

Legality And Legitimacy Carl Schmitt Hans Kelsen And Hermann Heller In Weimar

Makes available in English Carl Schmitt's early legal-theoretical writings, the intellectual background of Schmitt's political and constitutional theory.

Carl Schmitt was the most famous and controversial defender of political theology in the twentieth century. But in his best-known work, *The Concept of the Political*, issued in 1927, 1932, and 1933, political considerations led him to conceal the dependence of his political theory on his faith in divine revelation. In 1932 Leo Strauss published a critical review of *Concept* that initiated an extremely subtle exchange between Schmitt and Strauss regarding Schmitt's critique of liberalism. Although Schmitt never answered Strauss publicly, in the third edition of his book he changed a number of passages in response to Strauss's criticisms. Now, in this elegant translation by J. Harvey Lomax, Heinrich Meier shows us what the remarkable dialogue between Schmitt and Strauss reveals about the development of these two seminal thinkers. Meier contends that their exchange only ostensibly revolves around liberalism. At its heart, their "hidden dialogue" explores the fundamental conflict between political theology and political philosophy, between revelation and reason and ultimately, the vital question of how human beings ought to live their lives. "Heinrich Meier's treatment of Schmitt's writings is morally analytical without moralizing, a remarkable feat in view of Schmitt's past. He wishes to understand what Schmitt was after rather than to dismiss him out of hand or bowdlerize his thoughts for contemporary political purposes."—Mark Lilla, *New York Review of Books*

Theory of the Partisan analyzes a specific and significant phenomenon that ushered in a new theory of war and enmity. It contains an implicit theory of the terrorist, which in the 21st century has ushered in yet another new theory of war and enmity.

Consequently, this work is not only of historical interest, but is relevant to contemporary political and military developments and concerns.

Seitzer seeks to provide a more effective criticism of Schmitt than commentaries that focus on Schmitt's treatment of key works and concepts in legal and political theory. He elaborates a concrete form of normative theory, which uses comparative history to identify and test institutional changes that enhance the overall system's capacity for self-correction.

A pioneer in legal and political theory, Schmitt traces the prehistory of political romanticism by examining its relationship to revolutionary and reactionary tendencies in modern European history. Both the partisans of the French Revolution and its most embittered enemies were numbered among the romantics. During the movement for German national unity at the beginning of the nineteenth century, both revolutionaries and reactionaries counted themselves as romantics. According to Schmitt, the use of the concept to designate opposed political positions results from the character of political romanticism: its unpredictable quality and lack of commitment to any substantive political position. The romantic person acts in such a way that his imagination can be affected. He acts insofar as he is moved. Thus an action is not a performance or something one does, but rather an affect or a mood, something one feels. The product of an action is not a result that can be evaluated according to moral standards, but rather an emotional experience that can be judged only in aesthetic and

emotive terms. These observations lead Schmitt to a profound reflection on the shortcomings of liberal politics. Apart from the liberal rule of law and its institution of an autonomous private sphere, the romantic inner sanctum of purely personal experience could not exist. Without the security of the private realm, the romantic imagination would be subject to unpredictable incursions. Only in a bourgeois world can the individual become both absolutely sovereign and thoroughly privatized: a master builder in the cathedral of his personality. An adequate political order cannot be maintained on such a tolerant individualism, concludes Schmitt.

The Supreme Court's intervention in the 2000 election will shape American law and democracy long after George W. Bush has left the White House. This vitally important book brings together a broad range of preeminent legal scholars who address the larger questions raised by the Supreme Court's actions. Did the Court's decision violate the rule of law? Did it inaugurate an era of super-politicized jurisprudence? How should *Bush v. Gore* change the terms of debate over the next round of Supreme Court appointments? The contributors—Bruce Ackerman, Jack Balkin, Guido Calabresi, Steven Calabresi, Owen Fiss, Charles Fried, Robert Post, Margaret Jane Radin, Jeffrey Rosen, Jed Rubenfeld, Cass Sunstein, Laurence Tribe, and Mark Tushnet—represent a broad political spectrum. Their reactions to the case are varied and surprising, filled with sparkling argument and spirited debate. This is a must-read book for thoughtful Americans everywhere. /DIV/DIV

