

**The Collected Works  
of Eric Voegelin,  
Volume 13:  
Selected  
Book Reviews**

*Jodi Cockerill  
Barry Cooper,  
Editors*

**University of Missouri Press**

THE COLLECTED WORKS OF  
**ERIC VOEGELIN**

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VOLUME 13

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SELECTED BOOK REVIEWS

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1. *On the Form of the American Mind*
2. *Race and State*
3. *The History of the Race Idea: From Ray to Carus*
4. *The Authoritarian State: An Essay on the Problem of the Austrian State*
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8. *Published Essays, 1928–1933*
9. *Published Essays, 1934–1939*
10. *Published Essays, 1940–1952*
11. *Published Essays, 1953–1965*
12. *Published Essays, 1966–1985*
13. *Selected Book Reviews*
14. *Order and History, Volume I, Israel and Revelation*
15. *Order and History, Volume II, The World of the Polis*
16. *Order and History, Volume III, Plato and Aristotle*
17. *Order and History, Volume IV, The Ecumenic Age*
18. *Order and History, Volume V, In Search of Order*
19. *History of Political Ideas, Volume I, Hellenism, Rome, and Early Christianity*
20. *History of Political Ideas, Volume II, The Middle Ages to Aquinas*
21. *History of Political Ideas, Volume III, The Later Middle Ages*
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25. *History of Political Ideas, Volume VII, The New Order and Last Orientation*
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27. *The Nature of the Law, and Related Legal Writings*
28. *What Is History? And Other Late Unpublished Writings*
29. *Selected Correspondence*
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VOLUME 13



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**SELECTED BOOK REVIEWS**

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EDITED AND TRANSLATED BY

**JODI COCKERILL**

AND

**BARRY COOPER**

WITH AN INTRODUCTION BY

**BARRY COOPER**

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# Contents

Acknowledgments	xiii
Editor's Introduction	I
<i>Reviews</i>	
1. <i>Logik und Rechtswissenschaft: Grundriss eines Systems der reinen Rechtslehre</i> , by Felix Kaufmann (1923)	9
2. <i>Das natürliche System der menschlichen Gesellschaft oder die Entstehung der Arten im periodischen System der sozialen Elemente</i> , by Heinrich Konrad (1923)	12
3. <i>The Soul of the State (The Know Thyself)</i> , vol. 10, by Phil. al. Phil (1924)	14
4. <i>Prologomènes à une Mécanique Sociale</i> , by Peter Trisca (1924)	14
5. <i>Die Kriterien des Rechts</i> , by Felix Kaufmann (1925)	15
6. <i>Mitt Gott für Trust und Dividende</i> , by Walther Böhmer (1928)	18
7. <i>Deutschland und Amerika</i> , by Karl H. Panhorst; <i>Henry Ford</i> , by S. Marquis; <i>Schreckenherrschaft in Amerika</i> , by Augustin Souchy; <i>Sacco und Vanzetti</i> , by Eugène Lyons; <i>Aus dem Arbeitsleben Amerikas</i> , by Fritz Tänzler; <i>Systematische Wirtschaft</i> , by Heinz Ludwig;	

CONTENTS

	<i>Die Wirtschaftlichen und sozialen Verhältnisse im Kohlenbergbau der Vereinigten Staaten,</i> by Ernst Jüngst; <i>Die Vereinigten Staaten von Amerika: Volk-Wirtschaft-Politik,</i> by André Siegfried (1928)	19
8.	<i>Amerika: Vorbild und Warnung,</i> by Edgar Ansel Mowrer (1928)	24
9.	<i>Introductory Sociology,</i> by Albert Muntz, S.J., and Henry S. Spalding, S.J. (1929)	25
10.	<i>An Introduction to the Study of Sociology,</i> by Frank Hamilton Hankins (1929)	26
11.	<i>Research in the Social Sciences: Its Fundamental Methods and Objective,</i> edited by Wilson Gee (1929)	26
12.	<i>Die rechtstheoretischen Grundlagen des Sowjetstaates,</i> by Boris S. Mirkin-Getzewitsch (1929)	29
13.	<i>Die Staats- und Gesellschaftslehre Alberts des Grossen: Nach den Quellen dargestellt,</i> by Wilhelm Arendt (1929)	30
14.	<i>Staat und Gesellschaft in Amerika,</i> by Charlotte Lütken (1930)	31
15.	<i>Theory of Legislation: An Essay on the Dynamics of the Public Mind,</i> by E. Jordan (1930)	37
16.	<i>Macht und menschliche Natur: Fachschriften zur Politik und staatsbürgerlichen Erziehung,</i> by Hellmuth Plessner (1931)	38
17.	<i>"Die Verfassungslehre von Carl Schmitt."</i> Review essay of <i>Verfassungslehre,</i> by Carl Schmitt (1931)	42
18.	<i>Die moderne Nation,</i> by Heinz O. Ziegler (1932)	66

CONTENTS

19.	<i>Daniel Defoe, Essay on Projects (1697): Rechtsgefühl in Justiz und Politik, 1929,</i> by Ernst Gerhard Jacob (1932)	69
20.	<i>Deutsche Gemeinschafts-philosophie der Gegenwart: Eine Untersuchung ihrer Grundkategorien und kritische Darstellung ihrer hauptsächliche metaphysisches Gestaltungen,</i> by Hans Steingraber (1933)	70
21.	<i>Das Wesen des Staatsgebietes,</i> by Walter Hamel (1933)	72
22.	<i>Handbuch der Amerikakunde: Handbücher der Auslandskunde, vol. 6,</i> edited by E. von Hartig and W. Schellberg (1933)	76
23.	<i>Rechtfertigung des Staates bei Christian Wolff,</i> by Guenter Namslau (1933)	76
24.	<i>Die Entstehung des Staates: Eine Staatstheoretische Untersuchung,</i> by Reinhold Horneffer (1934)	78
25.	<i>Verfassungsrecht und soziale Struktur,</i> by Dietrich Schindler (1934)	81
26.	<i>Politische und soziologische Staatslehre,</i> by Max Rumpf (1934)	84
27.	<i>Nationality and Government, with Other War-Time Essays, The Prospects of Democracy, and Other Essays,</i> both by Alfred E. Zimmern (1934)	85
28.	<i>Das Rechtsgefühl in Justiz und Politik,</i> by A. E. Hoche (1934)	86
29.	<i>Der sinnhafte Aufbau der sozialen Welt,</i> by Alfred Schütz (1934)	87
30.	<i>Verfassungsurkunde und Verfassungszustand der Tschechoslowakischen Republik,</i> by Fritz Sander (1935)	93
31.	<i>Der politische Volksbegriff im modernen Italien,</i> by Hermann Raschhofer (1936)	96

CONTENTS

32. *Die Geschlossene Wirtschaft: Soziologische Grundlegung des Autarkieproblems*,  
by Bernard Laum (1936) 97
33. *Die Grundlagen des Nationalsozialismus: Eine ideengeschichtliche Untersuchung*,  
by Alois Hudal (1937) 100
34. *Benjamin Franklin, Der Lehrmeister der amerikanischen Revolution: Die geistigen Grundlagen des amerikanischen Gemeinwesens*, vol. 1,  
by Eduard Baumgarten (1937) 104
35. *Carl Schmitts Theorie des "Politischen,"*  
by Hans Krupa (1937) 109
36. *Rechtsoziologie: Probleme der Gesellschaftslehre und der Geschichtslehre des Rechts*,  
by Barna Horvath (1937) 110
37. *Faschismus und Nationalsozialismus*,  
by Peter Berger (1937) 115
38. *La misère par la surabondance: Karl Marx, père de la crise mondiale*,  
by J. Boissonnet (1939) 117
39. *The Ruling Class*,  
by Gaetano Mosca, translated by Hannah D. Kahn,  
edited and revised with an introduction by Arthur Livingston (1939) 117
40. *The Structure of the Nazi Economy*,  
by Maxine Y. Sweezy;  
*The Dual State: A Contribution to the Theory of Dictatorship*,  
by Ernst Fraenkel, translated by E. A. Shils, in collaboration with Edith Lowenstein and Klaus Knorr (1942) 120
41. *The Enigma of Admiral Darlan*,  
by Alec de Montmorency (1943) 123

CONTENTS

42. *The Decline of Liberalism as an Ideology: With Particular Reference to German Politico-Legal Thought,*  
by John H. Hallowell (1944) 124
43. *The Foundation of Phenomenology: Edmund Husserl and the Quest for a Rigorous Science of Philosophy,*  
by Marvin Farber (1944) 126
44. *The Growth of German Historicism,*  
by Friedrich Engel-Janosi (1944) 129
45. *General Theory of Law and State,*  
by Hans Kelsen, translated by Anders Wedberg;  
*The Pure Theory of Law,*  
by William Ebenstein (1945) 131
46. *Contemporary Italy: Its Intellectual and Moral Origins,*  
by Count Carlo Sforza, translated by Drake and Denise De Kay (1945) 134
47. *Rosenberg's Nazi Myth,*  
by Albert R. Chandler (1946) 137
48. *Soviet Politics: At Home and Abroad,*  
by Frederick L. Schuman (1946) 138
49. *The Lessons of Germany: A Guide to Her History,*  
by Gerhart Eisler, Albert Norden, and Albert Schreiner (1946) 146
50. *Soviet Legal Theory: Its Social Background and Development,*  
by Rudolph Schlesinger (1947) 147
51. *The Meeting of East and West: An Inquiry Concerning World Understanding,*  
by F. S. C. Northrop (1947) 149
52. *Post-War Governments of Europe,*  
edited by David Fellman (1947) 154
53. *The Myth of the State,*  
by Ernst Cassirer (1947) 156

CONTENTS

54.	<i>Sechs Jahre Minister der Deutschen Republik; Bemühung um Oesterreich, Das Scheitern des Zollunionsplans von 1931,</i> both by Julius Curtius (1948)	158
55.	<i>Homo Ludens: Versuch einer Bestimmung des Spielements der Kultur,</i> by Jan Huizinga (1948)	160
56.	<i>On Tyranny: An Interpretation of Xenophon's Hiero,</i> by Leo Strauss, with a foreword by Alvin Johnson (1949)	168
57.	<i>Old China Hands and the Foreign Office,</i> by Nathan A. Pelcovits (1949)	174
58.	<i>Western Political Thought: An Historical Introduction from the Origins to Rousseau,</i> by John Bowle (1949)	176
59.	<i>Grundlinien der Antiken Rechts- und Staatsphilosophie, Zweite Erweiterte Auflage,</i> by Alfred Verdross-Drossberg (1949)	179
60.	<i>The New Science of Giambattista Vico,</i> translated from the third edition (1744) by Thomas G. Bergin and Max A. Fisch (1949)	180
61.	<i>Europa und das Römische Recht,</i> by Paul Koschaker (1950)	181
62.	<i>Geschichtswissenschaft,</i> by Fritz Wagner (1953)	184
63.	<i>Plato's Modern Enemies and the Theory of Natural Law,</i> by John Wild; <i>In Defense of Plato,</i> by Ronald B. Levinson (1954)	185
64.	<i>Politique et philosophie chez Thomas Hobbes,</i> by Raymond Polin (1955)	189
65.	<i>Medieval Political Ideas,</i> by Ewart Lewis (1955)	191
	Index	195

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## SELECTED BOOK REVIEWS

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## Editor's Introduction

This volume contains an extensive selection of Voegelin's book reviews. None was written as part of a book, so a preliminary account of this collection may be in order.

The practice of one scholar reviewing the publication of another either in private correspondence or in the pages of a journal, a magazine, or a newspaper is an old one. Certainly by the nineteenth century the notice and appraisal of nonfiction was considered an element of informed public debate. At a minimum it has become a professional obligation and perhaps even a part of what by convention we call the progress of science. This collection of Voegelin's reviews is, first of all, *prima facie* evidence he was a responsible professional.

The reviews begin in 1923, a year after he received his doctorate, and continue for some thirty-two years. During the mid-1930s he reviewed for newspapers as well as for scholarly publications, no doubt in part to supplement his exceedingly modest salary. After moving to the United States, in 1938, his correspondence indicates that he was often eager to review for the major political science journals, though the press of work often meant he was unable to deliver his review by the stipulated time. During the 1950s, as he worked on the lectures that appeared in print as *The New Science of Politics* and embarked on the even greater task of transforming the *History of Political Ideas* into *Order and History*, Voegelin was increasingly reluctant to undertake what was by now a secondary concern. His last reviews appeared in 1955, shortly before he moved to the University of Munich to establish the Political Science Institute.

The distinction between a notice, a review, a review essay, and an article is not philologically self-evident. Most of what is included

here, however, meets the commonsense understanding of a book review. We have excluded a few "notices" that bore Voegelin's name but consisted of little more than a reproduction of a table of contents. We include a number of longer reviews—of works by Schmitt (no. 17), Schütz (no. 29), Huizinga (no. 55), and Strauss (no. 56)—that arguably could have appeared in other volumes of his *Collected Works*. By the same token, Voegelin's reviews of Arendt's *Origins of Totalitarianism* or of Sander's *Staatslehre* or the pieces published with *The Nature of the Law* might have been published in the present volume.

Readers of Voegelin's publications will notice, upon reading this volume, that his reviews tend to follow his own interests at the time: on law, on America, on the pre-war European crisis, and on the post-war confusion. In addition it is perhaps worth noting that Voegelin's style changed over the years, not entirely as a consequence of his changing interests.

During the early 1920s Voegelin wrote in a formidable academic German, and his focus was almost entirely on the development of German legal problems. There is a brief period following his return from the United States when his writing bears the impact of a more informal approach he acquired in America. By the early 1930s, however, Voegelin had recovered his earlier style. Not until he began reviewing in English did he permit the occasional flash of wit to appear.

Throughout these shorter works, however, Voegelin invariably provided a model of what a review should be: an account of the context of the problem addressed in a work, an account of its contents, assumptions, and the logic of its argument, and only then an evaluation. On occasion, when certain technical difficulties with a book made it necessary to deviate from this standard approach, Voegelin explained why. Likewise there are some books Voegelin examined that were so egregiously bad or so obviously sophistic that he was compelled to explain at some length the reasons for a severe judgment.

His reviews dating from the late 1940s and after combine an immense knowledge of the sources with a free and virtuoso style. This familiar and highly accessible commonsense approach to sources and to problems seems in retrospect a kind of prelude to the approach he used in his later essays, an anamnestic analysis of the concrete consciousness that expressed itself as texts and as political acts and for which the meditation was eventually discovered by Voegelin to

be the appropriate vehicle for the reflective reconstruction of reality experienced.

Voegelin's first review, of a book by his contemporary, Felix Kaufmann, dealt *inter alia* with the methodological issue of the attributes of science that preoccupied him for the next several years. The language and the argument were highly technical; looking back from Voegelin's later concerns, the focus on neo-Kantian issues of method, particularly in the context of Hans Kelsen's pure theory of law, resembles nothing so much as the intellectual exercises of Josef Knechts, evoked so beautifully in Hesse's *Glasperlenspiel*. In order to get to a position where it is possible to look back, however, it was first necessary to work through "the problems," as Voegelin himself so often remarked. The difficulty of the problems that Voegelin tackled is reflected as nothing else in the complex language with which they were expressed.

Notwithstanding his lifelong concern with legal questions, legal issues, and legal problems, the impact of the law on Voegelin's political science remains almost unexamined. One way to approach, for example, the question of Voegelin's break with his teacher, Hans Kelsen, or his agreement and disagreement with the other great legal thinker of the day, Carl Schmitt, would be to undertake a careful examination of these now forgotten or at least eclipsed methodological issues. Indeed, such an investigation would also shed valuable light on Voegelin's relationship to the work of Max Weber, no less than to that of his close friend, Alfred Schütz. An examination of the influence of Carl Schmitt on the formulation of *The New Science of Politics*, for example, has never (to my knowledge) been undertaken. With respect to these and similar problems, the first analytical step would entail an examination of Voegelin's reviews of the period.

Voegelin was always an admirer of America, though hardly an uncritical one. Following his firsthand experience of American life as a Laura Spellman Rockefeller Fellow between 1924 and 1926, he wrote several reviews of American books, chiefly in sociology, as well as of books by Europeans on America. Many of his reviews of books on America expressed the same criticism: The author had no interest in America for its own sake, no interest in understanding America on its own terms, but only of showing how different it was from Europe. Typically this perspective was developed on the basis of European ideas and assumptions, with the result that the book said little about the United States except that it did not conform to

European categories of social science. This criticism can, of course, be generalized and expanded, as Voegelin did in many of his later essays, in the *History of Political Ideas*, in *The New Science of Politics*, and in *Order and History*. By the same token, the best studies of America, Baumgarten's study of Benjamin Franklin, for example, were singled out for approbation on methodological grounds as well as mastery of the relevant materials. Moreover, his own book on America, *On the Form of the American Mind*, contained a lengthy methodological introduction. In the absence of a context established explicitly by Voegelin's reviews of other books on America, the significance of his methodological reflections in *On the Form of the American Mind* are bound to appear enigmatic or opaque.

The motivations for his work, Voegelin once explained, come from the "political situation." This can be verified most obviously by simply recalling his major publications during the 1930s: the two "race books," the book on Austria and the book on political religions. The study of race and racism has a limited intellectual appeal. But when "race ideas" come to possess the political agenda and serve as a means of organizing a society for political action, the importance of race suddenly changes. Several of Voegelin's reviews of books dealing with issues of the day reflect an urgency that is more sensed than made explicit. The old alliance between liberalism and nationalism, for example, had disintegrated, and new and pressing problems had emerged; but, he often observed, the language to describe these new issues, let alone the political prudence to deal with them, appeared to him to be lacking. Again and again, Voegelin expressed his admiration for a study that sensed clearly the existence of a problem or a practical issue, but then he expressed his regret as well at the absence of a clear account of the essence of the matter at hand.

After the end of the Second World War, Voegelin continued to review studies of the post-war political landscape. Indeed, for a time he served on the editorial board of the *Journal of Politics* with special responsibility for comparative politics. After the ideological nightmare of the National Socialist experience, Voegelin entertained the expectation that scholarly reflections on the ideological atmosphere after 1945 might be grounded in common sense and a shrewd appraisal of the political havoc that ideologically inspired political actors can create and impose. He was, however, in many instances sadly disappointed. And yet, for those who have a taste for highly astringent prose, the context of generalized *Dummheit* provided by

the post-war world offered Voegelin several opportunities to exercise his considerable rhetorical skills and point out the inexcusable limitations of one or another study. Occasionally, as with his review of Northrop's *Meeting of East and West*, Voegelin "toned down" his criticism, as he observed in a covering letter to the book review editor. On other, more savory occasions he did not.

Not surprisingly, Voegelin was often asked to review studies in political philosophy, particularly after arriving in America. When it comes to showing his appreciation for the achievements of a genuine political scientist, Voegelin's reviews are exemplary gems. Often strong praise of a significant achievement is followed by a suggestion or two about how a scholar could press a few more steps down the path he or she was on and achieve an even more impressive work. On the other hand, when it came to the second-rate work by second-rate intellectuals, Voegelin's remarks were both just and devastating. Sometimes he was able to combine praise and blame in equal measure regarding the same books. For example, he remarked that Wild and Levinson had done an excellent job in exposing the wilful and malicious attacks on Plato by the likes of Windspear and Popper. Or, in his dismemberment of Schuman's study of Soviet politics, Voegelin concluded with the words that Schuman's book is the best available, which is "the worst condemnation conceivable of the present state of political science." In response to this particular review, Voegelin received what can only be called a fan letter from Waldemar Gurian.

Book reviews, like short stories, do not appeal to everyone, especially not to those who prefer weightier materials—Russian novels and multivolume treatises, for example. And yet, the reviews that Voegelin wrote can (apart from their intrinsic importance as part of his literary corpus) provide a context for his other work. After all, the "political situation" to which Voegelin responded in his work included the books that other scholars as well as mere intellectuals and ideological activists wrote.

On a purely technical note, we used square brackets to indicate Voegelin's German where we thought it useful to do so. This is an issue where terms such as *Staatswissenschaft* or *Staatslehre* are concerned, as Voegelin himself has pointed out and as other editors of other volumes of the *Collected Works* have noted. Where the typescript of a review is available we have reproduced it, even though

EDITOR'S INTRODUCTION

the published version may differ, usually as a result of an editor choosing to "tone down" Voegelin's remarks, usually without his prior approval, and occasionally followed by a letter indicating his explicit disapproval. We have also corrected minor lapses in style and idiom.

BARRY COOPER

## SELECTED BOOK REVIEWS

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§1. *Logik und Rechtswissenschaft: Grundriss eines Systems der reinen Rechtslehre*, by Felix Kaufmann (Tübingen: J.C.B. Mohr, 1922). Review originally published in *Zeitschrift für Öffentliches Recht* 3 (1923): 707–708.

According to a widespread opinion, science is distinct from other cultural phenomena because of its linear development—albeit one with interruptions—from the very beginning of its history, whereas art, law, and religion convey by their structure only the character of the society from which they have arisen. Science, therefore, has a validity that endures over time in a wholly special sense. But a glance at history indicates the error of this view. What today we understand as science goes back only a few centuries, into the Renaissance: The research results of other eras are rooted in a spiritual attitude that is thoroughly different from the modern one. It is even unclear whether these results can be called “useful” in our sense. If one thinks, for instance, of the physical theory of Aristotle, according to which bodies seek out their proper place, then one easily recognizes the characteristic difference between the teleological-ethical core of this theory as compared to a perspective for which the world appears as penetrable according to logical viewpoints accompanied by the dismissal of all value judgments. We speak explicitly of a logical penetration, because even though the first penetration of this type was based on mathematized natural science and not historical science, this was entirely accidental for the problem of logical penetration. As a consequence of this accident, however, this one type has been adopted as the essence of the new attitude, so that modern science is identified with the methods of natural science. Other types of science—above all “teleological” science, which was unfavorably compared to “causal” science by misunderstanding its dependence on ancient teleology—were then construed as being in opposition to natural science. The current division into natural and human sciences [*Geisteswissenschaften*] or natural and cultural sciences [*Kulturwissenschaften*] is evidence of an inability to come up with a solution to the problem. The one type of logical penetration of the world has been advanced with extraordinary energy and with the most astounding successes, whereas from the standpoint of a logical

survey, and in spite of assiduous historical research, everything else in the world has remained a *terra incognita*.

The solution to the problem has occurred in three stages. The first was provided by the work of Kant: The transcendental-logical is opposed to sensation. The basic dualism of a modern science of the world and its penetrating *logos* has been formulated, but the distinction of sensibility [*Sinnlichkeit*] and understanding [*Verstand*] still exists and dulls the purity of insight [*Einsicht*]. This was established by Hermann Cohen: The logic of pure cognition [*Erkenntnis*] opposes sensation to pure thinking concerning the ground in a thoroughly conscious way. But both Kant and Cohen agree that the task of logic is fulfilled with the establishment of the logical foundation of mathematical natural science. Cohen too has approached the threshold of the solution to the problem of logical penetration. Here the work of Husserl comes into play. Husserl grasped the full depth of the problem and recognized that there are two kinds of logical foundations to science: First, the structure of a science is determined by its subject matter [*Gegenstand*], and second, it is determined by the overriding logic of science in general. Each science is therefore doubly anchored: once by the laws of formal logic, laws in the broadest sense of *mathesis universalis*, which are valid for all sciences by virtue of their character as science; and second, in the special logics (or material ontologies) of the individual kinds of subject matter [*Gegenstandregionen*]. Within the several kinds of subject matter, the whole "world" is divisible, because every subject matter is the subject of possible true statements. With that insight the problem of logical penetration is, in principle, solved.

The first attempt systematically to research one such kind of subject matter and to endow it with the same degree of exactitude that mathematized natural science or geometry possesses has met with outstanding success, and lies before us in Felix Kaufmann's work, *Logic and the Science of the Law*. The work is structured in two parts, the first of which outlines the basic logical principles insofar as they come under consideration for the construction of a material ontology of some kind; the second part contains the systematic development of the basic concepts of law and of the systematic development of concepts of law as such.

Relying on the terminology of Husserl, the section on general logic brings a highly concentrated summary of modern logical problems, but it contains all the essentials. In this section, the particular con-

cerns of the theory of law are not considered incidentally but are thoroughly discussed in terms of the logical equipment needed by anyone engaging in the human sciences. Thus the significance of this first part already extends far beyond the area of the theory of law. For those concerned with serious and precise work in the area of social, political, and economic theory, Kaufmann has provided excellent services in this first part. In view of the almost indescribable backwardness of the human sciences in the treatment of logical problems compared to the achievements of natural science, the practical value of this section cannot be treasured highly enough. But aside from this, the treatment of the general problem has its own importance. The chapter on the compatibility of the principal categories of things and the result, that each theoretical science is *a priori* an embodiment of synthetic judgments, might well be regarded as significant enrichments of logic with an independent value of its own.

The posing of the problems in the second part reads as follows: "geometry relates to spatial figures in ways similar to the way the science of law relates to the law; now, the basic concepts of geometry are degree, point, plane; the basic concepts of law would be the sought-for fourth term, namely, proportion." The theses of logic are used as a heuristic principle in order to obtain the system of logic appropriate to a specific subject matter. The main value of the second part, accordingly, lies in the systematic summary and derivation of legal-theoretical problems, above all in the development of the basic concepts (person, conduct, norm). Kaufmann relies generally on the critical work of Kelsen, particularly Kelsen's treatment of the theory of the imperative, and he places considerable emphasis on the development of the problems of the legal thesis (*Rechtssatz* in the sense of Kelsen) in the context of his general theory of theses. This general theory extends Husserlian notions in such a way as to make it possible, by means of a concise summary, to analyze and render intelligible from a logical perspective the astute critiques of the theory of the norm and the theory of the imperative, especially those of Kelsen.

Summing up, we can say: With its philosophical qualities, and quite apart from its great independent value, the work of Kaufmann has a decisive significance for the logical construction of the human sciences. As for the theory of law, Kaufmann's book signifies the first successful attempt systematically to develop the basic concepts of

law, and it proves irrefutably that Kelsen's pure theory of law has a significant future.

§2. *Das natürliche System der menschlichen Gesellschaft oder die Entstehung der Arten im periodischen System der sozialen Elemente*, by Heinrich Konrad (Vienna: Manzschke Verlag, 1922). Review originally published in *Zeitschrift für Volkswirtschaft und Sozialpolitik*, n.s. 3 (1923): 177-179.

Theories of society lend themselves to a division into two distinguishable groups: philosophical theories and theories based on natural science. In the first group, we include theories of the Platonic and Augustinian type or the theories of Fichte and Hegel, and in the second, experiments in mass psychology, theories of interaction, or theories of education. The work of Konrad belongs without a doubt to the first group, to theories of society that are conceived as the summits of a philosophical system.

For Konrad, the social world is constituted by new fundamental concepts, which include the following: perseverance, competition, economy [*Ökonomie*], specialization, workers' unions, adaptability, selection, development, organization. The effectiveness of these basic concepts or elements can be seen in every social characteristic. Social characteristics originate when one or another of the aforementioned elements emerges from a characteristic forming or differentiating process. Thus, for example, the series of elements differentiated according to the element of perseverance becomes "knowledge" in the process of differentiation; in such knowledge, the new basic concepts then come to light. Thus, the differentiation according to the principle of economy [*Ökonomie*] produces the characteristic "economic system" [*Wirtschaft*], etc.

In order to develop the concepts of his system, Konrad uses a peculiar antithetical method: He distinguishes the differentiation of the series as a subjective concept from the new concepts that are constructed in resistance to it. The series "economic system," for example, is defined as the "derivation and objectification of demand in the elements of wealth [*Vermoegen*]," and the first concept of the "economic system," need, is described thus: "need is demand

in the subjective sense, a good is need in the objective sense." Here we perhaps touch upon the root of Konrad's system. On the one side, the logical construction of the concepts occurs, and on the other side one finds the qualities of consciousness. As Konrad says explicitly: "Demand is the quality of consciousness that determines the economic system. In the final analysis, it emerges from life, from nature, and from the community." In fact, one cannot conceive of the qualities of consciousness in any other way because, as subjective expressions of logical differentiations, a characteristic logical-psychological amalgamation arises that makes it possible to characterize concepts, which as such are logical, as objectifications as well as fulfillments or satisfactions of the qualities of consciousness. But with that, Konrad achieves what most great philosophers of society before him have wanted: a natural system of social elements, that is, an optimal system that ought to be actualized. The work of Konrad appears to have the intention of making its results immediately applicable to the praxis of social life. "Those who are called to recognize order cannot hesitate to become active as foremen of a better future" (iv).

From the standpoint of critical idealism, this method and mode of argument is scarcely tenable, but such an objection does not detract from the value of the present work. For economic theorists, Konrad's understanding of goods will especially be of interest: "goods are objective needs of the economic system (in our view) that are to be found not in money, not in prices and the like, but rather *in natura*, in the objective elements of the economic system." Among these goods, however, also belong "knowledge, power, custom, education, etc." Economic trade, which is directed toward meeting demand, would thus be found in a theory that might well be separated from another theory concerned with the size of trade measured in monetary terms. Perhaps the solution to the problem of economic trade lies in the following: that all trade, in the broadest sense, is economic.

With these few brief hints, the extraordinary content of the work has hardly been suggested. Notwithstanding a few detailed criticisms, the impression remains that here an uncommonly broad and sharp mind has created a work that will likely claim its rightful place beside similar major achievements.

§3. *The Soul of the State (The Know Thyself)*, vol. 10, by Phil. al. Phil. (Athens: Dunkjahr, n.d.). Review originally published in *Archiv für Sozialwissenschaft und Sozialpolitik* 51 (1924): 540.

The anonymous author provides only an excerpt from a larger work. It deals with the theory of state in imitation of Plato's *Republic*, in that it draws an analogy between the "individual man" and the "collective man." Beside the three Platonic parts of the soul it invokes a "motoric power," because the soul is connected with the body. In this way the parallels are structured into the concepts of understanding, will, feeling, and motoric energy on the one side, and parliament, the head of state, parties, and administration on the other. The point upon which such an investigation above all depends—namely, to prove the possibility of the parallels—is not touched upon at all. This possibility is assumed as given. The book then advances some highly dubious parallels: for example, that the class of lawyers is analogous to the revenge instinct, and the military to those of hate and wrath. Despite some intellectually stimulating remarks, the book is not very valuable on account of the absence of any methodological foundations.

§4. *Prolégomènes à une Mécanique Sociale*, by Peter Trisca (Paris: Félix Alcan, 1923). Review originally published in *Archiv für Sozialwissenschaft und Sozialpolitik* 51 (1924): 540–541.

This work by Peter Trisca is divided into three parts. The first gives a history of economic doctrines and the theory of society from their earliest beginnings in Greek theory up to the modern systems of positivism, solidarism, and historical materialism. This first volume has been strongly influenced by Deschamps—so strongly that it becomes at points a reproduction of his lectures of the years 1919 through 1921. That is understandable, because Deschamps is Trisca's teacher; less understandable is that the whole volume is based on a second-hand repetition of other people's theories. Trisca has apparently not taken the effort to study the originals, aside from several modern authors such as Schmoller, Wagner, and basic works of people such as Adam Smith and Comte. After reading Trisca's work, it is difficult to see the reason why it was written. One would be better off reading

the works of Gide and Rist and several other historians who work with the original sources.

Nor does the second volume improve the impression of unoriginality. It contains summaries of a series of works on social mechanism by Ward, Haret, de Winiarski, and Portuendo y Barcelo, among others. It tries to show that a mechanical sociology is impossible if one maintains the concept of mechanism used in classical physics. This proof is neither successful nor profound, for the author obviously lacks the necessary epistemological knowledge. Nevertheless, this volume is of interest because it provides concise excerpts of the content of several sociological theories that are generally inaccessible and difficult to survey.

The third volume contains a presentation of the social relations of Romania, relations that are described in the blackest colors. The pathos of moral indignation with which corruption in politics, schools, sexual life, the army, etc., is described is humanely pleasing, but the tone is "erudite," and if the book were not written in French, the banalities would be unbearable. This descriptive part contains stimulating knowledge of details that are and remain generally unknown to non-Romanians about life in the Romanian state. But such passages are downright meager. On the whole, this third part serves as a means to propagate the author's reforming ideas. These ideas are a great credit to his sense of honor and his sound views, but aside from that they attest only to an extravagant alienation from the world that makes serious discussion impossible.

What the whole work has to do with *mécanique sociale* is not at all clear. Its main value and weight lie in the reforming ideas of the third volume. If the first volumes are supposed to be a theoretical foundation of these ideas, then they have wholly missed their purpose because their structure is thoroughly eclectic and their content is in no way systematically elaborated.

§5. *Die Kriterien des Rechts*, by Felix Kaufmann (Tübingen: J.C.B. Mohr [Paul Siebeck], 1924). Review originally published in *Archiv für Sozialwissenschaft und Sozialpolitik* 53 (1925): 261-263.

In his new work, Kaufmann continues along the line of thought he began in *Logic and the Science of Law* (1922). In that book, he

attempted to define the categories of law within the schema of the pure, simple, legal thesis (Kelsen's *Rechtssatz*): "A Person, A, ought to execute a conduct, C<sub>1</sub>, on a particular day; if she does not do this, then a conduct, C<sub>2</sub>, ought to be conducted against her." The substantive categories of norm, conduct, and person contained in this sentence, as well as the formal-logical combination of the two norms into a double-norm, form the basic concepts of Kaufmann's formal juristic theory. Kaufmann recapitulates these theses, works them out more decisively in a polemic form, and contrasts the basic concepts—the essential characteristics defining the law—with the empirical attributes of legal order. He calls the two together, that is, the characteristics and the attributes, the criteria of law. The types of norm—namely, the legal double-norm and the legally unsanctioned, merely ethical or religious norm—are distinguished from one another by their essential characteristics. Empirical attributes characterize a particular group of norms as being distinct from others; more precisely, the legal norm is distinguished from the customary ethical or religious norm on the grounds that, with the former, the established nature of the law is made into the content of the act of subjective compliance with the norm, whereas with customary norms there is no sense that the norms have ever been created or established. "With established legal norms conduct is interpreted as valuable; with customary norms, conduct is valued by others as a 'positive' constitutive element of acts of subjective compliance." The attribute of the empirical composition of norms now makes possible a description of the legal order as a context of standardizing acts issuing from the basic norm, as the context of delegation, and as a means of distinguishing material from formal law. By material law is meant the complete contents of legal theses; by formal law, that group of them that contains the determinants for the empirically lawful character of other norms.

Through the precise division between characteristics and attributes, between the theory of the nature of law [*Rechtswesenslehre*] and the problems of the empirical area of application, Kaufmann succeeds in clarifying a series of important ambiguities in the concepts of the juristic person and of the state, and even succeeds in solving these empirical problems.

Preceding the section dealing with the specific contents of jurisprudence, which we have outlined here in the most general terms, is a section containing the principles of a general theory of science

and of a theory of the sciences of experience (to the extent these are relevant for the theory of law). In this section, we would draw attention in particular to the development of the Husserlian theory of material and formal ontology into a very precisely formulated "principle of the area of compatibility" as well as to the excellent descriptive analysis of type concepts.

