



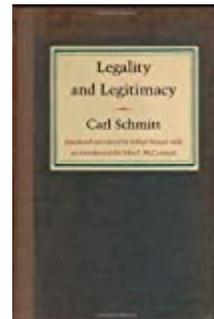
Ellen Kennedy. *Constitutional Failure: Carl Schmitt in Weimar.* Durham: Duke University Press, 2004. 256 pp. \$22.95 (paper), ISBN 978-0-8223-3243-5.



Jan-Werner Müller. *A Dangerous Mind: Carl Schmitt in Post-War European Thought.* New Haven: Yale University Press, 2003. 292 S. \$30.00 (gebunden), ISBN 978-0-300-09932-4.



Carl Schmitt. *Legality and Legitimacy.* Durham: Duke University Press, 2004. xliii + 166 pp. \$74.95 (cloth), ISBN 978-0-8223-3161-2; \$21.95 (paper), ISBN 978-0-8223-3174-2.



Carl Schmitt, Ernst Hüsmert, Gerd Giesler. *Die Militärzeit 1915 bis 1919: Tagebuch Februar bis Dezember 1915. Aufsätze und Materialien.* Berlin: Akademie Verlag, 2005. VIII + 587 S. + 10 s/w Abb. EUR 44.80 (gebunden), ISBN 978-3-05-003731-8.

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The Brilliant Fascist? Carl Schmitt and the Limits of Liberalism

Regardless of our historical and political distance to Carl Schmitt, his writings continue to pose serious questions for any discussion of liberalism and parliamentary democracy, especially at a time when both in the United States and in the European Union the interpretation of constitutional law is undergoing considerable change. The draft, and failure, of a European Constitution, for instance, have renewed debates about political legitimacy, popular sovereignty, and the place of law within civil society, while the interpretation of constitutional law within the American context has in recent years veered toward a precarious balance between compelling interests, such as national security, and civil rights, which is to some extent mirrored by similar debates in the United Kingdom. Although Carl Schmitt is rarely mentioned in these contexts, and although public policy experts are often oblivious to the consequences of his work, the problems he raises on both a theoretical as well as a practical level for the formulation of liberal and pluralist notions of the state are nevertheless present and difficult to overlook. Indeed, considering a recent intervention by Sanford Levinson that related the question of presidential authority in the United States, with regard to torture in Iraq and Afghanistan, directly to Schmitt's dangerous formulation of sovereignty, there are lessons to be learned from Schmitt, even though these lessons are hardly the lessons Schmitt himself had in mind.[1] Either way, a renewed and perhaps less excited attention to Schmitt's political thought and his constitutional arguments is necessary, especially since excessive excitement can be found among his critics as well as among his enthusiasts. At the very least Schmitt had the uncanny talent to highlight the uncertain foundations of liberal democracy itself, and any serious debate about the future of liberalism will do well to take his arguments into account—as uncomfortable and dangerous these undoubtedly turn out to be.[2]

It is against this implicit background that four new publications try to shed light on Schmitt's intellectual career, from 1912 to the colorful reception of his thought that continued even after his death in 1985. Ellen Kennedy's *Constitutional Failure: Carl Schmitt in Weimar* seeks to “excavate the first order questions that structure Schmitt's political theory by situating Schmitt and Weimar in a longer tradition about the state and its law” (p. 184). Jan-Werner Müller's *A Dangerous Mind: Carl Schmitt in Post-War European Thought* extends the perspective into the opposite direction, working through the

“secret reception” of Schmitt's ideas and of his “magic of concepts” from the constitutional debates in the early Federal Republic of Germany to postmodern theories of “globalization” (pp. 3, 8). Ernst Hsmert's edition of Schmitt's diaries, *Tagebcher, 1912-1915*, sheds some light on the development of Schmitt's early thought prior to his rise to fame, even though some of the material presented here has already been discussed in the almost inflationary secondary literature on Schmitt that has emerged over the last decade or so. Finally, Jeffrey Seitzer's translation of Schmitt's *Legalitt und Legitimit*, the original German edition of which dates back to the fateful year 1932, makes one of Schmitt's most interesting, but also most subversive and dangerous, works on legal theory available in English for the first time. Leaving aside, if only for a moment, Schmitt's radical political realism and his vivid attack on parliamentary democracy, it might be wise to begin in a more or less chronological order with his early diaries.