Hobbes's political thought provokes a perennial fascination. It has become particularly prominent in recent years, with the surge of scholarly interest evidenced by a number of monographs in political theory and philosophy. At the same time, there has been a turn in legal scholarship towards political theory in a way that engages recognisably Hobbesian themes, for example the relationship between security and liberty. However, there is surprisingly little engagement with Hobbes's views on legal theory in general and on certain legal topics, despite the fact that Hobbes devoted whole works to legal inquiry and gave law a prominent role in his works focused on politics. This volume seeks to remedy this gap by providing the first collection of specially commissioned essays devoted to Hobbes and the law.

"The 'return of religion' in the public sphere and the emergence of post-secular societies have propelled the discourse of political theology into the centre of contemporary democratic theory. This situation calls forth the question addressed in this book: Is a democratic political theology possible? Carl Schmitt first developed the idea of the Christian theological foundations of modern legal and political concepts in order to criticize the secular basis of liberal democracy. He employed political theology to argue for the continued legitimacy of the absolute sovereignty of the state against the claims raised by pluralist and globalized civil society. This book shows how, after Schmitt, some of the main political theorists of the 20th century, from Jacques Maritain to Jürgen Habermas, sought to establish an affirmative connection between Christian political theology, popular sovereignty and the legitimacy of democratic government. In so doing, the political representation of God in the world was no longer placed in the hands of hierarchical and sovereign lieutenants (Church, Empire, Nation), but in a series of democratic institutions, practices and conceptions like direct representation, constitutionalism, universal human rights, and public reason that reject the primacy of sovereignty"--

While antiliberal legal theorist Carl Schmitt has long been considered by Europeans to be one of this century's most significant political philosophers, recent challenges to the fundamental values of liberal democracies have made Schmitt's writings an unavoidable subject of debate

in North America as well. In an effort to advance our understanding not only of Schmitt but of current problems of liberal democracy, David Dyzenhaus presents translations of classic German essays on Schmitt alongside more recent writings by distinguished political theorists and jurists. Neither a defense of nor an attack on Schmitt, *Law as Politics* offers the first balanced response to his powerful critique of liberalism. One of the major players in the 1920s debates, an outspoken critic of the Versailles Treaty and the Weimar Constitution, and a member of the Nazi party who provided juridical respectability to Hitler's policies, Schmitt contended that people are a polity only to the extent that they share common enemies. He saw the liberal notion of a peaceful world of universal citizens as a sheer impossibility and attributed the problems of Weimar to liberalism and its inability to cope with pluralism and political conflict. In the decade since his death, Schmitt's writings have been taken up by both the right and the left and scholars differ greatly in their evaluation of Schmitt's ideas. *Law as Politics* thematically organizes in one volume the varying engagements and confrontations with Schmitt's work and allows scholars to acknowledge—and therefore be in a better position to negotiate—an important paradox inscribed in the very nature of liberal democracy. *Law as Politics* will interest political philosophers, legal theorists, historians, and anyone interested in Schmitt's relevance to current discussions of liberalism. Contributors: Heiner Bielefeldt, Ronald Beiner, Ernst-Wolfgang Bockenforde, Renato Cristi, David Dyzenhaus, Robert Howse, Ellen Kennedy, Dominique Leydet, Ingeborg Maus, John P. McCormick, Reinhard Mehring, Chantal Mouffe, William E. Scheuerman, Jeffrey Seitzer

