there is no distance: not only is the state homogenized, but the moment of controversy never exists. Without the struggle – in Mouffe's reappraisal, the type of critical encounter she believes is presaged by Schmitt's friend-enemy distinction – there is no discursive or social space for Pathos to operate. Schmitt was no early theorist of agonistic democracy. He closed off the space of the agonal, in accordance with the dictates of his strong ontology.

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In his 1995 essay “Ur-Fascism,” Umberto Eco offers a loose typology of what he considers the ideology of “Eternal Fascism.” One of the fourteen elements – which he acknowledges “cannot be organized into a system” and “sometimes contradict each other” – is the cult of action:

Irrationalism also depends on the cult of *action for action's sake*. Action being beautiful in itself, it must be taken before, or without, any previous reflection. Thinking is a form of emasculation. Therefore culture is suspect insofar as it is identified with critical attitudes. Distrust of the intellectual world has always been a symptom of Ur-Fascism, from Goering's alleged statement (“When I hear talk of culture I reach for my gun”) to the

⁴⁶ George Schwab, Introduction to *The Leviathan in the State Theory of Thomas Hobbes*, trans. George Schwab and Erna Hilfstein (Westport, CT: Greenwood Press, 1996): xv.

frequent use of such expressions as “degenerate intellectuals,” “eggheads,” “effete snobs,” “universities are a nest of reds.” The official Fascist intellectuals were mainly engaged in attacking modern culture and the liberal intelligentsia for having betrayed traditional values.⁴⁷

Eco by no means attempts to offer a systematic definition of fascist ideology. Indeed, to do so would be a fool’s errand. However, his essay reflects the sense that there is something that Stephen White identifies as “deeply fascist” – not just superficially so – in Schmitt’s “counter-portrait of political life.”⁴⁸ In the next sub-section, I will demonstrate the deep ontological commonalities and continuities that exist between Schmitt’s pre-1933 works and his writings as an “official Fascist intellectual” for the Third Reich.

3: Schmitt’s Nazism: Interlude or Inevitability?

Carl Schmitt’s membership in the Nazi Party from 1933 to 1936 is the most obvious problem for his apologists, and it has spawned a thriving body of literature seeking to demonstrate that his involvement with the Third Reich was negligible.⁴⁹ According to his defenders, if Schmitt was a Nazi he was only a Nazi of opportunity, stringing along the NSDAP leadership (especially Hermann Goering) in order to retain his academic posts. Like Heidegger or Pound, Schmitt is forgiven his transgression for the sake of ostensibly non-fascist work elsewhere.

This section will argue that it is a mistake to discount Schmitt’s Nazism as an opportunistic interlude. Although he certainly did not share the millenarian, mystical mania marking the hardcore Nazi ideologues, the ontological commitments described in

⁴⁷ Umberto Eco, “Ur-Fascism,” *The New York Review of Books*, 42, no. 11 (22 June 1995) <http://www.nybooks.com/articles/1856>.

⁴⁸ Stephen White, “After Critique: Affirming Subjectivity in Contemporary Political Theory,” *The European Journal of Political Theory*, 2, no. 2 (2003): 211.

⁴⁹ Examples include Schwab and Bendersky, cited elsewhere.

the foregoing section predisposed Schmitt to sympathize with a totalitarian – and ultimately genocidal – regime.

This section is composed of two sub-sections. In the first sub-section (3A), I will summarize Schmitt’s activity as a member of the National Socialist Party, focusing especially upon his anti-Semitic statements and actions. In the second sub-section, I will draw the formal theoretical connections between Schmitt’s pre-1933 and Nazi-period work.

3A: Schmitt’s Nazi Activity and Anti-Semitism

The degree to which Carl Schmitt was a committed, as opposed to convenient, Nazi has sparked significant debate. One of the key challenges for Schmitt’s defenders is to demonstrate that his fascist interlude was a matter of necessity rather than ideological fervor. This sub-section will briefly summarize Schmitt’s activities. In doing so, it will demonstrate that his party membership was by no means passive. By demonstrating that Schmitt was an active member of the NSDAP, I will set the stage for the succeeding sub-sections, which draw a direct connection between Schmitt’s pre-1933 theoretical writing and his later involvement with the Nazis.