1. “The Time is Ripe for Dictatorship”: 1912-1915

The long-awaited edition of Schmitt's early diaries—covering the period between October, 1912, when Schmitt struggled as an unpaid junior barrister at the Oberlandesgericht in Dsseldorf, and February, 1915, when the publication of *Der Wert des Staates und die Bedeutung des Einzelnen* (1914) began to foreshadow things to come—does not disappoint.[3] Based on Schmitt's stenographic diaries now stored in the Westflisches Hauptstaatsarchiv in Dsseldorf, the published version of the diaries presents an image of Schmitt as a talented, albeit troubled, young lawyer, whose life oscillated between lucid insights, intellectual megalomania, and an unstable personal situation that was furthermore exacerbated by continuous financial worries. Freelancing for two local law firms—one of which belonged to Hugo am Zehnhoff, who was to become Minister of Justice during the Weimar Republic from 1919 to 1927 and whom Schmitt both admired and hated at the same time[4]—Schmitt was both financially and psychologically dependent: financially on Zehnhoff, psychologically on his lover “Cari,” i.e. Pabla Dorotic, whom he had just met in Grnitz, where she was engaged as a dancer. Fantasizing about Cari's presumed Croatian nobility, which continues to create much amusement among Schmitt scholars, Schmitt himself saw his lover as the only stable point of reference in an otherwise chaotic life between bohemian desires and a career in law. Almost a slave to Cari's whims, Schmitt harbors suspicions about her true mo-

tives as early as mid-1914, almost a year before their ill-fated marriage, and his mother is rightly annoyed about her son's choices. Throughout the period in question, their relationship continues to be marked by a bizarre double bind of adolescent sexual exuberance and heightened, quasi-religious feelings of guilt that bear the traces of his Catholic background and only come to fuel his own feelings of powerlessness.

Apart from his peculiar relationship to Cari—literary psychoanalysts would have a field day with Schmitt's metaphors—Schmitt continues to dream of a bohemian life that stands in stark contrast to the Catholic tradition within which he situates himself on more than one occasion: “The ideal is the church state” (p. 47). Leaving aside Schmitt's well-known biography, his perception of the cultural environment within which his political thought begins to gain momentum is almost exclusively marked by the kind of pessimism one might expect from an obsessive reader of Kierkegaard. As such, it also mirrors the intellectual atmosphere of late Wilhelmine Germany at a time when literary expressionism began to project a quasi-apocalyptic end to a cultural order supposedly marked by superficiality and inauthenticity. Schmitt himself notes that, in contrast to his surroundings, he wishes to become a “substance” (p. 120). It is in these moments of cultural reflection that his observations occasionally become uncannily witty. After the assassination of archduke Francis Ferdinand in Sarajevo he notes laconically that the assassination had been carried out by a “high schooler with the name Princip” (p. 165). Schmitt, it seems, has just discovered the principle of decision.

Schmitt's personal contacts between 1912 and 1915 range as usual across the political spectrum, from Arthur Moeller van den Bruck to Georg Lukacs, but his own theoretical reflections anticipate things to come. The rejection of neo-Kantian legal formalism, which will bring him into opposition with Hans Kelsen during the 1920s, becomes obvious in a series of detailed notes on Rudolf Stammler's *Theorie der Rechtswissenschaft* (1911) (pp. 73-90). Foreshadowing the themes of *Politische Theologie* (1922) and *Der Begriff des Politischen* (1928), he remarks that law can only be derived from power, and looking at his own cultural surroundings with much disgust, he notes: “The time is ripe for dictatorship” (pp. 53, 60, 64). Schmitt's emerging political views are, however, also deeply connected to psychological self-observation, and any future study of Schmitt's early thought will do well to take this link between the personal and the political serious (pp. 141-142, 151, 205).

Hsmert's edition of the diaries is not without problems. But apart from typographical errors these have little to do with the presentation of the text itself; they are rather to be found in Hsmert's commentary and introduction, which lack critical distance and follow the perspective of an associate and family friend. Romanticizing Schmitt's early pseudo-bohemian life is only one effect of this. This personal perspective does not matter, for instance, when Hsmert grossly overstates the aesthetic qualities of Schmitt's early prose as Joycean in character. But it begins to matter, for instance, when Schmitt's occasional anti-Semitic remarks receive no attention at all. While it goes too far to argue, as some have done, that Schmitt's political thought is in its entirety centered on his antisemitism, Schmitt's well-documented attitudes during the 1930s and 1940s (and beyond) would have made it necessary to reconsider his earlier remarks.