Few names, apart from that of Leo Strauss, are invoked more often when discussing the American response to terrorism in recent years than that of Carl Schmitt. Schmitt, who was part of the German school of political thought known as the 'Conservative Revolution,' is widely regarded as having been one of the greatest legal minds of the twentieth century. He famously asserted that the most important function of the sovereign of a nation is not the drafting or enforcement of law, but rather his ability to decide when the law should be suspended in an emergency, and likewise his power to declare who the 'friend' and 'enemy' of a community is at any given moment. Alain de Benoist critiques those who claim Schmitt as an inspiration behind the American 'neoconservative' movement that held sway during the administration of President George W. Bush, showing that the politics of the 'war on terror' do not actually reflect Schmitt's ideas, in that American lack of respect for the traditional rules of war, and its determination to portray its enemies as embodiments of absolute evil rather than as representatives of legitimate polities, renders contemporary American politics thoroughly un-Schmittian. Benoist then goes on to analyse recent history from Schmitt's standpoint, showing that the efforts of the United States have been intended to preserve its global hegemony, whereas Schmitt believed that the world was developing into a multipolar one where many powers, rather than a single power, would dominate, a trend which is clearly at work in our time. Benoist demonstrates that Carl Schmitt was therefore a much greater visionary than the American neoconservatives, who failed to understand the geopolitical forces at work today. Alain de Benoist is the leading philosopher behind the European 'New Right' movement (a label which de Benoist himself rejects, perceiving himself to not fit into the usual Left/Right dichotomy), a metapolitical school of thought which he helped to found in France in 1968 with the establishment of GRECE (Research and Study Group for European Civilisation). He continues to write and give lectures and interviews. He lives in Paris. Arktos has previously made available his books *The Problem of Democracy* and *Beyond Human Rights*, both published in 2011.

Written in the intense political and intellectual tumult of the early years of the Weimar Republic, *Political Theology* develops the distinctive theory of sovereignty that made Carl Schmitt one of the most significant and controversial political theorists of the twentieth century. Focusing on the relationships among political leadership, the norms of the legal order, and the state of

political emergency, Schmitt argues in *Political Theology* that legal order ultimately rests upon the decisions of the sovereign. According to Schmitt, only the sovereign can meet the needs of an "exceptional" time and transcend legal order so that order can then be reestablished. Convinced that the state is governed by the ever-present possibility of conflict, Schmitt theorizes that the state exists only to maintain its integrity in order to ensure order and stability. Suggesting that all concepts of modern political thought are secularized theological concepts, Schmitt concludes *Political Theology* with a critique of liberalism and its attempt to depoliticize political thought by avoiding fundamental political decisions.

The Crisis of Parliamentary Democracy offers a powerful criticism of the inconsistencies of representative democracy. Described both as "the Hobbes of our age" and as "the philosophical godfather of Nazism," Carl Schmitt was a brilliant and controversial political theorist whose doctrine of political leadership and critique of liberal democratic ideals distinguish him as one of the most original contributors to modern political theory. *The Crisis of Parliamentary Democracy* offers a powerful criticism of the inconsistencies of representative democracy. First published in 1923, it has often been viewed as an attempt to destroy parliamentarism; in fact, it was Schmitt's attempt to defend the Weimar constitution. The introduction to this new translation places the book in proper historical context and provides a useful guide to several aspects of Weimar political culture. *The Crisis of Parliamentary Democracy* is included in the series *Studies in Contemporary German Social Thought*, edited by Thomas McCarthy.

The author's argument that Carl Schmitt's critique of Weimar Republic liberalism cannot be countered by reforming liberalism is also a contribution to current political theory and an analysis of contemporary liberalism.

Basing his work on the writings of Schmitt and his contemporaries, extensive new archival documentation, and parts of Schmitt's personal papers, Professor Bendersky uses Schmitt's public career as a framework for re-evaluating his contributions to political and legal theory. This book establishes that Schmitt's late Weimar writings were directed at preventing rather than encouraging the Nazi acquisition of power. Originally published in 1983, *The Princeton Legacy Library* uses the latest print-on-demand technology to again make available previously out-of-print books from the distinguished backlist of Princeton University Press. These editions preserve the original texts of these important books while presenting them in durable paperback and hardcover editions. The goal of the Princeton Legacy Library is to vastly increase access to the rich scholarly heritage found in the thousands of books published by Princeton University Press since its founding in 1905.