Carl Schmitt joined the Nazi Party in 1933, shortly after Hitler won control of the Reichstag. He described his new political involvement sparsely, stating that he

became a P.M. [party member] 298,860. Since the end of April 1933 I have been active with the Cologne group. There was a long line. I had myself registered like many others.⁵⁰

He quickly threw himself into party activity, praising Nazi students for burning books by Jewish writers and purging the “un-German spirit” and “anti-German filth” from

⁵⁰ Claudia Koonz, *The Nazi Conscience* (Cambridge, MA: Harvard University Press, 2003): 58.

university libraries; while he reserved some criticism for the book-burners, his only complaint was that the students had not consigned enough volumes to the flames.⁵¹ Schmitt's open Nazi-period racism is sometimes written off because of his longstanding associations with Jewish colleagues; however, it is also consistent with satirical writings he had written for an anti-Semitic journal in his younger years, in which he blasted German intellectual and cultural life for its Jewish influences.⁵² While he may not have been a virulent racist in the mold of Goebbels and Himmler, Schmitt's professed hatred for Jewish Germans was also consistent with his longstanding belief in domestic political unity, an ideal he considered to be under siege by rampant pluralization.

Schmitt would go on to become a leading jurist of the Nazi regime. In 1933, he was appointed director of the University Teachers Group of the National Socialist League of German Jurists, while in 1934 he became the editor of the prestigious law journal *Deutsche Juristen-Zeitung*.⁵³ Under Hermann Goering's patronage, he also became a Prussian State Councilor.⁵⁴ However, despite his pronouncements in favor of the Nazi regime – and despite the sheen of intellectual credibility he provided for the regime – he was consistently viewed with suspicion by Nazi true believers. Rather than a committed party member, he was viewed as a “March violet,” an opportunistic yes-man who adopted official ideology for strictly careerist reasons.⁵⁵ However, while it is certainly clear that Schmitt did not hold the biological-mystical attitudes toward race that marked the official ideology, anti-Semitism was consistent with his foundational views of the

⁵¹ Ibid.: 59.

⁵² Ibid.: 56.

⁵³ Joseph Bendersky, “The Expendable Kronjurist: Carl Schmitt and National Socialism,” *Journal of Contemporary History* 14, no. 2 (April 1979): 315.

⁵⁴ Ibid.: 313.

⁵⁵ Ibid.: 316.

political; the line may not be perfectly straight between his early anti-Semitism, his Weimar-period theorizing, and his explicit endorsement of Nazism, but the line is certainly not imaginary.

Schmitt's Nazism took its most toxic form in response to questions about his credibility. In 1936, he attempted to organize an academic conference on Jews in the judiciary, a move that is often read as a last-ditch attempt to save face before the Nazis. This was ultimately short-circuited; he was blasted for an apparent insincerity and lack of commitment in the SA publication *Das Schwarze Korps*, and his role as an official purveyor of National Socialist ideology ended in 1936.⁵⁶ This view of Schmitt as a Nazi "outsider" tends to be adopted by Schmittian apologists, and it is not entirely without merit. However, in the next sub-section I will demonstrate the clear continuity between Schmitt's pre-1933 and Nazi theory, focusing upon his 1933 pamphlet *State, Movement, People*.

3B: Schmitt's Nazi Continuity

Carl Schmitt's Nazi involvement was no passive relationship of convenience. The connections between his pre-1933 and Nazi-period theory establish the fascistic continuity among his body of work. Not only did his earlier works show flashes of militant Rightism – with their emphases upon order, the centrality of the state, and action – but these same characteristics were later used to justify the actions of Adolf Hitler's regime. The Nazis were not merely the organization to whom Schmitt was forced to ingratiate himself for the sake of his career; rather, they were the fulfillment of Schmitt's decisionist and antagonist political philosophy.

In his 1933 book *State, Movement, People*, Carl Schmitt appeared to make several key departures from his earlier theory. As Charles Schwab points out, Schmitt subtly changed the key elements of the state: while he maintained that the state held a preeminent position above the movement and the people before 1933, in this volume he changes his position by acknowledging that the people are emanations from the movement rather than directly from the state.⁵⁷ According to this reading, *State, Movement, People* offers a direct example of Schmitt changing his philosophical commitments in order to conform with official ideology. The movement – the key mover in coalescing a people in Hitler’s political programme – is thus given a new preeminent place in order to cull favor with Schmitt’s benefactors.

However, Schmitt’s apparent reversal is consistent with my reading in the previous section. Schmitt’s recognition of the supremacy of the movement is simply his recognition that the *Nazi* movement in particular was a political organization that recognized the peculiar nature of the political, namely that the regime is responsible for constituting a non-pluralized society that is defined against its enemies. According to Schmitt, the “strength of the National-Socialist State resides in the fact that it is dominated and imbued from top to bottom and in every atom of its being by the idea of leadership.”⁵⁸ There is no metaphysical significance to the Nazi regime in Schmitt’s estimation (though Hitler, Himmler, and Hess may have disagreed). The National Socialist strength came strictly from its understanding of the political: the regime recognized its status as decider and its responsibility to provide a bulwark against the

⁵⁷ George Schwab, Introduction to *The Leviathan in the State Theory of Thomas Hobbes*, trans. George Schwab and Erna Hilfstein (Westport, CT: Greenwood Press, 1996): xv.