Husserl's general investigations in the theory of science and Kelsen's pure theory of law are the starting points for Kaufmann's system of a theory of law. An extensive critique would have to go back to these sources. Here, we would raise only two points in order at least to indicate the direction in which a critique would move. In the "general section," Kaufmann presents a thesis consistent with the Husserlian position, namely, the notion that all concepts in the sphere of formal logic could each be connected with a material ontology (thus, for example, with the trio of norm, conduct, person). He cites as evidence the possible mathematization of the law in terms of postulates regarding the amount of money having been stolen being linked to the length of prison sentence. To be sure, Kaufmann himself adds that such an arrangement is of little cognitive value; we would add that this becomes clear in the obvious example of the incompatibility of formal and material spheres (for what else does "no cognitive value" mean?), so that much of Husserl's thesis requires revision.

A second remark concerns a more fundamental aspect of the theory of law: Kaufmann claims that only a formal-logical hypothetical relationship exists between the two norms of his double-norm. This "relationship" seems to me a palpable error, because it is essential for the legal thesis that the conduct of the second norm is deployed against the subject of the first, and thus is materially conditioned in a very specific way. But once these material conditions are recognized as such, there is no reason at all to set up precisely this schema of a thesis of penal law as the legal thesis. But then the question arises as to whether the formal hypothetical relationship is not a phenomenon accompanying the material content and is for this reason considered to be a pure characteristic of the law. If this were correct, then Kaufmann's version of the theory of the essence of law indeed would not be tenable and would require other foundations.

These objections aside, because of its intellectual consistency and clear construction, and especially because of the logical explanations

of the first part, Kaufmann's book numbers among the most valuable publications in the new theory of law.

§6. *Mitt Gott für Trust und Dividende*, by Walther Böhmer (Vienna: Viktoria-Verlag, 1928). Review originally published in *Frankfurter Zeitung*, July 29, 1928.

Having returned after the war from South Africa, the author wants to arouse interest and find sponsors in Germany and America for the project of a canal to the east. The book recounts the story of his suffering and his ultimately unsuccessful labors. His enterprise brings him into contact with state officials, the economic and political rulers of the new Germany, with finance ministers, and with the Commerce Department of the United States. This personal experience provides the basis for his critical observations of a political and economic nature, in particular for his views on the influence of industry in the German republic. The author holds the effect of industry to be damaging because it is used shortsightedly and for the satisfaction of individual interests. Böhmer's remarks are often valuable, because as a German living in a foreign country, he observes post-war developments in Germany from a greater distance. On the other hand, his wrathful naïveté has an alienating effect: that not all politicians are statesmen and not everyone who bears the title of director is an angel is sufficiently well known and is scarcely about to be changed. The book remains an achievement because of the congenial personality of the author, but in terms of material, it is no more than a rant.

§7. *Deutschland und Amerika*, by Karl H. Panhorst (Munich: Ernst Reinhardt, 1928); *Henry Ford*, by S. Marquis (Dresden: Carl Reissner, 1928); *Schreckensherrschaft in Amerika*, by Augustin Souchy (Berlin: Verlag "Der Syndikalist," 1927); *Sacco und Vanzetti*, by Eugène Lyons (Berlin: Neuer Deutscher Verlag, 1928); *Aus dem Arbeitsleben Amerikas*, by Fritz Tänzler (Berlin: Reimar Hobbing, 1927); *Systematische Wirtschaft*, by Heinz Ludwig (Berlin: Georg Stilke, 1928); *Die Wirtschaftlichen und sozialen Verhältnisse im Kohlenbergbau der Vereinigten Staaten*, by Ernst Jüngst (Essen: Verein für die bergbaulichen Interessen, 1928); *Die Vereinigten Staaten von Amerika: Volk-Wirtschaft-Politik*, by André Siegfried (Zurich: Orell Füssli, 1929). Review originally published in *Frankfurter Zeitung*, June 10, 1928, p. 1.

All the works I have to discuss here certainly relate in one way or another to America. Yet they comprise a group only because they appeared in print around the turn of the years 1927–1928. They have therefore been collected only by chance and treat very diverse objects, yet they all—except for the book on Henry Ford by Marquis—have in common a certain attitude toward American problems. None wants to explore phenomena of American history, economy, politics, or the American mind for their own sake, but only for the significance these matters may have for Europe. In all these writings, America *per se* is in fact wholly unimportant. They all seek either to ascertain only Europe's part in American history, or to extract theories from it. All the books were written in the shadow of an upheaval that has shifted the center of gravity of the world economy toward the West, and in almost all one can sense a more or less veiled *ressentiment*. Even the most outstanding among them in terms of cultural history [*Geistesgeschichte*]*—*the great works of Panhorst and of Siegfried—still do not seek to explore a strange world with unreserved affection. Nor do they concern themselves with the meaning of this strange phenomenon for its own sake, and a style of

*l'Amérique pour l'Amérique*, which would be the first prerequisite for first-class cultural history, is missing.

This attitude also has something to do with the fact that almost all these works have the literary feature of relying more or less on only secondhand information. Strictly speaking, only one, Panhorst's book, fulfills the requirements of science. Panhorst provides important contributions to the history of early German-American relations on the basis of archival study. His contributions have appeared in the course of the past year in various academic journals. One of the most important contributions is to make public the contents of newly discovered official files that shed some light on the colonizing enterprise of the Fuggers, about which nothing was previously known. Now, Panhorst has attempted in this large work—and he is the first to have set for himself this task—to account for the whole of the early German-American relationship, starting with the achievements of German geographers in the middle of the fifteenth century and the impact of their work on the discovery of America up to the judgment of 1556, when Venezuela was revoked from the Welsers.

The material is arranged in five parts. The first part considers the significance of Müller, Behaim, and Waldseemüller for the discovery of the new continent and the significance of the Alsace-Lorraine school of geographers. The second part deals with the role of German businessmen in the early discoveries and in their redirection of the spice trade. The third handles with exceptional care the place of German commercial houses in the first trans-oceanic traffic. The fourth and fifth portray the colonizing enterprises of Fugger and Welser and the discovery of New Granada.

The arrangement and analysis of the material are excellent, and the fact that the totality of its parts does not comprise a whole is not the fault of the author. Panhorst himself indicates the reason with great clarity: In his brilliant analysis of the trans-oceanic traffic, for example, he establishes that Welser's part amounted, on average for the decade 1526–1535, to only one-sixth of the total. This example is symptomatic of all the structural problems of the book. The center of gravity of the period dealt with by Panhorst does not lie in the German-American relationship at all, and any attempt to consider it by itself requires that one extract from a meaningful whole pieces that have little connection with one another. What is important during this period are the development of the

Indian Council and its colonial politics (into the affairs of which even the kaiser shrank from meddling), along with the relationship of the Audiencia of Santo Domingo to the Indian Council, and the transition from periods of large profits gained by exploration and discovery into those of normal profits earned through stable trade, followed by the collapse of those ventures that could not adjust in time. All these questions appear only on the periphery of Panhorst's work, even though they properly belong at the center; the material he does consider belongs on the periphery. There is no doubt about the motive behind this shift of the center of meaning: In his closing remarks, the author states that a retrospective look at the great era "will help console us Europeans and give us new strength at the sight of contemporary America." In fact, it is highly questionable whether a retrospective look at the German share of this great era could bring either consolation or strength to the Germans, since they emerged from it particularly badly.

In a loose sequence of chapters, the book on Henry Ford by Marquis contains a series of variations on a single theme: Ford combined a mixture of unusual capacities as technician and economic organizer along with great arrogance toward things about which he knew nothing, resulting partly from his inadequate education and partly from an unusual weaknesses of character and coarseness of feeling. Ford brought to this complex a remarkable brutality in his relations with his co-workers, from the most senior director to the lowliest worker. The book is written as an admonitory sermon to Ford, with the expectation from him that he will take a turn for the better. The portrait occasionally flattens into the anecdotal, but nevertheless offers a good sketch of the man.

Attached to it is a biographical outline of S. T. Busnell, "The Real Ford," an instructive life-portrait of one hundred pages. The sections dealing with the peace ship and the political activity of Ford merit attention because both are episodes that have not yet been clarified and remain important for the general picture of the person of Henry Ford.

Two pamphlets dealing with the terrorizing of workers suffer enormously from an un-American attitude. One, on "the reign of terror," is pure propaganda, using terse, popularizing reports of recent acts of terror by business against the workers. It would be better to rely on more precise data from more objective sources about these bloody *intermezzi* of the American working class.

To be sure, Lyons's book about Sacco and Vanzetti is also filled with impassioned partisanship, but the material is scarcely influenced by it. The figure of the judge, Thayer, is perhaps overdrawn. In comparison, the author restrains himself most conspicuously with regard to members of the "advising committee." The book is a good portrayal of the case and has outstanding literary merit.

Yet both these pamphlets assume the standpoint of class conflict, which in American democracy coincides with the conflict of unasimilated immigrants and the native-born population. If one disregards the inappropriate European perspective, namely, of a struggle between capital and labor, and considers the pamphlets as contributions to the problem of assimilation, one will find—especially in Lyons's book—a wealth of material on American group psychology, and in particular on the problem of xenophobia.

The book by Tänzler, *On the Life of Labor in America*, alludes by its title to its lack of focus in demarcating the object. The book deals more or less with everything connected with labor in America, with the result that, although it is unable to exhaust any one theme, it is able nevertheless to provide an overview to a multitude of problems that are found only scattered in monographs—rationalization, the nature of unions, the code of industrial relations, working hours, wages, etc. The remarks are necessarily sketchy, but in general they are accurate. At any rate, because of the briefness with which they are treated, the questions are given the appearance of a clarity that they do not possess in reality: for example, on the question of stock sharing, the author appears not to know Ripley's article in *Atlantic Monthly*.

The pamphlet by Ludwig, *Systematic Economics*, is a collection of essays that appeared in 1927 in the *Berliner Tageblatt*. The essays seek to propagandize the author's great esteem for the technical rationalization of American sales methods. Sections are included on the production program, cost controls, industrial budget, market analysis, treatment of customers, etc. The articles are written with the knowledge of an expert and they fulfill with distinction their purpose, which is to indicate methods that are too much neglected in Germany and could, with a certain amount of good will, be adopted.

The work by Jüngst gives an excellent, numerically well-grounded overview of the contemporary situation of coal mining in the United States. The account is distinguished by the author's rare talent for clarity in expression and his ability to concentrate on the essentials.

Among other things, he deals with the following: production, consumption, export, size of businesses and coal deposits, transportation, cost and price formation, work relations, wages, accidents, and unions.

An essential factor to be added to the section on accident statistics is that, in mines where protective precautions are deemed necessary, they cannot be enforced because of resistance from workers at the coal face whose income would suffer if they were enforced. A mine that insisted on enforcing the rules would run the danger of losing its best workers.

The great work of Siegfried on the United States contains such a wealth of material that we cannot go into the details; only a general outline of its significance is possible. The combination of a fundamental grasp of the sources with an elegance of presentation—the book is also exceptionally well translated—makes it today the standard work for an accurate view of the aspects of American life it describes to a broad educated public. The book deals with three issues: the ethnic and religious crisis of the American people, the economy, and politics. The subject matter covered also indicates its limitation: It does not consider at all the phenomena of the American spirit in philosophy, science, and poetry; and of the issues it does treat, it speaks only of those that appear within the cross section of the present, and is almost without historical dimension. For this reason, the middle section on the economy—for which contemporary data generally suffice to give a correct picture—is the most useful. The political section turns out to be weaker, insofar as it is hardly possible to provide an analytical assessment without looking at the origin of the existing situation. Thus to call Western protest simply “progressive or a little twisted,” as Siegfried does, seems scarcely appropriate in face of the waves of Western protest that have constituted the main content of American history from Jefferson to Bryan, Roosevelt, and La Follette. Least successful of all are the investigations of the religious crisis: To examine phenomena, the roots of which go back to the seventeenth century, on the exclusive basis of materials offered in articles from popular magazines published during 1925 and 1926 (and Siegfried does this) cannot but lead to superficial judgments. The extensive treatment of the Scopes “monkey trial,” for example, is justified by nothing factual: The same spiritual type that Siegfried analyzes here is to be found in every textbook in biology. Concerning the theory of evolution, the

American intellectual is just as much a "fundamentalist" as is the backwoodsman who relies on his Bible. Both sides show a generally unquestioning and dogmatic attitude, which is much more dubious because it systematically stultifies the minds of young students than because of the more striking excesses unfolding in Tennessee. But these small reservations ought not to detract from the genuinely outstanding qualities of the work.

§8. *Amerika: Vorbild und Warnung*, by Edgar Ansel Mowrer, translated by Annemarie Horschitz (Berlin: Ernst Rowohlt, 1928). Review originally published in *Frankfurter Zeitung*, August 19, 1928, p. 1.

Overcome by a richness of details, books by Europeans about America commonly penetrate to principled insights only with difficulty; perhaps they do not even want to penetrate to them, where such insights are not very pleasant for Europeans. The present book, written by a highly educated American who is well acquainted both with the history of his country and with that of Europe, is especially concerned to convey the proper perspective by which to consider the relationship of the two continents to one another, and the material serves only as illustration. Mowrer sets up a number of clear theses: (1) the movement toward the west and the conquest of the continent is finished: America is turning from a geographical area into a closed society; (2) the essential ideas of this society are "English freedom," preparedness to compromise, belief in the omnipotence of the human will and the "natural equality" of humans; (3) the difference from Europe is to be characterized thus: that the remnants of class structure and the cultural tradition bound up with it have disappeared; (4) "Americanism" is for this reason nothing more than a group of European elements (industrialism, mass democracy, materialistic ambitions) without traditional European inhibitions; it is the final perfection of European development and because of this, only European leaders and not the masses regard it with hostility; (5) America has become the leader of the first culture encompassing the earth.

The development of these theses is intellectually stimulating and captivates one with the awareness of victory that it bears: In each

line rings the sentence of Machiavelli, "Vincere tu sempre mirabil cosa." The book is valuable because it expresses the view of an American with a significant range of vision.

§9. *Introductory Sociology*, by Albert Muntzsch, S.J., and Henry S. Spalding, S.J. (Boston: D.C. Heath, 1928). Publication of review not traced; typescript in Hoover Institution, Voegelin Papers, box 52, folder 11. 1929 (?).

The work of the two authors is divided into six parts. The first part, on social origins, explains the social forms of primitives. The second is entitled "social principles" and explains the concepts of society, the social nature of the individual, and the human condition. The third part speaks of milieu, habitus, family, and state. The fourth section, on social pathology, deals with crime, poverty, health, and unemployment. The fifth encourages social welfare and holds Christ up as the model. The sixth section offers a selection of readings on important points.

Sociology is defined as the science of social life having the purpose of promoting social well-being. Beginning from this definition, the book does not really have any scientific intentions but rather aims to serve as a Catholic educational work on social questions. The succession of the individual parts is explained by this initial starting point. The theory of evolution is attacked more vehemently than thoroughly because it is incompatible with Catholic doctrine. The fact that primitives are familiar with the institution of private property is greatly emphasized as useful information in the struggle against socialism. The idea of a world-state is rejected because the connection with socialist internationalism would otherwise be too close, and we are assured that God desires a multitude of states. The struggle against birth control is carried out at great length, and its sinfulness and damage to individual health is threateningly demonstrated. And so on.

The foreword points out with special pride that "a pessimistic note has been avoided," and that a "healthy" view of our social conditions extends throughout the whole book. If we also mention that the existence of God is convincingly proved (122), there remains nothing more for us to say.

§10. *An Introduction to the Study of Sociology*, by Frank Hamilton Hankins (New York: Macmillan Co., 1929). Publication of review not traced; typescript in Hoover Institution, Voegelin Papers, box 51, folder 11. 1929 (?).

This book is a textbook for introductory college courses designed for seventeen-year-old students. It is supposed to provide a first introduction to the study of sociology, and fulfills this task with distinction. It begins with an explanation of social origins and of the nature of races. There follows a series of chapters on the physiological, biological, psychological, and cultural factors of social life. Lastly, it deals with social institutions, economy, myth, magic, religion and science, family, and the state.

The author has thoroughly mastered the materials, so that he can give a good, readable exposition of all the problems of sociology. In the process, he makes an effort to be honestly nonpartisan and to set aside his own opinions. To be sure, the analysis cannot go very deeply into any point on account of its textbook character, but the excellent bibliography indicates the direction for further study. The highly uncritical bias toward the world-view of the average American citizen may be questionable, and in some dogmatic passages the limits of the author's own education and scholarly knowledge also reveal themselves. As a matter of course, the Middle Ages is dark and culturally unimportant for him, whereas modern democracy with its political ideology of the middle class is the crown of world history.

If the young students who read this book are uncritical enough to believe unconditionally what is in it, they would at worst be educated to be upright, patriotic American citizens; if they are critical, it might serve as a thoroughly useful starting point and reference book for further study.

§11. *Research in the Social Sciences: Its Fundamental Methods and Objective*, edited by Wilson Gee (New York: MacMillan, 1929). Publication of review not traced; printed copy in Hoover Institution, Voegelin Papers, box 52, folder 9. 1929 (?).

Wilson Gee, the editor of this work, is director of the Institute for Research in the Social Sciences at the University of Virginia. Before

setting a study program for the institute, it seemed advisable to the director and members to hear the views of authorities in the various areas of the social sciences concerning the goals and methods of the disciplines involved. Thus did the series of lectures that were collected and published in the current work come into existence. The following scholars spoke: Robert E. Park on sociology, Allyn A. Young on economics, Clark Wissler on anthropology, R. E. Chad-dock on statistics, R. S. Woodworth on psychology, Roscoe Pound on jurisprudence, A. M. Schlesinger on history, John Dewey on philosophy, and Charles Austin Beard on political science.

The choice of themes and of speakers was extraordinarily successful at least in this respect: that the malady from which collections of this type customarily suffer, an all-too-great inequality in the value of the contributions, was avoided. The essays of this volume are of course of varying weight, but the level at which they all move is so high that even the weakest among them still provides a competent introduction to the contemporary state of the problems in America. Taken together, they provide an informative cross section of the goals and methods of American social sciences.

We can discover several common questions, which almost all the lectures consider to be the basic problems in the legal and historical sciences. Everyone assumes that "science" means adopting the particular aspiration of a natural science that discovers laws. A cognitive undertaking has the character of science only at the point where it leads to the proof of laws that make predictions possible. As the current work shows, generally speaking it remains necessary to bow before such a conception of scientific law and the great successes of the natural sciences, even if the investigation is necessarily of the individual case of "life history" and "situation," etc.

Even in the absence of clarity regarding the general questions of relevance and interpretation, the right to apply historical methods is modestly but firmly asserted and then supported by empirical demonstration. Ranke's dictum is at any rate well known, along with the knowledge that there are difficulties with achieving the description of things as they really were.

Alongside this methodological-epistemological discussion, we find a recurring treatment of a practical problem of scientific activity. Treatment of this problem provides a profound insight into the particular predicament of American social science: the questions of subsidizing research and of the presumed worth of collective,

organized work. With science understood as a kind of business enterprise, a social hierarchy has developed. Starting from the bottom, it has the following layers: (1) Clerical assistants—scientific assistants, stenographers, graphic artists, secretaries, etc. (2) Routine or average men—persons who have had the benefit of a scientific education and are also employed as “teachers” at universities, but who cannot properly be called scholars because, to put it crudely, nothing scholarly ever occurs to them. These people are suited to undertake follow-up work where the major problems have been solved. (3) Investigators—researchers, scholars of rank who, in addition to the conventional knowledge of their specialty, have a capacity for the creative and insightful development of their science. On various occasions, the authors hint at the dubiousness of a situation where great sums are expended on collective undertakings under the title of the advancement of science: Where such undertakings are carried out by “routine men,” they can produce nothing significant. If the “investigator” type is commissioned as the director of such an undertaking, he himself runs the danger of both losing contact with research materials and losing the leisure necessary for his own work. Thus he ends up wasting his talent. In some instances it is possible to mount a significant collective undertaking, but only by taking great precautions (in order not to allow the “routine men” to dominate the organization and thus ensure that the “investigators” are excluded). One such program, organized at Harvard Law School under the leadership of Roscoe Pound, aims to organize research to examine the basis of legislative enactments, judicial decisions, and administrative rulings. In continental Europe, this urgently needed work would be undertaken by a Ministry of Justice. In America, which lacks this kind of institutional support, the work will be undertaken by Pound’s institute.

In conclusion, we should also note that Charles A. Beard, who, because of his liberalism and outspokenness, was forced many years ago to resign his position as professor at Columbia University and has since lived as a private citizen, has written a most open, elegant, and probing essay exploring the difficulties of undertaking research in America that can be created by a university administration.

§12. *Die rechtstheoretischen Grundlagen des Sowjetstaates*, by Boris S. Mirkin-Getzewitsch (Vienna: Franz Deuticke, 1929). Publication of review not traced; typescript in Hoover Institution, Voegelin Papers, box 52, folder 12. 1929 (?).

On the basis of his knowledge of Russian sources, the author compares the essential features of Soviet constitutional law with the constitutional state of the Western bourgeois type. The absence of guarantees at all levels of the legal system is worked out very well: There is no formal way of distinguishing constitutional and ordinary legislation because there is no decisive formal criterion for ordinary legislation. The jurisdictions of the organs of government are not sufficiently delimited, so that the legislation is enforced by several administrative organs operating independently of one another. At the legal level, there is no connection between administrative and judicial acts. Above the principle of legality stands revolutionary expediency, a "right" typical of a state that has not yet overcome its revolutionary crisis and made the transition into a period of stability and daily routine. Unity is manufactured through strict party rule and imposed on all administrative organs by the right of the Party to make appointments, so that at any time elected members of the administrative organs can be out-voted by appointed ones.

The account and critique are developed from the standpoint of a model of the bourgeois constitutional state developed along French lines. The anti-Soviet political convictions of the author are everywhere apparent and do not inspire confidence regarding his selection of material. His "critical" results have been corrupted to the point of worthlessness as a result of being formulated in terms of democratic political arguments. It is self-evident that the new Soviet legal logic is meaningless compared with "bourgeois" legal logic, but the "victory" declared by the author of the bourgeois over the new Russian one is at least as meaningless. The legal philosopher to whom the argument is addressed can wish only that this mutual nonsense might be given up, and the sooner the better.

The translation, however, is to be recommended as being both familiar with its subject matter and easy to read.

§13. *Die Staats- und Gesellschaftslehre Alberts des Grossen: Nach den Quellen dargestellt*, by Wilhelm Arendt, *Deutsche Beiträge zur Wirtschaft- und Gesellschaftslehre*, vol. 8 (Jena: Fischer, 1929). Publication of review not traced; typescript in Hoover Institution, Voegelin Papers, box 52, folder 13. 1929 (?).

The work of Arendt is a rare but crass mixture of scrupulous knowledge of the sources and total helplessness regarding the problem of their application. The main part of the book (7–61) contains an account of Albert the Great's theory of state and society in four chapters: the essence of the state, functions of the state, forms of the state, and pedagogy. One searches in vain for a hint as to whether this arrangement is modeled on Albert's system or whether the author holds it to be the only possible schema. In terms of its details, the material is arranged rather loosely within the chapters: Why, for example, does the indissolubility of marriage belong to an account of the nature of the state, while regulating prostitution falls among the functions of the state? Why is the sanctioned order of law a function of the state and not an essential feature of the state? Why are the politics of education not an internal political matter falling within the chapter on the functions of the state?

These questions are not directed against the correctness of the citations from Albert, which the author communicates correctly, but against the lack of any kind of obvious principle by which the citations are ordered. Indeed, starting with the author's theme, such a principle would in any event be difficult to discover. The spiritual center of Albert's world of thought is in fact not philosophy of the state, but theology. And if one slices through what connects the parts into a coherent system, as the author does, the remnants are left, side by side, without any unified meaning. And so one finds discrete sections on freedom (5), on the process by which humans become moral (26), or on private property (42), but if one occupies oneself in a historical way with forms of the spirit, as does the system of Albert, one must accept the form as it is in its entirety, which means one is not permitted to dissect it mechanically and divide up the material according to the criteria of modern scholarship. Abstracted from their theological context, Al-

bert's remarks cannot possibly be the object of a meaningful historical presentation.

This basic consideration does not, however, deter the author from attempting to brand Albert as a universalist in the sense of Othmar Spann. The bifurcation of basic spiritual attitudes into individualism and universalism results in categories so broad as to be practically without value as exclusive interpretative principles of history.

Following this strange mishmash of Albert's theory, the "Research of the Question of Sources" in the appendix marks a pleasant contrast (62-83). In a fluid writing style that makes use of elegant formulations, the author presents here an analysis of the current state of the question of sources. By his own admission, the preceding narrative analysis is not exhaustive but has been undertaken only to the extent that it bears upon Albert's theory of state. The superior quality of the appendix confirms that the weakness of the narrative section is not a result of the author's inadequate mastery of the materials but instead follows from his inappropriate formulation of the problem. Thus the main value of the text will be its usefulness as a list of sources for those who themselves wish to work on Albert's theory of state.

§14. *Staat und Gesellschaft in Amerika*, by Charlotte Lütken (Tübingen: J.C.B. Mohr [Paul Siebeck], 1929). Review originally published in *Archiv für Sozialwissenschaft und Sozialpolitik* 63 (1930): 649-653.

A sociological study of America of the rank of Charlotte Lütken's book finds itself in a difficult situation. The scholar should describe the object under analysis and then investigate it in as much detail as possible, following only the ideal of intellectual clarity. Now it is already inherently very difficult to clarify adequately and sharply an object such as the "state and society" of any country. The results of any such investigation will thus always be to a certain degree disputable, because the latitude available for a personal selection of materials is very broad. Discerning the object is doubly difficult in the case of America, where the extraordinary interest of Europe at present in all things American has created such a monstrous cloud of distorting scribblings—partly as a result of ignorance, partly in order

consciously to serve consumer interests—that a long time will likely pass before the air once again becomes reasonably clear. Even among German sociologists, it is still by no means clear that an adequate grasp of American society is possible, at least so long as one believes in all seriousness that William James, for example, was the inventor of pragmatism and nothing else, or so long as Jonathan Edwards, perhaps the most significant thinker whom America has produced to date, is not even a name for us.

Lütken, perhaps not unavoidably, also lays a wreath at this altar, where she takes the indistinctness of the object as a fact and selects a “thesis” that sets out to dispel one of the main reasons for it. She states that “American capitalism is a pseudo late-capitalism,” so as to direct her thesis against the “liberal legend . . . that American capitalism has, with liberalism, actually succeeded in attaining the idea of harmony of interests and the equality of all.” On the basis of such a thesis, an obviously polemical atmosphere pervades the whole book (the assumptions and methodological consequences of which we address below). In any case, it is an excellent starting point for the arrangement of source materials because, compared to European capitalist society, the peculiarities of American capitalism can be described in a series of distinctions. In four chapters—on the most important economic contrasts, the design of political life, the peculiarities of the social body, and the cultural sphere—a wealth of material is laid out, and their essential aspects are carefully developed. The chief merit of the book lies in these four chapters and their subsections, which constitute an excellent catalogue of themes relevant to the ideal-typical treatment of American social problems. The more fundamental contrast between city and country and between industrial and agricultural populations has come to overshadow completely the contrast between employers and workers to which we are accustomed. An investigation of the structure of the state brings to light the connection between the highly decentralized division of jurisdiction between federal and state governments and the consequent impossibility of a centralized treatment of the problems of the worker. Judicial decisions of the Supreme Court, which doggedly defends its liberal conceptions of property and freedom against social legislation passed by individual states and only very slowly gives in to social demands, work in the same direction as the liberal, anti-interventionist attitude of the states. Thus the claim that the Supreme Court is “a fundamental wall of protec-

tion against even the most modest legitimation of the demands of the workers" is incorrect in this radical and general formulation and might well have sprung from the polemical attitude mentioned above. The question that now follows, "Why is there no opposition to the liberal state?" also appears to be too polemically formulated. A more adequate way to deal with the intended issue would be to raise the question, "Why is politics in America not a conflict of minds and ideas?" The answer Lütkenes provides to this particular question, moreover, is both correct and thorough in its references to a homogenous frontier psychology, to the dynamic of American development, to the absence of economic situations perceived as inescapable, to the absence of a peasantry, and to the peculiar composition of a working class that, in its immigrant generation, is hardly capable of political activity, and in its older more established ones is caught up in the frontier psychology. Finally, the author refers to the absence of important domestic tasks for the state and to the peculiar structure of its imperialism (the eight pages on the distinctiveness of American imperialism are among the best in the book). The absence of stabilizing layers in the population and the perfect, dynamic homogeneity of its social structure are particularly well brought out by the absence of a bureaucracy and of its attendant class of civil officials, as well as by the absence of a class of socially attentive intellectuals. The last chapter (on "the cultural sphere") deals with the dominance of the middle class and the ideal of humanity arising from it, the solidarity of all Americans, and the experience of their own community in contrast with foreigners, the disdain for personal achievements, the malleability of the forms and reasons of official opinion, and finally, the influence of women as a leisured class on cultural development.

In all these points, the essential elements, which then are pieced together in a picture of American society, are considered with great knowledge and extraordinary delicacy, such as is to be acquired only after a period of many years spent in America. This society, so entirely different from European ones, is richly endowed with technology, and compared to Europe achieves very high levels of production. Superficial observers could draw from this the conclusion that, as a social body, America is ahead of, or superior to, Europe in terms of development. Lütkenes rejects this conclusion because a high level of economic development is only an external characteristic of a society that is entirely different from European ones.

With this picture, I can find little to disagree with because my own investigations, to the extent that they deal with the same subject matter as is treated by Lütken (as she herself emphasizes), come to the same conclusions.

Even if it is now necessary to offer a few words of disagreement on methodological questions, it is still to be emphasized that the great value of the themes selected and worked out by Lütken remains wholly untouched by any criticism of its methodological shortcomings. The main content of the book, which so excellently selects and organizes the materials, exists wholly independently of the "thesis" and "liberal legend" Lütken attacks. To me this thesis appears indefensible in terms of evidence because the claim that American capitalism is not late capitalism in the European sense, while it is certainly correct, is purely negative. Such a thesis does not say what American capitalism actually is. Moreover, the characteristics of said capitalism that are repeatedly emphasized, namely, that the highest technical development is connected to the absence of state intervention, class conflict, and class ideology, as well as the absence of immobile, tradition-bound layers of the population, are also more negative features, seen from the European standpoint, than positive ones, seen from the American perspective. The criticism the "legend of liberal America" appears to me to be just as methodologically inadmissible, especially because it is not clearly said by whom this legend was established. If such a legend is held to have been invented by Europeans, then, as noted in my introductory remarks, it might have been tactically useful to consider such a view by developing the correct one in opposition to it. If, however, as one might conclude from several different passages, the political theory of the Americans themselves is meant, then a polemic attitude toward this theory on the part of a sociologist is wholly inadmissible. The creation of a political theory and its coming to be believed belong to the spiritual structure of a society, and a sociologist is not permitted to isolate one piece of this global reality and oppose it to the rest as though it did not belong to it. Instead of attacking the political theory (still assuming the political theory is meant) because it does not agree with reality (a political theory never does), a sociologist would have to interpret certain social phenomena issuing from the existence of the theory. The division of society into a "reality" and an "ideology" that does not belong to reality may well have its roots in the very powerful reality of the ideology whose relationship Lütken consid-

ers, that of structure and superstructure. And indeed, this world of ideas also appears to have had great influence on the entire conception of the book. Otherwise, it would not be wholly understandable why a study of state and society in America presents itself as an investigation of American capitalism, even though just this economic form is regarded by Lütkenes as external and not characteristic of America. Against the empirically correct insight she asserts the conviction that the historical and sociological position of a society is determined by its economy and level of development. The question as to the state of development of this capitalist society is then raised, and she claims that American capitalism is far less advanced in its total societal development than is the European version. The marks of being further advanced are the presence of the very class conflict and ideology that are absent in America. Now, it is undoubtedly correct that American society has colonial, exploitative features and that they correspond to capitalistic forms belonging to the Europe of the past. Yet it does not follow from this that the stages of capitalism, whose types are based on European development and its implicit context, are translatable into American relationships at all. Lütkenes herself points out in her book the important differences between liberal capitalism of the American type and European Manchesterian capitalism, when she very correctly remarks: "the form of the state in this frontier economy is the liberal state as it exists in books." In Europe, such liberalism exists only in books, but in America, during the frontier period it was a reality. It would indeed have been very valuable to show the mutual influences of American social reality and European wishful thinking that orients itself in light of the former, to see how, for example, Lockean individualism takes the American pioneer settlement as its ideal model and develops ideas of freedom and property from it, or how John Stuart Mill adopts his concept of the sovereignty of the individual from the anarchist frontier theory of Josiah Warren. In Europe, the liberal idea was the political theory of the bourgeoisie in its struggle against a declining absolute monarchy, but in America, the frontier was a real form of life that, with advancing capitalistic organization and loss of economic independence of the individual, sublimated the ideal into theory. If I were to mark the decisive difference of American society from European in positive terms, I would highlight, not the capitalist stage of development, but the fact that the immigrant class, which has been decisive for American social structure, comes from the petit-

bourgeois and agricultural classes of their homelands and has been able to make its own petit-bourgeois spiritual constitution into the sole reigning social constitution. In America, we face a phenomenon that is unique for sociologists, that of a spiritually decapitated society (such a thing has existed at no stage of European capitalism!), a society belonging to the middle class according to its spiritual type, but belonging to the fully developed European societies according to its technical and scientific sophistication. Crudely put, the American situation is that of a petit-bourgeois society messing about with a rational apparatus without spiritual supervision. In general, it works well enough, so long as the advantage of natural conditions allows no socially dangerous dissatisfaction to arise. The claim that there are no estates bound by tradition should be modified to the statement that there are not several such estates. The overwhelming majority of the society belongs, according to its spiritual habitus, to a single petit-bourgeois class that extends from Rockefeller and "Baptists in the oil business," down to the last salaried employee. This class as a whole, however, is bound firmly by the tradition of its very narrow horizon. Beside the "dynamism" and "freedom" of money-making stands what the European perceives as an inconceivably brutal social terror of the bigoted petit-bourgeoisie unafflicted by doubts in spiritual matters. All these features are intensified by the rule of women, which is correctly put on the same level as the other essential features by Lütken. However, she expresses herself with too much circumspection, I believe, when she asks whether abandoning the cultural sphere to women "leads to the far too summary, optimistic, and trusting treatment of public and cultural problems." Lütken adds that this "can only remain a tentative question." In fact one can pose this question very energetically and offer a completely clear answer. Indeed this question is often discussed and answered as follows, that the American gynocracy is the decisive obstacle to the spiritual development of that society, and that the hundreds of thousands of female teachers in the colleges and high schools have permanently broken and turned off the spiritual liveliness and restlessness of young people before they had a chance to develop. A class of spiritually responsible humans rising above the petit-bourgeois level can develop only in opposition to the rule of women, and will have as its precondition the destruction of it.

Here lie the socially determinative features that are indeed treated properly by Lütken but are somewhat displaced from their central

position by the methodological starting point of formal economic relations. This critique is not meant to dismiss the book, but rather to raise a question with regard to methodological principles that seek to capture the essence of a society by way of its economy. In fact the economic sphere, as Lütken's herself also emphasizes, is peripheral compared to the spiritual determinants of society. In penetrating to the essentials, the interpretation of a society cannot move outward from the ambiguous markers of class (that, as with the economy itself, can be externally similar among fundamentally different social structures). It must instead interpret from the unambiguous spiritual givens (as they are to be found in metaphysical and political theory) outward to the periphery, and clarify the unclear in this way. That is also the standpoint of Lütken's: thus throughout the entire book does she interpret correctly on the basis of an immediate understanding of the atmosphere of American life. The methodological shortcomings of the thesis and the economic determination of the book are so detached from its insights that they do not diminish the value of the work.