Now available in English for the first time, *Dictatorship* is Carl Schmitt's most scholarly book and arguably a paradigm for his entire work. Written shortly after the Russian Revolution and the First World War, Schmitt analyses the problem of the state of emergency and the power of the Reichspräsident in declaring it. *Dictatorship*, Schmitt argues, is a necessary legal institution in constitutional law and has been wrongly portrayed as just the arbitrary rule of a so-called dictator. *Dictatorship* is an essential book for understanding the work of Carl Schmitt and a major contribution to the modern theory of a democratic, constitutional state. And despite being written in the early part of the twentieth century, it speaks with remarkable prescience to our contemporary political concerns.

Constitutional politics has become a major terrain of contemporary struggles. Contestation around designing, replacing, revising, and dramatically re-interpreting constitutions is proliferating worldwide. Starting with Southern Europe in post-Franco Spain, then in the ex-Communist countries in Central Europe, post-

apartheid South Africa, and now in the Arab world, constitution making has become a project not only of radical political movements, but of liberals and conservatives as well. Wherever new states or new regimes will emerge in the future, whether through negotiations, revolutionary process, federation, secession, or partition, the making of new constitutions will be a key item on the political agenda. Combining historical comparison, constitutional theory, and political analysis, this volume links together theory and comparative analysis in order to orient actors engaged in constitution making processes all over the world. The book examines two core phenomena: the development of a new, democratic paradigm of constitution making, and the resulting change in the normative discussions of constitutions, their creation, and the source of their legitimacy. After setting out a theoretical framework for understanding these developments, Andrew Arato examines recent constitutional politics in South Africa, Hungary, Turkey, and Latin America and discusses the political stakes in constitution-making. The book concludes by offering a systematic critique of the alternative to the new paradigm, populism and populist constituent politics. In this, his most influential work, legal theorist and political philosopher Carl Schmitt argues that liberalism's basis in individual rights cannot provide a reasonable justification for sacrificing oneself for the state—a critique as cogent today as when it first appeared. George Schwab's introduction to his translation of the 1932 German edition highlights Schmitt's intellectual journey through the turbulent period of German history leading to the Hitlerian one-party state. In addition to analysis by Leo Strauss and a foreword by Tracy B. Strong placing Schmitt's work into contemporary context, this expanded edition also includes a translation of Schmitt's 1929 lecture "The Age of Neutralizations and Depoliticizations," which the author himself added to the 1932 edition of the book. An essential update on a modern classic, *The Concept of the Political*, Expanded Edition belongs on the bookshelf of anyone interested in political theory or philosophy.

Can a constitutional democracy commit suicide? Can an illiberal antidemocratic party legitimately obtain power through democratic elections and amend liberalism and democracy out of the constitution entirely? In Weimar Germany, these theoretical questions were both practically and existentially relevant. By 1932, the Nazi and Communist parties combined held a majority of seats in parliament. Neither accepted the legitimacy of liberal democracy. Their only reason for participating democratically was to amend the constitution out of existence. This book analyses Carl Schmitt's state and constitutional theory and shows how it was conceived in response to the Weimar crisis. Right-wing and left-wing political extremists recognized that a path to legal revolution lay in the Weimar constitution's combination of democratic procedures, total neutrality toward political goals, and positive law. Schmitt's writings sought to address the unique problems posed by mass democracy. Schmitt's thought anticipated 'constrained' or 'militant' democracy, a type of constitution that guards against

subversive expressions of popular sovereignty and whose mechanisms include the entrenchment of basic constitutional commitments and party bans. Schmitt's state and constitutional theory remains important: the problems he identified continue to exist within liberal democratic states. Schmitt offers democrats today a novel way to understand the legitimacy of liberal democracy and the limits of constitutional change.