Nevertheless, Hsmert's edition contains much helpful material in the appendix: short biographies of some of the main players, a selection of Schmitt's poetic and essayistic *Oeuvre*, and a series of illuminating contemporary reviews of *Gesetz und Urteil* (1912) and *Der Wert des Staates und die Bedeutung des Einzelnen* (1914) by eminent public lawyers like Walter Jellinek and Felix Hollmack.

2. “The Legal Possession of Power Decides the Case”: 1932

While much of Schmitt's reputation rests on his writings from the 1920s, such as *Politische Theologie* (1922), *Die geistesgeschichtliche Lage des heutigen Parlamentarismus* (1923) and *Der Begriff des Politischen* (1928), his actual practice of constitutional interpretation needs more attention. The reasons for this are all too obvious: like few others, albeit to detrimental effect, Schmitt was able to bridge the gap between theoretical interpretation and actual constitutional practice. This bridging is especially the case with regard to Schmitt's most important interpretation of, and contribution to, the German constitutional crisis of 1932, *Legality and Legitimacy*, which is now available in an excellent English translation by Jeffrey Seitzer. Enriched with a concise introduction by John P. McCormick—whose *Carl Schmitt's Critique of Liberalism* (1997), together with Peter C. Caldwell's *Popular Sovereignty and the Crisis of German Constitutional Law* (1997), has set a new standard for the examination of political culture in the Weimar Republic—this translation is undoubtedly a major achievement.[5]

The interplay between Schmitt's critique of legal formalism, his ideas about sovereignty, and the pressing concerns of the political context make *Legality and Legit-*

imacy a crucial text for anyone who seeks to understand the precarious stability of parliamentary government and liberal democracy. The subject material makes this title a particularly timely publication. The major themes of Schmitt's earlier writings are all present in *Legality and Legitimacy*, a text whose argument about the President of the Reich as the actual extraordinary lawmaker of Weimar Germany is rooted in Max Weber's characterization of the modern technocratic state, in Schmitt's opposition to democratic majority rule as it was presented by Richard Thoma, Hugo Preuss and Hans Kelsen, and in Schmitt's criticism of Kelsen's "pure theory of law." For Schmitt, it was the administrative state that had to be overcome, since its reliance on formal procedures and norms of legal interpretation was directly responsible for the fragmentation of actual political interests, which Schmitt regarded as paralyzing Weimar Germany. For Schmitt, this tendency became particularly obvious with regard to the principle of majority rule, which rendered any notion of law as a neutral procedural mechanism absurd (pp. 20-21, 28-31).

Often quoted in the famous court case *Prussia vs. the Reich* of July 1932—when the government of Prussia, led by the Social Democrats, sought to reject the commissarial rule it had been placed under by the government of the Reich—*Legality and Legitimacy* remains one of the most fateful interpretations of presidential emergency powers that continues to pose uncomfortable questions with regard to presidential authority today (pp. 67-71). Turning the Weimar Constitution, one of the most liberal constitutions ever written, against itself, and undermining the constitutional order through constitutional provisions, Schmitt's argument makes it painfully obvious that the step from perceiving the President as "protector of the constitution" to the idea that "the Fhrer protects the law" was a rather small one, indeed: the President—as the "extraordinary lawmaker under Article 48"—"has authority over the substance of the bourgeois *Rechtsstaat* with its civil and political rights" (p. 73).[6]

The tragic ironies and rhetorical ploys of the original German rarely get lost in Seitzer's generally accurate translation, which is accompanied by a selection of central articles from the Weimar Constitution that makes the text more accessible to readers not already familiar with the precise legal contexts involved. Hopefully, this English edition will receive due attention not only among historians of Weimar Germany, but also among political philosophers and constitutional lawyers.

3. Excavating Schmitt's Contexts?: 1933-1945

Published in tandem with *Legality and Legitimacy*, Ellen Kennedy's *Constitutional Failure* immediately relates the new interest in Schmitt among legal scholars, historians, political scientists, and philosophers on both sides of the Atlantic to the presumed crisis of legitimacy that emerged during the 1980s, once John Rawls's *A Theory of Justice* (1972) began to be questioned more forcefully (pp. 3-4). In an attempt to contextualize Schmitt's thought, highlighting its relationship to the complex political and cultural environment of the time, Kennedy's long-awaited study is rarely ever held together by a coherent argument. Given Kennedy's enormous expertise and the diligence of her previous work on Schmitt, this lack of coherence is disappointing. The main problem, it seems, is that the very important contexts and issues Kennedy highlights are rarely discussed in substantial detail. Despite these problems, *Constitutional Failure* serves as an excellent starting point for further investigation and contextualization.