§15. *Theory of Legislation: An Essay on the Dynamics of the Public Mind*, by E. Jordan. (Indianapolis: Progress, Leipzig: Wilhelm Heims, 1930). Review originally published in *Nationalwirtschaft* 3 (1930): 590.

Investigations into the nature of the state can expand from the characteristic questions of an individual science, particularly questions of constitutional law, into the area of philosophical discourse, or they can attempt the reverse, to interpret the reality of the state as deriving from philosophical principles. As a rule, philosophies of the state tend to move in one of these two ways, depending on the particular education of the thinker in question. The work of E. Jordan takes the second route, from principles to reality.

The basis of the book consists in observations developed more extensively by the author in an earlier work, *Forms of Individuality*, which dealt with the nature of individuality. Here he deals with the relationship of man and society. On the basis of a general theory of the individual, he develops the notion that individuals as such are alike and yet there are differences in types of individuals. The

vital life-will [*kräftgeladene Lebenswille*] manifests itself in human individuality by means of the speculative talent he possesses and his capacity to reflect, create plans, and set goals. The same life-will manifests itself in corporate individuality as the capacity to achieve goals. "The one can see, but not attain; the other can attain, but it attains nothing of objective and final form" (249). Social problems arise from the interaction of human individuals with their speculative talents and the blind, powerful, but corporate individualities that have no goals of their own.

From the countless variations by which the concept of legislation is defined, we select one that seems to us particularly clear: "legislation is the general life-process in which the will embodies itself through meaningful actions" (107). Legislation in this broad sense comprehends the total process leading from speculatively formulated plans to assimilation into a social form. The traditional categories of political science [*Staatswissenschaft*], such as, for example, separation of powers, must be resolved into new basic concepts: Separation of powers means "the series of levels," or "forms of organized mediation" through which life must pass in order to become concrete. The several stages constitute the "transformation of pure critical speculation into particular physical acts that determine and delimit life into an objectified will" (98).

Jordan's work is a very earnest and clever attempt to raise the problems of social organization into concepts that are based less on a system and more on Dilthey's *Lebensphilosophie*. It deserves attentive study, though such study has in fact been made more difficult because the book is both extraordinarily long-winded and obscurely written.

§16. *Macht und menschliche Natur: Fachschriften zur Politik und staatsbürgerlichen Erziehung*, by Hellmuth Plessner (Berlin: Junker und Dünnhaupt, 1931). Review originally published in *Kölner Vierteljahrshefte für Soziologie* 19 (1931): 255-257.

Since the change in the form of government in 1918, a literature has arisen in Germany that gives itself the task of bringing theoretical and, in particular, philosophical thought into the closest

possible touch with political reality. As with others, and with Carl Schmitt above all, Plessner wants to remedy the sorry state of the estrangement of politics from the spirit by attempting to show the mutual interpenetration of philosophy and politics. Politics might be spiritualized only if it could refer to pure philosophical concepts in conducting debates over ideas regarding legislation or the administration of justice. And it could do this only if philosophy were to give up its present attitude of estrangement from politics and consider political reality at the most basic level of philosophizing, namely, at the beginning, with the organization of concepts and system. In order to understand and assess Plessner's work, two questions must therefore be answered: (1) What "political reality" does Plessner take as the starting point of his philosophizing? (2) With what philosophical means does he explicate his concepts as he moves out from this starting point?

Regarding the first question, Plessner does not develop an idea of political reality either expressly or in its whole breadth. Instead he appears to consider its content as self-evident to everyone and limits himself to clarification of a few major points while indicating in detail the circumference of his own horizon only in occasional remarks. An anti-liberal turn appears to him to be wholly essential for an assessment of a contemporary political philosophy because, as others do today, he makes liberalism responsible for the idea of unconditional, value-free science and for the despiritualization of politics that follows from this scientific postulate. And further, he appears to hold the German situation, on which he bases his conception, to be a general European one, though this assumption is not clearly stated. In addition, the Christian idea of the equality of all humans before God is regarded as a positive political reality. It is said that the politically relevant discovery for our time is "that we, as opposed to the non-Christian and pre-Christian peoples, have developed the concept of 'humanity,' and a view of reality that is indifferent to religious and racial distinctions." Our religious sentiment leads us to believe in the "equality before God of all those who bear the face of a human." In this light, humans, cultures, states, religions, and arts are relativized, and we discover the human as "the productive 'agency' for the emergence of a culture." Humans are responsible for the world in which they live. They should be regarded as the creator of culture within the horizon of their history.

Being human means coming to be conscious of and accepting one's own destiny.

This is for Plessner the content of political reality, with the consequence that one has to respect every other form of existence as equal before God, yet one is not permitted to be led by this relativization to demean one's own possibility and one's own destiny and to allow it to derail.

A critique of this political view is difficult because Plessner does not justify his odd selection of relevant constituent elements. If his attempt is intended as an effort in the political education of German citizens, then the absence of a justification of his selection is a serious omission, because criteria of relevance must be included in the fundamentals of political philosophizing. Above all he would have to include the insight that the relationship of politics and philosophy is quite different for the Western nation-states than for Germany. In light of the interpenetration of liberal politics and philosophy in Western Europe and America, one must certainly reconsider the attempt—as has become our fashion in the past years—that explains the absence of such interpenetration in Germany by reference to liberalism. Perhaps this absence involves conditions deeply and directly rooted in German political thought. In order to become useful as a means of educating German citizens, such conditions would have to be made conscious. Further, the horizon of the idea of equality appears to us to be somewhat narrowly drawn: or does Plessner want to deny completely the political relevance of the ideas of race, the *führer*, and dictatorship? Can one really call the Christian idea of equality a power that shapes the world of our day when the division of humans into rabble and elites looms on the horizon? A more precise justification of what must be assumed in a philosophic approach to political reality is therefore very much to be desired.

As for the second question: Plessner's view of politics might well be almost fully determined by his basic philosophical attitude. The present book advances thoughts that were set out in earlier works, and it offers significant new contributions to the problematic of *Lebensphilosophie* in the sense of Dilthey and Misch. The systematic foundations of anthropology and the indeterminacy of its relationship to philosophy are discussed extensively; the problem of historical relativism is excellently developed, and the resolution of that problem by means of the self-relativization of *Lebensphilosophie* is demonstrated. Plessner argues explicitly against Marx and Engels,

and probably also implicitly against Mannheim's theory of the community of being [*Seinsverbundenheit*] and related doctrines. In this context, the essence of humanity appears as the "and connection" [*Undverbindung*] of power and powerlessness, of accountability and nature. The essence of the human, one's actual self, is power, the capacity of world-creation. But "birth, inheritance, and death have power over the self and oppose themselves to the power of the self with the same claim to essentiality and universality, just as the area of life expressing itself is native to the human and elevates him." In this "and connection," thing and power form "the composite human."

Within the constraints of a review, I cannot offer an adequate critique of this brilliant and very condensed presentation. I would like to draw attention to only one point: that the concept of "life" is applied without qualification to existences of all types, personal and individual human existence as well as collective existence. I consider this breadth of meaning to be inappropriate because a whole range of problems concerning the interhuman constitution of a suprapersonal, social existence is not considered. For example, the problem of rulership disappears, not, as Plessner appears to believe, because it does not fit into his investigation, but because one cannot include it at all on the basis of his concept of life. Likewise, the fundamentally important analysis of the friend-enemy problem is not very successful either. Here the leap from the horizons of intimacy and increasing degrees of enmity in individual human existence to those of interpersonal friendship and enmity is made in just one sentence.

One further and concluding reservation concerning the presentation: Plessner's book is exceptionally dense and written with great intellectual energy. Within the smallest space, it provides a sharp, brilliant analysis of a wealth of problems. The specialist in philosophy and political science [*Staatswissenschaft*] will take pleasure in it, but on account of the book's highly cultivated technical language, a language that at some points even adopts Heidegger's idiom, there may well be very few German citizens (to whose education this book is nevertheless directed) who would be able to work their way through his language to grasp its meaning.

§17. "Die *Verfassungslehre* von Carl Schmitt." Review essay of *Verfassungslehre*, by Carl Schmitt (Munich: Dunker und Humbolt, 1928). Review originally published in *Zeitschrift für Öffentliches Recht* 11 (1931): 89–109.

## I

It is not easy to approach a work so beset with an *embarras de richesse* as Schmitt's *Verfassungslehre* by attempting a constructive analysis of its principles. The immediate historical occasion for the appearance of the book and the central object of its investigations is the Weimar constitution. It was necessary for Schmitt to create a system of concepts appropriate to the scientific examination of this new political and legal structure, because, for reasons we need not consider here, German political theory [*Staatslehre*] has not produced a constitutional theory. Thus the significance of Schmitt's work is that it raises the discussion of the foundation of the nation as a political and legal unit out of the realm of technical monographs and commentaries into that of great systematic ideas. By understanding the constitution and the development of German political theory, the significance of this work is self-evident and needs no further proof. Schmitt brings to this task a rich knowledge of the history of the state and the history of ideas, and especially of French constitutional history, so that his study of the Weimar constitution broadens into an account of a typical constitution characterized by the rule of law. The typical constitution is then compared to the specific features of the Weimar constitution. Finally, in a third section he discusses a complex of problems dealing with type-constructs of the constitutional state as part of a general theory of the principles of the state. Schmitt wants to provide a systematic investigation of the issues in constitutional theory, and at the same time he expects, if the attempt should succeed, to clarify "the general principles," as well as some individual questions of positive law.

The science of constitutional theory is therefore conceived as operating within the horizon of a general political theory. The general principles of political theory provide the presuppositions of constitutional theory and inform everywhere the systematic analyses of the latter. Thus large parts of Schmitt's book—the first section on the concept of the constitution, for example, or the contributions

to a formal theory of the state—endeavor to establish the general foundations in political theory that are subsequently employed in the more specific main theme of his investigation. To make a fair assessment of the book, however, one must always bear in mind that the foundational questions never themselves become the main theme; instead, the investigation moves from concrete positive law and narrower constitutional theoretical questions only so far as is necessary to illuminate the principles. Schmitt does not claim to have uttered the last word on the objects treated in the part of his book dealing with political theory.

He begins, therefore, not with explanation of the problems that would have been preeminent for political theory, but rather with a description of the concept of the constitution as required for his purposes. *Constitution* means neither the concrete political existence of a people, nor a particular form of political existence, nor a basic norm or law constituting the state as a legal unit; nor, finally, does it mean any specific constitutional law. Rather it refers to the general decision by which the whole is determined regarding its particular form of existence. These negative and positive attributes serve as background in light of which the constitution in Schmitt's sense first appears. One finds here a whole, an entire political existence, and in addition, a particular form of this existence. Thirdly, there is a decision (to which, fourthly, a subject must be attached). And from this act of decision there, finally, emerges the constitution. Individual constitutional laws (relative to the concept of constitution) first emerge after the constitution has been posited by way of this sequence of enactments.

We depart from this last distinction between *constitution* and *constitutional law* in order to analyze the systematic consequences of Schmitt's concepts and the subject matter intended by them. Constitutional laws contain standardized norms [*Normierungen*] of a varied content that is unimportant for us at the moment. For their validity as norms [*Normen*], these laws require a political decision (the constitution), which issues again from a will, and so on. The legal sphere, where constitutional norms are also to be found, is for Schmitt not fundamentally independent. It is not a system of norms enclosed within itself, but rather points to the question of the basis of validity and unity and beyond it to the act of a political decision, to a "greatness stemming from its being the origin of an 'ought'" (9). This sentence might have been consciously formulated as the

opposite to the principle of a normative theory of law, according to which "is" and "ought" are two areas that are emphatically distinguished from one another and incapable ever of being related to one another. Schmitt also uses the formulation in connection with his criticism of Kelsen's theory of law, which appears to me to be important as a principled counterformulation to the neo-Kantian principle of methodological purity.

The application of the principle of methodological purity to the sphere of a human science [*Geisteswissenschaft*] such as political theory is in my opinion not feasible, because the field that ought to serve as the subject matter of scientific research constitutes itself outside the context established by science. Thus the scientific account of the subject matter cannot be executed independently and solely according to its own principles, but rather has to follow the contours of source material. To be sure, the norms comprising the subject matter of a theory of constitutional law are the subject matter of a science of norms, but before they reach this point, even as a theory of constitutional law, they are already constituted as a subject matter (though not by a subject of cognition). Schmitt seeks to account for this last phenomenon by his general theory of the decision.

Schmitt clothes his rejection of the pure theory of law in the form of a rejection of the content-normative theory of law. For him, the only meaning of the word *normative* is the meaning of something obligated in terms of content. Moreover, he realizes—undeniably correctly—that there is no closed constitutional system of a purely normative type (IO), and that constitutional norms are not derived in terms of content from a highest norm, but are instead dependent for their content on the political and social situation of the time of their origin. Accordingly, all talk of an order of law, the normative context of which culminates in a basic norm, is empty of meaning. He considers it impermissible to attempt to transform concrete regulations into the foundation of a pure system of pure norms, because all such regulations are established within a particular place, are effective in practice, and for this reason are to be described as positive. In his opinion, the pure theory of law makes just such an attempt.

From this summary account, the reader cannot help but have the impression that Schmitt has perhaps succumbed here to a misunderstanding and that he does not do full justice to the epistemological problems raised by the pure theory of law. Neither Kelsen nor, so

far as I know, any of his students has ever attempted to develop from the content of a basic norm an order unified in terms of content. Furthermore, the basic norm is not just "any concrete determination" that "is established from a particular position," but rather is an epistemological assumption made by the legal theorist. Finally, the law as a unit is understood in terms of the category of delegation issuing from a highest source, and this cognitive unity has nothing to do with the question of whether the law is codified or even statutory (as Schmitt, p. 11, appears to intimate). According to the assumptions proper to the pure theory of law, the categories of basic norm and delegation are valid equally for describing the constitution and the levels of law within a legal order whether it consists of common law or of individual statutory enactments.

Now, if Schmitt frees the normative sphere from its methodological isolation and reconnects it to the subordinate strata of political existence where empirically it is to be found, it might not appear very important whether he rejects the methodological purity of the normative theory of law because he has understood it correctly from its first assumptions to its last consequences, or whether his rejection is based entirely on a misunderstanding. And we would certainly not mention this point of misunderstanding in a constructive analysis if such limits in Schmitt's understanding of the pure theory of law did not also mark the limits to the usefulness of his own formulation. Schmitt criticizes the pure theory of law because he feels that neo-Kantianism has done it no good, and that the normativity of law, which nevertheless he does not disavow, is in no way purified by it. Aside from the "ought" element of legal norms, there is still the extra-legal issue of the context of cognition to be considered. The insertion of the neo-Kantian transcendental subject of cognition as the source of the legal unit radically cuts off all questions as to the ontological basis of the norms. A concept of "ought" that deals with the question of the unity of positive law, by reference to the unity of the postulate of cognition of the basic norm, destroys the basis of any political theory that seeks to be more than a theory of law. The entire achievement of the pure theory of law—the precise working out of the normative sphere and its removal from other kinds of problems, the critique that undermines the political elements in existing political theory, the extraordinary improvement of the standards of legal theory—these great achievements are not touched by Schmitt's critique. But whether these achievements in political

theory will have any additional effect or whether the attempt of the pure theory of law will remain an episode without consequences depends upon the following: whether the problem of the validity of the law—the problem on which the neo-Kantian epistemology has broken down—will find an adequate solution, and whether it will succeed in incorporating the theory of law into a political theory that systematically grasps the whole problem area of the experience of the state.

Schmitt clearly wishes to develop a valid and systematic political theory, but the attempt appears to me not to have fully succeeded. He criticizes the pure theory of law because it (1) wants to constitute a pure realm of norms and (2) must, however, establish a positive system of norms based on the experience of its own efforts at creating a unified theory. "To say that a constitution is valid not on account of its normative correctness, but on account of its positivity, and that it nevertheless establishes a system or an order of pure norms as a pure norm, is a confusion full of contradictions" (9). This observation by Schmitt is in my opinion perfectly correct as well. It is at this point that one must attack the pure theory of law if one wants to escape the dead end of neo-Kantian methodological purity. But he opposes only the confusion, only the fact that the practical dependence on a concrete political existence is concealed by the idea of methodological purity, not the dependence itself and not normativity. He fully acknowledges the normative character of law and in this way condones the return to the essentially political foundations of the demarcation of law. Schmitt therefore eliminates only the neo-Kantian element of purity from the pure theory of law, and aside from this accepts its method in two decisive aspects: For him too, the law entails a normative element, and he too assumes the positivity of the norms as the principle demarcating the subject matter. "A norm is valid, because it is positively ordered" (9). *Is* and *ought* comprise for him a basic dualism longing for resolution, just as it does for the pure theory of law.

The pure theory of law found a solution to this problem by allowing the unity of the legal order to emerge as a unity of cognition: The creation of legal subject matter needs no ontological assumptions once the basic norm was assumed to ensure the unity of the legal order. The only dubious consequence of this solution is the destruction of political theory. But indeed that too was merely an

ontological question with which the legal theorist, once he had postulated the basic norm, did not concern himself. Schmitt's solution was to attribute ontological status to validity. In various expressions that crop up over and again throughout the whole book, he claims that a constitution is valid by virtue of the political will with which it is sustained. Some formulas: "in truth, a constitution is valid because it issues from a constitution-giving power and is established by its will" (9); "to consider a series of individual regulations to be constitutional law and to treat it as a systematic and unified order is arbitrary if that unity is not derived from a presupposed unified will" (10); "the will of the German people, hence something existential, establishes . . . the political and constitutional unit" (10); "The unity of the constitution does not lie in the constitution itself, but in the political unit whose particular form of existence is determined through the act of creating the constitution" (22); "the constitution is valid by virtue of the existential will of the one creating it. Each type of standardized legal norm, including the standardized norm of constitutional law, assumes the existence of such a will" (22); "the constitution-giving power is political will, that means a concrete political being" (76); "the word, *will*, describes—in contrast to dependence on a normative or abstract correctness—the essentially existential character of the ground of validity" (76); "the word *will* denotes, in contrast to mere norms, an ontological greatness as the origin of the ought. The will is existentially at hand, its power or authority resides in its being" (9).

From this summary, there can be little doubt about Schmitt's intention, even if the formulation leaves a few things in the dark. The basic intention can perhaps best be summarized as follows: The validity and unity of law ought not to be created by a synthesizing act of a transcendental subject of cognition, but rather by the syntheses of those who enact the reality of the state. This appears to me to be the basic intention, which however is marred by expressions of the type that state that unity arises from a preexisting unified will, or, in other words, that each type of standardized norm of law assumes an existential will. But who, in these cases, is the subject of the assumption? And who, in the end, is the subject of cognition? Even if we assume the basic intention of Schmitt to be clear, we still need to clarify the concept of validity. Where such clarification is unfortunately not provided by Schmitt, we must provide the basic features in a summary way:

Regarding the word *validity* [*Gelten*], one could give it the specific sociological meaning Max Weber often used according to which a norm is "valid" if it is followed. This meaning reflects the social fact that people follow norms that are meant to be norms of personal conduct, and that other people do in fact conduct themselves in accordance with the norms. Judgment as to validity in this sense can be made by the theorist, but also by the people living within the social reality itself; thus it may be that a prolonged situation of dissatisfaction with norms and with those who establish them does not reach the threshold of rebellion because each of the dissatisfied people judges for himself that all the others will still follow the norms, and that he, as an individual, would face nasty consequences in the case of rebellion. Judgments of the norm-following individual concerning whether actually to follow the norms, that is, the "validity" of the norms, can motivate individual conduct and thus become constitutive of validity itself. We find this "sociological" concept of validity in Schmitt's definitions of the state. For example: "a state, which means the political unit of a people, exists; and indeed it exists in the sphere of the political; it is incapable of justification on the grounds of legality, legitimacy, etc., because the individual living human is obliged to justify, or is capable of normatively justifying his existence in the sphere of private law" (89). The concepts of existence and political unit conceal, however, the construction of these units by means of acts of ruling and of following rules, acts about which we can only hint here.

Schmitt wanted to eliminate validity entirely by virtue of the moral imperative of the content of the law. The reason was clear. Schmitt searched for a unifying principle of the constitution, but the unity of the constitution along with the additional content of law cannot by any means be derived from the preexisting content of a norm. But if we first leave aside the question of unity and raise only the question of validity, the moral imperative of the content no longer appears to us to be an entirely negligible problem. To be sure, the theorist of the state does not have to shape the contents into a normative system, but it is probable that parts of the existing law are seen in a normative context by lawgivers as well as those subject to the law, that is, to those who enact the reality of politics. These parts of the law may be very small; they may perhaps comprehend only a single isolated norm so that the existing law may for this reason disintegrate into a multiplicity of normative systems that cannot be

unified. Surrounding these norms, however, there hovers a belief in the moral force of these normative fragments, both in the opinion of those who create some kind of legal institutions internally free of contradiction (for example, the law of wills and estates), as well as among those persons who lead their lives within these institutions. If the great mass of all those subject to the law believe that large and important aspects of it are immoral in content (for example, because it contradicts certain social ideals), this belief can have the effect of motivating revolution. If we approach the problem of the moral imperative of the law from this side, we do not obtain a unity of order and can never establish a highest norm as absolute. We have to investigate *in concreto* what the moral convictions of lawmakers and of those who follow the law are, and how these subjective convictions bring about the stability or the instability of the state. Here *validity* means that a greater or lesser number of people believes in the moral imperatives of greater or smaller parts of the whole configuration of the law.

In my opinion, neither a theory of the state nor a more narrow theory of constitutional law may neglect the normative element of the law, if only because moral convictions are indispensable as principles of interpretation of norms (including constitutional norms). It is unclear how a legal institution, present only as a collection of norms, is to be understood as resulting from individual acts and decisions that depend on the legal, the political—and standing behind these, the moral—convictions of the people, whether these be individuals who follow the norms, or a judge, or jurists who interpret norms as questions of doctrine. Schmitt claims, for example (177): “it would therefore be incorrect to state that, in the passage of a law altering the constitution according to Article 76, any arbitrary law destroying the citizens’ basic rights and freedoms could be enacted. This misconception is possible only so long as the fundamental distinction between constitution and constitutional law is overlooked.” When Schmitt maintains this, he is correct if one accepts as the basis for the concepts posited by him, the basis for interpretation of the article concerned—namely, those of constitution and constitutional law and his theory of the rule of law. These concepts and this theory follow, however, not from the norms themselves, but from Schmitt’s “constitutional theory,” and whether one invokes them in interpreting the constitution or searches out other principles that lead to the opposite result is a question of the legal and political convictions of

the interpreter. Schmitt's interpretation is possible, but he himself could hardly claim that all others are false, though his formulations on this matter are not wholly clear.<sup>1</sup>

A further component of the meaning of *validity*—and it is the last we wish to speak of here—is belief in the validity and obligatory nature of legal norms by virtue of their being lawful [*Gesetzseins*] as determined by specific people. Here again it is necessary to undertake an elementary analysis of the beliefs and attitudes that lead to the acknowledgment of a tradition of law, and especially of a constitution, as legitimate. One would be obliged to investigate where belief in legitimacy has its roots, for it is not self-evident that humans end up believing in the obligatory nature of norms only because other people have set them. If this point were clarified, it would then be necessary to typify the substantive content of the belief in legitimacy. Finally, it would be necessary to investigate how belief in the moral imperative of the content is connected to belief in legitimacy, whether the two could cohere as an undifferentiated belief in law, what the grounds of dissociation might be, and so on. In his remarks about principles, Schmitt provides little more than formulas to clarify all these questions. "A constitution is legitimate; that means it is acknowledged not only as a factual condition but also as a lawful order, when the power, and authority of the power establishing the constitution, is acknowledged by those touched by its decision" (87). And the power and authority of the force that establishes the constitution is acknowledged "when the political unit exists and the subject of the force that establishes the constitution can determine the type and form of its existence" (87). The ultimate formula that Schmitt usually relies on here is to assume the existence of the political unit and its capacity. These are included in the sociological concept of validity, but the additional problem of validity, namely, the issue of "acknowledgement," is just barely touched upon so that Schmitt has no need to consider its basis.

Our analyses show an attitude toward the question of the state that is characteristic not only of Schmitt but of all German political

1. Generally speaking, Schmitt tends to formulate things exclusively, where in fact other possibilities would be well worth considering. For example: "properly speaking, only something concretely existing can be sovereign, not a mere valid norm" (7). Why? That is just a question of definition. Or: "in truth, a constitution is valid because it issues from a constitution-giving power and is established by its will" (9). That depends again on the definition of *validity*. Or in the position just cited in the text: "it would therefore be incorrect to state . . ."

theory during the last few decades. In his general theory of the state, even Jellinek made attempts at an elementary analysis of the structure of the state and then went on to personify it. The importance of the relationship of power among the individual humans who constitute the state was appropriately emphasized, and then suddenly the dominating power of the state appeared. From the standpoint of an analysis based on the relationship among the people constituting the state, it is a senseless combination of words: The theory emerged from an analysis of social reality and followed the traditional juristic schemata of thinking according to which the state appears as juristic person and, with that, as a unit. Kelsen's pure theory of law likewise moves systematically and exclusively within a unified sphere of law that theorists constitute by virtue of the basic norm. And now Schmitt likewise appears unable to withdraw from juridical categories in order to discuss the problem of the constitution of society, even though his program aimed at referring the validity of law to social being. Social reality still appears to Schmitt under the personal category of political existence, which is then compared to the existence of the individual human. For Jellinek and Kelsen (to name only the most recent great names), the chance to construct the actuality of the state was removed because they were content with a synthesis of the unity of the state that transcended reality—the former did so in terms of the category of purpose, in the sense of Sigwart; the latter by relying on the application of pure methods, in the neo-Kantian sense, to create the subject matter. Schmitt advances toward the actuality of the state, but requires (without providing the basis for this requirement) a structure in this subject area as a matter of course; he requires evidence for the unity of the constitution in order to gain insight into the real unity of the state. Yet such a structure is in fact probably found only in the cognitive sphere. After the brief hint we made concerning the typical themes found in a science of the structure of the state, it is probably clear that an investigation of the contents of law, of attitudes, and of beliefs—both of the legislator and of the subject regarding the moral imperatives of the contents of the law and of its legitimacy, etc.—can indeed show the typical constituting moments of the reality of the state but can never result in the unity of the state. The actuality of the state, even in its constitution, simply is no unity, and each investigation of the unity of the state as a real unity must be rejected as pointless. The only unity of the state there is comes about through

the syntheses of political science. Schmitt too undertakes just such a synthesis in order to create a unity of the state. In this case he bases his investigations—though not systematically and explicitly—on a typological concept of the state that contains as its constituent elements something like the ruler and the ruled, an enclosed and settled geographic area, organization under supervising authorities, a legal establishment, penal structure, and so on. This typological concept is the unity of the state.

We have already cited the formulas by which Schmitt expresses his opinion about the reality of the unity of the constitution. The unity of the constitution is derived from a political will, a constitution-giving force [*Gewalt*] whose power [*Macht*] and authority are capable of making the concrete general decision regarding the nature and form of its own political existence (77). The political will found in a political existence is the ultimate unity, one behind which Schmitt does not penetrate in his discussion of principles, which means he breaks off further advancement in the construction of political reality by way of his own system. Thus, as large as the step beyond the present theory concerning the reality of the state may be, Schmitt's concept of will nevertheless does not achieve essentially anything more than Jellinek's category of purpose or Kelsen's methodologically pure "ought." This is because Schmitt remains committed to a belief in the necessity of a foundation of unity. But only in Schmitt's discussion of principles do his reflections on the unity of the will, which were so hopefully begun, break off; his discussions of concrete historical decisions lead further into the structure of the ultimate unity. Concerning the Napoleonic plebiscite, for example, Schmitt says: "the majority of the citizens of the state tend in general to leave the political decision to others, and always to answer the questions set before them in such a way that the answer contains a minimum of decision. The majority would thus easily agree to an accomplished fact. With these Napoleonic plebiscites, a 'no' would have meant uncertainty and disorder, whereas a 'yes' contained only the retrospective acknowledgment of an accomplished fact, thus the minimum of genuine decision" (87). In these plebiscites, the people are the carrier of the force that establishes the constitution and the people's political will determines the form of political existence. But the unified "will," the "decision," dissolves into a richly structured multiplicity of wills: A great number of citizens will be so apolitical that they do not at all participate in the decision and leave the

voting to others. With the issue of the Napoleonic plebiscites, some pressure in a particular direction of decision was exercised by the energetic influencing of the election by the government. Of those who participated in the voting, a great number—Schmitt claims even the majority—tended to vote so that their voting contained a minimum of decision. Thus the main weight of the decision lay with Napoleon and his dedicated civil and military officers after all. Interest in the decision is based on types of conduct extending from tacit and indifferent submission up to the exercise of force in order to achieve a particular goal. Further analyses of this nature can be found in the excellent investigations of public opinion and the decision of the majority (278): In general, public opinion would, properly speaking, be supported only by an active and politically interested minority of the people. With acclamation and the eruption of public opinion, it would be wholly proper that the active minority would decide. It would practically be undemocratic if those having no political will should decide against those others having such a will (279). In the majority decision, much would depend on the way the questions were posed, when generally speaking the largest part of those entitled to vote strive to avoid a decision. The majority of the voting citizens would be neither reactionary nor progressive, but simply apolitical, and would therefore vote in such a way that the answer would contain the minimal actual decision. With the Napoleonic plebiscites, the decision would have already been made, and great majorities would express in these votes a timidity in face of the decision: In these cases, only a “no” would have signified a decision (279).

Running through such analyses, political theory is supposed to render thematic the area in which political ideas, the complexities of decisions, and opinions of belief merge into unities of the constitutional type. Yet this systematically ordered theme is not treated by Schmitt in the context of his analyses of the synthesis. Despite the penetrating analyses of the cases cited, as well as of other cases, he ends up with nothing but highly complex formulas: in democracies, the people must be capable of political decisions and actions; so long as a people has the will to exist politically, it is superior to every formality and standardized norm; so long as it exists at all and wants to continue to exist, its vital strength and energy is inexhaustible and always capable of finding new forms of political existence, and so on (83).

## II

In Schmitt's investigations of the theory of state, two sets of motifs come together. The first, which is extremely fruitful, employs a wide-ranging perspective on the history of constitutions and on the history of ideas and results in his outstanding analyses of the reality of the state and a penetrating account of the presuppositions underlying such ossified formulas as those surrounding majority decisions and plebiscites. Schmitt also engages a complex of traditional problems in political theory. Here the full amplitude of Schmitt's perspective is indicated by the categories of unity, will, power, support, and so on, which appear without detailed justification as self-evident instruments with which political theory now must work. The new contents that this perspective brings into focus issue in some conceptual formulations peculiar to Schmitt, such as existence and decision, in which the will, which is necessary to grasp the element of the people constructing the state, remains central. Yet these concepts too are still captivated by the image of unity, and they are not fully detached from the realm of juridical thought with its complex syntheses of persons. We have discussed the dual aspect of Schmitt's thought, which combines his own innovations with traditional forms and applies them to the systematically prior problem of the dualism of "is" and "ought," as well as his understanding of the sphere of political existence. We now follow Schmitt into a second problem, namely, the type and the form that political existence can assume.

The diversity of the forms of the state should deal with the fact that, in each political unit, two formative principles come into play: identity and representation, both of which have an influence on the people. A people can attain political unity in two ways: either by acting as an unmediated unit, or by being represented by designated people as a unit. "All differences among genuine state forms, whatever type they may be—monarchy, aristocracy and democracy, monarchy and republic, monarchy and democracy, and so on—can be traced back to the decisive opposition of identity and representation" (205). Neither of the two principles operates on its own in such a way that one principle alone could give a state its form; instead, both must work together. The formal distinction (between monarchy and republic, etc.) in fact corresponds to the extent to which the elements are mixed. "Here too, where the attempt is made unconditionally to realize an absolute identity, elements and methods of represen-

tation remain necessary. Conversely, no representation without an image of identity is possible" (205). One or the other principle might predominate, but both are required to endow a people with a political form.

Both the concept of identity and that of representation are developed from the political ideas of the late eighteenth and nineteenth centuries. One extreme of representation can be found in absolute monarchy, where the formula for rulership holds that the king is the state; it conflicts with another extreme, as found in the democratic ideas of Rousseau, according to which the people, the nation, is present to itself and needs no other representation. The fluctuation between these two principles continues throughout the constitutional periods for which Schmitt is such a scholarly authority. With the help of both these principles, he attempts an exhaustive account of the problem of establishing political forms. As with the questions of existence and decision, however, the wealth of detail is too great to be confined by the formal bifurcation of identity and representation. Again we must deal with the task of collecting the essential content of the concrete historical detail in terms of a number of basic concepts of greater and finer nuance—though they are not, in this context, concepts that claim to provide an exhaustive treatment.

The most general concentration of meaning of these pairs of opposites can be inferred from the attempt to push the principle of identity to the limit where the appearance of a people is simply and only of itself. In fact, this plenitude of identity of a people with itself is unattainable: Even where it seems to have been reached, a residue of representation still remains. At the extreme, all adult members of a democracy act together at the moment when they pass resolutions as a people's assembly. "But however much the active citizens may be added together, they do not thereby constitute a totality or establish the political unity of the people. Rather they represent a political unit transcending the assembly of those gathered spatially, and transcending as well the temporal moment of the assembly" (206). And still more clearly than in examples of such unmediated democratic action, in modern democracies representative elements (parties, parliament, etc.) are inserted between the people as ruler and the people as ruled. And here we face a major problem the principles of which Schmitt unfortunately has not worked through: A state is fundamentally not a datum, but is present always solely in the actions of persons. This is especially true when one considers the

activity of states—to speak concretely, for example, of Belgium—whether we are examining the act of the king or that of an indentured Congolese laborer. Each person in the state has his political status, even if this status should be characterized by the absence of all political rights, and to this extent each person “represents” the political unit, even if neither the individual nor the sum of individuals are the political unit. Schmitt sees quite correctly that an assembly of all active citizens at a certain place and a certain time does not create unity either, insofar as this assembly is extended to the infinite multiplicity of persons and actions in space and time. A resolution of a people’s assembly or a plebiscite is likewise only one of the forms by which the event is captured and fixed for a moment. Just as simple unities and comprehensible situations are formed and sustained from the shapeless flow of the goal-oriented action of an individual life, so the political event achieves form in the actions of persons, both insofar as they are political and insofar as they are the individual actions of these persons. Political existence is enhanced by political actions. At each point of a political organization we are equally near to and equally far from that existence. Never do we have the whole of existence expressed in one political act, because the act is always one constitutive element of the whole. It is therefore an illusion to believe that we could come a hair’s breadth closer to existence as such by way of specific collective acts in which an immense number of acts of many persons are brought together, or that a people is “more identical” with itself (forgive the unseemly comparative!) in one political form than in another. We deal here, not with a mixture of formal principles, but rather with the problem of the givenness of political facts in general. And I would prefer to remove these components of meaning from the Schmittian concepts of identity and representation as well, and to speak of the fact of political existence realized through acts, and of the principles of existence that themselves transcend political existence.<sup>2</sup>

This component of meaning can easily combine with others because Schmitt postulates the people as the subject of all statements concerning the state. For him, the people are formed according to both principles into specific types of units. A concept of the people including all persons constituting politically existing units and their

2. Compare also Schmitt himself, p. 83, on the formlessness of existence and on the existential will.

acts (thus princes, parliament, citizens, slaves, minors, etc.) would now be assigned to the first component of significance. It appears to me not yet appropriate to speak of the people at this level of meaning, but simply to speak of a people upon which the state as a whole is built. In the second component of meaning, one in which the contrast between ruler and ruled emerges, it is more appropriate to speak of the people. In the first meaning, every political act and every political person represents the unit; in the second one we are dealing with something "that goes beyond every mission and every function," namely, representation (212). For this reason, not just any "organ" is capable of representing, "only he who rules takes part in representation. The government is distinguished from the administration in that it portrays and concretizes the spiritual principle of political existence. . . . Through this type of spiritual existence, it is distinguished both from a hired official and from a powerful oppressor" (212). Very clearly, Schmitt is attempting here to work his way toward the problem of ruler and ruled, toward the phenomenon of the life of the ruled as sustained by the spiritual potency of the ruler. But he is deeply hindered in this attempt as a result of the inadequate terminology from which political theory suffers today. The existential relationship of ruling and serving is never found in its pure specificity but is broken into the corresponding institutions of the governing and the governed. Schmitt does not treat the theme of rulership on its own terms, and the word is even missing in the index. In the section on democracy, the two concepts run so parallel to one another that one sometimes has the impression they are synonymous: "democracy (as the form of state as well as the form of government and of legislation) is the identity of ruler and ruled, governing and governed, commanding and obeying" (234). "Rulership or leadership in a democracy is not permitted to consider inequality, and thus, the superiority of the one ruling or governing . . ."; "In that way one rules or governs" (235). Democracy hides not only the problem of rulership itself but also the basic problem of the theory of the state, namely, the connection between ruling relationships and institutions. Important constitutional problems of the present time, such as the emergence of the rule of parties within a constitutional institution, do not receive their appropriate systematic treatment.