Groundless Existence discusses the implicit phenomenological and existential foundations of Schmitt's political philosophy. The book's unique contribution lies in its claim that Schmitt decisively breaks with the metaphysical tradition and predicates the political on the 'groundless' categories of existence, including risk, decision, and agonism. This argument is substantiated by both tacit and explicit existentialist and phenomenological underpinnings of Schmitt's work, discussed here for the first time in book form. The book provides an insight into the implications of Schmitt's thought reconceptualized in the light of contemporary political developments. An essential text for anyone interested in the political theory of Carl Schmitt, it offers a new reading of Schmitt's work against the double background of phenomenology and existentialism.

A translation of Carl Schmitt's classic explanation of the nature and historical/sociological significance of political Catholicism.

Political Theology II is Carl Schmitt's last book. Part polemic, part self-vindication for his involvement in the National Socialist German Workers' Party (NSDAP), this is Schmitt's most theological reflection on Christianity and its concept of sovereignty following the Second Vatican Council. At a time of increasing visibility of religion in public debates and a realization that Schmitt is the major and most controversial political theorist of the twentieth century, this last book sets a new agenda for political theology today. The crisis at the beginning of the twenty-first century led to an increased interest in the study of crises in an age of extremes - an age upon which Carl Schmitt left his indelible watermark. In Political Theology II, first published in 1970, a long journey comes to an end which began in 1923 with Political Theology. This translation makes available for the first time to the English-speaking world Schmitt's understanding of Political Theology and what it implies theologically and politically.

Carl Schmitt is one of the most widely read and influential German thinkers of the twentieth century. His fundamental works on friend and enemy, legality and legitimacy, dictatorship, political theology and the concept of the political are read today with great interest by everyone from conservative Catholic theologians to radical political thinkers on the left. In his private life, however, Schmitt was haunted by the demons of his wild anti-Semitism, his self-destructive and compulsive sexuality and his deep-seated resentment against the complacency of bourgeois life. As a young man from a modest background, full of social envy, he succeeded in making his way to the top of the academic discipline of law in Germany through his exceptional intellectual prowess. And yet he never felt at home in the academic establishment and among those of high social standing. In

his works, Schmitt unmasked the liberal Rechtsstaat as a constitutional façade and reflected on the legitimacy of dictatorship. When the Nazis seized power Schmitt was susceptible to their ideology. He broke with his Jewish friends, joined the Nazi Party in May 1933 and lent a helping hand to Hitler, thereby becoming deeply entangled with the regime. Schmitt was irrevocably compromised by his role as the 'crown jurist' of the Third Reich. But by 1936 he had already lost his influential position. After the war, he led a secluded life in his home town in the Sauerland and became a key background figure in the intellectual scene of postwar Germany. Reinhard Mehring's outstanding biography is the most comprehensive work available on the life and work of Carl Schmitt. Based on thorough research and using new sources that were previously unavailable, Mehring portrays Schmitt as a Shakespearean figure at the centre of the German catastrophe.

Dyzenhaus deals with the urgent question of how governments should respond to emergencies and terrorism by exploring the idea that there is an unwritten constitution of law, exemplified in the common law constitution of Commonwealth countries. He looks mainly to cases decided in the United Kingdom, Australia and Canada to demonstrate that even in the absence of an entrenched bill of rights, the law provides a moral resource that can inform a rule-of-law project capable of responding to situations which place legal and political order under great stress. Those cases are discussed against a backdrop of recent writing and judicial decisions in the United States of America in order to show that the issues are not confined to the Commonwealth. The author argues that the rule-of-law project is one in which judges play an important role, but which also requires the participation of the legislature and the executive.

Written in the early stages of the Cold War by one of the most controversial political and legal thinkers of the twentieth century, Carl Schmitt's two short dialogues on power and space bring together several dimensions of his work in new ways. The dialogues renew Schmitt's engagement with the questions of political power and geo-politics that had been a persistent concern throughout his intellectual life. As a basis on which to think through the historical role of human agency in relation to power and its new geographies, the dialogues condense and rework key concepts in Schmitt's political theory during a transitional period between his Weimar and fascist years to the post-war writings. In this book, Schmitt develops a new 'dialectics' of modern power and an original understanding of the global spatial transformations of the Cold War period. Equally important, the dialogues anticipate the debates on the new geo-political possibilities and threats related to cosmic spaces, overpowering technological advances, and the existential predicament of the human in an increasingly multipolar world.