Kennedy begins by outlining the development of Schmitt's political thought between 1933 and 1945, which is centered on the assumption that there is a break within Schmitt's intellectual trajectory that can be dated to 1933 (pp. 18-20). While not glossing over Schmitt's contentious remarks in *Staat, Bewegung, Volk* (1934) and "Der Fhrer schtzt das Recht" (1934), as some Schmitt enthusiasts tend to do, Kennedy detects in Schmitt's ideas a political realism inspired by Machiavelli. As previous research has shown in much detail, however, 1933 does not really constitute a decisive turning point for Schmitt's thought. Much of Kennedy's argument in the following chapters, which seek to unravel the roots of Schmitt's ideas about the state between 1933 and 1945, blends various historical contexts together, and Schmitt's thought emerges as a peculiar mixture of German romanticism, expressionism, Catholicism, and a reaction against the perceived inauthenticity of modern society. It is, however, especially Schmitt's nineteenth-century background that still requires more attention; while Kennedy often rightly relies on Michael Stolleis's magisterial work on the history of public law in Germany, it seems that a more precise attention to the continuities and discontinuities between the discussion of public law in nineteenth- and twentieth-century Germany, as Stolleis has outlined them, would have been necessary.[7] But apart from these problems with Schmitt's nineteenth-century background, there are also statements to be found that are simply difficult to accept, at least for German intellectual historians: that "Hegel's philosophy of law had little influence in nineteenth-century Germany" (p. 63), for

instance, is questionable, given the tense relationship between Hegel's associate Eduard Gans and Karl Friedrich von Savigny—which had a profound influence on the discussion of legal theory and the philosophy of law in the first half of the nineteenth century, the after-effects of which can still be observed in the following decades.

While Kennedy rightly relates Schmitt's radicalism throughout her study to the cultural and intellectual trends of the time, from expressionism to Ernst Jünger and beyond, it seems that her prose often follows the literary style of these contexts. Critical distance occasionally gives way to a longing for the authenticity of concrete order and meaning, for *Eigentlichkeit* in political thought, which is, at times, not too far removed from Schmitt's own style. Indeed, Kennedy's personal closeness to Schmitt is evident from early on, from passing remarks to the photographic portraits of Schmitt included in the book. As a result, it seems, that Kennedy's conclusions occasionally go too far, for instance, when she notes that Schmitt's political thought at the end of Weimar "leads the reader ... toward a practical political science of the state in a democratic age" (p. 178). On the one hand, this is peculiar, since the study does not seem to examine any of Schmitt's work in detail; on the other hand, the reader should hope that what Kennedy means is what Chantal Mouffe has described in the following way: "Schmitt is an adversary from whom we can learn," but he remains an adversary nonetheless.[8]

In the end, Kennedy's study is strongest when it homes in on Schmitt's much-neglected personal connections during the mid-1930s, such as his relations to the civil servant Johannes Popitz, who was State Secretary in the Ministry of Finance from 1925 to 1929 and who joined the Nazi government as Reichsminister and Prussian Finance Minister in April 1933. Both Schmitt and Popitz—an expert in fiscal policy, whose political thought was deeply rooted in Hegel's notion of the state—shared the belief that only an authoritarian move could overcome the political impasse of the Weimar Republic; but while Schmitt clearly opted for a fascist solution (ironically rendering the state obsolete), the cultural conservative Popitz slowly returned to the principles of Weimar democracy during the early 1940s, only to be executed by the Nazis in February, 1945. Kennedy is not the first one to raise the link between Schmitt and Popitz, but her comparative approach is both detailed and lucid, and any study on Schmitt's thought between 1933 and 1945 will be unable to avoid her discussion.[9]

4. "A Mine that Explodes Silently": 1945-2000

Jan-Werner Müller's *A Dangerous Mind* is an almost exemplary piece of intellectual history. It traces the continued presence of Schmitt's thought in the European discussion after 1945. For English readers, Müller's book also gives an exciting account of some of the most central intellectual fields and debates that have marked political culture in Germany from the 1960s to the 1980s, and as such it is much more than simply a reception history of Schmitt's ideas. Written with speed, elegance, and clarity, the book's style betrays the Oxbridge background of the author, who now teaches at Princeton.[10]

An insightful introduction to Schmitt's thought and career in the first part of the study prepares the ground for the following chapters. While this part of Müller's book might be disappointing to Schmitt scholars, in that it merely rehearses a well-known narrative about Schmitt's intellectual hubris of "leading the leader" that often combined "vile antisemitism with a melancholic retrospective on the state," this introduction is particularly helpful for readers unfamiliar with Schmitt's thought or its political context (pp. 39, 41).