⁵⁸ Carl Schmitt, *State, Movement, People*, trans. Simona Draghici (Corvallis, OR: Plutarch Press, 2001): 37.

corrupting influence of pluralization. The Nazis had greater “strength” than other movements, but they were still only the “carrier” of the state, bound by the “general framework of the political unity.”⁵⁹

Moreover, the Nazis fulfilled Schmitt’s vision of the political. The duality between the State and non-State political association was rendered obsolete; it was acceptable that a *movement* carried the State insofar as it was the *only* movement. The Weimar constitution’s error was in recognizing a plurality of “political” and non-political movements:

That such strong collective forces have come to be ‘acknowledged’ in a State constitution, and in spite of all that, still want and juridically *can* remain private-law associations is symptomatic of the confusion in the essentials of such a State... Ultimately, that pluralistic State consisted only of cross-sections and an aggregation and amalgamation, that was based on principle, of public and private interests and functions. In such a system, one may simultaneously be a Reichstag deputy, a Reichsrat delegate, a member of the supervisory board of various societies, and many other things... Behind the duality of the liberal-democratic constitutional schema, an anarchical pluralism of social forces would grow rankly, into a chaotic jumble of the statal and non-statal, the public and the private, the political and the fictitiously political.⁶⁰

In accordance with Schmitt’s definition in *The Concept of the Political*, the Nazis had eliminated the false duality between state and non-state political acts. In doing this, they had eliminated the existential dangers posed by a pluralist mélange.

The continuity of Schmitt’s anti-pluralism in particular is very evident in his Nazi-period writing. In contrast to Mouffe’s emphasis upon the contestability and permanent deferral of the political moment, Schmitt believed the basic responsibility of the regime was to close off the space of pluralization:

⁵⁹ Ibid.: 21.

⁶⁰ Ibid.: 29-30.

The acceptance of the manysidedness of spontaneous life might lead against without delay to an unfortunate pluralistic splitting of the German people into denominations, tribes, classes, estates and interest groups, unless a *strong State* uplifts and guarantees the whole of the political unity over the multitude of forms.⁶¹

This obsession with unification would also guide Schmitt in his enthusiasm for the Reichstag Fire Decree, the enabling law that gave Hitler dictatorial power. Although Schmitt had once argued that parties seeking authoritarian control should be banned from participating in elections, his concern with democratic process was a secondary value compared to his respect for a people acting in concert beneath a powerful leadership. In arguing that the enabling law was constitutionally consistent with the Weimar system, Schmitt argues that:

This so-called law of empowerment was passed by the Reichstag solely as the enactment of the will of the people, made manifest through the parliamentary elections of 5 March 1933. When looked at with the criteria of jurisprudence, the elections were in fact a popular referendum, a plebiscite by which the German people has acknowledged Adolf Hitler, the leader of the National-Socialist Movement, as the political leader of the German people. The local elections of 12 March confirmed once more the same will of the people. The Reichstag and the Reichsrat would act from then on exclusively as the executive bodies of the people's will.⁶²

The German “revolution” had “happened thanks to discipline and the German sense of order.”⁶³ Schmitt is not only mounting a legalistic defense of the Nazi *putsch*'s constitutionality, but making a deeper ontological statement about the essence of the new regime: state, movement, and people had been unified under a proper recognition of political life, an arrangement that had been ignored by the Weimar state to its peril.

The corollary of Schmitt's guard against pluralization is its self-definition against a marginalized Other. Writing several years before the outbreak of World War II,

⁶¹ Ibid.: 37.

⁶² Ibid.: 5.

⁶³ Ibid.: 7.

Schmitt recapitulated his definition of the political: “It is the total enemy that gives the total war its meaning.”⁶⁴ The enemy is not encountered with the generosity of critical responsiveness, but with absolute conviction. Moreover, we know that this enemy is fundamentally state-defined. Finally, Schmitt had found a regime that understood the nature of the political.

* * *

If Schmitt’s fascism is indistinguishable from his concept of the political, there is an insurmountable obstacle for his latter-day apologists. The chief problem is with Schmitt’s *ontology*, which, as stated earlier, was non-metaphysical yet strong. His actionism required a strong leader and a unified people, and the Nazis provided a near-perfect match. While this ontology certainly did not *necessitate* Schmitt’s ultimate membership in the Nazi party, it predisposed him to sympathize with a totalitarian regime. The task for Schmitt’s apologists is to determine how an ontology which drew one of the twentieth century’s most brilliant and original thinkers toward fascism can also be useful for agonistic democratic theory. This will not be an easy task.

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⁶⁴ Carl Schmitt, “Total Enemy, Total War and Total State,” in *Four Articles, 1931-1938*, trans. Simona Draghici (Washington, DC: Plutarch Press, 1999): 31.

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