If we follow the main thread of Schmitt's concept of the people a bit further, we find a third component of meaning, that the people appear as a substance of value.

Representing means to make an invisible being visible, to recall it through a publicly present being. The dialectic of the concept of representation lies in this: that the invisible is presumed to be absent and yet is made present at the same time. That is not possible with just any sort of being, but rather requires a particular type of being. Something dead, something of lesser value or without any value at all, something low cannot be represented. It lacks the heightened type of being that is capable of being brought out into a public being, an existence. Words like greatness, highness, majesty, glory, value and honor seek to meet this special feature of being, that it be elevated and capable of representation. . . . The idea of representation touches on this fact: that, compared to the natural existence of a group of humans somehow or other living together, a people existing as a political unit has a higher, loftier, and more intensive way of being. (210)

Here again, Schmitt is led by his extraordinary knowledge of the source material to a basic problem; but again, he lacks the conceptual apparatus to pin it down and isolate it from other problems. To speak of the ruler is to touch on the personal charisma of the representative; from him streams the heightened being that flows down among the ruled and binds them to him. In contrast to the heightened being of the people of which Schmitt speaks here, which is valuable for having been represented, the value of the one representing is already there. It is something he can indeed appropriate and make bodily present in himself, but nevertheless it does not flow from his charisma. We do not have to deal with the real structure of this heightened being in such experiences as the greatness of tradition, cultural achievements, wealth, or successes in war. We suggest using the word that Jakob Burckhardt always used in this context, *pathos*, to name the entire structure. It appears to me linguistically appropriate in political theory to isolate the phenomenon of the pathos of a political unit in order to distinguish it from other phenomena such as the charisma of the ruler.

In a fourth component of meaning within the complex of identity and representation we find another element, which we would denote as the problem of the form of the chief men (*hoi kat'exochen*). The realm that is sustained by the ruling charisma of a single individual is not yet a state having a form that would include a ruler, and even if a charismatic ruler takes the whole pathos of a nation into himself and allows the nation to become visible in his actions, he may possibly become the founder of a political form, but that does not follow simply from his existence. This fourth meaning of representation deals

with the phenomenon that the state as a whole can be symbolized entirely by one man, wholly apart from the charisma of the person who at the time is doing the symbolizing as well as from the pathos of the nation that is expressed in his actions. Thus, the difference between a charismatic dictator and a monarch is a formal difference of this type. A state may be said to have a form if ruler and ruled of all degrees can compress the experience of rulership into one image, one form, one symbol, if they can experience rulership originally in an image and only secondarily in a rational justification. In the section on monarchy, Schmitt considers this problem very briefly, referring to the material on French history as found in the books by Funck-Brentano and Bloch on French kings (282 f.). Under the form of kingship, the incumbent person appears as a demigod, endowed with supernatural gifts and the ability to perform miracles. Whoever steps into this form, even if he were personally inadequate, is nonetheless cloaked in the charisma of the form.<sup>3</sup> All peoples at all times do not have the ability to experience the state as an image. States where what Schmitt calls the formal principle of identity is effective appear to me to be best characterized negatively, as states that either have lost the ability to form images or are unable to do so. In the place of a symbol of unity we find a theory of unity.

Schmitt is also of the view that democracy, which is overwhelmingly determined by identity, is negatively differentiated as well—from monarchy, which is characterized by representation. If the sentences where he expresses this opinion are sometimes too vague, it is not so much his fault as the fault of a political theory that again lacks a conceptual language adequate to the treatment of this question. We have already cited the definition of democracy, that it is “identity of ruler and ruled, governor and governed, commanding and obeying” (234). Schmitt does not mean this definition literally: Ruler and ruled are of course persons just as varied in democracy as in every other type of state. Rather, in a democracy the governing relationship merely does not, according to Schmitt, express itself as “a qualitative difference.” This sentence would also be astonishing if it were taken literally, because democracy is precisely that type of state in which personal superiority is supposed to qualify someone for the position of leader—typically

3. Compare to this also Max Weber, the passage about the charisma of office, which unfortunately is also very succinct, in *Economy and Society*, ed. Günther Roth and Claus Wittich (New York: Bedminster Press, 1968), 3:1139–41.

the rulership in democracy is Caesaristic. As clarification, further passages ought to be cited: "a democracy depends upon not allowing the unavoidable concrete difference between governing and being governed to change into a qualitative difference and the isolation of the persons ruling." That could still be understood as meaning that the one ruling and those being ruled are, to be sure, concretely not one and the same person, but that the personal qualities of the ruler are not distinguished from the personal qualities of the ruled. Yet the next sentence immediately indicates that formal, not personal, qualities are meant: "he who governs in a democracy does so not because he possesses the attributes of a qualitatively superior upper-class, as distinct from a lower-class of lesser worth . . . greater competence and familiarity with the task [those are the personal qualities] can reasonably induce the people to authorize their competent and better qualified contemporaries with leadership and command. But he then rules only because he has the trust of the people. He has no authority on the basis of being special [that would be a formal difference!]" (237). For all the qualitative differences in a democracy between ruler and ruled, what is lacking is the belief in the living symbolization of the state in one person, in the incarnation of the people in a living sensory image that possibly is even deified, the belief that rulership belongs independently to a single person. For all the major qualitative differences within democracies, the democratic ruler is after all only one of the people, somebody who happens to rule, and not an image. This difference, that the one who is elevated from the people should be something more than the others—namely, the state incarnate—is indeed lacking in democracy. And if we set aside the notion of the state incarnate, as well as lesser versions of symbolizing the state in an upper and more privileged class, then all citizens of a democracy are equal. In a brilliant remark, Schmitt has touched upon the theme of symbolization and of the devolution of the symbol into submonarchical levels (as with many of the most brilliant passages of this book, this one is also to be found in small print, as an appendix to a section where logically it should not be):

The people are in a special sense all those who have not distinguished themselves and are not different, all who are not privileged, all who are not elevated by property, social position or education. . . . In the French Revolution of the year 1789, the bourgeoisie, as the third estate,

could identify with the nation so that the bourgeoisie was therefore the people, because it was the opposite of the aristocracy and of the privileged. . . . But as soon as the bourgeoisie, itself now distinguished by property and education, appeared as the class ruling the state, the nation wandered farther afield. Now, the proletariat became the people because it had become the bearer of negativity: the proletariat is the part of the population that does not possess property, does not participate in the producing majority and finds no place in the existing order. Opposed to the propertied classes, it therefore appears as the people in a particularly intensive sense, and an assembly of proletarians is today more an assembly of the people than is an assembly of industrialists or intellectuals. (243)

The disintegration of form through the advent of negativity can scarcely become more graphic than in this example. Accordingly one might say that democracy is a type of state that includes such elements as rulership, pathos, and institutions, but has no symbolic form.

In characterizing the typical democratic state as a formless political existence, Schmitt makes use of two concepts: identity and homogeneity. Beside identity, which is expressly emphasized as the principle of democracy, the concept of the homogeneity of all people involved in the life of the state is also essential. "Substantial equality" is the essential precondition of democracy. The rulers "must, according to their substance, remain within the bounds of democratic equality and homogeneity. In ruling or governing, one is not permitted to step out of the general identity and homogeneity of the people" (235). The ruler in a democracy is a being no higher than the ruled, for "that would naturally cancel out democratic homogeneity and identity" (235). "Democratic identity requires that all activity of the power of the state and of the government inside the state appears to remain within the substantial similarity of type. All democratic thought necessarily takes place within an inherently democratic context" (237). In all these statements, Schmitt invokes substantial equality or homogeneity as the determinant of the formal attributes of democracy. In this way, he endows the concept of democratic equality with a meaningful content, which is as important to the theory of state as it is useful. Schmitt expressly emphasizes the new content of the concept of equality when he says: "with the word 'identity,' the existence of the political unity of the people is emphasized in contrast to a normative, schematic, or fictitious

equality" (235). He might have gone further: Identity is contrasted with all differences in the qualities of personalities. "Democracy assumes both generally speaking and in every detail of its political existence a people that is internally similar" (235).

It is true that the problem of the construction of the social world, which is best tackled by the use of formal type-concepts, is mixed together with the determination of formal characteristics (as, for example, Schmitt did so well in the passages cited concerning the gradual dissolution of forms and the powers of formation), but this is later treated in its essentials by Schmitt. Homogeneity corresponds to democratic amorphousness in the sense that the persons sustaining the state are in fact similar in nature, and similar in sensibilities in an essential, decisive point—for example, in their community of religious views or in the experience of belonging to a nation (228–34). A casuistry of types would still face great tasks here, tasks that undoubtedly lie outside the realm of Schmittian constitutional theory.

In the end, the word *identity* points to the complex of problems concerned with the origin of modern democracies from the disintegration of the monarchic form. It emerges from the spirit of the idea of natural law, with its definition of democracy as a state unit in which (in contrast to the surrounding real relationships of rule) the people rules itself. When democracy is characterized in terms of the identity of ruler and ruled, emphasis is directed toward its liberal, form-destroying genesis. Schmitt attributes the idea of freedom to liberalism, and the idea of equality only to democracy. Now, the idea of freedom is in fact an idea of struggle, which is represented in the nineteenth century by liberalism. When democracy is actualized, however, it no longer requires the idea of struggle. On the contrary, as Schmitt very nicely demonstrates, democracy is distinguished by the exclusion and radical suppression of those who are not in agreement. Constraint is practically the essential characteristic of a democracy long in place. Insofar as it does not indeed describe a fact, but is meaningful only in a political situation of struggle, as a propaganda tool, it would thus perhaps be more to the point to restrict the term *identity* to the realm of political ideas, where it belongs. We would do better not to adopt it within the conceptual apparatus of political theory. The concepts "amorphousness," used to denote a formal political attribute, and "homogeneity," used to mark a social problem of similarity of type, might well satisfy all such requirements.

*III*

The analysis of the problem of the form of the state has provided us with insights into Schmitt's style of thought, insights with the help of which we can tackle a final question of utmost importance for his work: namely, the connection of constitutional theory with the principles of a theory of the state. We have spoken of the two-fold significance of Schmitt's research as a reflection of both an extraordinary richness of perspective and a tradition-bound conceptual apparatus, and we have striven to dismantle the complex concepts into their significant components: We have accepted this two-fold significance as given and tried to resolve it. We would now examine this same phenomenon in the context of its origin, in the activity of the thinker himself: Schmitt does not approach the problems of the state as an external observer but is himself active within the state as a creator of political ideas. His scientific judgments are not the statements of a neo-Kantian subject of cognition who objectively transcends his subject matter but rather are investigations of meaning from a perspective within political reality. Schmitt stands within the world of the constitutional-political ideas of the nineteenth century, just as the main object of his investigation, the Weimar constitution, stands within it as well. He takes the constitution as it is and works within a realm of ideas in which he, as much as the constitution, is enclosed. He never leaves this realm, but rather works things out within the horizon of these typical ideas. His characteristic way of thinking can be understood as accepting political ideas and giving meaning to political concepts with the intention of constructing an entire constitutional system of ideas—absent internal contradictions. Those who move within the circle of ideas of modern constitutions of the Weimar type find there such concepts as: constitution, constitutional law, constitution-giving power, bearer of constitution-giving power, continuity of state and constitution, validity of the constitution, constitutional changes, constitutional breach, and so on. And, if it can be done, it is doubtless a task of extraordinary importance to order this conceptual world according to its immanent sense. Only one scholar has risen to the task, one who is capable of surveying the entire historical development of the system of ideas and can allocate the concepts to their proper place on the basis of his knowledge. Schmitt has executed the task in a brilliant way, and large parts of his work—in particular, the parts of historical interpretation—are

the best that have been written about constitutions since Lorenz von Stein.

He who first constructs such a world of ideas is necessarily the creator of political ideas and, as such, comes into conflict with representatives of other directions of thought. It is without a doubt possible to treat the jurisprudential problem of the constitution immanently—for example, to construe the concept of the constitution as a concept dealing with rights, and to see in it nothing other than a juridical instrument. From this standpoint, one will understand by a change of the constitution (to seize on only this one problem) every amendment of the content of formal constitutional laws, and one will exclude no content from the capacity to amend. This legally immanent standpoint is thoroughly justifiable in terms of the materials, and the concept of the constitution that follows from it will have important political consequences in its practical application. If, on the other hand, one accepts the meaning that Schmitt grants to the concept of constitution in his system of ideas, then one comes to a wholly different interpretation of the conditions for amendment (which were already touched on above) and to wholly other political implications. Such practical political consequences of a new definition of the world of constitutional ideas is unavoidable, when *constitution* has come to mean a political decision—one standing behind the constitutional laws—made by the bearer of the constitution-giving power.

For this reason, it is improper to criticize Schmitt, as has occasionally been done, for his attitude as an observer inside political reality, and to condemn this attitude as politically tainted and therefore as unscientific. He who concerns himself with problems of the state generally does so because he takes an interest in them, and if the thinker's own political opinion should be transparent in the results of the politically interested work, it may be undesirable, but it is no disaster if the gain in pertinent insight is worth the effort. And this they are in Schmitt's case, in a wholly extraordinary measure. If ever it would be petty in light of so great an achievement to make a fuss about the noticeable political opinions of the author, this would be an instance of it. Schmitt's world of political ideas—the purpose of which is indeed to have political consequences—has been constructed for a presently valid constitutional instrument.

The obscurity with which Schmitt informs the reader about the meaning and intention of his work is, of course, regrettable, though

it is a reflection of others on whom Schmitt relies as he develops his own ideas. Apparently, he does not succeed in clarifying his own position regarding the reality of the state and considers his own work to be the construction of a political system of ideas for the purpose of an interpretative investigation of the Weimar constitution. Throughout the whole book he maintains the tone that the world of ideas is itself politics, yet he makes statements about the reality of the state as though politically immanent concepts were at the same time scientifically transcendent ones. The standpoint of the politically creative thinker and of the observer standing outside politics are constantly confused, and from this confusion arises the categorical tone to which we drew attention above. Interpretations that arise from Schmitt's formulation of political ideas are advanced in the tone of scientifically objective statements. Not much damage is done by this confusion of voices where Schmitt's theory of the constitution is concerned. If the reader simply ignores it, he sees clearly that Schmitt's remarks refer to an ideal-typical construction of a system of constitutional ideas, and the occasional categorical formulations will not confuse him. More dubious is the continuation of this confusion in parts of the work on the theory of the state, which we have analyzed. Schmitt also treats theoretical questions concerning fundamentals of the state in the language of political ideas. That means he treats problems that can be investigated only from a transcendent standpoint from the immanent standpoint of the Weimar constitution and its ideas. Our constructive analyses were analytic in the sense that they took apart Schmitt's use of the theoretical problem of the state, and constructive in the sense that they reorganized the rich perspective of Schmitt's work from a transcendent standpoint. In place of effective principles, existential unities, decisions, ontological validity, and so on, we considered the constituent elements of the state as being capable of organizing themselves—and one such self-organizing constituent element of reality is Schmitt's own constitutional theory. In a democratic state, which, as we showed, is characterized by the lack of a capacity to experience the unity of the state in an image, this unity is formed rationally by political ideas. In place of meaningful images that capture the unity of the state within themselves, we find ideas, with associated theories of the nation as a political-existential unit having a will, a power, and a bearer of power who makes a decision in which a constitution is created. All these concepts correspond to no

actual facts. They are actualized through no perspective but rather are themselves contained as the contents of belief and as political motifs within political reality. They themselves are constituent elements of the reality of the state. In my opinion, one would have to construct correctly and systematically a constitutional theory in this way: first transcendently, as in our analyses. Here the problems of the structure of the state are explained so that the position of political ideas as the rational source of conceptual unity would be made clear. In particular, there should be no doubt that political ideas are not statements about reality so that (as Schmitt does) one might then work through the constitutional world of ideas immanently.

Schmitt has, I believe, not reached the greatest clarity on this point. But even if the structural problems only appear by way of the images of political unity, his strong sense of the reality of political ideas has led him to shatter the traditional treatment of problems of the state, a treatment that had dissolved into legal theory, and to reopen a perspective on the totality of the experience of the state.

§18. *Die moderne Nation*, by Heinz O. Ziegler (Tübingen: J.C.B. Mohr [Paul Siebeck], 1931). Review originally published in *Zeitschrift für die Gesamte Staatswissenschaft* 95 (1932): 507–509.

Ziegler's monograph on the modern nation fills a gap that everyone who has studied the problems of political science [*Staatswissenschaft*] has noticed. There has been no investigation using the methods of Max Weber's sociology dealing with the state of the problem of the nation in light of the political situation of the post-war era and, in particular, in light of the separation of the national idea in Germany and Italy from the liberal democratic idea with which it is still typically associated in France. Ziegler's sociological approach rejects all attempts to comprehend the nation either objectively, through an analysis of the spirit of a people [*Volksgeist*], the community of language, or other objective characteristics, or subjectively, as the community of consciousness of its members. Instead he proposes to investigate the nation as the legitimating idea of contemporary statehood. In other epochs of political history, the polis, the Reich, the absolute state, or the dynasty were the unifying images used to justify political action and continually to reproduce

the unity of the political structure. So it has been for the modern world of states since the French Revolution: From beginnings that are difficult to discern, the idea of the nation has become the most important unifying image to ensure the existence of a political unit. In the first and second chapters, Ziegler develops his approach to the problem and presents an outline of the history of the doctrine of the nation. Chapters three (70–138) and four (139–232), which are very diffuse, deal with the success of the nation in the political sphere (particularly in the example of France) and preconditions in the realm of ideas for the authority of the modern conception of the nation (Hegel, Ranke, Stahl, Stein, Gneist, Treitschke, Frantz). The fifth chapter (233–305), under the title “Nation and Polity,” deals with the political and spiritual connections by which the legitimating idea is traced from its national-democratic beginnings in France, through liberalism, to the liberation from liberalism and the legitimization of the Italian dictatorship.

The starting point determines Ziegler's theme, and he consistently maintains it. The nation is not a simple existing thing [*Seiendes*] that a researcher could describe according to its own characteristics. Nor is it an idea lurking behind reality in such a way that the actuality of the state is the expression of the idea. Rather, it is a legitimizing image that engenders unity, which is a relevant component of the reality of the state itself. “Insofar as legitimacy contains the ultimate specification of the nature of every rule—lying ‘behind’ its social-technical aspect, as it were—precisely to that extent the political relevance of the institutions and organs of modern statehood are to be understood on the basis of this national legitimacy” (65). From this consideration follow questions concerning the classification of the relationship between legitimizing images and the institutions legitimized by them, between the relationship of the legitimized institution and the social-technical requirements of political unity at a given historical moment, and finally, between the relationship of all these matters to the basic political function of the government. “For the specification of the concept of government the following are sufficient: (1) recognition of the requisite personality of the government, which means the law of small numbers applies to each form of rule; (2) recognition of the ultimate ordering and unifying function of the government. Government in this sense is an unavoidable factor in all statehood, and must therefore also be effective in democratic statehood, if democracy is to function in the long run” (277).

A number of additional problems grows from these considerations (which are based, besides on M. Weber, especially on C. Schmitt and Smend), at the center of which stands rule. Rule must be legitimated by means of an "ideology" along the lines of the image of the nation and must be actualized in institutions. In the process of history, an institution—parliament, for example—can lose its force as the actualization of rulership, because: (1) socially and technically it may not be up to coping with modern tasks; (2) with the success of the national-democratic idea, it may lose its liberal function of serving as a check against a traditional ruling class; (3) as the representation of particular interests, it may itself no longer be a suitable ruling organ after the traditional ruling power has disintegrated. Thus the social and technical needs, the institutions, and the legitimizing image, which all gravitate around the central requirement of statehood, namely, the ruling power of decision, may all conflict with each other. The institution of parliament was a suitable carrier of the idea of the nation so long as the group in opposition represented the traditional ruling class. For a brief historical moment, liberals coincided with democratic nationalists. Now, however, the ideas of the national democrats have abandoned their liberal trappings and appear to be suited to other, and dictatorial, legitimating institutions as well.

Ziegler traces this central idea very well through a political diversity of forms extending from the nineteenth century into the present, and he clearly indicates the shifts that in fact have taken place. Notwithstanding the great merits on the whole (it could be shortened only slightly), some reservations regarding matters of detail are certainly in order. All of them, however, might be traced back to a fundamental aspect of Ziegler's book: his reliance on secondary material. As I suggested, the problem of class stratification and the dynamics of class relations are not theoretically worked out by Ziegler—indeed, not once did he provide a coherent formulation even to the modest degree of precision I have expended here. Rather, he accepts more or less the position that follows from the work of Weber, Mannheim, Schmitt, and Smend, though there is still much work to be done even here. For the political sections and the sections dealing with historical doctrines, he has relied in part on excellent secondary studies, and in part he has endeavored to work with the primary materials (Hegel, Ranke, Stein, etc.), at least to the extent that the work of Schmitt, Salomon, Rothacker, and Meinecke has

paid attention to them in recent years. Yet these secondary studies and his selection of original sources, which was determined more by the interest of others, is no real substitute in a monograph for the independent and complete knowledge of the source materials. Thus, for example, the pages on Rousseau (98 ff.) would have profited very much if, beside the conventional passages from the *Social Contract*, he had cited the introductions to the sketches of the constitutions for Corsica and Poland as evidence of Rousseau's historically integrated conception of the people. The fact that, under the immediate press of revolutionary events, liberal-democratic institutions are not suited to the realization of the governing function has already been impressively and extensively dealt with by Necker, who is not mentioned by Ziegler. As for the problem of the change in the purpose of Parliament, from a check on a traditional ruling class to an institution of national-democratic representation, what Disraeli says in his *Coningsby* on the parliamentary reform of 1832 should not be overlooked—not to mention such subtleties as Calhoun's plan for concurrent majorities and Hare's argument for proportional representation. To note such details of omission in great number does not make much sense, however, for the book proceeds as conventionally in its theoretical work as it does in its selection of material. Within these limits, however, it agreeably fills in a lacuna with an intelligent and well-informed treatment of the problem of the nation according to the current state of knowledge.

§19. *Daniel Defoe, Essay on Projects (1697): Rechtsgefühl in Justiz und Politik, 1929*, by Ernst Gerhard Jacob, *Kölner Anglistische Arbeiten*, vol. 8. (Leipzig: Bernhard Tauchnitz, 1929). Review originally published in *Archiv für Rechts- und Wirtschaftsphilosophie* 25 (1932): 397.

Jacob's work is a dissertation in history from the University of Leipzig and was picked up by the *Kölner Anglistische Arbeiten* "on account of its insight regarding the early English Enlightenment." It gives a very careful, clear, and pleasantly readable compilation of political, cultural, and economic historical data on the "Projecting Age" (35–58, 79–83), which constitutes the background required for understanding Defoe's *Essay on Projects*. Distinct from this back-

ground material is the *Essay* itself, the content of which Jacob first reproduces (59–78) in order then to discuss in detail the question as to its originality, to compare the *Projects* with other projects implemented at the time, and to prove the influence of the work on later history (84–126). Before and after these main parts of the work are smaller sections on Defoe's life, on the history of the origin and spirit of the *Essay*, and on the personality of the author.

Jacob's work contains no significant new research, and the author himself emphasizes that he sees its value simply as an analysis of the *Essay* that is more precise than has existed to date. The aim is to lay the ground for more specialized investigations by economists, jurists, and historians. And it seems to me in fact to be a useful contribution to make so significant a work as the *Essay on Projects* better known and to familiarize a larger circle of readers with Defoe's great importance as an economist and political writer, an importance probably comparable to Locke in this respect. It is very much to be wished for that studies similar to Jacob's be carried out in order to direct attention to the "Complete English Tradesman" and the tract on "The Original Power of the Collective Body of the People," two works that are important both theoretically and for economic history.

§20. *Deutsche Gemeinschafts-philosophie der Gegenwart: Eine Untersuchung ihrer Grundkategorien und kritische Darstellung ihrer hauptsächlichlichen metaphysischen Gestaltungen*, by Hans Steingraber (Berlin: Junker und Dünnhaupt Verlag, 1933). Review originally published in *Blätter für Deutsche Philosophie* 10 (1933): n.p. Printed copy in Hoover Institution, Voegelin Papers, box 35, folder 15.

Steingraber sets himself the task of providing an overview of the German philosophy of community developed during recent decades. The older works, in particular the work of Tönnies, are the basis for this undertaking. The treatise is divided into three chapters. The first chapter, an introductory investigation and explanation of the categories of society and community, serves to delimit the object to be treated in the following chapters on German philosophical

thought. The second chapter sets out the basic categories of contemporary German philosophy of community: the individual, the collective whole, and the relationship between them. Under the category of the individual, Steingraber treats the theories of Schulz, Soelde, Bauch, and Natorp; under the category of relationship, the theory of relationship. The section on the category of the collective whole treats, first, the structure of the psychic whole (F. Krüger's theory of totality) and then the problem of the social whole. Steingraber divides the theory of the social whole into the framework of the whole as given [*Gegebenes*], as given up [*Aufgegebenes*], and as nonexistent [*Ungegebenes*]. The whole as given can again be rendered thus: (a) as inner agreement (Gerda Walter's theory of community); (b) as personal whole (Scheler); (c) as consciousness and structure (Lehmann, Dunkmann); (d) as impersonal whole (Spann); (e) as the cultural soul (Spengler, Frobenius). The idea of the totality "given up" is said to be a basic idea of each theory of community in which an "ought" [*Sollen*] is distinguished from an "is" [*Sein*], and can therefore not emerge as a theory of the community of being, which is a harmonious, fulfilled life in itself. The theory of community of Hermann Schwarz is presented in terms of the categories of the whole as "nonexistent."

The third chapter deals with systematic metaphysical penetrations of the problem of the social whole. To this end, it treats first the systems of Lehmann and Dunkmann, who postulate a collective social person, and then the systems of Spann and Schwarz, who transfer the ultimate basis of the reality of the community and its meaning to a suprasocial metaphysical realm—to the world of ideas or of God.

Steingraber's essential achievement in his attempt at providing this history of doctrine is his exceptionally clear, penetrating, and comprehensible organization of the whole complex of German philosophy of community. At every turn, the intellectual theme that leads to a particular kind of metaphysical system is pointed out. Particularly valuable is the section on the three metaphysical settings (in the third chapter), which demonstrates the metaphysical legitimacy of an ontological treatment of the social whole. The presentation of the basic ideas is clean, clear, and correct.

Critical remarks would have to begin with the question as to whether German philosophy of recent decades is in fact so hermetically sealed that one can adequately explain its general sense

without once tugging at the threads of earlier periods of philosophy of community, and in particular, the Protestant and Catholic theories of community, which continue to have such a strong effect on contemporary German theory. This thought would have then led to the further question as to whether there might not be found, besides the Christian, also significant ancient elements in the current philosophy of community. Steingraber does not touch on questions of this nature—but it is probably unjust to require it. For the work, submitted as a dissertation to the philosophical faculty of Greifswald, already towers by far over the average measure of dissertations.

§21. *Das Wesen des Staatsgebietes*, by Walter Hamel (Berlin: Verlag von Otto Liebmann, 1933). Review originally published in *Blätter für Deutsche Philosophie* 10 (1933): n.p. Printed copy in Hoover Institution, Voegelin Papers, box 53, folder 16.

Hamel's investigation of the nature of state territory takes as its starting point those concrete questions regarding the positive state and international law that could not be satisfactorily solved up to now by existing theories of state territory. In particular, it deals with institutions such as the mandated territories, the Saarland, the Rheinland occupation, the position of Danzig, Bosnia and Herzegovina, the example of Belgium in war (the Belgian state had a territory, though its land was occupied by the enemy), etc. Neither the older theory that views territory as an object nor newer theories that regard territory as the spatial form of the state or as the spatial extent of its jurisdiction can adequately account for these and other, similar cases. Starting from the concrete task of creating a theory of territory that satisfies the needs of the model in terms of positive law, Hamel expands this argument to consider general questions of philosophy of the state and the task of determining the nature of the state from the standpoint of territory.

In keeping with his legal schooling, Hamel's thought-paths move in the circle marked by the names of Jellinek, Eric Kaufmann, and Triepel; his philosophical theses are, in terms of substance and expression, oriented around Kant, Hegel (essentially in Kaufmann's rendering), Scheler, and Nicolai Hartmann. His conception of the

state—described as the body of a settled people equipped with original power to rule—touches in essential points on that of Jellinek. It alters Jellinek's conception, however, insofar as the "people" is more precisely specified as "the awakened people" [*das erwachte Volk*], a people conscious of the values assigned to it for realization as "the nation in its political program" (234), and insofar as the significance of territory is elaborated in detail as a source of meaning for the mission of the state. This type-concept of the state reflects the political creation of a certain historical period, what Jellinek has called the modern state, the state that has existed since the absolutism of the sixteenth century.

An ontological investigation of the nature of the state runs parallel in Hamel's work with the presentation of the historical type-concepts. Thoroughly in the tradition of Jellinek once again, the state is viewed as a person, a functional unity, and a teleology. Yet Jellinek had regarded the state-person as a unit only in terms of the teleological formation of concepts, and refrained from making any judgment concerning its ontological status. Hamel goes beyond Jellinek to make the ontological assumption that the state is in reality a reasoning person, not a mere individual, but a "higher" person. Such a step is possible, in Hamel's opinion, because the nature of the person lies in the unity of its telos, and because a telos can extend beyond the individual person without destroying it. He designates the collective telos of the members of the state as follows: the collective mission, vocation, intelligible cause, law, effective law. It is also structured into an objectively predetermined mission and the will to fulfil it.

The reasoning state-person [*staatliche Vernunftperson*] is not a will existing under a formal law, but a will that has a concrete task to carry out. The content of the task is derived essentially from two sources: from the material value-content [*Wertgehalt*] of the nation and from the commitment to realize that value-content at a particular place on the earth's surface. The "mission," which is a "categorical command" and a "basic category," is determined through the "psyche and situation" of the people constituting the state. The relationship of the state-person to these things appears as action in a concrete, meaningful situation. The things with which the state-person occupies itself are well suited to being carriers of meaning. From a condition of a defective content of meaning, they are continually being transformed toward a condition of a perfect fulfillment of meaning. In the "situation," the immanent, possible content of

the meaning of things encounters the act that makes the meaningful contents actual. Not that a transcendent purpose is realized in a material that is for itself meaningless, but rather that the meaning of the purpose emerges immediately from the order of things in which the person acts. Things are constituted by the purpose actualized through them. For this reason, state territory, as the real unifying factor of all things (from a sense of place created by heavy manual labor to the products of the soil), is the essential constituent element of the political purpose of the state. "In the territory of the state lies the most comprehensive political situation; in it, all narrower territorial interests are contained, and all particular political tasks and territorial bodies that emerge from parts of the territory are incorporated into the sovereign structure of the state." "Territorial grandeur is the overarching political purpose—that can be realized practically through rule of the state territory" (223 f.).

With that, I believe I have outlined the essential core of Hamel's theory. In the qualification "I believe" already lies a part of the critique to be made of a book that is rich in ideas and content. Hamel uses a great number of concepts (person, reason, telos, determination, situation, basic category, categorical unit, etc.) without offering an introductory explanation of them, and he expects that his reader will deduce or guess the more precise meaning from his usage. Whether I have succeeded in this, I do not know—especially since the book contains neither an adequate table of contents (which would have forced the author to a more careful structuring of the material) nor a subject index. Reserving the possibility of decisive misunderstandings in the presentation made above and in the critical remarks that follow, the following is to be stated: In its intention, Hamel's venture is very important for the theory of state, but its execution leaves much to be desired.

The effort is important because an essential aspect of the existence of the state, namely, its soil [*der Boden*], is systematically raised into a component part of his philosophy of state by means of his theories of the situation, of the purpose of the state, and of its constitution by way of the situation. It suffers (unnecessarily) from deficiencies because it does not make sufficient use of the possibilities offered today by philosophical anthropology and sociology in order to clarify the problem under investigation. As this review shows, Hamel develops the essential components of his concepts within the well-established world of constitutional law that was

created by the tradition of Laband and Jellenik. I will provide no solutions here, but would like to raise a few questions. Why must the state be understood ontologically as a person? What is a person? Here, a clarifying study would have to be inserted, and for Hamel, who is acquainted with Scheler's theory of the person, such a study is immediately available. Why is the state a reasoning person and not a spiritual person in Scheler's sense? How is a collective person structurally distinct from an individual person? Does a collective person also have an inner person? If not, why not? And what follows from this for the problem of the state-person? Would it not be advantageous to investigate, in the categories of empirical sociology, the process of the formation of the idea or myth (Sorel, Mussolini) by which the territory becomes the content of the telos? And from these examples, would it not be useful carefully to distinguish the categories of law in which the social content is taken up juridically? Is not the person the category by which the unity of actions must be construed juridically, but in no way the category by which to understand the reality of political existence? One of Hamel's best ideas is the thought that the soil, as the medium of communication of humans in their physical existence, is the foundation for communication among intelligible people, that the communicative foundation for the spiritual arrangement of the community emerges through the unity of settlement. Why is the thought not expanded into a theory of the possibility of the intelligible realization of meaning in things developed on the basis of the structural relationship of nature, body, and person understood as accounts of being? We must content ourselves with these hints.

Apart from these failings, Hamel's work offers an extraordinary wealth of ideas and suggestions. It contains a valuable historical overview of the treatment of territory in the theory of state since antiquity, an extensive critical review of the recent literature, and finally, though less important for philosophers than for jurists, a detailed elaboration of juridical institutes from the standpoint of the new theory.