Müller's real story begins with Schmitt's "afterlife" and the continued influence he had in post-war Germany through his massive correspondence and personal connections, but also through the reception of his writings from the 1920s and 1930s. Although Müller might at times go too far in discussing this afterlife in terms of a highly conspirative "secret society of the initiated," he describes with much care and diligence the informal networks and unofficial pupils that carried Schmitt's theory of the state, together with his constitutional ideas, into the intellectual debates of the early Federal Republic (p. 59). Some of the themes Müller raises in this context have already been discussed elsewhere, albeit rarely in English, and taking into consideration that Müller's audience is in the English-speaking world, his account of Schmitt's afterlife in the intellectual fields of the early Federal Republic represents a fruitful and worthwhile contribution to the discussion about Schmitt's intellectual legacy.[11]

Müller clearly outlines Schmitt's increasing escape into the contemplation of a world-historical order that made his thought extremely attractive across the political spectrum of post-war Europe, which is evidenced by the interaction between Schmitt, Alexandre Kojève, and Raymond Aron. At the same time, Müller admirably traces the way in which Schmitt's theory of the state continues to shape the discussion among pupils, friends, acquaintances, associates, and followers, from Schmitt's former assistant Ernst Forsthoff, who formulated the no-

tion of the “total state” during the 1930s, and conservative scholars like Karl Loewenstein, to the left-liberal Catholic Ernst-Wolfgang Bockenforde, who later sat on the German Constitutional Court itself.

It is, however, particularly the discussion of the philosophical reception of Schmitt’s thought that is Miller’s best contribution. Highlighting that Schmitt’s global view of the political after 1945 is embedded in a crucial debate about the logic of secularization and the value of the philosophy of history, which marked the intellectual landscape in Germany from the late 1950s to the 1980s, Miller focuses on a whole generation of German historians and philosophers whose work constitutes some of the major contributions to modern intellectual history: Joachim Ritter, Reinhart Koselleck, Hans Blumenberg, Hermann Lbbe, and Odo Marquard (pp. 104-132, 156-168). The critique of the Enlightenment tradition that emerged in this context, and that in many ways differs fundamentally from the French discussion of the time, was itself, as Miller notes, “informed by a moral point of view,” which “remained unarticulated.” Miller’s conclusion is as laconic as it is precise: “Perhaps then the secret of history that Schmitt ‘embodied’ was ultimately just this: politics and morality could never be substituted for each other. They could not even be completely disentangled” (p. 113). The melancholic modernism that gained shape in these debates, and that developed against the background of Schmitt’s radical criticism of modernity and liberalism, culminated itself in a cautious liberalism that can be found in the writings of both Marquard and Lbbe, but that also renders it obvious that the questions Schmitt poses can indeed lead to a fruitful reassessment of liberalism and modernity.

Discussing in some detail the reception of Schmitt in both fascist Spain and 1970s Italy, but also among the radical student groups of Germany, Miller provides an interesting and illuminating account of the way in which Schmitt’s ideas could easily be transplanted into a range of different ideological contexts that continue to influence European political culture at the beginning of the twenty-first century. It is only toward the end, when Miller seeks to link Schmitt’s global political visions to the critique of globalization that has gained momentum in recent years that his account begins to become increasingly cursory.

Miller’s emphasis on the difficulties of successfully grounding liberalism, which runs like a thread through the whole book, is a particularly interesting perspective that highlights the continued relevance of taking Schmitt

seriously without falling into his trap. Indeed, Schmitt’s thought and influence—from his diaries of 1912-15 via his response to the constitutional crisis of the Weimar Republic to the reception of his ideas after 1945—make obvious the terrifying prospect that liberalism and parliamentary democracy remain works in progress. It is in this sense that Schmitt’s work, as well as recent Schmitt scholarship, serves as a powerful reminder that liberalism itself can only be worthwhile if its limitations are not excluded from the discussion.