Sovereignty and the sovereign state are often seen as anachronisms; Globalization and Sovereignty challenges this view. Jean L. Cohen analyzes the new sovereignty regime emergent since the 1990s evidenced by the discourses

and practice of human rights, humanitarian intervention, transformative occupation, and the UN targeted sanctions regime that blacklists alleged terrorists. Presenting a systematic theory of sovereignty and its transformation in international law and politics, Cohen argues for the continued importance of sovereign equality. She offers a theory of a dualistic world order comprised of an international society of states, and a global political community in which human rights and global governance institutions affect the law, policies, and political culture of sovereign states. She advocates the constitutionalization of these institutions, within the framework of constitutional pluralism. This book will appeal to students of international political theory and law, political scientists, sociologists, legal historians, and theorists of constitutionalism.

Writings on War collects three of Carl Schmitt's most important and controversial texts, here appearing in English for the first time: *The Turn to the Discriminating Concept of War*, *The Großraum Order of International Law*, and *The International Crime of the War of Aggression and the Principle "Nullum crimen, nulla poena sine lege"*. Written between 1937 and 1945, these works articulate Schmitt's concerns throughout this period of war and crisis, addressing the major failings of the League of Nations, and presenting Schmitt's own conceptual history of these years of disaster for international jurisprudence. For Schmitt, the jurisprudence of Versailles and Nuremberg both fail to provide for a stable international system, insofar as they attempt to impose universal standards of 'humanity' on a heterogeneous world, and treat efforts to revise the status quo as 'criminal' acts of war. In place of these flawed systems, Schmitt argues for a new planetary order in which neither collective security organizations nor 19th century empires, but Schmittian 'Reichs' will be the leading subject of international law. *Writings on War* will be essential reading for those seeking to understand the work of Carl Schmitt, the history of international law and the international system, and interwar European history. Not only do these writings offer an erudite point of entry into the dynamic and charged world of interwar European jurisprudence; they also speak with prescience to a 21st century world struggling with similar issues of global governance and international law.

*DIV*First English-language translation of one of Schmitt's major works, providing a missing link in the oeuvre of this influential and controversial political theorist./div

The Oxford Handbook of Carl Schmitt collects thirty original chapters on the diverse oeuvre of one of the most controversial thinkers of the twentieth century. Carl Schmitt (1888-1985) was a German theorist whose anti-liberalism continues to inspire scholars and practitioners on both the Left and the Right. Despite Schmitt's rabid anti-semitism and partisan legal practice in Nazi Germany, the appeal of his trenchant critiques of, among other things, aestheticism, representative democracy, and international law as well as of his theoretical justifications of dictatorship and rule by exception is undiminished. Uniquely located at the intersection of law, the social sciences, and the humanities, this

volume brings together sophisticated yet accessible interpretations of Schmitt's sprawling thought and complicated biography. The contributors hail from diverse disciplines, including art, law, literature, philosophy, political science, and history. In addition to opening up exciting new avenues of research, *The Oxford Handbook of Carl Schmitt* provides the intellectual foundations for an improved understanding of the political, legal, and cultural thought of this most infamous of German theorists. A substantial introduction places the trinity of Schmitt's thought in a broad context.