§22. *Handbuch der Amerikakunde: Handbücher der Auslandskunde*, vol. 6, edited by E. von Hartig and W. Schellberg (Frankfurt am Main: Moritz Dinsterweg, 1931). Review originally published in *Frankfurter Zeitung* 66, no. 13 (1933). *Literaturblatt*, 5.

The editors of the handbooks of foreign studies [*Auslandskunde*] have arranged for the book on America to follow their works on France and England. The work has been prepared following the same principles as those of the two preceding volumes: in visible contrast to cultural-psychological "syntheses" of Americanness, the individual subject areas of cultural creation are presented by competent specialists. These principles generally work very well when used to prevent rash conclusions and as an initial means to gain familiarity with the material. But they can become questionable where they succumb to the opinion that one can speak about spiritual phenomena without interpreting and classifying them.

The best treatments are of those subject areas that lie relatively more to the periphery of spiritual phenomena, namely, the regional studies (Haushofer) and the economic essays (Levy). The weakest are the pieces on literature (Mutschmann) and philosophy (Richter). The quality declines, therefore, when material is considered that must be subjected to more complicated interpretations than that of the spurned "syntheses" in order to become at all comprehensible. For a second edition, it is to be hoped that the many shortcomings can be rectified and that the investigations of literature and philosophy can be more appropriately presented.

§23. *Rechtfertigung des Staates bei Christian Wolff*, by Guenter Namslau (Berlin-Gruenwald: Verlag Dr. Walther Rothschild, 1932). Review originally published in *Zentrallblatt für die Juristische Praxis* 2 (1933): 141-142.

Christian Wolff and his philosophical work were consigned to the shadows by his great successor. And this eclipse extends not only to his works on the theory of cognition, which rightly disappear behind Kant's critique of reason, but also to his philosophies of state

and law, which are in fact in no way inferior to the work of Kant. In spite of studies that have endeavored to gain a new understanding of Wolff's philosophy in the past two decades, the historical connection between Wolff and Kant, and, in particular, the extent to which Kant's philosophy of law builds on its predecessors, has still not become wholly transparent. In the main part of his work, Namslau thus gives a very useful presentation of the basic features of the Wolffian theory of the state—on the nature of the individual and the community, on the types of society, on the state, and on the suprastate community—and then provides a detailed account of Wolff's theory of lawmaking and its preconditions. The Wolffian theory is clearly distinguished from the theories of the state and of law of Locke, Grotius, Hobbes, Pufendorf, Rousseau, and Kant. As the main purpose of his investigation, Namslau mentions that he wants to demonstrate the political significance of the Wolffian theory for our time. Wolff developed his theory of law during a time of transition from the mercantilist welfare state to the liberal state: We are said to find ourselves in a similar period of transition today, only in the reverse direction, and thus there is something for us to learn from the political goals set by Wolff. Namslau summarizes what we can learn in the following words: "welfare state, but not a state that provides everything, the sovereignty of the people, but not mass rule, freedom of the personality, but only in service of the community, law not for its own sake, but born out of duty—that is the wisdom that comes to us from the eighteenth century. It points us in the direction of a solution to problems around which present battles are fought, and reveals at the same time the actual sense of Christian Wolff's justification of the state" (96).

To offer a few critical remarks: Some details of the Wolffian political theory are better understood if one takes into account a tradition going back to Aristotle. Thus would the interaction between the adjacent communities of "household" and "state," which remains somewhat unclear for Namslau, probably become fully clear if one examined the Wolffian typology of marital, paternal, lordly, neighborly, and sovereign [*staatlich*] society, not as an original achievement, but rather as a modest modification of a component of a system the fundamental attributes of which are taken from Aristotle's *Politics*. It would also have been useful to consider whether Wolff's idea of the purpose of the state as the central idea in his account of the origin of the state (in contrast to its derivation from a social in-

instinct or egoism) is not also of Aristotelian origin. Namslau shuts off this direction of inquiry by advancing the opinion that Wolff traces the origins of human society, "not, like Aristotle, out of a natural instinct for sociability, but out of a moral duty" (73). A reading of the first book of Aristotle's *Politics* would convince Namslau that Aristotle advances no notion of any kind of instinct, but on the contrary precisely that theory of the good and of the purpose of the political bond of which the Wolffian theory is so strongly reminiscent. Where Aristotle speaks of the *horme* (beginning) (1.2), he means the natural mechanism that is needed to actualize the purpose of the state.

§24. *Die Entstehung des Staates: Eine Staatstheoretische Untersuchung*, by Reinhold Horneffer (Tübingen: J.C.B. Mohr [Paul Siebeck], 1933). Review originally published in *Blätter für Deutsche Philosophie* 11 (1934): n.p. Printed copy in Hoover Institution, Voegelin Papers, box 54, folder 6.

Horneffer divides his work in four parts. The first and introductory part (1–28) delimits the object of investigation and treats preliminary epistemological questions; the second part (29–82) is concerned with the present state of theory; the third and most important part (83–157) provides Horneffer's own attempt at a theory of the origin of the state; the fourth part (158–253) verifies his theory with nine case-studies of the origins of new states.

The work is distinguished as an investigation in the theory of the state on two counts: first, not only does it provide a theory of the origin of the state, but second, it chooses its subject matter on the basis of a particular theoretical interest in the state. The subject matter is limited to the so-called secondary origin of the state, in other words, to the origin of states in light of their history; the question of the origin of the state in the course of the development of humanity is excluded. The question of the secondary origin of states is considered because it permits the issue of the mode of existence of the state to be usefully studied. Horneffer makes use of formulas coined by Smend in order to conceptualize the central problem of the existence of the state in terms of the continuous integration of human action. The state exists only while it functions, while at the same time

it constantly maintains its existence by means of human actions. Now, in the continuum of integrative actions by which the state exists, not all actions are equally important. Some of them, namely, actions that actualize the state, are more important. The exceptional acts that actualize the state are those through which the founding of a state takes place. Thus the theory of the origin of the state, as Horneffer understands it, entails more than the literal meaning of his title: It entails a theory of the existence and preservation of the state exemplified in especially important acts of the actualization of the state, namely, those acts in which it originates.

We pass over Horneffer's excellent account and critique of existing theories and turn instead to his own efforts. He himself describes his work as an attempt at a synthesis, and by that he means that the state does not belong to a single realm of being, such as value, will, nature, and so on, but rather is extended over several realms. A theory of the state, therefore, that seeks to grasp its subject matter adequately must not restrict itself to a single method of examination, but instead must apply all methods suitable to the proper treatment of the subject matter. Horneffer rejects a mere normative theory of the state along with a theory that considers only the social context of motivation; the unity of the state is not to be ascertained as a unity of acts, nor as a unity of the meaning of acts, nor as a unity of norms. Confronted with the question as to what the thing called "the state" now is, and what type of multiplicity would be enclosed within its unity, Horneffer develops a theory that perhaps might be described as an anthropology, because according to it, the ultimate empirical unit of the state is the person. By virtue of the basic structure of a specific spiritual nature, the state emerges as an organized multitude of people. The basic structure is determined in the Kantian formula as "unsociable sociability" [*ungesellige Geselligkeit*]. The state becomes an instrument of the realization of a community whose actualization is a duty: Only in community can a cosmos of value distinguish itself by amalgamating all the finite, limited realizations of value in single humans. The state is in this sense the total living community of a multitude of people, who, through their multiplicity, form a cosmos of value in the unity of the community of the state. But the state community can be realized only through conceiving of the idea of a concrete community founded by a leader who finds a following. In the leader's idea and will to found [*Gründungswillen*] lies the embryo of the state. The state develops

through a process by which the will of the leader becomes an imperative for his followers. At the same time, the leader's will is the embryo of the legal system understood as a system of norms, namely, a system that organizes the state community for the long term as well as the ordering of the relationships among the leadership, the people, and subjects. The full realization of a state entails: (1) as substratum, the people; (2) a material idea of state, which aims at founding a concrete political society; (3) a formal idea of a certain kind of organization (the constitution) for the people in a political community. Where these three elements come together in a new combination, a new state has originated.

With that, we have summarized the main lines of Horneffer's effort and must refer readers to the book itself for an account of the wealth of problems he develops in connection with these basic ideas. In one way or another, they deal with almost all the basic problems of a theory of the state.

To launch a critique of his work is a questionable exercise because it could so easily become unfair. The third part, which contains the centerpiece of Horneffer's thought, is seventy-four pages long. It is obvious that the problems of a theory of the state cannot be worked out in every detail within this space. We hope that a system will develop out of this embryo. With this reservation in mind, a remark on the effort as a whole may be permitted. Horneffer's own ideas are modestly presented as a "supplement" to the reigning theories of the origin of the state, but he provides far more than a mere supplement to some theory or other, for his ideas arise from a thorough understanding of the basic problems of the theory of the state. Even so, they are connected to other theories—above all in their conceptual organization—and not always to Horneffer's advantage. Only with great difficulty can the philosophical languages of Heinrich Maier, Nicolai Hartmann, Eduard Spranger, and Theodor Litt, in addition to the conceptual apparatus of the Hegelian and the normative theoretical school of law, be assimilated to one another. It is certainly not easy to avoid the problem because there is today no great philosophical system dealing with all the requirements of a theory of the state. Thus every German theorist of the state confronts the problem of working through the philosophical preconditions independently, from the standpoint of his own specific questions. Perhaps new ways will reveal themselves through the study of the theoretical systems of the state in other countries, some of which have been part of a

tradition of a mature philosophy of state for quite some time. For example, Horneffer's ideas concerning the conception of an idea of the state [*Staatsidee*] by a leader who must find the required allegiances and shape his substantive idea of the state in such a way that it finds a minimum of agreement with the "substratum," that is, with the people, is an idea developed almost identically by Maurice Hauriou. Several significant conceptual achievements could be adopted unaltered from Harriou's system, whereas examination of philosophical concepts derived from an intention other than the founding of a theory of the state could be ignored.

One final word regarding a single question. Horneffer develops from the Kantian "unsociable sociability" a catalogue of human types that are distinguished from one another on the basis of a greater or lesser emphasis on the basic constituent elements of this notion. So one finds: (1) the extremely unsocial, or antisocial, type; (2) the extremely social type, who fits in well everywhere; (3) the mass of people, who, while safeguarding a certain independence, are nevertheless prepared to be integrated; (4) the person who seeks community, but only as its leader. I cannot see how the fourth type can be developed out of the basic notion. Kant, in any case, had seen in it a type that expressly does not figure into the problems of the "unsociable sociability." The problems of leadership and authority appear to me to belong to structural contexts wholly other than that of "unsociable sociability." In further developing his system, it would probably be necessary to shed light upon this question in much greater detail.

But individual critical remarks of this nature are probably unimportant compared to the acknowledgment of an astounding knowledge of the subject matter as well as a theoretical grasp of the fundamental problems of the theory of the state that deals with the basic elements of the decisive questions.

§25. *Verfassungsrecht und soziale Struktur*, by Dietrich Schindler (Zurich: Schulthess und Co., 1932). Review originally published in *Zeitschrift für Öffentliches Recht* 14 (1934): 256-257.

Schindler's book is a significant attempt in the direction of a post-war theory of the state that seeks to withdraw from pure positivism

in favor of a general conception of the nature of the state. The title, *Constitutional Law and Social Structure*, indicates that the author considers the unity of the reality of the state to be a methodological problem, namely, that of a system whose elements have been one-sidedly absolutized into independent objects by the normative theory of law and by sociology. With a common starting-point in the dialectical method and a shared relationship to the social theory of Litt, Schindler's effort is closest to that of Smend. The book is divided into five parts. These lead from the general assumptions of the dialectical method (part 1), through the dialectal formation of the law (part 2), its place in the social whole (part 3), to the individual questions of constitutional theory (part 4). The work then concludes with a concrete investigation of liberal and democratic constitutions (part 5).

The most scientifically significant achievement seems to me to lie in sections 3 to 5. The third section develops a theory of the social whole as the totality of the social life of a people brought together into a state. All phenomena within this whole are to be understood as partial phenomena, that is, as phenomena needing to be supplemented by the other parts if they are fully to be understood: These other parts in turn are not immediately evident in the part under scrutiny at any one time. This approach sheds significant light on a series of individual problems that we can only list here (and unfortunately, even this is incomplete): the relationship of the legal and the extra-legal, for which he developed the valuable concept of the "ambiance" of the legal; the problem of the multi-layered character of political theory, insofar as it is not a complete theory of the state but emphasizes only certain points that appear to it to be relevant. At the same time, political theory "assumes" the whole remaining reality of state as a datum. Thus, for example, a liberal theory is to be understood, not as self-evident, but in terms of a background of a social stability it silently assumes as given. Conversely, an authoritarian state ought to be viewed in the context of social dissolution, the remedying of which is its main task. Of the individual questions pertaining to constitutional theory, we refer in particular to the theory of state forms and to the first-rate interpretation of the theory of the "mixed form" as an attempt to unify into a complete state form those elements that are divided in the pure state forms into constitution and ambiance. We refer also to the chapter on the concrete human being, in whom all the dialectical oppositions of the

reality of the state are rooted and who is nevertheless called upon to resolve them by a concrete decision. In the chapter on the concrete human, Schindler advances furthest to the systematic source of the problem of the state, namely, the nature of man—albeit without using from the beginning the dialectical structure of the human being as the basis of his system. The fifth part applies dialectical theory to the concrete case of liberal-democratic constitutions and offers outstanding analyses of the extra-legal ambiance that makes the functioning of the liberal-democratic system possible.

Less successful than the splendid concrete analyses, it seems to me, are the introductory, systematic parts of the book. I have already mentioned that Schindler has worked from the concrete questions up to their systematic center in the theory of the nature of man. The human is said to be the origin of the contradictory character of the phenomenon of the state and has also to resolve these contradictions by a "decision." Unfortunately, Schindler does not expand on this systematic insight, which is expressed with full clarity, to which he has been led by the material itself. Instead, he offers an analysis of the "dialectical form" of the law as the general foundation of his concrete investigations. The four dialectical moments of the law are: (1) its nature as a normative order (the normative-formal element); (2) its chief relation to the reality of the power of the state (the sociological-formal element); (3) its relationship to an ethical content (the normative-material element); (4) its relation to vital necessities (the sociological-material element). For reasons of space, an appropriate critique of these "constituent elements" cannot be given here. By way of allusion as to what would be involved, it appears to me that Schindler has fallen prey here to the "dialectical" method, with its polar concepts of content-form, normative-sociological, and so on. But just why this collection of concepts should be taken as the starting point is unclear. Although Schindler says nothing about these questions, it would seem that the actual importance of these concepts in the contemporary political science literature legitimates it sufficiently for him. That we are concerned with a content-form problem in the law is indeed correct, and it may well be true that the opposition of normative and sociological is not wholly meaningless. Yet how these questions now actually stand with respect to concrete and essential legal contents may well have to be investigated from the bottom up and cannot simply be assumed. For example, simple adoption of the Weberian theory of

state would, in this case, certainly yield more. A methodologically conscious analysis would also have to derive this complex of problems from philosophical anthropology.

Schindler's work appears to us therefore to be an excellent attempt to delve into the systematic problems of a theory of the state, moving outward from the concrete problems of the life of the state—in particular from the problems of democracy and, more narrowly defined still, from the rich experience of the Swiss democracy. Unfortunately, this attempt is not carried out to its logical end (though, as I emphasize again, the systematic goal is in sight). This is because the introductory parts make too many concessions to the treatment of the problem reigning today, a treatment that is something of a dead end.

§26. *Politische und soziologische Staatslehre*, by Max Rumpf (Tübingen: J.C.B. Mohr [Paul Siebeck], 1933). Review originally published in *Zeitschrift für Öffentliches Recht* 14 (1934): 268–269.

Rumpf's treatise is part of a movement seeking a rapprochement between sociology and political theory [*Staatslehre*]. From the side of political theory, the movement is characterized by the names Smend, C. Schmitt, Koellreutter, Heller, Schindler; from that of sociology, Rumpf's work is allied with that of Litt and Freyer. He develops the notion of political theory that would not be limited in a one-sided way either to the sociological or the juridical approach to questions, but instead would conform to its subject matter, namely, the state, understood as a "social, cultural, and institutional structure." "A comprehensive and unified juridical-political theory of the order of the state and of law is necessarily based on three closely related sciences, the social and cultural sciences, and a theory of order. These three sciences can be brought together in a working relationship to the benefit of a comprehensive juridical theory" (30). In this respect, Rumpf provided an excellent and detailed analysis of the theory of Smend. Unfortunately, despite his crucial and very legitimate call for an extensive treatment of questions dealing with both the basis and the limit of political theory, we miss in Rumpf—as in various other new studies—a thorough and sharp

account of the methodologically central concepts, "dialectic" and "polar." There is a great deal of talk about dialectic today, and with it the danger that a fashionable terminology is taking shape, one that does not so much provide a new insight as mark the point at which the author has abandoned analysis of his problem. We hope that in the present treatise this abandonment was conditioned by limits of space.

§27. *Nationality and Government, with Other War-Time Essays*, by Alfred E. Zimmern (London: Chatto and Windus, 1919); *The Prospects of Democracy, and Other Essays*, by Alfred E. Zimmern (London: Chatto and Windus, 1929). Review originally published in *Zeitschrift für Öffentliches Recht* 14 (1934): 269.

The two volumes of essays by Zimmern span the period of his production from 1914 to 1928 and serve as an accompanying commentary to the political problems of the era and its change. He begins by drawing attention to the conflict between the German and the English ideas of the state, followed by investigations of the nature of the nation and the principle of nationality, the Industrial Revolution, the change in the structure of society, and the change in the technique of governing that becomes necessary as a result. The problems of the League of Nations are touched upon, along with the role of education in the modern state, the relationship of great powers to small powers, and the relationship of Europe to America. The series closes with the long essay on the future of democracy, where Zimmern sketches the general lines according to which the institutions of democracy should be organized in order to meet the demands of modern society. The task of preserving the Western tradition of statecraft and of gradually educating the less-developed peoples to it falls to the British empire—the "greatest existing reservoir of public spirit"—together with a minority of responsible peoples.

§28. *Das Rechtsgefühl in Justiz und Politik*, by A. E. Hoche (Berlin: J. Springer, 1932). Review originally published in *Zeitschrift für Öffentliches Recht* 14 (1934): 270–271.

Like the whole psychology of higher sentiments, theory dealing with the sense of right and wrong [*Rechtsgefühl*] remains in a very sorry state; thus this competent study of this subject is very welcome. Hoche constructs his argument in a way that first provides an investigation of the nature of *Rechtsgefühl* (2–31) and then, in a descriptive analysis, outlines the appearance of the *Rechtsgefühl* in everyday life (31–44), in the administration of justice (44–77) and in politics (77–94). A section on the phenomenon of the malcontent and related types closes the book (94–102). Hoche defines the nature of *Rechtsgefühl* as “an emotion comparable with nothing else, one that is provoked through contact with the facts of a case, or conceptions of a legal nature.” It reveals itself in a feeling of satisfaction if right prevails, in lack of enthusiasm if it is defeated. *Rechtsgefühl* is part of a more comprehensive phenomenon, that of the desire for order, “which longs for harmony in ourselves and in our relationship to the world around us.” These definitions are somewhat conventional and do not allow any anticipation of the depths an additional step would lead to. I can here only recall the meaning that moral feeling has for Kant, not as the source of moral insight, but as the motive for taking an interest in moral affairs that initially makes the moral world empirically accessible in the first place. The fundamental problem of the effect of a sensory organization on an intelligible world and of the transformation of the intelligible into the sensory and finite by means of an act of aroused interest is trivialized by Hoche in a regrettable way. Consider the following sentence: “the *Rechtsgefühl* is the psychological well-spring of the law; and the law possesses a right to exist and an inner power only so long as it is not alienated from its nurturing source.”

If the investigation therefore does not exactly lead into the depths, it nevertheless displays a pleasantly descriptive breadth. *Rechtsgefühl* is set apart from consciousness of right, sense of right, conscience, conviction of right, lawfulness, and feeling of right; the nuances of *Rechtsgefühl* are contrasted with a sense of decency, politeness, respect, and tact, and are set in relation to the more general

phenomena of punctuality, love of order, etc. Hoche avoids the misunderstanding that *Rechtsgefühl* leads to comprehensive deduction of what right is and recognizes that its function is essentially conditioned by the historical and personal situation. It finds its objective expression in the positive law of a given time and in the degree of recognition that is shown to this law by those subject to it. Subsequent analyses point out the threat to the effects of *Rechtsgefühl* in daily life that occur by means of curiosity, personal advantage, etc., the danger of situations that arise through widespread atrophy of *Rechtsgefühl*, the lagging of legislation behind the *Rechtsgefühl* of one epoch because of the amount of time that legislative work requires, so that even though an older generation may embody it technically, the legislation cannot keep pace with the fluctuations of *Rechtsgefühl*. *Rechtsgefühl* of the judge is discussed, as is the situation of the lay judge, and the difficulty of a situation caught between *Rechtsgefühl* and positive law.

The section on *Rechtsgefühl* in politics is also questionable because Hoche speaks of a *Rechtsgefühl* of the state in the sphere of foreign affairs and regrets that this particular *Rechtsgefühl* is as yet not so far developed as exists among people within the state. We must ignore the great problems involved here—namely, that there is no *Rechtsgefühl* of the state but only of human beings, that the concrete human *Rechtsgefühl* responds not to an abstract, ahistorical right and wrong but only to law to the extent that it is an expression of a real experienced community, or that humanity is not a community with the same degree of reality as the nation, etc.

The value of the work lies not in its deep critical insights, but rather in the breadth of the diversity of material on which the author reflects and above all in the fact that it is excellently written.

§29. *Der sinnhafte Aufbau der sozialen Welt*, by Alfred Schütz (Vienna: Springer Verlag, 1932). Review originally published in *Zeitschrift für Öffentliches Recht* 14 (1934): 668–672.

Because of the personality of its creator, the work of Max Weber is at once enormous in its thematic and intellectual extent and almost without a systematic center. This means that a linear account of the development of its basic ideas is scarcely possible. The points of entry are so numerous and relatively so unconnected with one another

that the spiritual succession of the man and the work probably can only take the form of a prolongation of already focused investigations of the materials (sociology of religion, sociology of power, etc.) or of specific ideas in the theory of science. The entire complex of interpretative sociology [*verstehender Sociologie*], is outlined in the torso, *Economy and Society*. Monographic treatments are necessary to grasp a thematic and theoretical significance that cannot easily be found in Max Weber's summary account, which is as provocative as it is powerful. In his book on the constitution of meaning in the social world, Schütz has distinguished the problem of meaning from the encompassing context of Weber's work. And he has done so not only with respect to the bearing of sociology on the understanding and ordering of meaningful action but also with respect to the construction of the social world itself.

Schütz's book is divided in five sections. The first section presents Max Weber's basic sociological concept of meaningful action, objective and subjective meaning, and observational and motivational understanding as the starting point of the investigation. The task of the book is to provide a thorough investigation of the problem of meaningful action, provisionally defined in the introduction. The second through the fourth sections systematically analyze the subject matter of interpretative sociology with the result that the circle of problems can now be precisely delineated as the constitution of meaning in the social world. The fifth section returns to the starting point and, on the basis of the results achieved, provides analyses of the methods of interpretative sociology, which includes the problem of the social sciences in general, specific questions of method in economic theory and the theory of law, the problem of causal adequacy, meaning-adequacy, objective and subjective probability, the preferential treatment of the rational ideal type in interpretative sociology, and so on.

Weber's basic concepts demarcate for Schütz both the subject matter and the analytical task at hand. The author finds a means to deal with these questions by borrowing from Bergson's investigation of inner duration and Husserl's concept of meaning-endowing acts. In an extremely careful elaboration of his concepts, Schütz constructs the problem of meaning from its origin in solitary duration, through the phenomenon of understanding the Other, to the appearance of meaning in the social world. In this way the following stages in the development of the problem of social meaning are elaborated: (1) in

solitary duration, experiences that are taken for granted are singled out from the stream of experience through an act of attention; the act of attending to something is a meaning-endowing act, and it can be said of the experiences thus distinguished that they have "meaning." (2) From meaning-endowing acts in the broadest sense, Schütz distinguishes experiences where meaning is constituted by means of spontaneous activity, which provides him with a precise definition of behavior. (3) On the basis of the meaning-endowing experience coming from spontaneous activity he distinguishes further a narrower category of behavior that has a predesigned goal, which he calls "action"; the project of an action is its "meaning," which solves the Weberian problem "of connecting meaning and action." The unity of the action is determined by the extent of the project. (4) Finally, "rational action" is understood to be an action with a known goal and known means of achieving it.

I have reproduced the conceptual stages of Schütz's argument here because it clarifies so well his way of working and what is specifically achieved by it and also because the reader is able to get an idea of what Schütz's further investigations have to offer, even though we cannot discuss them here. His specific achievement consists in an extraordinarily careful and clear analytical work, work in which the basic concepts of interpretative sociology are given a sharpness of meaning that heretofore they have not had. The source of this new clarity is the principal idea, which is given a careful phenomenological elaboration and is used throughout the analysis, that "meaning" originates in the process of consciousness and develops through an attention of my present, current ego to the elapsed experiences of the ego. Living in the present now-point of my stream of consciousness, I allow my gaze to roam forward and backward and perceive as meaningful those experiences in view that already are actually past or are imagined as past in the future. The various types of meaning with which I am concerned in interpretative sociology are constituted by the direction of attention, by the kind of activity to which attention is directed, by my attending to my own stream of experience or to an external one, and so on. In the concept of action, the project appears, for example, as the "meaning" of the action, and the experience appears as action imagined as already past. In this respect Schütz has far surpassed Max Weber and solved the problem of the context of motivations by distinguishing the phenomena of the "in-order-to" motive from the "because" motive. The "in-order-to" motive of

an action is for Schütz precisely that project of an action by which the actor orients himself toward the future, whereas for Weber the term  *motive*  is given only one meaning even though he sometimes means the “in-order-to” of the action and sometimes the “because” of the action. But for Schütz, the “in-order-to” motive explains the constitution of the action from its project, but the constitution of the project itself from prior experiences is explained in the context of the “because” motive. The possible distinctions in the meaning of an action are therefore revealed by the acts of attention to various parts of the stream of experience. The all-important and fundamental concept of the “common meaning” is made transparent as the self-interpretation of a particular given experience on the basis of a new experience.

This principal idea must be kept in mind in order to understand the very interesting theory of understanding the Other that Schütz develops—the Thou relationship and the We relationship as the bases of the meaning of social phenomena. Schütz says I can attend to myself, to experiences of my own stream of duration only reflectively. I receive them only as already having passed my view. It is a mark of the stream of duration of the Other that I can attend to it as passing by. I can look on my own experiences only as elapsed, but on the experiences of the Other I can have an immediate experience of the Thou. The We relationship grows from the experience of two people adapting themselves to one another.

Because of the limitations of a review, I can touch upon only a few of the systematic main points of this tremendously dense and concentrated work. I would like to refer to Schütz’s solutions to the problem of objective and subjective meaning and to the problem of the ideal type. The problem of objective and subjective meaning begins with the interpretation of “artifacts” or “products” of action (movements, gestures, objects in the outside world, monuments, and so on). All artifacts have in common not only the fact that they exist as things but that they have come into being by force of action by a reasonable being. Thus an artifact is both a thing and at the same time a testimony to the consciousness of the actor who produces it. If something produced, i.e., an artifact, is interpreted as purely in its objectivity, then the interpretation takes place only on the side of the interpreter as the self-interpretation of his own experience of the meaning of the objectivity that he himself finds in the artifact. The objective meaning exists only in the context of meaning established

by the consciousness of the interpreter. We consider the subjective context of meaning at that moment when we regard the artifact as testimony and ourselves pay attention to those experiences of production in which the artifact is produced.

The problem of the ideal-type becomes visible through the distinction Schütz makes between the world of directly experienced social reality and the world of contemporaries. In the former, the Thou is immediately given to me in spatial-temporal coexistence and any stream of duration is concretely shared with me. By relationship to the world of contemporaries, Schütz understands all degrees of transition from an intimate face-to-face relationship with a Thou to the complete anonymity of the Other. The Other appears in the relationship to the world of contemporaries not immediately as a self, but only in a mediated way, by means of a predicative experience in which certain experiences of the Other, abstracted from the concrete context of duration, appear simply as "typical" of the Other. By means of this invariant contextualizing of the experience of the Other as typical, the experiences lose the character of occurring uniquely in a certain place within the external stream of consciousness; they receive an ideal status of "always the same" and this characteristic of "ideality" legitimizes discourse regarding the "ideal type." In accordance with the possibilities of objective and subjective interpretation of the meaning of experiences, the two basic forms of the ideal types are thus brought to light: the objective type, which is related to already accomplished acts, and the personal ideal type. In the personal ideal type, the type of person who could express himself in certain typical situations is constituted. The formation of ideal types cannot occur solely from the world of experienced social reality on the basis of the aggregate of humans who may be temporally coexisting with me but who are not given directly in my experience; ideal types are formed just as much for the world of predecessors. On the basis of these considerations Schütz develops his essential explanations regarding the question of historical concept-formation.

I have developed Schütz's main ideas to the point that the implications of their fundamental importance for the problems of social science become obvious. Schütz starts with the constitution of meaning in solitary duration and develops (through the theory of understanding of the Other) the problems of the meaningful structure of the social world (social action, social relationship, etc.) and comes to the conclusion that the constitution of the social world

occurs basically in the same forms as the constitution of the subject matter of social science. Sociology as science is distinguished from the constitution of meaning in the world of directly experienced social reality in which we live, in essence only because it has a goal of reflection on the meaning of the everyday world. Thus the creation of types in sociology serves to order the systematic observation of the social world, whereas the creation of types in everyday life serves the purpose of ordering a particular life. The work of Schütz thus extends far beyond a "methodological" investigation and provides an analysis of the real structure of the social world itself, from which are then finally derived analyses of the theory of social science that are conditioned by the structural similarity of social reality with sociological understanding. The analyses of Schütz are therefore not to be regarded as primarily a critique of methods, but as an attempt at a real ontology of society.

I cannot give a critical examination of this attempt here but only indicate where such an examination would have to begin. Schütz himself describes the goal of his work to be an analytically tidy discussion of the problem-complex of interpretative sociology, which is still confused enough, developed on the basis of an explicit philosophical position. The basic position is provided, as I already remarked, by Bergson's philosophy of duration and above all by Husserl's investigations of the constitution of the stream of consciousness. A critique would therefore have to begin with the basic assumptions of Husserlian phenomenology. I will enumerate only the themes of such a critique: (1) Husserl deals inadequately with the problem of the body in the *Logical Investigations*, and in the *Ideas*. The "sign" theory of the *Logical Investigations* and section 53, on the "Animalia and Psychological Consciousness," in the *Ideas* are bare acknowledgments of the problem but lack any deeper analysis. The assumption of the Husserlian position is mirrored in Schütz in contradiction to the theories of the sign and the expression. (2) The thought that meaning originates only in reflexive attention to elapsed experiences is very disputable; insofar as the "becoming" of experience has a contradictory structure, when is an experience elapsed? Is it not already elapsed at the point of becoming? And do not becoming and the state of being elapsed come together here? Can one not just as well speak of having a particular experience in its becoming as of attention to its having elapsed? The basic critical analysis would have to attack the contradictions within Husserl's analysis of inner-

time consciousness in particular in terms of the concept of retention. (3) If the attention to elapsed experience as the origin of meaning is questionable, how then can the definition of Thou be maintained as the stream of duration to which I can turn in its becoming? I believe that questions wholly other than those of the contradictory structure of the stream of consciousness are decisive when considering the experience of the Thou, namely, questions of the experience of external existence or of potency in Schelling's sense. (4) If the experience of existence is introduced, a final fundamental question is revealed: Is the Husserlian doctrine of the constitution of experiences in the stream of consciousness at all a sufficient basis for the treatment of social phenomena? I do not believe so because Husserl's efforts have not to date succeeded in making transparent the constitution of the Thou in the consciousness of the I. The solution of this problem in the *Méditations Cartésiennes* is not successful and it seems to me questionable whether it can be solved from the standpoint of immanent-consciousness; the assumption of a direct contact between human existences appears to me inadmissible as the ground on which analyses of consciousness such as those Schütz so excellently gives can then be carried out. Posing such critical questions as these is therefore not to be understood as a polemic against the theses of Schütz, but precisely as a confirmation of their worth: for these questions can be posed in interpretative sociology only because its problems have reached a new, very high level of clarity through the analyses of Schütz.

§30. *Verfassungsurkunde und Verfassungszustand der Tschechoslowakischen Republik*, by Fritz Sander (Brünn - Prague - Leipzig - Vienna: Verlag Rudolf M. Rohrer, 1935). Publication of review not traced; printed copy in Hoover Institution, Voegelin Papers, box 54, folder 27. 1935 (?).

The title of this work by Sander corresponds to the division of its content into two parts: first, an investigation of the constitutional text of the Czechoslovakian republic, and second, an investigation of the actual operation of the constitution. The two-part division reflects Sander's basic theoretical distinction between constitutional regulations, which are contained in a document that is difficult to

amend, and the actual application of the constitution, which formalizes the real relationship of rule between the possessors and the subjects of state power. The titles of the two parts reflect an imprecise use of language, one of which Sander himself does not approve. On the contrary, he introduces in the first part of the work very careful theoretical definitions of a series of concepts, with a view to distinguishing down to the last detail the operations of the state from those of the constitution. The operation of the state involves the basic ruling capacity of the one who possesses power and is willing to exercise it. The operation of the constitution involves conditions by which the operation of the state can be transformed in such a way that it retains certain characteristics in common with preceding ones. The "state" is a multiplicity of state operations that have similar characteristics following one after the other, and Sander calls the form of transition from one state operation into another with similar characteristics a "constitution." In a similarly careful way, he develops a series of further characteristics—such as state-person, constitutional person, state regulation, constitutional regulation, power, jurisdiction, command, demand, directive, duty, etc. And with the help of these concepts, the first part of the book probes the structure of the Czechoslovakian constitutional document and directs attention to the particular problem of "constitutional change."

In the second part, Sander shows that the real operation of the constitution differs very significantly from the operation intended by the constitutional document. He shows this through analyses of a small number of important laws that have led to the discrepancies between the constitutional document and constitutional reality. The first and most important of these is the law concerning the constitutional court: Sander explains that the composition of the court, in contrast to the regulations of the constitutional document, has turned it into an arbitration tribunal because it contains representatives of the parties involved in the proceedings. For this reason, effective control of the constitutionality of the laws is impossible, so that in the end the constitutional document can be amended by ordinary laws because the constitutional court does not serve its proper function. Such amendments by ordinary laws have now in fact occurred, above all by means of the law regarding the electoral court. By means of this law, and its amendments, as well as through the findings of the electoral court, a constitutional situation

deviating very strongly from the one presented in the constitutional document has been brought about. Where the constitutional document assumed the existence of a democratic republic, the effect of legislation and the findings of the electoral court indicate that in fact a party republic was established. In this instance, the value of the distinction between the constitutional document and the real operation of the constitution is revealed with particular clarity: If one holds the constitutional document of a state to be its "constitution," the means by which a hidden constitutional change can be brought to light is indicated. We have gained sufficient familiarity with the practical consequences of this distinction in Austria, where events of the years 1933 and 1934 were caused partly by the fact that we had a democratic "constitutional document" to be sure, but no effective democratic "constitution." This situation was hidden by the equivocation of the word constitution. As a third complex, Sander deals with the Enabling Acts that, by authorizing the use of prescriptive warrants, have given the government an expanded legislative scope. In this way the operation of the constitution has been changed from what was intended by the constitutional document, namely, a republic characterized by division of powers, into a situation in which legislation and execution are effectively combined in a single authority. In this context, Sander offers outstanding analyses of the question of the authority of prescriptive warrant.