Notes

[1]. See Sanford Levinson, “Torture in Iraq and the Rule of Law in America,” *Daedalus* 133, no. 3 (2004): pp. 5-9.

[2]. Arguing, as Jürgen Habermas has done, that Schmitt’s thought is simplistic does not really do justice to the problems he raises. See Habermas, “Zur Legitimation durch Menschenrechte,” in *Die postnationale Konstellation: Politische Essays* (Frankfurt/M.: Suhrkamp, 1998), pp. 170-192, 180-181. The points raised, for instance, in Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization* (New York: Columbia University Press, 1995), make it clear that Schmitt’s issues are still with us. See also William Flasch, “Human Rights as Geopolitics: Carl Schmitt and the Legal Form of American Supremacy,” *Cultural Critique* 54 (2003): pp. 120-137.

[3]. Hsmert occasionally uses a wrong title. See, for example, p. 375.

[4]. Hsmert lists the wrong dates. See p. 405.

[5]. John P. McCormick, *Carl Schmitt’s Critique of Liberalism: Against Politics as Technology* (Cambridge: Cambridge University Press, 1997); and Peter C. Caldwell, *Popular Sovereignty and the Crisis of German Constitutional Law: The Theory and Practice of Weimar Constitutionalism* (Durham: Duke University Press, 1997)—see H-German review at <http://www.h-net.org/reviews/showrev.cgi?path=2901915825077>.

[6]. See Schmitt’s *Der Hter der Verfassung* (Tbingen: J.C.B. Mohr, 1931); and “Der Fhrer schtzt das Recht: Zur Reichstagsrede Adolf Hitlers vom 13. Juli 1934,” *Deutsche Juristen-Zeitung* 39 (1934): pp. 945-950.

[7]. See Michael Stolleis’s *A History of Public Law in Germany*, trans. Thomas Dunlap (Oxford: Oxford University Press, 2004); *Konstitution und Intervention: Studien zur Geschichte des ffentlichen Rechts im 19. Jahrhun-*

dert (Frankfurt/M.: Suhrkamp, 2001); *Public Law in Germany, 1800-1914* (New York: Berghahn, 2001); and *The Law under the Swastika: Studies on Legal History in Nazi Germany*, trans. Thomas Dunlap (Chicago: University of Chicago Press, 1998).

[8]. Chantal Mouffe, "Carl Schmitt and the Paradox of Liberal Democracy," in David Dyzenhaus, ed., *Law as Politics: Carl Schmitt's Critique of Liberalism* (Durham: Duke University Press, 1998), pp. 159-175, 73.

[9]. See Lutz-Arwed Bentin, *Johannes Popitz und Carl Schmitt: Zur wirtschaftlichen Theorie des totalen Staates in Deutschland* (Munich: C. H. Beck, 1972); and the discussion in Dirk Blasius, *Carl Schmitt: Preuischer Staatsrat in Hitlers Reich* (Göttingen: Vandenhoeck & Ruprecht, 2001).

[10]. See also Müller's earlier *Another Country: German Intellectuals, Unification, and National Identity* (New Haven: Yale University Press, 2000)—see H-German review at <http://www.h-net.org/reviews/>

[showrev.cgi?path=316861094368884](http://www.h-net.org/reviews/showrev.cgi?path=316861094368884); and the two volumes he edited: *German Ideologies since 1945: Studies in the Political Thought and Culture of the Bonn Republic* (New York: Palgrave-Macmillan, 2003)—see H-German review at <http://www.h-net.org/reviews/showrev.cgi?path=301171094368329>; and *Memory and Power in Post-War Europe: Studies in the Presence of the Past* (Cambridge: Cambridge University Press, 2002).

[11]. On some of the themes Müller addresses in this context, see also Jürgen Habermas, "Carl Schmitt in der politischen Geistesgeschichte der Bundesrepublik," in *Die Normalität einer Berliner Republik* (Frankfurt/M.: Suhrkamp, 1995), pp. 112-122; Peter C. Caldwell, "Ernst Forsthoff and the Legacy of Radical Conservative State Theory in the Federal Republic of Germany," *History of Political Thought* 15 (1994), pp. 615-641; and Dirk van Laak, *Gespräche in der Sicherheit des Schweigens: Carl Schmitt in der politischen Geistesgeschichte der frühen Bundesrepublik* (Berlin: Akademie Verlag, 1993).

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