This book focuses on the problematic relationship between legality and legitimacy when a nation (or nations) intervene in the work of other nations. Bringing together a wide range of contributors with a broad set of cases that consider when such intervention is legitimate even if it isn't legal--and vice versa--the chapters cover humanitarian intervention, nuclear nonproliferation, military intervention, international criminal tribunals, interventions driven by environmental concerns, and the export of democracy. By focusing on a diverse array of cases, this volume establishes a clear framework for judging the legitimacy of such actions. German jurist and legal theorist Carl Schmitt (1888–1985) significantly influenced Western political and legal thinking in the last century, yet his life and work have also stirred considerable controversy. While his ideas have been used and diffused by prominent philosophers on both the left and the right, such as Jürgen Habermas and Leo Strauss, his Nazi-era past, especially his active efforts to remove Jewish influence from German law, has cast a cloud over his life and oeuvre. Still, his many supporters have generally been successful in claiming that Schmitt's was an "antisemitism of opportunity," a temporary affectation to gain favor with the Nazis. In *Carl Schmitt and the Jews*, available in English for the first time, historian Raphael Gross vigorously repudiates this "opportunism thesis." Through a reading of Schmitt's corpus, some of which became available only after his death, Gross highlights the importance of the "Jewish Question" on the breadth of Schmitt's work. According to Gross, Schmitt's antisemitism was at the core of his work—before, during, and after the Nazi era. His influential polarities of "friend and foe," "law and nomos," "behemoth and Leviathan," and "katechon and Antichrist" emerge from a conceptual template in which "the Jew" is defined as adversary, undermining the Christian order with secularization. The presence of this template at the heart of Schmitt's work, Gross contends, calls for a major reassessment of Schmitt's role within contemporary cultural and legal theory.

Legality and LegitimacyDuke University Press

The first English translation of Hans Kelsen's and Carl Schmitt's debate on the 'Guardian of the Constitution'.

By re-examining the political thought of Max Weber, Carl Schmitt and Hans Kelsen, this book offers a reflection on the nature of modern democracy and the question of its legitimacy. Pedro T. Magalhães shows that present-day elitist, populist and pluralist accounts of democracy owe, in diverse and often complicated ways, an intellectual debt to the interwar era, German-speaking, scholarly and political controversies on the problem(s) of modern democracy. A discussion of Weber's ambivalent diagnosis of modernity and his elitist views on democracy, as they were elaborated especially in the 1910s, sets the groundwork for the study. Against that backdrop, Schmitt's interwar political thought is interpreted as a form of neo-authoritarian populism, whereas Kelsen evinces robust, though not entirely unproblematic, pluralist consequences. In the conclusion, the author draws on Claude Lefort's concept of indeterminacy to sketch a potentially more fruitful way than can be gleaned from the interwar German discussions of conceiving the nexus between the elitist, populist and pluralist faces of modern democracy. *The Legitimacy of Modern Democracy* will be of interest to political theorists, political philosophers, intellectual historians, theoretically oriented political scientists,

and legal scholars working in the subfields of constitutional law and legal theory.

Carl Schmitt's magnum opus, *Constitutional Theory*, was originally published in 1928 and has been in print in German ever since. This volume makes Schmitt's masterpiece of comparative constitutionalism available to English-language readers for the first time. Schmitt is considered by many to be one of the most original—and, because of his collaboration with the Nazi party, controversial—political thinkers of the twentieth century. In *Constitutional Theory*, Schmitt provides a highly distinctive and provocative interpretation of the Weimar Constitution. At the center of this interpretation lies his famous argument that the legitimacy of a constitution depends on a sovereign decision of the people. In addition to being subject to long-standing debate among legal and political theorists in Western Europe and the United States, this theory of constitution-making as decision has profoundly influenced constitutional theorists and designers in Asia, Latin America, and Eastern Europe. *Constitutional Theory* is a significant departure from Schmitt's more polemical Weimar-era works not just in terms of its moderate tone. Through a comparative history of constitutional government in Europe and the United States, Schmitt develops an understanding of liberal constitutionalism that makes room for a strong, independent state. This edition includes an introduction by Jeffrey Seitzer and Christopher Thornhill outlining the cultural, intellectual, and political contexts in which Schmitt wrote *Constitutional Theory*; they point out what is distinctive about the work, examine its reception in the postwar era, and consider its larger theoretical ramifications. This volume also contains extensive editorial notes and a translation of the Weimar Constitution.

This text investigates one of the oldest questions of legal philosophy - the relationship between law and legitimacy. It analyses the legal theories of three public lawyers of the Weimar era, Carl Schmitt, Hans Kelsen, and Hermann Heller.

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