A very astute discussion of Merkl's theory of constitutional sequences is annexed to the two main parts of the piece (169-194).

Sander's work is distinguished above all by the uncompromising care with which his concepts are formulated. It shows how important knowledge of the operation of the constitution is for a well-constructed theory of the state, and it makes a very valuable contribution to the development of the basic theoretical concepts of the theory of the state. A critique is not possible in this context, because it would have to extend to the basic positions of Sander's theory and thus would range too far afield.

§31. *Derpolitische Volksbegriffim modernen Italien*, by Hermann Raschhofer (Berlin: Volk und Reich Verlag, 1936). Publication of review not traced; typescript in Hoover Institution, Voegelin Papers, box 54, folder 32. 1936 (?).

With his book, Raschhofer makes a valuable contribution to the historical study of the European concepts of the people and the nation. Compared to the French idea of nation and the German idea of *Volk*, the Italian history of this concept has been somewhat neglected up to now. Following an introductory chapter on the medieval and modern history of the concept of the people, Raschhofer gives an account of the development of the concept by Rousseau and Siéyès as well as of the changes resulting from the French Revolution, after which he examines the growth of the Italian idea of the people in the *Risorgimento*. He treats in detail the revolutionary ideas of Mazzini, Gioberti, and Durando within Italy, and the more remote effect of these thinkers in the international law theories of Romagnosi and Mancini. The presentation closes with an account of the fascist concept of the people.

In addition to discussing dogmatic-historical source material, the significance of the book lies in the fact that Raschhofer considers the specific adaptation of the general concept of a people in the context of the Italian historical situation. Using this approach, he explains very well the concretizing of the French concept of the people by way of Mazzini and the adaptation to the political problem of the *Risorgimento*. Mussolini's new doctrine of the primacy of the state over the nation is also ably traced back to changes in the post-war era that had altered the internal political problematic of the *Risorgimento*.

The book is distinguished by great political insight and objectivity. Only in the closing section on Fascism and its policy regarding the South Tyrol question is a delicate problem treated somewhat one-sidedly in terms of nationalist dogma and without regard for the new minority problem that has arisen through the tendency of the state to become a total institution.

§32. *Die Geschlossene Wirtschaft: Soziologische Grundlegung des Autarkieproblems*, by Bernard Laum (Tübingen: J.C.B. Mohr, 1933). Review originally published in *Zeitschrift für Nationalökonomie* 7 (1936): 138-141.

Bernard Laum's book has a significance for German economics that is not to be underestimated. The theoretical position of the author can be characterized in the following way: Economics has followed a general trend, beginning in the nineteenth century, toward specialization in scientific disciplines. A certain type of action—the rational pursuit of profit—was isolated as the economic phenomenon. Although statements concerning this mode of action were not false, all other motives relevant to economic phenomena, above all, feelings and instincts, were neglected because of the restriction of the focus of economics to this type of action. As a result, the concept of the economy and the basis of determining its course of development were thoroughly distorted. Henceforth, the task of economics would be to abandon specialization and the isolation of its subject matter and, as had been done up to the end of the eighteenth century, again classify economic phenomena in the context of a theory of man and society. Following this new approach, the sole object of economic theory would no longer simply be rational action and the unlimited global expansion of interconnected economic activity. Rather, inclinations and sentiments would be included as well, so that the limitation of more or less isolated trade systems and economies would become apparent.

In the treatment of his theme, the author consciously avoids systematic justification of his argument. He states that "abstract systems count for little in our present time, but concrete life means everything." (I decline a critique of this and similar formulations here; one schooled in neo-Kantian epistemology knows what is involved.) Regrettably, as a result, we find in Laum's work that almost all the systematically essential contents (and there are not a few of them) are embedded in the presentation of extensive ethnographic and historical materials and in the history of ideas. The presentation of the material is quantitatively the most comprehensive and substantively the most significant part of the work. The main section, on the psychology of the demarcation and isolation of social

groups (33–275), deals with a rich collection of ethnological and historical material and, among others, considers the following themes: the community of blood [*Blutsgemeinschaft*] as an isolated circle of communal living, the coalescing of the settler community and its *Lebensraum*, the influence of the attachments to the soul to the formation of property and the exchange of goods, the separating and bonding effect of taboo and totemism, the influence of magical-religious motives on economic exchange, work as motive for economic isolation, and the isolating tendencies of state structures. The next main section, dealing with the actualization of isolation (276–362), treats the means and degree of isolation and the consequences of being closed off for the body and soul of those so isolated, the consequences for morals, and the connections between isolation and culture.

Only with difficulty can one provide a clear picture of the overall intention of the presentation of the material, for the author himself does not present his views regarding his fundamental idea in a particularly rational form. The historical and philosophical intention with which the rich ethnographic material is considered is at least precise. Laum advances the opinion that societies disintegrate into a lower and an upper class. The lower class, for which he reserves the name *Volk*, is the carrier of the affective and instinctive motives in the construction of society; it is the vital source from which the upper class organizes itself. The upper class is the bearer of rational, intellectual, and spiritual roles. The two classes exist in tension with one another so that the vital lower class must from time to time rebel. Its revolutions, which aim at an internal closure of the society, guard against threats to the society by the upper class and its intellectual expansion. Laum holds the National Socialist revolution to be one such rebellion, a rebellion of the vitally strong people against the threat to the nation posed by the intellectual upper class. In this meaning of the word, the *Volk* is for Laum an ahistorical being that remains fundamentally the same in its mode of experience. A “peoples’ economic theory” [*Volkswirtschaftslehre*] in the most pregnant sense must, in Laum’s opinion, discover the economy of the ahistorical *Volk*. The phenomenon of *Volk* can now be studied in its purest form with ahistorical primitive peoples, and for this reason the presentation of the ethnographic material is important, as it is for understanding tendencies toward economic closure in modern societies.

Beside this complex of topics and ideas stands the systematically unrelated Aristotelian and Platonic doctrine of autarchy and *mesotes*, the moderation and constancy of the true middle. Laum follows the idea of autarchy through its main stages into the nineteenth century (363–450) and adds France to the story as the paradigmatic example of an autarchic state; since antiquity, this model is said to have preserved the classical idea of autarchy in the life-style of its residents.

In addition, there exists a third complex, to which one could perhaps give the title of a critique of the technical era and of the interconnected global economy. According to Laum, it deals with how, in the economic history of the nineteenth century, the majority of the peoples' economies [*Volkswirtschaften*] developed away from the "genuine middle" toward the extremes—into single crop agricultural countries, industrial states, etc.—and that the present movement backward is a process of recovery following a period of excess.

The most important critical remark to be made was already indicated with the hint that there is no systematic elaboration of the foundations of the problem. As commendable as Laum's work is for its bringing together material on the autarchy problem in such rich abundance, the success of this achievement is all the more threatened because of its lack of a principled treatment of the source material. As valuable as the communication of the rich ethnographic materials dealing with the experience of blood-community [*Blutsgemeinschaft*], of being bound to the earth, or the spiritual connection between the work produced and the producer may be, they would still have to be organized by an ontologically based theory of the relationship of body, soul, work, products, landscape, etc. Such a theory would first make it possible to separate the essential constant of human nature from its formation in the cultural systems of the so-called primitives or of the historical peoples. Only if this core of the problem is isolated in a theoretically precise way is it possible to cope with the problems of the historical situation in which the basic human structure at one time or another becomes effective. In its treatment of the problems of our current situation, Laum's work disintegrates in countless specific instances into the most dubious claims. The elements of human nature aiming at isolation are not neutrally described in their function beside others having the opposite effect, but rather are praised with a resolute political bias as being beneficial. From this less political than politicizing content

of the work there then arise several curious contradictions. Thus in the example of Japan are praises sung of isolation as the means by which the Japanese nation developed its enormous impact and inner isolation, while in other places isolation is treated as having terrible implications for the future destiny of Japan. There are points in the book at which dogmatic judgments are so inadequate to the problems of the situation as to appear frivolous: In his lively attacks on soulless machine technology, has the author even considered the fact that the number of humans who can inhabit a particular area is dependent on the level of machine technology? Is he prepared openly to state that the replacement of mechanized equipment by work techniques that are less soulless—a change he thinks capable of bringing about the cultural regeneration he wishes—would have the consequence that the population of the German Reich would have to be reduced from 65 million to about 20 million? Or in praising French autarchy, has he kept in mind that France feeds, from a space equal to that of the German Reich and with superior natural resources, only 40 million people? We can only regret that, through somewhat ill-considered politicizing, a great and commendable scientific achievement has been devalued and probably rendered less effective as well. In closing, we must once again emphasize the great value of the work: It offers the first expansive collection of materials for a treatment of the autarchy problem as a basic ontological problem of the science of society and economy.

§33. *Die Grundlagen des Nationalsozialismus: Eine ideengeschichtliche Untersuchung*, by Alois Hudal (Leipzig, Vienna: Johannes Guenther Verlag, 1937). Publication of review not traced; typescript ("Das Buch des Bischofs Hudal") in Hoover Institution, Voegelin Papers, box 55, folder 17. 1937 (?).

The book of Bishop Hudal on the "basic principles of National Socialism" was taken up in the Austrian daily papers and journals with cautious unease, a response that was caused less by the political attitude of the critics than by the aura of ambiguity besetting the book. It provides a statement concerning the world of ideas of National Socialism evincing the author's extraordinarily wide reading

and knowledge of the sources, yet it still is not a scientific study of its object. It presents itself as a "private study," without an official mandate, but nevertheless because of the position of the author, the intention of the statement, and the circumstances of its appearance, it is a political document.

The work is perhaps more easily comprehensible if we realize that the title is misleading. To be sure, the book contains a (brief) discussion of the historical, and (detailed) discussion of the spiritual foundations of National Socialism, but the main emphasis lies in the author's comments on this world of ideas from the Catholic standpoint. The important parts of the book are not so much those devoted to the presentation of National Socialist ideas, but rather those theses, which are added to the discussion based on the authoritative texts of the major National Socialist ideas and made into "matters of principle." Here the attitude of Catholicism to the items concerned is set forth. If, as is to be expected, the book should find a large circle of readers, then the chief benefit for most of them will be not information about the basic ideas of National Socialism, which are known anyway, but information about the theoretical principles of the Catholic Church, which are probably less well known to such readers.

Bishop Hudal does not choose his stance inside the National Socialist world of ideas but instead structures the material from points of view that appear to him to offer a beginning for the future rapprochement between the Church and the Third Reich. He characterizes political nationalism and the anti-capitalist, social reform components of National Socialism as its essential ones, and classifies the *Weltanschauung* (typically represented through Rosenberg) as an "invasion" that is not essentially connected to National Socialism. The Church might be able to reach an understanding, within certain limits, regarding the political and social program, but not with the National Socialist *Weltanschauung*. A settlement would require National Socialism's renunciation of its *Weltanschauung*.

The execution is not as clear as the thesis. To be sure, the bishop relies over and over again on Article 24 of the party program, according to which the party represents the standpoint of "positive Christianity," and invokes Hitler's words in support of this thought; to be sure, he never wearies of arguing that the ideas of race and national character are "exaggerations" and "radicalizations" of thoughts that in themselves are healthy, or of explaining that the National Socialist

*Weltanschauung* contradicts the political program. But this restatement of the texts, informed by Bishop Hudal's interest in conciliation, cannot hide the fact that the *Weltanschauung* is in no way a late and accidental ingredient. But then he cannot make a plausible argument as to why the *Weltanschauung* of the program and not the program of the *Weltanschauung* has to change. He provides an excellent account, but because of its brevity it remains a sketchy demonstration that the decomposition of Christian substance and the new construction of a pagan-collectivism, including its outbreak in the National Socialist political movement, has been a long process spanning hundreds of year. With deep insight, Bishop Hudal recognizes that the nature of the National Socialist world of ideas does not lie in its political program. He understands that he is dealing with the growth of a new religion, with race and *Volk* as gods, with the führer and the party hierarchy as the new clergy. Quite properly, he emphasizes over and over that the "exaggeration" mentioned above is synonymous with a religionization [*Verreligionisierung*] of political ideas. More clearly than specialized political theory, which is usually written by secularized minds, the book of this conscious and knowledgeable Christian recognizes that the central problem of the new European movements that are forming both state and human beings lies, not in the political realm, but in the religious.

This knowledge proves irritating to Bishop Hudal, even though the implications are supposed to have been dismissed by means of the thesis of the contradictory and belated "amalgamation" of the National Socialist *Weltanschauung* with their political program. Again and again, this irritation breaks through—or so I believe—into a string of polemical and highly critical remarks that would be otherwise incomprehensible in a book supposed to promote an "understanding." A National Socialist convinced of his *Weltanschauung* will scarcely rejoice when he hears that belief in race is a typical feature of the Judaism of late antiquity and was overcome by Christianity, which implies that a part of German anti-Semitism would thus be chalked up to a spiritual connection to Judaism. Nor would he be pleased to learn that modern race theory is of French origin, therefore quite un-German. In the discussion of National Socialist anti-Roman sentiment, Hudal emphasizes that the forced conformity and addiction to mastery is a characteristically Roman trait, that their elite theory is derived from Italian and French theories and is practically Bolshevik, and that the idea of the führer

and devotion to the führer are the marks of a period of cultural decline, etc. To date, I have seldom seen such a number of pointed and highly critical remarks collected in a serious book on National Socialism.

The theses containing the statements regarding "matters of principle" are likewise wholly unambiguous. Bishop Hudal clearly establishes that Christianity is incompatible with the belief in the primacy of race and national culture, that the Christian hierarchy of value regarding God, soul, family, race, nation, state, and humanity asserts the opposite, that the deductions regarding imperious claims to be a superior race are inadmissible, that sterilization on flimsy eugenic grounds does not square with the Christian conception of the person, that in the education of youth, the sequence of family, church, and state is unalterable, and so on.

The book ends with the notion that National Socialism as a political and social program could count on the membership of Catholics, but that the National Socialism as *Weltanschauung* would have to be rejected and fought against—on this point there would be no "building of bridges."

If on the basis of political calculation National Socialism should refuse to abandon its *Weltanschauung* and refuse to recognize the leadership position of the Church, then only a trial of strength could decide the issue. National Socialism would have to decide between two alternatives: to Christianize itself or to develop further into anti-Christian atheistic Bolshevism.

The reader of this report sees that the book of Bishop Hudal contains a riddle. How can a man who sees the religious content of National Socialism with such superb clarity believe that, with a little amicable persuasion, the promoters of the movement's *Weltanschauung* could be brought to give up their religion and to preserve solely a "political picture of the world"? If such a process is even possible, it would require a violent revolution, which does not take place in the form of a peaceful conciliation. Because this question imposes itself with such compelling logic, some readers will likely suspect that the book is perhaps a *ballon d'essai* [trial balloon] or the expression of political discussions carried out in the background. Otherwise one might have to assume that the author's wish was stronger than his insight. But against what realities are we directed when we contemplate the likeness the author has drawn in his book? With this question we must close.

§34. *Benjamin Franklin, Der Lehrmeister der amerikanischen Revolution: Die geistigen Grundlagen des amerikanischen Gemeinwesens*, vol. 1, by Eduard Baumgarten (Frankfurt a. M.: Vittorio Klostermann, 1936). Review originally published in *Zeitschrift für Öffentliches Recht* 17 (1937): 255-257.

Eduard Baumgarten's book on Benjamin Franklin is the first of a projected three-volume study. The second volume will treat pragmatism (Emerson, James, Dewey), and the third is to bear the title *Form of the History of the American Commonwealth and Union, 1620-1864* and is intended to portray the political development of the American union from the Mayflower Compact to its preservation by Lincoln. The full meaning of the book will thus become apparent only after the appearance of the subsequent volumes, for which the first volume, under review, serves as the introduction. A review and appraisal is nevertheless possible at present, at least insofar as the book on Franklin constitutes a self-contained unit.

Baumgarten has given his book the subtitle *Mentor of the American Revolution*. By doing so he has emphasized the point of view from which he wishes to portray the person of Franklin. The revolution is not understood as an external historical process whereby the English colonies united into an independent state; when the author speaks of revolution, he means the inner process of formation of a political community by which America's religiously distinct communities transformed themselves into a secular democratic political unit. The "revolution" constitutes the genesis of the powers of the political community, manifesting itself in the field of power politics as the formation of an independent state. According to Baumgarten's methodological intentions, therefore, the book provides a fragment of "intellectual history" [*Geistesgeschichte*], but in a sense of the word somewhat different than the customary one, namely, a fragment of the "history of the political mind." "The history of the American mind is the peculiar history of the 'unification' of a people into a 'politeia'. More precisely, it is the history of the self-education of this people into a community, a commonwealth, a Union" (12). For Baumgarten, the meaning of the "American Revolution" is to be understood in straightforward commonsensical terms, as the pro-

cess of secularization of the communal religious forces of the independent Congregationalists with the more strongly power-oriented Presbyterians (11). In this process of revolution, Franklin thus assumes a representative role that justifies devoting a monograph to him to serve as the introduction to a work on the American political community.

Baumgarten has structured his book in two parts: The first handles Franklin's personal development and character, the second portrays Franklin's philosophical fragments on the "science and art of virtue."

The first part, encompassing about one-third of the book, reports on Franklin's impact on America, England, France, and Germany and on his world-historic significance as spokesman for the American Revolution and mediator between Jefferson and Hamilton. Franklin appears here as a representative man, contributing through his forceful personality to the internal formation of the American political community and fostering the external image and the legends of "the American" for the benefit of Europe. The remaining chapters of this part present the decisive phases of Franklin's life story.

The second part attempts in three chapters to systematize Franklin's ideas, scattered in philosophical fragments and letters, under the three rights, to life, to liberty, and to the pursuit of happiness, in terms of which all people, according to the American Declaration of Independence, are equal. We cannot discuss at length the diverse substance and richness of the interpretative ideas contained in this section in the context of a review. In order to make clear the book's extraordinary significance for an understanding of the American commonwealth, it is perhaps sufficient to characterize the whole and provide a few hints concerning the major ideas.

Most important, until today there has been no German monograph on Franklin. Baumgarten's book is thus the very first comprehensive portrayal of his ideas in the German language. This achievement is all the more important because Franklin himself did not bring his thought into a tight, systematic form. Access to the essentials of Franklin's views is therefore possible only through a specialized study of his entire work. Every fragmentary reception of Franklin's work is exposed to the most annoying misunderstandings, so that Baumgarten's account provides for the first time a basic overview by which one can henceforth make one's way through the labyrinth of fragments. Aside from his careful study of the collected materials, this exceptional achievement was possible for Baumgarten because

of his long period of residence in America and his teaching activities at the University of Wisconsin. In this way, by actively living with and within an American community that still retained much of the spirit of the pioneer era, he was able to experience directly those spiritual attitudes that are decisive for the understanding of Franklin's person and work. Direct knowledge gained from living among the Americans appears to be almost indispensable if one is to grasp the rich structural foundation of the American world and to correct the hackneyed, misguided German picture—namely, that of the pragmatic, utilitarian American—that is still to be found today in the histories of philosophy.

In order to gauge the achievement of this newly created picture of Franklin, consider how Baumgarten's view differs from that of Max Weber. In his investigations of the sociology of religion, Max Weber had turned Franklin's famous instructions to a young salesman, which he understood as the essential document of puritan business principles, into the spirit of capitalism and the Protestant ethic. In a fully convincing way, Baumgarten has shown, however, that these instructions and their grotesque motivation were in no way intended as serious suggestions but had instead a humorous character, that they in no way preached an ascetic style of life or exalted the rational form of life into an irrational postulate. On the contrary, Franklin wanted to indicate the senselessness of such an attitude by exaggerating it, using as a model the form of humor made famous by Mark Twain. Whenever Franklin, who himself abandoned business activity at the age of forty-two, gives business instructions, he does so not because he believes that money-making is an end in itself, but because he believes business is the indispensable means of personal self-reliance and independence. Material sufficiency is to him the precondition of personal independence. Characteristically it enables individuals to be "decent" and affords them personal dignity, an attitude toward one's fellows that maintains a distance from them but is at the same time helpful and courteous. With this new interpretation of the documents, one can understand both how the misunderstandings came about, and the significance of Baumgarten's systematically penetrating treatment of the questions.

With that remark we have already begun the enumeration of the several conceptual clarifications the book contains. One of the basic attitudes determining America's societal interplay is the "decency" of public manners, and the "tolerance" of others. This tolerance is

not to be understood in the European sense as the concession that the other is allowed his convictions at the price that he allows me mine, but rather as a continually open mutual willingness to allow the experience of the other's conduct to take effect as a modifying element of one's own, with the result that the unity of the society establishes itself experimentally each moment through this interplay. Baumgarten makes highly apposite references to the "agonal" character of community life, and his references to one of the roots of this attitude in the civility of native Indians is as informative as it is amusing (126-134). In this context his comments on the meaning of the word *experimental* in American and German customary usage are also important (29), as is the first-rate analysis of the word *compromise* (214). Equally important, as counterbalance to tolerance and decency, is the "intolerance" by which the free social interplay of persons is held within bounds that are indispensable to the preservation of the community: An essential trait of the "free democracy" of America (as well as of Western Europe) is the stubborn toughness and intolerance with which the socially necessary limitations are established, within which the free development of the person is permitted.

A few more hints concerning the outline of Baumgarten's account: In his treatment of the forms of the American commonwealth, the "Socratic" traits of Franklin's personality become ever-more self-conscious and technically proficient as he proceeds from his first journalistic works to establishing clubs, from developing a certain style of correspondence to his great public effectiveness. Baumgarten develops very nicely Franklin's sensitivity to the independent existence of his neighbor and the economy of his feelings and emotions. A difference of opinion is settled not in the form of tough-minded argument and counterargument, but in the cautious unfolding of consequences that the opponent must himself take to be absurd and that ought to move him to abandon his premises. The *oratio obliqua*, the indirect aiming at essentials, is the main instrument of conversation. Instructions are "clothed" in anecdotes and in conceding one's own mistakes in such a way as to enable a tacit right to be wrong to appear as the foundation of conversation. The ego of the other is to be spared; a confrontation ought not to press the opponent into positions of anger and defiance but effect instead a catharsis, a loosening, an alteration of the person, that conducts him in the direction of new possibilities of social cooperation. One of the most splendid

chapters in Baumgarten's book is on "Dialogue and Compromise" (208–219). Another theme connects the physical theory of Franklin, in particular the notion of positive and negative electricity, with that of social tensions and their reconciliation. A third shows the deep underpinnings of all questions of social technique as stemming from a piety that comes from the experience of God. A fourth connects Franklin's theories with the later American pragmatism of Emerson, James, and Dewey, and thereby indicates a continuum in American intellectual history.

We can only hint at the richness of this book. In view of the value of the achievement as a whole, a detailed criticism would probably be out of place in a brief review: Future Franklin scholarship based on what Baumgarten has done will do the necessary work. Only one principled consideration of a critical nature may be permitted: In light of the large number of Franklin's texts containing a wealth of splendid observations on the "psychology of social conduct" that Baumgarten unearthed, and in light of his own annotative observations, it seems to us possible that a theoretical underpinning of interpretation in modern psychology might usefully have been employed. Modern psychology treats many of the same themes more systematically, if not more simply, and brings out the consequences more clearly. The same reservations apply to Baumgarten's concept of "intellectual history." We believe that he had an excellent opportunity to work out more clearly and methodically the nature of the "political mind," and by so doing to delineate more adequately a fundamentally important subject matter that today is still tossed about among the disciplines of law, sociology, and intellectual history.

In closing we would emphasize again that Baumgarten has provided a brilliant account. The outstanding, highly personal, and original language along with the sheer charm of the book is but a reflection of the attractiveness of the personality of its hero.

§35. *Carl Schmitts Theorie des "Politischen,"* by Hans Krupa, Studien und Bibliographien zur Gegenwartsphilosophie, Herausgegeben von Dr. Werner Schingnitz, Heft 22 (Leipzig: Verlag von S. Hirzel, 1937). Review originally published in *Zeitschrift für Öffentliches Recht* 17 (1937): 665.

The theory of the political is the centerpiece of Carl Schmitt's political theory [*Staatslehre*] in its decisionist phase. Krupa first gives a short overview (1-10) of Carl Schmitt's work from its normative-theoretical beginnings through his decision theory to the last phase to date, that of "thought on concrete order and form." In this way, the theory of the nature of the political is given its proper place in Schmitt's theoretical development, namely, in the context of his decision theory. The second part presents the theory itself in both variations, as dealing with stateless politics and as the politics of state (11-18), in order then to move on to an astute analysis of the basis of his decision theory and its critique. Krupa indicates very clearly that Schmitt's decision theory is conditioned by its antagonistic attitude toward extreme normativism, particularly as against Kelsen's pure theory of law. As a result of its antithetical attitude, decision theory does not succeed in overcoming the failings of pure normativism: On the contrary, it deteriorates into the opposite error of isolating the pure power element from the total reality of the state. A genuine "dialectic" and "synthetic" theory would have to overcome Schmitt's "thinking in terms of division" [*Trennungdenken*] and recognize that norms are just as much components of reality as decisions. Terminologically, Krupa appears in this analysis to equate the nature of the juridical with that of the normative, but to understand the "state" as a more comprehensive reality that does not exhaust itself in the juridical. The inadequacy of his theory might have moved Schmitt (not that he would admit it) to a transition to a third form of thought about law, namely, thought about order.

We can approve of the presentation and critique in all essential points. The success of decision theory in overcoming pure normativism is acknowledged just as fully as its failings are properly analyzed as its extreme mirror-image. A substantive failing of Krupa's text seems to me to lie only in the fact that the author, a philosopher, apparently does not have sufficient mastery of the political economy

literature. Krupa's critical ideas are as excellent as his suggestions for solutions, but the consequences might have been developed in a much different direction if French and English institutional theories had been taken into account. (Indeed, "thought on order and form" is nothing but a rendering—in good German, by the way—of the foreign term *institution*.) In French and English institutional theory, questions are considered and worked through, albeit not in a wholly adequate way, but still far better than in German theory. In particular, the thought outlined so briefly on pages 36 ff.—that of the "idea" to be realized in the concrete political order—would find its underpinnings in Hauriou's theory of the *idée directrice*. The work is a philosophical dissertation, and in this context, its maturity and the integrity of its craftsmanship are especially to be emphasized.

§36. *Rechtsoziologie: Probleme der Gesellschaftslehre und der Geschichtslehre des Rechts*, by Barna Horvath (Berlin-Grunewald: Verlag für Staatswissenschaft und Geschichte GmbH, 1934). Review originally published in *Zeitschrift für Öffentliches Recht* 17 (1937): 667–672.

In discussing this significant work by Horvath, the reviewer finds himself in the somewhat difficult situation of having to begin with some critical remarks on the construction and style of the work, rather than with a report on the author's ideas. In a brief foreword, Horvath justifies his approach to the problems of legal theory from the side of sociology with a rejection of countless attempts to define the concepts of law and the value of law without consideration of historical and social preconditions; the present point of time in the history of thought speaks for the sociological attempt. That is all. And then the reader is surprised by the following sentences: "In a broad sense, we understand by presuppositions what experts in legal sociology must necessarily associate with the term (Chapter One) or can do so (Chapter Two)—even though there may be a certain danger involved with such association. There follows, both the scientific-theoretical consequences of these immediate preconditions (Chapter Three) and the refutation of the main principled objections against them and the proof of the irrefutability of the sociology of law (fourth chapter)." The next sentence states: "The expert in the sociology

of law necessarily thinks with each step in thought the sociability (§1), historicity (§2), spatial-temporality (§3), and changeability (§4) of the law because of the type of knowledge of his investigation." The aspects of the work that are decisive for the author's system are worked out in this style. The author does not begin with a portrayal of objective problems, in order to prove their inadequate formulation in terms of the reigning theory of law, nor does he make at all plausible to the reader the justification for, and direction of, a new attempt. Nor does he make use of other methods, to say nothing of providing an account of the existing statement of the problem in order to lead the reader discursively to a position where he can view the subject matter in such a way that he can properly formulate the problem to be studied. Instead Horvath positions himself at a concluding point, which properly belongs at the end of his discourse. It introduces the reader into the company of experts in the sociology of law, without having somehow convinced him that such company is necessary or even desirable; he bombards the reader with the mature products of his thought without having shown him the paths that have led to the polished concepts. He introduces concepts like sociability, historicity, economy, power, equality of capacity, and legal situation and leaves the reader to guess from the use he (the author) makes of the term what operations of thought and what authorities in the literature might have moved the author to understand these concepts as he does. In a turbulent and nontraditional situation of science such as the contemporary one, this procedure seems to me inadmissible. A Thomas Aquinas might be justified in ordering traditional conceptual material systematically in this way—but even he makes meditative concessions to the reader. As a result of the author's unacceptable methods, it is only by an extremely patient and faithful study and by sustained reflection on Horvath's theses that the reader can account for whatever scientific relevance they have, whether they have any at all, or whether he has given voice to a large number of trivialities. And the reader can do so only if he knows the highly complex content and scientific intent of the literature to which Horvath refers at least as thoroughly as the author himself. Moreover, he can do this only if his own thought on the problems handled by Horvath moves in a direction similar to that of the author, so that out of sympathy he can guess some things that would otherwise be incomprehensible. The book will be particularly profitable for the reader who has at his disposal as a prerequisite

the same expertise as Horvath regarding the technical and secondary literature and who stands near to him in his viewpoint. Whether this didactic result was the author's intention, I do not know. Having registered this general complaint, however, we can now proceed to the material itself.

The book is structured in two parts. The first part (1-96) treats the methodological problems of the sociology of law; the second part (97-304) gives an overview of the main problems, in terms of content, of the sociology of law. Horvath's basic thesis, which can be grasped clearly enough from the first part, demands a so-called "synoptic" view in order to obtain knowledge of the phenomenon of law. With his demand of the synoptic view, Horvath turns himself against the one-sided objectification of law by the methods of natural science or normative methods. At this point, the difficulties of a report on Horvath's opinions become conspicuous: The reviewer cannot say with certainty, but he believes, from the use of the terms in the book and from the hints in the literature, that the author holds the area of the objective to be exhausted, to the extent that is relevant for the phenomenon of law, by the classes of "nature" and "norm." The law is for him a phenomenon that, because of its connection to human sociability and historicity, which is always presupposed by it, belongs neither to the realm of nature nor to that of norm alone, but rather partakes in both. To be sure, the law is a phenomenon of nature, but it cannot for this reason be treated according to the methods of natural science: for it is not nature simply, but rather nature related to a system of norms. And it cannot be treated only normatively: It is to be sure an order of norms, but norm as related to a sector of nature. The relation of *is* [*Sein*] and *ought* [*Sollen*], which occurs continually in the law, is a process relation. Horvath calls his theory a "processual" theory of law, because it captures the phenomenon of norm in terms of its function in its relation to an *is*. He calls the method by which this complex phenomenon of the legal process is grasped a reflexive "synoptic" one, because an *is* is considered in relation to an *ought*, an *ought* in its relation to an *is*. Methodologically, Horvath, who assumes the problem as it has been posed by the pure theory of law, proceeds from the postulate of the purity of methods and avoids methodological syncretism. He is convinced that only the natural *is* in itself and the *ought* in itself can become objective. Thus is the law, which constructs itself in a processual relation of *is* and *ought*,

no object at all, but rather a thought-construction of the functional relation of the natural and the normative to one another. The survey of these methodologically divided objects in the unity of the process to a whole is the "synopsis."

Horvath delimits the subject matter of a sociology of law as the summation of the functional relations in which the law stands to the other categories of society. The second part of the book, on the main problems of the sociology of law, gives a systematic overview of the typical functional connections of this type. In five sections he considers the relations of economy and law, struggle and law, power and law, knowledge and law, process and law. Each of these five sections is in turn structured into four chapters in which the influences of social categories are ordered under the titles of historical change, contexts of social achievement, change in legal logic, and the legal-political delimitation of influence. It would make little sense in a book review to go into the extraordinary wealth of the themes touched upon and their portrayal in detail. We will content ourselves with a few general characterizations.

The selection and arrangement of the material conveys the impression that the author has taken over in great measure the accounts of society and history of Western European positivist sociology. This sociology treats historical material ahistorically, which means in a nonindividual way, in that it extracts general trends from the historical course. These general trends are for Horvath essentially the lines of "development" from primitive conditions to the contemporary, differentiated condition of society, as well as the regularities that are to be observed in the course of the development in the functional connections between the law and other contextual categories of society. By way of example, Horvath's account of general trends produces, on the basis of a rich experiential material, theses such as the following: "The ethnologist concludes from the simultaneous, indubitable existence of a powerful influence, and from the insufficiency of complete definition, that the economy is only one factor in the origin of the law, although a very important one" (100). "The pacification of society and the development of peace reflect a waning achievement in the development of law, with the single exception of positive peace (of mutual promotion) and of the mutuality of the law, which are related to one another according to the rule of direct achievement. A minimal development of peace in growth, effectiveness, freedom, and mutuality must be present, so that the law can

develop. But a maximum of development of negative peace (of mere nonannihilation) is tantamount to the graveyard peace of tyranny, of terror, of the *ancien régime*, of the suppression of religion, nation or classes, which—perhaps after a period of hypertrophy and overeffectiveness—necessarily brings about an atrophy and sterility of the law, a standstill or regression of the law's development" (170). "In the course of the process of particularization and consolidation, which law and power undergo in their development, there developed those huge organizations of power that one can call, in the broadest sense of the word, 'monarchy.' The particularization is balanced here by a sweeping together, by a concentration on a single point. The particularized procedures and jurisdictions are ordered in the form of a pyramid, and capping the pyramid is a highest peak from which each jurisdiction and each power is then derived. From the oriental despotism up to the sun-king, this power organization lay in the main line of development" (201). "Adequate knowledge communicates, but inadequate knowledge diverts the development of the logic that generates laws. It makes a great difference whether a legal thesis is interpreted, understood, and developed through to its consequences by a foreigner, a lay person, a judge, a legal historian or a legal scholar. These are differences of knowledge, of point of view." "'Science as a source of law' therefore means that different types and levels of knowledge form the development of legal logic differently. In this respect, they themselves extensively restrict the law. Not only economy, struggle, power, but also knowledge forms the limits, over and beyond which logical consequences are not developed" (360).

For reasons touched upon in the introductory remarks, a critique of this sociological essay can be given only with difficulty. In the whole construction of the system, in the individual parts of the construction, and in the selection of material, the reader must regularly pose the question: Why is it this way and not otherwise? The differentiation of *is* and *ought* as the two main classes of objects is certainly a good systematic starting point—but the reader would be glad to know the reasons for which Horvath holds these foundations to be better than a social-scientific analysis for which the "nature" of society is also a context of spiritual meaning. The schema of "development" certainly draws a possible line to order material over the history of a society; but is not the sociology of a cultural circle—one that does not line up all social phenomena on

the thread of development but rather investigates the inner legality of a closed form—also an idea with which at least a discussion would be worthwhile (Alfred Weber!)? Is the development from the primitive “synarchy” to “monarchy” really the only, or even the most important, line of development of the power organization? Would not, for example, the investigations of Hintze on feudalism and the laws of its development also be worth a critique and portrayal? Are the formulas of the “synoptic method” Horvath offers really the best for dealing with the problem? Or would a discussion of the attempts of Litt, Smend, Freyer (authors who are not named) not recommend itself? Questions of this type accumulate in considerable number.

On the whole, Horvath’s attempt at a system is bold and significant. Yet for further development, it seems to me to be essential that the leading thoughts, just as much as the basic concepts (economy, power, rulership, etc.), be justified and tuned to the most exact degree. Even without this laying of foundations, however, one will find much in Horvath’s attempt that is important in principle—the very good debate with institutionalism and the defense of the “processual” idea, for example. But one will also find considerable sections—the sections on synarchy, monarchy, and polyarchy, for example—that can satisfy only with difficulty. But it is perhaps inadmissible to apply a standard that is all too strict, for the author himself regards his work as a preliminary attempt. It may well serve as a preparatory investigation, to be followed by further investigations that will set aside all the doubts one must still have today.

§37. *Faschismus und Nationalsozialismus*, by Peter Berger (Vienna-Leipzig: Reinhold Verlag, 1934). Review originally published in *Zeitschrift für Öffentliches Recht* 17 (1937): 671–672.

The significance of this small work must be measured by its intention. The treatment seeks to make the nature of Fascism and National Socialism clear to a larger, politically interested circle of readers and, in particular, to clarify the difference between the two movements and the two systems of political ideas. As he makes clear in his introduction, the author assumes such a need exists because the two worlds of deeds and ideas are equated, particularly by those on the political left. To the extent that it can be done at all

in fifty-two small-formatted, large-print pages, the author does justice to the task he set for himself. He succeeds superbly in working out, in broad strokes, the characteristic objective-idealistic character of fascist ideas as opposed to the National Socialist ideas of race and *Volk*. And he correctly sees and documents the opposition between the Italian and German views of the relationship of the state and the nation. If the didactic purpose has on the whole been accomplished, we still must object to some details. Berger has used the fascist ideas of Mussolini's *Dotrina del Fascismo*, in German translation by Horst Wagenführ, as the basis of his portrayal. Because this translation is totally inadequate, several oversights have crept into Berger's account. It appears to me that the most significant error is committed on page 28. There, Berger cites a sentence of Mussolini: "Fascism reveres the God of penitents, saints, and heroes." He then adds his own opinion: "It is worth remarking that Mussolini mentions the God not only of the saints and heroes, but also of the penitents. For bowing before the Christian virtue of humility does not correspond to the heroic posture." The puzzle of such bowing is easily solved by the fact that the "penitents" are an invention of the translator, Wagenführ; Mussolini speaks here of *asceti*. On page 35, there is a longer citation that loses its bite because, for unknown reasons, Wagenführ has left off the end of the final sentence in his translation. In the portrayal of the spiritual nature of the nation (37), only Mussolini's low estimation of the ties to the earth could be cited, but not the very important statement against race as the determining factor of the nation. This passage is stricken as if it were a Delphic oracle, in Wagenführ's translation. National Socialism is a little short-changed, though Berger's left-leaning reader would still learn something about it. Especially regrettable is that Hitler's very informative *Reichstagsrede* of January 30, 1934, was not brought into the interpretation. The editors probably sensed certain omissions in Berger's work and in a postscript of four pages have drawn, in strokes that are still too brief, the spiritual-historical lines of order around Fascism and National Socialism.

§38. *La misère par la surabondance: Karl Marx, père de la crise mondiale*, by J. Boissonnet (Paris: Recueil Sirey, 1938). Review originally published in *American Economic Review* 29 (1939): 572.

The book is more of a political pamphlet than a scientific treatise. Starting from the experience of the Popular Front government in France, the author defends the thesis that the present economic crisis is due to a large extent to the class-war attitude of the workers. In Boissonnet's opinion, the workers have exacted a wage level that actually destroys the capital and diminishes the national output. He finds a solution for this dangerous situation in a reorganization of the national economic system along corporative lines similar to the Italian experiment.

The author fails to document his contention, and he endangers his case seriously by generalizations; his attempt, e.g., to explain the difficulties of Central European governments in the years 1919–1924 and the period of inflation by the socialist complexion of these governments can hardly be considered as serious. The book may have a function in the present struggle in France, but its importance does not extend further.

§39. *The Ruling Class*, by Gaetano Mosca, translated by Hannah D. Kahn, edited and revised with an introduction by Arthur Livingston (New York: McGraw-Hill, 1939). Typescript in Hoover Institution, Voegelin Papers, box 56, folder 1. A version of this review was subsequently published in *Journal of Politics* 1 (1939): 434–446.

The American edition of Mosca's *Elementi di Scienza Politica* is a highly meritorious enterprise. This book, with the translation of Pareto's *Trattato*, makes it possible for a larger public to appreciate the peculiar and important Italian contribution to political science in the last half-century. A discussion has been running for several years concerning the relation between the two thinkers. At one point it went to the extreme of accusing Pareto of wilfully ignoring (at the very least) that he was indebted for his theory of the elite to Mosca's

theory of the ruling class. But the excitement seems to have dissipated more recently and has been replaced by the insight that the two great scholars developed closely related theories independently of one another, and that the overlap is chiefly a result of the similarity of their historical situation and of the problems that faced them.

Mosca stated his theory for the first time in the *Teorica dei Governi* of 1884, elaborated it in the *Elementi* of 1896, and reshaped it in the second edition of 1923. The theory has its general place in the great movement of disillusioned and critical analysis of society that began after the Napoleonic wars and has not yet come to an end. His synthetic powers equal to his analytic ones, Mosca has made his treatise a focus and summary of the critical trends and achievements up to his time. Saint-Simon's and Comte's ideas of creating a new governing class for a modern society influenced him as much as the Marxian analysis of class-society and of the function of ideologies; Spencer's theory of the industrial and the military society attempts, on a more limited scale, to classify societies essentially through reference to their representative groups; the most important immediate influence was exerted probably by Taine's interpretation of the French Revolution as the replacement of a decadent ruling class by a new one, and by the curious blend of Marxian class theory with Gobineau's racial interpretation of history in the work of Gumplowicz, which preceded by two years the *Teorica*.

This whole trend of thought crystalized into Mosca's theory that every social group is determined essentially by the type of its ruling class. The theory is revolutionary in the sense that it definitely pierces through the veil of political ideas and establishes firmly the relation between the governing minority and the governed majority as the nucleus of political society. The political ideas themselves find their place in Mosca's theory of the "political formula." He continues in this respect the Marxian critique of ideologies but goes beyond it when he explains the "formula" as a response to a basic need of the *zoon politicon*. The "formula" is not supposed to be true, but has the function, as we might say, of transforming a government of men into a government of law. This problem was dealt with later by Sorel in his theory of the political myth, and Pareto elaborated it more carefully in his theory of derivatives.

As Mosca has evolved his theory of minority rule in contradiction to the prevailing idea of democracy, his work should be grouped with other inquiries into the problem of government, appearing since the

second half of the nineteenth century, that have been stimulated by the experience of mass democracy. It is, however, of interest to note that Mosca apparently has not been aware of all the aspects of this movement. There is no reference in the *Elementi* to the discussion centering around proportional representation, which in its beginnings tried to preserve a governing elite under a democratic constitution, nor to the studies of Renan: Renan is quoted as a historian exclusively, but not as the author of the *Essai sur la réforme intellectuelle et morale de la France*, 1873. And while there are excellent sections on propaganda, no reference can be found in the second edition of 1923 to Gustave Le Bon's studies in crowd psychology, which were conditioned by the same experience with democracy as that of Mosca.

In this direction, I think, lie certain limitations of Mosca's work. He brings together an enormous amount of historical material, and his analysis is brilliant so far as description goes. But his psychology is somewhat outdated. He does not enter very deeply into genuine problems raised by the concept of "political formula" but obscured by terms such as *group instincts* or *human needs*. While Mosca's problems are decidedly nineteenth century, his style in attacking them is Italian and connects him with some illustrious predecessors. I cannot do more than hint at the line that can be drawn from Machiavelli through Vico and a host of minor authors on political technique, to Mosca and Pareto.

The author's admirable coldness and detachment in political analysis, his marvelous way of being unbefogged by political ideas, his power to make clear distinctions, and the masterful organization of the material make the *Elementi* a classic, and a peculiarly Italian classic of political science. The edition by Arthur Livingston is excellent. The translation is based on the 1923 edition of the *Elementi*; the apparatus of footnotes in that edition has been incorporated in the text, however, and partly revised. A few minor changes in the text improve the work from a systematic point of view. The translation makes fine reading, and the introduction presents skillfully the leading points of Mosca's thought. It is to be hoped that the present edition will endure. Mosca's work has a highly desirable impact on the advancement of political science that has unfortunately been lacking heretofore.

§40. *The Structure of the Nazi Economy*, by Maxine Y. Sweezy, Harvard Studies in Monopoly and Competition, 4 (Cambridge: Harvard University Press, 1941); *The Dual State: A Contribution to the Theory of Dictatorship*, by Ernst Fraenkel, translated from German by E. A. Shils, in collaboration with Edith Lowenstein and Klaus Knorr (New York, Oxford, and Toronto: Oxford University Press, 1941). Typescript of Sweezy review in Hoover Institution, Voegelin Papers, box 61, folder 8, and of Fraenkel review in box 61, folder 12. A version of this review was subsequently published in *Journal of Politics* 4 (1942): 269–272.

While the body of more or less emotional literature on totalitarian governments is enormous, the number of competent, well-documented studies is extremely small. Dr. Sweezy's analysis of the "economic anatomy" of the National Socialist "new order" is a valuable addition to the small number. The book is based mainly on German statistics that, according to the author, "are fairly reliable if used carefully and critically." The survey of the economic structure is fairly comprehensive though uneven in its elaboration. The sections on government and business, corporations, financial policies, national income, consumption, and social welfare receive the most thoroughgoing treatment; important topics, such as the cartels, on the other hand, are dealt with summarily (six pages).

The results of the survey are not surprising, unless we consider it a surprise that some popular prejudices are revealed as such; the chief merit of the analysis is the orderly arrangement of broad factual evidence for interpretations. Some of the more important contentions that find convincing confirmation in Dr. Sweezy's study are the following: the German economic system does not show an increase of state-ownership in banks and industrial enterprises, but the state has surrendered on a large scale public holdings that it had accumulated during the crisis years preceding 1933; the myth of "blood and soil" does not hamper the rational policy of increasing the number of large farms and of decreasing the number of small subsistence holdings; the ideology of helping the "little man" neither disturbs

the policy of reducing the number of small tradesmen, nor results in transferring skilled craftsmen to industrial labor, nor gives the formerly denounced department stores and chain stores their due place in business; the inequalities in income and wealth have not greatly changed, but the earned income share of the national income shows a marked tendency to decrease. The net impression is one of the application of highly conservative economic methods.

This impression would have been even stronger if space had permitted Sweezy to show the relationships between the National Socialist economic and political order and German developments growing out of the First World War. In fact, it is here alone that serious criticism can be leveled against the book: The tight restriction of the study to the National Socialist period, and within this period to the economic sector of the whole political and social structure, leaves the study hanging somewhat in the air. A few threads drawn from the German past and from the non-economic present would have brought it closer to the ongoing reality. Furthermore, the economic picture is slightly warped because it is set in a framework of such categories as "dynastic politics" (whatever that means in a National Socialist government), the "poor and the rich," which apparently refers to the "Junkers and industrialists" on the one side, the "workers" on the other. The German problem is considerably more complex than such clichés would indicate. Anyone who is acquainted, for instance, with the biography of Hugenberg will be astonished to find him classified, without qualification, as the "representative of the big landowners." But setting aside such points, which may be corrected easily by the reader, the book stands as a competent and reliable treatment of the subject.

The "dual state" is Fraenkel's formula for the National Socialist government. The enquiry is conducted on the level of a description of legal institutions; it arrives at the result that there are in the National Socialist system, side by side, a sphere of calculable legal rationality, the so-called normative state, and a sphere of arbitrary political decisions, the so-called prerogative state; the two spheres form parts of the one political unit that Fraenkel calls the dual state.

As the study is intended to be a contribution to the "theory" of dictatorship, we have to evaluate it under the aspects of (1) the description of the institutions, and (2) the achievement in theoretical classification. Considered under the first aspect, that of institutional description, the book is an important contribution to the

understanding of the National Socialist régime, because it digests a wealth of materials that otherwise are difficult of access, such as certain types of periodical literature and civil, criminal, and administrative court decisions. It is a book that could be written in this form only by a good lawyer who was, during the years 1933–1938, in continuous contact with the incoming materials. The study gives first-hand knowledge of the sources below the level of general rules and standard treatises. (A slight technical handicap is the publisher's unfortunate habit of putting the footnotes at the end of the book, instead of placing them at the bottom of the page, where they belong.)

The theoretical contribution may arouse some criticism. It is doubtful whether the essential features of any government can be brought out on the level of institutional description alone; the historical structure of sentiments and ideas is probably an indispensable element for the full understanding of political institutions. Fraenkel seems to recognize this basic problem by implication, for he subdivides his treatise into three parts: the legal system of the dual state, the legal theory of the dual state, and the legal reality of the dual state. The third part, on legal reality, seems to have an awkward title, for at first glance it is not quite clear what the difference between the legal system (part 1) and legal reality (part 3) should be. And the third part does indeed contain a collection of chapters on the history, the economic background, and the sociology of the dual state. Their very titles indicate that the author did not deem the legal description alone to be sufficient for an understanding of National Socialist politics, and that he realized that a few other elements had to be taken into account. The institutional duality of the National Socialist state does not reveal its full significance unless it is qualified by reference to the social, economic, and ideological structure, a qualification that is given competently in the third part. In spite of the misgivings we must have concerning type constructions on the level of legal institutions, the book is a penetrating, detailed analysis of National Socialist government in operation; it has, as far as I can see, no rival in the English language.

§41. *The Enigma of Admiral Darlan*, by Alec de Montmorency (New York: E.P. Dutton and Co., 1944). Review originally published in *American Political Science Review* 37 (1943): 751-752.

Internal evidence permits the conclusion that the author of *The Enigma of Admiral Darlan*, who writes under the pseudonym of Alec de Montmorency, was either a naval officer or an official of the French Ministry of Marine. He seems to have been close to Darlan during the critical period of the breakdown of France, for some of the information can hardly have a source other than the admiral himself. The book surveys briefly the background and career of Darlan; the main body (62-184) deals with events since 1939. The factual details, as far as they can be checked, are presented vaguely but on the whole correctly; as far as they concern such matters as the Darlan-Pétain-Weygand plot for a military dictatorship, or the events behind closed doors at the conference of Bordeaux between English and French representatives before the surrender of France, etc., their correctness can be confirmed only in a distant future when other reliable materials are available. On the surface, what de Montmorency has to say is plausible. He describes Darlan, a Breton steeped in the royalist tradition of the French navy, the idea of a dynastic union between Spain and France, which explains much of Pétain's and Darlan's attitude toward Spain, the national pride and sense of personal honor that react with resentment against the insulting behavior of the British First Lord of the Admiralty, the impression that the Allied treatment of Norway made on the French and their desire to frustrate a similar act of exploitation in the case of France. It is regrettable that de Montmorency is such a poor writer; with the materials in his possession, the tragic fate of Darlan could have been presented much more impressively. The plea for Darlan's patriotism is vain, for nobody would maintain seriously that a Frenchman could be a traitor because he held in contempt some of the dubious figures of the Third Republic; and the wisdom of his collaborationist policy cannot be judged at present.

§42. *The Decline of Liberalism as an Ideology: With Particular Reference to German Politico-Legal Thought*, by John H. Hallowell, University of California Publications in Political Science, vol. 1, no. 1 (Berkeley and Los Angeles: University of California Press, 1943). Typescript in Hoover Institution, Voegelin Papers, box 62, folder 3. A version of this review was subsequently published in *Journal of Politics* 6 (1944): 107-109.

The decline of liberalism, and particularly its decline in Germany, will be, for a long time to come, a topic of absorbing interest to the student of politics. The study of Professor Hallowell offers a contribution to the ideological aspect of the question. The liberal idea is traced from its beginnings in the seventeenth century, to its decline in the nineteenth, and to its complete disintegration in the German politico-legal theory of the twentieth century. As an instrument for gauging the decline of liberalism the author has developed the concept of integral liberalism, which is characterized by the following elements: "(a) A belief that social control is best secured by law rather than by command (this corresponds to the dignity of the individual, which entitles him to be ruled by impersonal rules rather than by personal authority); (b) a belief in a natural order that embraces both the individual and the collectivity (the state); and (c) a belief that there is a sphere of rights, peculiar to individuals as human beings, beyond which the state cannot penetrate and for the preservation of which the state exists" (8 ff.). Integral individualism combines the idea of the autonomous individual with the belief in an objective order of values that puts definite limits on the individual as long as the individual conscience is responsive to the objective values. The decline of liberalism is defined as the weakening of the belief in the objective, substantive order of values, so that in the end nothing is left but the individual force operating within the framework of a morally neutral legal machinery. With the decline of liberalism the problem of law changes from that of substantive justice to the problem of legal forms that in turn can be made the vessel for any value-content. The first chapters of Hallowell's study state the problem and describe the position of integral liberalism up to Fichte; the later chapters show the disintegrating influence of positivism

and historicism and describe the result in the neo-Kantian and neo-Hegelian German politico-legal theory of the late nineteenth and early twentieth centuries.

In the opinion of the present reviewer, the problem is aptly stated and presented; the study is to be recommended particularly for its insight that the totalitarian ideas are, not an event superseding liberalism, but the logical outcome of the initial inconsistencies of the liberal position. In the analysis of this problem, I have the impression, however, the author does not go quite far enough. In his presentation, the integral liberalism of the seventeenth century looks a bit more integral than it actually was; and correspondingly, the disintegration of the nineteenth century looks more nefarious than it would in a better proportioned view. Grotius is probably the only thinker of the seventeenth century who can be called an integral liberal in the sense as defined by the author. Locke already had used the theory of natural law only as the first phase of an argument that ultimately landed in the justification of a morally neutral order by the consent of individuals who are motivated by passion. The disintegration of integral liberalism was in full swing within two generations of its model presentation by Grotius. The destructive work of the nineteenth century seems to me overdrawn in its proportions, and somewhat underrated in the quality of its scientific achievement.

An agreeable surprise in a monograph on politics is the extent to which the author supports his own positive views by such theologians as Niebuhr, Tillich, Berdyaev, and Horton. Hallowell realizes that a treatment of political principles has to be based on a solid and well-reasoned religious position. The greatest merit of the book is the recognition of the fact that the inconsistencies of liberalism that led to its decline had their roots in the faultiness of its religious and metaphysical basis. A recovery of liberalism, accordingly, is possible only by the creation of a more solid basis in the religious experiences and the metaphysics that lend validity to its principal tenets.

§43. *The Foundation of Phenomenology: Edmund Husserl and the Quest for a Rigorous Science of Philosophy*, by Marvin Farber (Cambridge: Harvard University Press, 1943). Review originally published in *Social Research* 11 (1944): 389-397.

The founding of phenomenology by Edmund Husserl is one of the important events in the history of philosophy during the last generation. In the opinion of Husserl's followers it is the most important event. At the end of the last century, when psychologism constituted the climate of opinion in logic, Husserl's attempt to redefine the field of logic and epistemology proper, and to develop a rigorous scientific method for its investigation, inevitably met with resistance and misunderstanding, but he also found enthusiastic disciples. Husserl became the head of a school of phenomenological philosophy, and after 1913 the *Jahrbuch für Philosophie und Phänomenologische Forschung*, opening with Husserl's *Ideas*, was the organ of the movement. After Husserl's death the movement found institutional expression in the International Phenomenological Society, and its new organ in the quarterly journal, *Philosophy and Phenomenological Research*, edited by Professor Marvin Farber. The society has a program of publication: Besides the quarterly it has published a volume of *Philosophical Essays in Memory of Edmund Husserl*; the present volume by Farber on *The Foundation of Phenomenology* is the third in the series of planned publications.

The setting of Farber's book has to be taken into account in appraising it. It is not simply a presentation or critique of Husserl's philosophical position, though it has the definite purpose of making the American public better acquainted with the intentions of Husserl and of facilitating their understanding of his work by interpreting it in such a way as to isolate "descriptive phenomenology" as the method that can find general acceptance, while eliminating the elements of transcendental idealism that connect Husserl's work with the German philosophical tradition. Thus, beyond its achievement as a work of science, the book represents a pragmatic effort to introduce the method of phenomenology to this country in a form acceptable to the American philosophical scene.

This practical purpose determines not only the content but also the proportions of Farber's book. The greater part of it (chapters 4-

5 and 8–14) contains a detailed presentation of Husserl's first main work, the *Logical Investigations*. The free rendering of this work is intended to substitute for a translation (the second main work, the *Ideas*, is accessible in an English translation by W. R. Boyce Gibson). This part of the book is preceded by chapters on Husserl's early development, on his *Philosophy of Arithmetic*, and on his early logical writings; it is followed by analyses of his later contributions to a science of logic (chapter 15), of the *Lectures on the Consciousness of Inner Time*, the *Ideas of the Cartesian Meditations* (chapter 16), and of the final position of Husserl (chapter 17), as it was presented with the philosopher's approval by Eugen Fink in his essay on "Die phänomenologische Philosophie Edmund Husserls in der gegenwärtigen Kritik" (in *Kantstudien*, 1933, pp. 319–383). The only part of Husserl's work that is not presented adequately is the essay on *The Crisis of European Sciences and Philosophy* (published in *Philosophia*, vol. 1, 1936), though this essay throws a revealing light on Husserl's own view of the historical place of his work. In his preface, however, the author promises a future publication that will contain a more detailed discussion of Husserl's later phase.

As a consequence of its composite character, Farber's book holds a double interest for the reader. If he is not yet acquainted with Husserl's work, the account of the *Logical Investigations* will be of primary importance to him as an introduction to the phenomenological method in operation. The author's rendering of Husserl's treatise is lucid, and frequently easier to understand than the original work; wherever the present reviewer checked a particular point, Farber's presentation proved accurate. The difficulties of the German terminology are overcome with great skill and with a fine sense for the possibilities of the English language. In the economy of the book, the ample space devoted to this presentation is justified because the author regards the results of this earlier work—with its analyses of Expression and Meaning, of Pure Grammar, of Intentional Experiences—as the most valuable concrete contribution made by "descriptive phenomenology."

The reader who is already acquainted with Husserl's work will take more interest in Farber's interpretation and critique of the later phase and also in his attempt to isolate that achievement of phenomenology, which in his opinion is fit to become a permanent part of philosophy as a rigorous science. The author accepts phenomenology only as a technique for a presuppositionless procedure

in philosophy. The "Cartesian reduction" results in the suspension of all positings of an existence that transcends the mind, and reveals the field of the "transcendental ego," with its aprioristic structures in which experience of the world is constituted. The elimination of "assumptions," and the development of a method that can penetrate in nondogmatic reflection to the ultimate constituting subjectivity of the ego, are seen as the specific contribution of phenomenology to philosophical method. In this respect Husserl's work "is really a generalization of the deductive method of defining assumptions"; it is an addition to the methods used in philosophy, aiding "in assuring universal reflection and objective knowledge." The most important result thus far achieved by the method is the new epistemological foundation of logic.

The present reviewer finds himself in complete agreement with Farber's opinions in this matter. But it should be understood—and it is understood, of course, by the author—that this opinion deviates considerably from Husserl's own view of his philosophical enterprise. Husserl regarded his work not as a "contribution" to the methods of philosophy, improving and enlarging them, but as a radically new foundation that by fulfilling the intentions of earlier thinkers, particularly of Descartes and Kant, established philosophy anew on a firm, "apodictic" foundation. To him the history of philosophy since antiquity recedes into a preparatory phase, while in his own person and work philosophy reached its ultimate stage as a science; his appearance marked the epoch from which the new era of scientific philosophy would be counted into all the future.

For the student of intellectual history it is a fascinating spectacle to see how Farber purges Husserl of his messianic pathos and makes him a good, democratic, cooperative contributor. With regard to the arguments used in this process, however, the reviewer disagrees with the author. It is entirely legitimate to isolate the "reductions" and the method of description as the permanently valuable core of Husserl's work; and the criticism of Husserl's inclinations to hypostatize the transcendental ego and the transcendental intersubjectivity into metaphysical entities is certainly well founded. But Husserl is to be criticized not for his metaphysical leanings in general but because his metaphysics is technically bad. While the reflective method is essentially undogmatic and cannot lead to a metaphysical position, it certainly is compatible with one—and perhaps with more than one. It should not be forgotten that the "re-

duction" in the *Meditations* of Descartes, which served as the model for Husserl's, is set in the framework of a traditional Christian meditation, and that the Christian meditation, with all its metaphysical implications, is the root from which the philosophical methods of reduction and reflection grow.

Farber is not interested in these relations. His occasional juxtaposition of "mysticism" with "obscurantism" indicates that the problems of mystical philosophy do not appeal to his secularist temper. The idealistic inclinations of Husserl, however unsatisfactory in their expression, are the last trace of the metaphysical unrest that made possible the Cartesian method of reduction. It may be permitted to suspect that this unrest, which reveals itself openly in the later Husserl, was even in the earlier phase the hidden source of productivity providing the drive and the pathos of the phenomenological achievement; and it may be feared that with the round condemnation of this unrest, the source of further achievement will dry up.

But this slight disagreement with the author should by no means impair the full recognition of Farber's work as a masterly and skillful presentation of Husserl's philosophy. The volume should contribute materially to a fuller and wider understanding of the phenomenological method and provoke its application in fruitful investigations.

§44. *The Growth of German Historicism*, by Friedrich Engel-Janosi, Johns Hopkins University Studies in Historical and Political Science, ser. 62, no. 2 (Baltimore: Johns Hopkins University Press, 1944). Publication of review not traced; typescript in Hoover Institution, Voegelin Papers, box 62, folder 11. 1944 (?).

Professor Engel-Janosi's book has a quality that unfortunately is rare in scientific production: The book is enjoyable. A historian himself, who has mastered the technique of his science, he has written on the growth of German historical thought from Herder to Jacob Burckhardt. The aesthetic qualities of the work arise from the close connection between subject matter and form of presentation. The growth of historicism, as delimited by the author, has come to an end; a closed period can be presented as a whole to the reader by the skillful selection of the materials, and the analysis can pene-

trate to the essence of a fascinating manifestation of the spirit in time. In order to achieve this result, the delimitation of the subject matter is of the first importance to the author. In the historiography of enlightenment—on which Engel-Janosi has expressed himself on another occasion—we hardly find even the beginning of a national differentiation in the aims of writing history; while by in the nineteenth century the differentiation into English, French, Italian, and German trends is marked, though the international features do not disappear completely. Hence it is possible for the historian of the nineteenth century to isolate a national development such as the German, which was selected for this study. Still, a further selection has narrowed down the group of historians characterized by the author to those in whom is alive the sense of "tradition," the belief in the special dignity of history as an "art of remembrance." Thus it is entirely appropriate to close the study with Burckhardt, in whom the consciousness of tradition and of the art of remembrance have reached their fullness. With Nietzsche begins the attack on historical consciousness and the demand of an "art of forgetting," which restricts the horizon to man "in his highest examples."

Having fixed his ordinates of relevance in this manner, the author concentrates on the essential theme, which unfolds in the historiography of this period: the categories of the individual, of development, and of success. The concentration is highly fruitful. The soul in all its dimensions, including the unconscious, develops its potentialities in the individual life as well as in the sequence of historical variations. The soul and its development become the topic of history beginning with Herder, and history becomes the science of the soul as unfolding its potentialities. The author analyzes very well the idea of the individual in Herder and Humboldt, and the attention given by Herder and Niebuhr to the problem of the "beginning," of the early phases of history in which *in potentia* is manifest what becomes explicit in the later unfolding. The category of success, on the other hand, introduces the problem of historical structure, of the rise and fall of powers, and of the drama of history that is the great problem of Hegel and Ranke and, in a special variation, of Marx. The soul, however, is not entirely dissolved into the development of history; the form of the individual life remains a constant, and the typical in history becomes, therefore, a further problem—that is, the problem taken up by Goethe, Schopenhauer, and Burckhardt.

This field of problems was elaborated by the German historians. However widely they differ as personalities and philosophers, they are held together by this common focus. True to his own confession, the author has brought out excellently this common element: "The task of the historian is to perceive and to present various trends and forces. However conflicting they may appear at first view, he can enjoy the richness they offer; and, if his point of view is sufficiently elevated, he will be able to perceive as harmony, as 'concord', what others know only as discord." In the face of such harmonization and aesthetic discipline, it is hazardous to venture critical suggestions. Still, we may praise particularly the chapter on Ranke for the well-rounded portrait it gives of the great historian; and we may suggest perhaps that the reader would not have enjoyed only the pages on Schopenhauer, prefatory to Burckhardt, but also a few pages on the historian to whom Schopenhauer owes so much, namely, Schelling. On the whole we may say that the book is an excellent and very timely reminder that history is not a collection of facts of dubious relevance but a science that has to order facts in the light of a theoretical problem. The form that the problem received at the hands of the German historians belongs perhaps to the past, but the problem itself is permanent; and without its reformulation and its incorporation in the work of historians, their work will become an escape into facts without meaning.

§45. *General Theory of Law and State*, by Hans Kelsen, translated by Anders Wedberg, Twentieth Century Legal Philosophy Series, vol. 1 (Cambridge: Harvard University Press, 1945); *The Pure Theory of Law*, by William Ebenstein (Madison: University of Wisconsin Press, 1945). Review originally published in *Louisiana Law Review* 6 (1945): 489-492.

As a sequel to the Modern Legal Philosophy Series, the Association of American Law Schools has prepared the publication of a Twentieth Century Legal Philosophy Series. Most appropriately the editorial committee has chosen Hans Kelsen's *General Theory of Law and State* as the opening volume. Kelsen's "Pure Theory of Law" is, no doubt, the outstanding achievement of our time in legal theory.

The grand trend of analytical jurisprudence, going back to Bentham and Austin, has reached in Kelsen's work a climax of elaboration that will hardly be surpassed in the near future. The achievement is paralleled by a prodigious success, attested by the bibliography that is attached to the volume; it shows translations of Kelsen's works into fourteen languages, and the select bibliography of the more important monographs on the "Pure Theory of Law" runs into eight pages.

The present volume contains a restatement of ideas expressed in earlier works. It has absorbed the substance of the *Allgemeine Staatslehre* (1925), of the *Théorie Générale du Droit International Public* (1928), and of the *Reine Rechtslehre* (1934). It is, however, not simply a translation of parts of the earlier volumes but a systematic reorganization of the whole body of doctrine with a view to the interest of the reader who is brought up in the tradition of the common law. This fact alone lends importance to the new volume, for the shifts of emphasis, as well as the omissions and additions, throw a revealing light on the differences of outlook between the civil law and the common law. The student who is interested in a comparison of the two legal civilizations will derive great profit from checking the chapters of the *General Theory* against the chapters of the *Allgemeine Staatslehre* of 1925. Moreover, the materials are arranged in a new systematic order. The *Allgemeine Staatslehre* had suffered from the attempt to cast the new legal theory approximately into the German form of the *Staatslehre* in the tradition of Laband and Jellinek. The earlier treatise is organized into three parts on "The Nature of the State," "The Validity of the Order of the State," and "The Creation of the Order of the State." This arrangement has now been dropped, and we find the *General Theory* organized into the two parts on "The Law" and on "The State," which stand to each other in the clear relationship of a general theory and its application. The first part presents, under the title of "Nomostatics," the fundamental legal concepts and, under the title of "Nomodynamics," the problems of a hierarchically unfolding legal order. The second part employs the legal categories in the analysis of the problems of constitutional and administrative law. This part closes with an extended analysis of the relations between national and international law. The new systematic form is a decisive improvement.

As to the substance of the theory, the position of Kelsen has not changed noticeably. The great merits of the "Pure Theory of Law"

come again into their own. The concept of positive law is carefully defined and guarded against all admixtures that have a habit of entering the theory of law from the spheres of sociology, psychology, ethics, politics, and speculation on natural law. This work of purification is of importance not only for the establishment of an objective, scientific theory of law, but the unscrambling of a traditional mass of problems that go under the name of jurisprudence, and the clear distinctions between legal problems proper and those that belong into other contexts, will be of help even to those who do not share Kelsen's opinions concerning a general theory of politics. The value of the method becomes particularly obvious in the clarification of the legal complexes that are most deeply corroded by political preconceptions. The reader should be referred specifically to the section (which has become a classic of legal theory) on "Centralization and Decentralization," containing the masterful analysis of the federal state and the confederacy. The section on international law, furthermore, will be of assistance to everybody who is sincerely interested in clear distinctions between politics and the state of the law in this delicate field.

Unfortunately, there have also been retained in the present volume the drawbacks of Kelsen's positivistic metaphysics. The reader who is faced by the division of reality into nature and norms, into the Is and Ought, may be worried by the question what has become of the realms of meaning in politics and history. He may also doubt whether the problems of natural law (treated specifically in the appended study on *Natural Law Doctrine and Legal Positivism*) are, indeed, exhausted by Kelsen's analysis. And he may wonder whether the problems of politics can all be squeezed under the titles of "interest" and "ideology." These questions, however, concern the fringes of Kelsen's theory; they have a bearing on the claim of the "Pure Theory of Law" to be the exhaustive theory of the state, but they neither affect the value of the systematic core, nor the validity of the detailed analysis of legal problems. The work as a whole is a magnificent contribution to the science of law, and the institutions that have assisted in making it available to the English reader are greatly to be thanked for their service.

The monograph on *The Pure Theory of Law* by William Ebenstein is the revised edition of the English translation of the author's *Recht-philosophische Schule der Reinen Rechtslehre* (1938). Ebenstein's study will be of great help to the English reader who wishes to pene-

trate more deeply into the background and implications of the "Pure Theory of Law," particularly so since it is the author's purpose to show that the theory not only is of value in the analysis of Continental law but is of general validity also for the common law. As far as the rendering of the theory itself is concerned, the reader will probably now prefer to have recourse to Kelsen's new treatise. Still, the study of Ebenstein retains its usefulness because here the reader finds information on the neo-Kantian theory of knowledge and its influence on Kelsen's theory of law, as well as on the general European situation in legal philosophy out of which the theory of Kelsen has grown. Moreover, the study gives a fairly adequate impression of the school of legal theory that has evolved under the influence of Kelsen—or rather of the schools, for not all of Kelsen's disciples have remained within the pale. The broad advancement of legal theory in general, and the penetration of special fields of law, through the work of Verdross and Merkl, Weyr and Sander, Felix Kaufmann and Schreier, has to be understood if one wishes to appreciate the fertility of Kelsen's enterprises. A slight flaw may be found in the study insofar as the author is perhaps too much inclined to see only the merits of the "Pure Theory of Law" and does not give a sufficient impression of the very serious criticism that it has undergone. And a regrettable gap is the complete omission of an inquiry into the background of Austrian legal tradition and theory, which is a highly important component in Kelsen's work. Still, the study remains the best approach to the subject available in English.

§46. *Contemporary Italy: Its Intellectual and Moral Origins*, by Count Carlo Sforza, translated by Drake and Denise De Kay (New York: E.P. Dutton and Co., 1944). Typescript in Hoover Institution, Voegelin Papers, box 62, folder 9. A version of this review was subsequently published in *Journal of Politics* 7 (1945): 94–97.

*Contemporary Italy* is not a scientific treatise on Italian history but rather the intellectual autobiography of its author. In the foreword, Count Sforza denies expressly having written a well-constructed and well-balanced book, a feat that would smell of "intellectual cookery." What he wants to provide are his own ideas and impressions,

which have been conditioned by practice, and a lesson in the things of the world. The merit of the book lies, indeed, in the picture it draws of Italian political and intellectual structures as seen through the temperament and experience of a diplomat, a man of politics, and, above all, a highly cultivated Italian aristocrat. Historical facts and ideas are not adduced for their own sake, but only insofar as they have entered into the formation of the author's outlook on Italian problems. This experiential approach has excellent results because Count Sforza's life (he was born in 1873) happens to coincide with the history of Italy since her unification; and his mature political life as diplomat, as foreign minister, as senator, and as leader of the anti-Fascist movement in exile coincides with the critical period from 1911 to the present. Brief parts on the "Origins" since the Renaissance and on the "Risorgimento" precede, therefore, the longer exposition of Italian life in the time of the author's youth (87-166), while the bulk of the volume (167-394) deals with Italian history since 1914 in which the author participated actively.

Hence we have to distinguish between the value of the book as a source of information on Italian history and its value as a source of information on Count Sforza. In its first aspect, the value of the various parts is rather unequal. The introductory part on the "Origins" since the Renaissance is too brief to be of any value except as a prelude to the fuller unfolding of the main parts. Beginning with the "Risorgimento" the quality improves because the otherwise known events receive a distinctive color through the traditions alive in Sforza's family. The parts since 1914 have considerable importance because Sforza here can speak as an eyewitness and man of affairs. His wide knowledge of Italian politics and personalities makes of these parts a primary source of Italian history that has to be taken into account in the future "intellectual cookery" of balanced history.

In its second aspect, as a source on Count Sforza, all parts of the book are of equal importance. The key to its understanding is the casual remark that Italian statesmen are less prone than British to write their memoirs because they are more aware of the gulf between a dream and its realization. Autobiography is, indeed, an epic art that is rarely mastered by those who inflict their life stories on the public. Sforza has chosen for his self-presentation the less presumptuous, indirect method of reflecting the amplitude of his personality in his comprehension of the intellectual heritage of his country. The

display of this comprehension is kept from degenerating into the dilettantic rehash of a general education by Sforza's power of drawing pointed pictures of personalities and characters. The charm of the book lies in the aliveness of the figures of Italian history. The reader has the feeling of moving with Sforza in a fascinating company of poets and scholars, of princes and popes, of statesmen and politicians, of noble, mediocre, and rascally men. The author's strong individualism expresses itself in the creation of a world of sharply characterized individuals. Whether it is the portrait of Dante, of Manzoni or Carducci, of Machiavelli or Mazzini, of Pius IX or Pius XI, of Cavour or Giolitti, of d'Annunzio or Mussolini—the reader sees always a rounded, living image, even if sometimes he is inclined to doubt its historical justice or profundity; and some of these portraits are literary gems. The book is written by a man and a patriot to whom the heritage of his people is a living reality and a deep obligation.

The admiration of the reader will be mixed, however, with nostalgia. He will wonder: What place can there be for this generous openness to the wide tensions of a national life, for the humanism and moral sanity displayed in this book, in a world of institutionalized politics and fanatical creeds? The reviewer tried to recall the names of other men of politics, of ministerial rank, on the contemporary scene who could write a representative book on their country like Sforza, and no name occurred, with the possible exception of that of Winston Churchill; but Churchill is seventy, as is Sforza. Count Sforza's optimistic appraisal of Fascism as an adventure from which the nation will return to its traditions seems of doubtful validity, and the doubts are aroused precisely by the contrast between the qualities of the author and the qualities that determine the politics of our time.

The translation from the French is readable, on the whole. Unfortunately it is marred by an astounding series of slips as regards dates and the spelling of proper names, which can be attributed neither to the author nor to the printer. The editing of the book seems to have been done by persons who simply did not recognize the mistakes as such. The historical appendix, furnished by the translators, contains the interesting information: "1865—Italy joins Bismarck's Austria in 'Seven Weeks' War' against Russia." For a book that costs \$3.50 the publishing firm might at least supply a historically literate editor—to say nothing of the respect it should have for the author.

§47. *Rosenberg's Nazi Myth*, by Albert R. Chandler (Ithaca: Cornell University Press, 1946). Review originally published in *American Journal of Sociology* 52 (1946-1947): 161.

Rosenberg's *Myth of the Twentieth Century* is, next to *Mein Kampf*, the most important literary document of National Socialism. An analysis and interpretation of the *Myth* would be a most desirable contribution to the understanding of contemporary political movements. Whether Professor Chandler's book will fill this gap may be doubted. The reasons for the inadequacy of a well-intentional effort lie in the author's approach. He considers the *Myth* a body of doctrine, fallacious in principle and inaccurate in detail; and he intends to "expound and criticize" the main features of the doctrine. I am afraid that this is not the proper method to deal with a work that intends to evoke and to elaborate a myth. Such exposition and criticism can only result, as it does, in informing the reader about the painfully obvious: that Rosenberg was indeed a National Socialist, that he believed in the superior qualities of the Nordic race and condemned the Jews as an anti-race, that Christianity is for him an Oriental importation that corrupts the Teutonic qualities, that the pope is a "medicine-man," and that roping-in Meister Eckhart in support of the National Socialist spirit involves some violence. The criticisms again have the somewhat obvious result that a number of authorities on race questions would not agree with Rosenberg, that his ethics can hardly find support in the Gospel, and that, to his great surprise, Goethe would not have liked Rosenberg! The great problems raised by the *Myth*—of the rise of intramundane religiousness, of its causes, of its social appeal, of the apparent helplessness of the Christian churches in the face of this threat, etc.—are barely mentioned. Does Chandler really believe that problems of this magnitude can be met by the well-bred question: "After comparing Nazi 'religion' and Christianity, who can doubt which degrades humanity and which exalts it?" Still, the English reader who is unacquainted with Rosenberg's *Myth* may derive some introductory information from the book as well as a few bibliographical references.

§48. *Soviet Politics: At Home and Abroad*, by Frederick L. Schuman (New York: Alfred A. Knopf, 1946). Typescript in Hoover Institution, Voegelin Papers, box 62, folder 12. A version of this review was subsequently published in *Journal of Politics* 8 (1946): 212-220.

Professor Schuman has written a comprehensive volume on Soviet politics that will remain the representative treatise for quite some time to come. An introductory part, subtitled "A Book of Origins," deals with Marxism and its penetration into Russia, with the background and career of Lenin, the history of the Russian Communist movement, and the victory of the revolution, and with those factors of Russian history that still are determinants in the period of Soviet rule. The principal part, "A Book of Peace and War," presents Soviet political history, the development of institutions, and the policies, both foreign and domestic, from the victory of the October Revolution to the end of the Second World War. The concluding part, "A Book of Prospects," deals with the outlines of post-war politics as far as they have become visible and with the probabilities of internal development and foreign relations of the Soviet Union in the future. The amount of material digested in these more than 600 pages is enormous; and every one who wishes to inform himself on any aspect of Soviet politics (with the exception of economic problems and institutions, which are excluded from treatment) will do well, as a first approach, to consult this volume.

It was not the purpose of the author, however, to present a piece of original research; the scope of the volume reflects rather the intention "to see steadily and to see whole the total fabric of Soviet politics, from the barbarian migrations to the Changchun Railway Co., from Marx in the British Museum to the Soviet Intelligentsia, from peasant rebellions to collective agriculture, from Portsmouth and Brest-Litowsk to Potsdam and Lancaster House." This plan, rather of encyclopedic synthesis than of intensive monographic study, does not, however, prevent the author from treating certain aspects of Soviet constitutional life, to which he draws specific attention (xv), with a thoroughness surpassing earlier attempts. The materials are presented with the intelligent vivacity that we can expect of Schuman. A conscious care for style is visible. In the formulation of terms

and titles the author resorts frequently to the artistic device of alliteration that is known to the reader of his earlier literary productions. We find again such old friends as the forces of fear, fraud, and favors by which rulers keep their subjects in obedience; and we encounter new *recherché* coordinations like "Cipangu and Cathay" (for Japan and China) reminiscent of Marco's account of his call on the khan at the court of Cambaleschia. The book is written throughout with a deliberate mellowness that will make its message tasteful to many.

Beyond this point the reviewer is somewhat at a loss about a critical evaluation of the volume. It is a book of opinion, not of scientific analysis. The facts are reported correctly, with a few negligible exceptions, but the interpretation does not conform to any standards of scientific method. The objectivity for which the author has striven is not one of science but of political judgment. Under these conditions there is not much sense in stating agreement or disagreement concerning specific propositions, and we might well conclude at this point. Nevertheless, Schuman's approach to politics is of a certain importance both because it is representative of a trend in contemporary political science and because the resulting picture of Soviet politics might influence a considerable public. A few reflections on the author's aims and the means employed in their realization will, therefore, be appropriate.

What the author considers a sympathetic, objective analysis of the Soviet system is in fact a skillful apology. How in good faith is that identification of objectivity with apology possible? It is possible because Schuman proceeds on the tacit assumption that a rational, scientific approach to politics does not exist. People are for or against the Soviet system for emotional reasons, and objectivity consists in striking a middle course between unconditional Marxist praise and unconditional anti-Marxist antipathy. The attitude expresses itself in a complete disregard for the considerable literature on Marxism and Russian events written from a well-elaborated theoretical position. The reader will search in vain in Schuman's book for a justification of the author's position as against the positions of such writers as Nötzel, Gurian, Maritain, or Berdiaev, to take a few examples. Instead he will find the author engaged in achieving a more unbiased view than that provided by the "sick soul" of Max Eastman, or the charming "crypto-Fascist" Clare Luce, or Hiram Johnson "who died, as he lived, in his sleep," or the "Menshevik" Dallin. The author has succeeded, indeed, in steering a safe course between the Scylla of

adulatory comrades and the Charybdis of enemies of the system or, as he would perhaps prefer to formulate it, between the *Daily Worker* and the Dies Committee; still, we shall not be surprised that an objectivity resulting from an equidistance from two parochialisms does not rise very high above the level on which the exaggerated distortions occur. In order to illustrate the result, I shall comment on a few of the points that attracted my attention in the chapter on "The Soviet State."

(1) On pages 291 ff. the author discusses the election system of 1918, with its method of indirect election, under which the lower soviets send delegates to the next higher, through a hierarchy of four levels, up to the central representation. Schuman compares this system with the indirect election of the United States Senate and president under the constitutional provisions of 1789 and with "the traditional form of American political party organization." The comparison, which obviously tries to engage the reader's sympathy, is mistaken. In the first place, the Russian indirect system was applied, not to a Senate or president, but to a body that functionally would correspond to the House of Representatives. In the second place, the American indirect election has one level of indirection, and not four like the Russian, for the vast majority of the electorate; and third, the election to a representative legislative body is one thing, while an internal party organization is quite another. Moreover, the method of election of 1918 is not at all inspired by Western models but is an adaptation of the electoral law of June 3, 1907, which Stolypin devised in order to get rid of the liberal membership of the first and second Dumas. The electoral body was split by Stolypin's law into four colleges of landowners, urban population, industrial workers, and peasants. The election was made indirect, with three stages for workers, four for the peasants. The electoral procedure of 1918 abolished the landowners and nonproletarian urban population but retained the device for workers and peasants. The arrangement permitted Stolypin to manipulate the representation in the desired direction, and the Communist Party used it with equal success. If I remember the figures correctly, the ratio of Communists to non-Communists at the lowest level of soviets was 1 to 9, while in the central representation this ratio was inverted. Presumably Schuman chooses to omit this Russian context of the 1918 election procedure because he prefers to arouse in his readers associations with American democratic procedures rather than with the tsarist tricks for the

prevention of democracy. The "facts" are rendered "correctly" by the author, but the interpretative wrappings may arouse misgivings among "crypto-Fascists."

(2) On page 291 we find the sentence: "Like the Congress of the United States, the All-Russian Congress of Soviets and its CEC were vested with enumerated powers (Articles 49-52), but since they were of very broad scope and included 'altering and supplementing of the Constitution,' this legislature resembled more closely the British Parliament which, in theory, possesses unlimited sovereignty." Again the attempt to arouse sympathy by comparison with American and British institutions is obvious. The trick lies in the equivocal use of the term *legislature*. The Russian "legislature" of 1918 resembled in no way the American Congress or the British Parliament except in the scope of its jurisdiction. But on the point of jurisdiction, there is no difference between Parliament and an absolute monarch. The relevant differences, may I suggest, lie elsewhere.

(3) In discussing the constitution of 1936 on page 301, the author considers Article 141, which vests the right to nominate candidates for election in various organizations of the working people. He omits to state that there is also an Article 126, which provides that the Communist Party forms "the leading nucleus of all organizations of the toilers." Instead he stresses that "in contrast to the United States, where citizenship is defined by the federal constitution and suffrage by the States within the limits of federal constitutional restrictions, both citizenship and suffrage in the USSR are defined in the Union Constitution." The net impression is that the election of representatives based on general suffrage is in Russia better secured than in the United States. The fact that the nomination of candidates is controlled by the Communist Party is suppressed. Otherwise the "facts" are reported with scrupulous correctness.

(4) On pages 304 ff., in discussing the federal organization of the Soviet Union, the author says, "The greatest glory of the Soviet State is its achievement of effective equality in rights and opportunities for peoples of all races, languages and cultures. Under the formula of a new civilization 'national in form and proletarian in content,' each ethnic group has been guaranteed cultural autonomy and local self-determination within the political and economic framework of Soviet society." The facts again are correct. But there is a noticeable absence of comment precisely where it would have been necessary to explain that "national in form and proletarian in content" means in

practice the ruthless extermination of national culture, of the social form as well as of its spiritual expression, insofar as it is incompatible with Communism as a creed and as a political and economic form of society. And all national culture is incompatible except language and perhaps a few customs on an innocuous folkloristic level. If we do not hear more of the unspeakable misery inflicted by this "greatest glory," which resulted, for instance, in the wholesale massacre of nomads who did not care to become factory workers, the reason is that the nationalities in question are mostly on a primitive level, which prevents them from being sufficiently vociferous to be heard beyond the Soviet border. In one instance, that of the Volga-German Republic, the destruction of national substance does not seem to have been quite successful. The republic was dissolved in September 1941, when the German armies approached; its territory was divided among neighboring republics, its population was deported to Siberia. The necessity for this measure might give food for thought, but Schuman disposes of it incidentally as "a disregard for constitutional niceties" (314). Moreover, he does not relate what would have been most pertinent in this context, that Stalin's policy concerning nationalities was evolved on the basis of his critical study of the Austrian problem of nationalities. The fact that the Austrian Social Democrats did not organize as one party but preferred to form their respective Czech, German, etc., Social Democratic Parties aroused Stalin's disapproval. The mistake was not to be repeated in Russia. I wonder whether the genesis of Stalin's policy was suppressed by Schuman because it would have been a bit difficult to explain why the growth of national culture in substance, which characterized the Austrian development, constituted inequality and serfdom, while the destruction of the substance by Communist intellectuals in the Soviet Union constitutes equality and freedom.

(5) The author gets into a fix on pages 321 ff. in explaining the unanimity of Soviet elections, which smacks strongly of the unanimity achieved by the National Socialist government on similar occasions. The parallel is not denied, but the author resorts to minimizing its significance: "Electoral unanimity is an old Slavic custom, long antedating Sovietism and Marxism. It is reflected in the procedure of the ancient Russian *Veche* or assembly and in the *liberum veto* of the Polish Diet." The Russian *vieche* as an institution has nothing to do whatsoever with the Polish Diet and its *liberum veto*, and neither institution has anything to do with the unanimity secured by the

pressure of a totalitarian party. In this groping for support at all cost, even factual correctness is surrendered.

These points should be sufficient for the purpose of illustration. They are not isolated instances; the entire book would require a similar sentence-by-sentence commentary. Moreover, only points were selected that lent themselves to a comparatively brief analysis. They are by far not the worst that occur in this chapter. They were, furthermore, chosen from the chapter on constitutional questions because in the field of institutions and legal provisions there is comparatively little leeway for extravagant interpretation. The well-circumscribed facts and the rigidity of legal concepts make it easy to detect and reveal the disregard for reality. Subject matter that requires a more complex conceptual apparatus for its interpretation offers more ample opportunities for the type of apology Schuman undertakes; but the unraveling of his propositions concerning personal motives, political intentions, historical causes and effects, religious experiences, political ideas, etc., would be a task beyond human powers. What goes on in some of the chapters would definitely be worth attention, but it defies analysis within the space of a review. I can only assure the reader that it is hair-raising.

The tensions between apology and science that pervade the book can be fully understood only by the professional scholar. Nevertheless, even the layman who will read the book primarily with a pragmatic interest in current politics will get an inkling now and then of the problems involved, for the author very considerably caters to this interest by bringing his story up to date. As a matter of fact, I have never seen a book quite as up to date as this one. On page 545 we find, "The USSR, Britain, and the United States, along with all other victims of the Nazi assault on civilization, were necessarily preoccupied in 1945-46 with de-Nazifying Germany, punishing war-criminals, collecting reparations, and rendering the Reich militarily impotent." The events of 1946 are reported in the past-tense in a book that was released on February 11, 1946, while the sentence presumably was written before January 1, 1946. In this case there is perhaps some hope that the post-diction may prove correct when we consider it on December 31. In his elaborate interpretations of post-war Russian policies with regard to the area south of the border from Crece to Cathay,<sup>1</sup> however, the author may have run ahead of events in the wrong direction. In these days, when secret agreements pop up before breakfast, when the several secret services waltz separately

around each other and all together around the atom bomb, when dark things are going on in Iran and Manchuria, and when in general history happens much faster than even a brilliant intellectual can write, the layman may read about these matters any day in his morning paper and then resort to *Soviet Politics* in order to experience the unholy joy of catching the author with his comments down.

We cannot close without giving consideration to an argument that pervades the whole book and forms the cornerstone of the apology: the misery inflicted by the Soviet régime on the Russian people and the terroristic suppression of all opposition that arouse the resentment of the West have to be understood as a reaction to the threatening attitude assumed by the outside world toward Communism since the October Revolution. The experience of intervention and the later fear of attacks on the part of Western powers motivated the building of the industrial apparatus and of the war machine at the tremendous cost of human happiness. The policy was amply justified by events, and we have all to be grateful to the Soviet leaders for the foresight that enabled them to stop the German attack.

Hardly anyone will disagree with Schuman's political judgment concerning the importance that the Russian military performance had for us; none of us cares to imagine what might have happened if the Russian front had cracked. So far, so good. But while the time span of a decade may limit the horizon of a political intellectual who wishes to plead a cause, the political scientist has to place the events into a somewhat larger context of historical time. And while the scientist will agree that in the short term the Soviet policy was justified, if ruthless, in face of the Nazi menace, he will also have to raise the question whether the Nazi menace would have arisen at all if Marxism and the victory of the October Revolution had not been introduced as determining factors into Western politics.

In the perspective of a century we have to say that the socially disruptive and irresponsible gibberish of half-baked intellectuals about class wars and dictatorships of the proletariat has created the symbols and evoked the patterns for the solution of political problems that, once they are launched on their public course, are at everybody's disposition. They can be used not only by the intellectuals who created them, and not only in the interest of the class for which they were originally meant; they can also be used for mobilizing

1. My typewriter had an acute attack of alliteritis.

the war of the lower middle-class against the proletariat and for the establishment of fascist dictatorships. Once the patterns of violence and atrocity are set, one never can know what effects they will have. The ways of causation in these matters are tortuous and often incredible. Those who scream today in horror at the Nazi gas chambers, for instance, might read with profit *Mein Kampf* in order to learn when and where Hitler's idea of judicious extermination of political enemies by means of poison gas germinated (Reynal and Hitchcock edition, p. 984). The paths that lead from the Communist class-war to Fascism, however, are not so obscure. Anybody who cares to study the intellectual biography of Georges Sorel will recognize the transitions. And there is a direct relationship between the *fasci* of industrial workers, founded in the 1870s in the Romagna by Bakunin and his friends during the expansion of the First International, and the *fasci* of the Romagna Mussolini whose parents grew up in this environment.

The book under review shows no traces that the author is aware of such connections; there is no awareness that the deeds of hatred have a habit of growing into further deeds of hatred with an increasing ferocity; and there is no awareness that the end of this chain of intensification may not have been reached. Not only is there no such awareness, but Schuman adopts an ethics of *raison d'état* that connives unconditionally in atrocities and approves the pattern of hatred. Political necessity justifies the means as long as the end is Communism. When, for instance, the idea of a Communist society and proletarian dictatorship runs into the reality of the independent Russian peasantry, who after all are the majority of the Russian people, political necessity does not require that the Communist intellectuals beat a retreat and leave the peasants alone when the intellectuals cannot influence them by persuasion; political necessity requires that the peasants be butchered in the name of the holy class-war until the survivors see the light and let themselves to be organized in collective enterprises. The continuation of the apologetic game into such situations, the disrespect for the victims of a historical catastrophe, and sometimes even a tone of flippancy in the face of their suffering are truly regrettable features of the book. They will arouse the revulsion of many readers, who for their "sentimentalism" will promptly be classified as "crypto-Fascists" by the author, and they will arouse an apprehension of the Nemesis that will overcome the intellectuals of whom the author is representative.

In spite of all that had to be said, Schuman's book is the outstanding treatise on Soviet politics and by far the best that can be recommended to the reader for information on this subject. Let us be clear, however, that this recommendation is the worst condemnation conceivable of the present state of political science.

§49. *The Lessons of Germany: A Guide to Her History*, by Gerhart Eisler, Albert Norden, and Albert Schreiner (New York: International Publishers, 1945). Review originally published in *American Political Science Review* 40 (1946): 385-386.

In our time of rising totalitarian creeds, we have to face a good deal of rewriting of history to suit the various party-lines. Such a rewriting of German history has been done by Gerhart Eisler, Albert Norden, and Albert Schreiner in *The Lessons of Germany: A Guide to Her History*. The authors, who were formerly active in the German labor movement, have approached their task in the spirit of hagiography. Human history has the form of a struggle between the protagonists of good and evil, that is, between progressives and reactionaries; the great mass of mankind consists of dupes alternately to be poisoned by the reactionaries and enlightened by the progressives. German history is a sad chapter in the cosmic struggle between the two Manichaeian forces. The reactionaries had the better of it until at last they were discomfited; the lesson is that terrible things will happen again in the future if Germany from now on is not run by Communists. The principles of interpretation are furnished by the writings of Marx, Engels, Mehring, and Lenin on German questions; "bourgeois" historians whose works might attract attention to somewhat different aspects of German history are carefully ignored. The authors make no attempt at writing responsible, pragmatic history, but offer a selection of facts, editorialized to suit the principles. Since a political writer usually has a sharp eye for the iniquities of the enemy, the reader will occasionally find a choice tidbit of pan-German imperial dreams that hitherto was not known to him. These little items, however, lose much of their value because the authors do not give exact references. On the whole, we may say that to the faithful

this type of history will be greatly edifying, while to the scholar it is a farce and to the reviewer a pest.

§50. *Soviet Legal Theory: Its Social Background and Development*, by Rudolph Schlesinger (New York: Oxford University Press, 1945). Typescript in Hoover Institution, Voegelin Papers, box 62, folder 20. A version of this review was subsequently published in *Journal of Politics* 9 (1947): 129-131.

The title that Dr. Schlesinger has chosen for his book is symptomatic of the complexities of his task. On the one hand, his title is an understatement that does not reflect the real importance of his study; on the other hand, it would be difficult to devise a better one. Soviet legal theory, in the strict sense of a theory of law developed after 1917 by such authors as Stuchka, Pashukanis, Vishinsky, Benedictov, and others, is hardly an impressive performance that could fill with joy the heart of a scholar. Rather it induces a state of bewilderment. The authors try, with little success, to operate with such categories as private and public law, which stem from the Roman tradition, in a forest of institutions that are growing in a socialistic, industrialized society. They neither have the courage simply to throw the old categories overboard, nor the theoretical imagination to invent new ones. The situation is aggravated by the mortal necessity of treading softly in the jungle of Marxist ideology. The growth of Soviet institutions has to be related to such concepts as State and Society, the class war and withering away of the State, concepts that were formed with an eye on the Prussia of Hegel and Marx but have little bearing on the present problems of society. The struggle of the Russians against such odds has for its net result that Schlesinger, equipped with a good legal mind, a knowledge of Kelsen's Pure Theory of Law and trained in the sociology of Mannheim, can give a much better interpretation of Soviet legal problems than any of the Russian authors who come under his scrutiny. The presentation of this somewhat dreary struggle with fundamental legal concepts in an intellectually unfavorable environment is one part of the author's work. He discharges this task competently, and he relieves the dreariness of the subject matter (that would be overpowering in a mere description) through his excellent critical analysis of the theoretical issues involved.

By virtue of this presentation alone, the book would be a valuable introduction to Soviet legal theory, but the author has done much more. Under the unassuming title of "social background" he gives a brilliant survey of the successive phases in the evolution of Soviet legal institutions. Based on a careful analysis of the legal sources and of the Russian literature on the subject, the author follows the evolution of Soviet institutions from the First Revolutionary Period, through the NEP, the crisis of the NEP and the Second Revolution, to the stabilization after 1935. Moreover, he goes beyond the legal institutions themselves and describes the rapidly changing social structure of the Soviet Union that lies back of the successive legal regulations. Throughout the book, the analysis moves between the levels of actual social structures, of the legal institutions, and of the attempts at theoretization. The reader, thus, is given a reasoned account of the evolution of matrimonial law, the law of property and inheritance, criminal law, and the various types of agricultural collectives, the labor law and the relations of labor and management, the state enterprises and the trusts, and the exchange relations and arbitration procedure of the semiautonomous industrial units. The value of the analysis is increased, furthermore, because the author does not leave the description of institutions on the statutory level but pursues the problems on the level of court practice. On the whole, this is the best analysis available of Soviet institutions below the constitutional level.

The book deserves the special attention of the American reader because it reveals an attitude toward Soviet problems that is rarely to be found in this country. In Schlesinger's book we are entirely beyond the atmosphere of political apology or condemnation. The problems of ideology are hardly touched upon, except as a background for Russian theoretical antics. The constitution of 1936 receives only incidental attention. What interests the author is the technical problem of devising workable institutions for a socialist society. How can economic incentives be provided without breaking the socialist order? How can an economic plan leave room for managerial initiative? How can one compromise between the efficiency of large-scale agriculture and the desire of peasants to make some private profit? How can a judiciary be devised that, in the lower ranks, depends on popularly elected judges inclined to politically radical decisions, and that protects at the same time the citizen through court supervision? How can the inclination to interpret the law with political

arbitrariness be combined with predictability of decisions? How can the exigencies of an economic plan be combined with freedom to work? How can a government monopoly of industry be combined with rational accounting of profit and loss in the single factory units? And so forth. These are the burning questions, not because of the author's interest in Russia or Communism, but because of his interest in a socialist reconstruction of England. The problems of a socialist society as such are quite independent of the ideological questions of Marxism or Bolshevism, and the author has attempted to isolate this nucleus, which is of urgent political importance for England as well as for the continental European countries.

§51. *The Meeting of East and West: An Inquiry Concerning World Understanding*, by F. S. C. Northrop (New York: Macmillan, 1946). Review originally published in *Social Research* 14 (1947): 244-249.

The subtitle of Professor Northrop's book indicates its character as a political tract. Its subject matter is not delimited by critical standards of philosophy or of a special science; it is delimited as a practical problem of politics. The abundant historical material is not introduced for the purpose of interpreting history; it is selected for the purpose of supporting and illustrating a pragmatic solution.

The "world" that Northrop wishes to understand is the One World of current politics. This world is a field of powers, consisting of the United States, Great Britain, China, and Russia. In addition, the author includes in his considerations the Latin-American and the Roman Catholic cultures because they present practical problems of some importance in American politics—an importance that he sees evidenced by recent developments in Mexico and by some equally recent trends in the University of Chicago. The vicissitudes of history have let the Big Four emerge as the dominating Great Powers. Their peaceful coexistence is desirable, and therefore it is necessary to investigate the main sources of friction between them with a view to the abolition of them.

The fundamental cause of friction the author finds in the differences of "ideology." In order to arrive at a peaceful world we have to state clearly the content of the different ideologies; then we have

to examine the extent to which they are compatible with one another, and finally we have to develop a composite ideology that will combine the better parts of all of them and hence will be acceptable to everybody. To the task of developing the composite ideology for One World, Northrop has devoted his *Inquiry*. He has given the name "epistemic correlation" to the new ideology—a name that certainly is neutral enough not to offend anybody.

Northrop is very conscious of the importance of his enterprise, and he conducts it with appropriate diplomatic circumspection. He has to follow a lonely path, departing from the ways of both layman and scholar. The layman in his provincialism is inclined to regard his own ideals and values as valid for everybody, and the scholar is a specialist who expects that the results of special inquiries will add up to a picture of human civilization. As a consequence "the basic issues and problems of our time never get faced and understood, to say nothing about being constructively solved by either layman or scholar." "Traditional scholarship," because of its specialization, is "faulty scholarship." "A new type of scholarship" that sees provincial factors in their relation to one another and to the whole of civilization is required. The ideal would be a combination of the expertness of the "local specialist" with that of "the specialist directing attention upon conflicts and interrelationships." We are far from this ideal at the present time, but this study moves toward it in a preliminary way.

The treatment of problems inevitably has to be selective. As the principle of selection the author uses mass importance. The ideologies considered are chosen because they are influential "as measured by majority opinion." Starting appropriately at our own doorstep, the author begins with pan-American problems. The "Rich Culture of Mexico" (chapter 2) serves as a suitable background for the ideological traits of the "Free Culture of the United States" (chapter 3); and the Anglo-American complex is rounded out by a chapter on the "Unique Elements in British Democracy" (chapter 4). A brief survey of "German Idealism" (chapter 5) serves as an introduction to "Russian Communism" (chapter 6). Chapter 7 is devoted to "Roman Catholic Culture and Greek Science." This whole complex of Western ideologies is concluded by some remarks on "The Meaning of Western Civilization" (chapter 8). The following three chapters deal with China, India, and Japan. Chapter 12 brings the "Solution of the Basic Problem," and the final chapter (13), under the title "Practical

Wisdom," presents qualifications, corollaries, and warnings that the way will not be easy.

It is not possible here to enter into technical detail on Northrop's theory of "epistemic correlation," which is his solution for the frictions arising from ideological differences. Let it suffice to say that the villain in the piece is Locke's theory of primary and secondary qualities, because it compels us to introduce the human observer as the agency that creates a secondary world of sense appearances beyond the primary reality of nature as revealed in mathematical physics. The solution to this difficulty is to be found in the assumption of two ultimate components of reality, designated as the "theoretical" and the "aesthetic." The two components stand in a two-termed relation to each other, which the author calls "epistemic correlation." This two-termed structure of reality is the structure not only of the external world but also of man.

Under this assumption that the correlated theoretical and aesthetic fields extend throughout reality we can dismiss the problem of the observer, and we do not need metaphysical explanations that would ascribe superior reality to one of the two fields. The differentiated aesthetic continuum is given in immediate experience with the same primacy as the theoretical construction of the world in science. As a political consequence the Westerner can accept cultures that, like the Chinese, accentuate the aesthetic component, without worrying as a good Puritan that the realm of aesthetic experiences is inferior in value to the sober theoretical penetration of the universe, and vice versa. "Both components are equally real and primary, and hence good, the one being the complement of the other." All that is necessary to bring peace to the world is that everybody realize the truth of this insight, pay due respect to the equally fine values of the other, and try to overcome his personal idiosyncrasies and provincialism by adding to his culture those elements that hitherto have been neglected.

Obviously, this idea is no mean achievement. Northrop compares it to other major negations of the past and to revolutionary inaugurations of a new future. The modern world and the American Revolution are the results of "a negation and attendant revolution against the medieval thesis of St. Thomas and Aristotle." "The thesis of this book . . . is a similar example of negation with its attendant revolution not merely in man's thinking, but in his conception of

what is adequate economic and political science and religion, and attendantly good personal, national, and international conduct" (468).

I do not wish to expand on the politics of Northrop beyond a remark on the place that this work occupies in the tradition of American letters. The reader of the treatise will be reminded (and will occasionally find himself prodded into such reminiscence by the author) of *The Education of Henry Adams*. In spite of the fact that the scope of the book covers the whole world, there is a certain disproportion in the space allotted to the various "ideologies": the culture of the United States receives 100 pages, whereas India, China, Japan, and Islam have altogether 124 pages. The primary concern of the author is not so much the world in general as the position of a Protestant, positivist American in the world. He takes careful stock of the values of Protestant and enlightened America and finds, like Henry Adams, that there are plenty of values in the world that are not realized in this tradition. He then engages in a sincere and most appealing effort to do justice to these values and to organize them as far as possible into his personal horizon. The effort of Henry Adams reached out into the Christian Middle Ages in order to recapture a tradition from which America had branched off; Northrop is particularly successful in capturing certain Oriental values.

Thus the author moves in the tradition of those thinkers and intellectuals who sense the limitation in the range of American values that is caused by the fact that American civilization has branched off from a particular social class and a particular historical phase of a particular European nation. At the same time the book marks an important new step in this tradition, inasmuch as the effort to recapture missing values is not burdened with silly feelings of inferiority, or with historical nostalgia, or with sulky hanging around in Paris. The author simply sits at home, as an intelligent, grown-up person should do, and devotes his time to the study of written documents in which the humanity of foreign civilizations and remote ages has expressed itself. Whatever misgivings may arise with regard to the success of the effort, it is only with relief that the reader will observe the spirit of optimistic equanimity in which the author tackles the problem of enlarging the horizon of values.

The principles that underlie Northrop's study would merit a lengthy discussion, which cannot be entered upon here. I shall merely list a number of points that a more extended examination of his book would have to explore.

The author's philosophy of history may, in general, be characterized as neo-Comtean. The conception of progress as determined by the advancement of theoretical science, and the request that "ideologies" be adapted to the most recent state of science, are Comtean. New is the tempering of the strictly progressivist conception by the admission of the "aesthetic" component as a relevant ingredient in a civilization. Hence the author's treatment of history is exposed to the criticisms that were directed against the older type of positivism.

Closely connected with the Comtean attitude is the author's scientific determinism. In his view the advancements of science determine revisions of "ideology." Newtonian physics, for instance, required a new philosophy of man and society, of the Lockean type. This connection is highly doubtful. We might as well reverse the explanation and suggest that Locke's will to see man in a certain perspective induced his interest in the new science.

One of the book's most serious defects is the author's uncritical use of the term *ideology*, which embraces religion, philosophy, art, political and economic theory, and philosophy of nature. In the face of our differentiated methods for the treatment of these phenomena, such simplification is hardly excusable.

The problem of undue simplification arises in particular with regard to the reduction of all problems of culture to the "theoretical" and "aesthetic" components. As a consequence the author must lump together, under the title of "theory," such well-differentiated phenomena as physics and theology; on the other hand, some of the most important distinctions in the field of spiritual experiences escape him.

The principal victim of the resultant confusion is Christianity. Christ is a figure whose "ideology" is "outmoded" (one of the author's favorite words) in the light of the "ideologies" of more recent figures such as Einstein or Planck. Christianity in general is guilty of "transcendental hocus pocus." Leaving aside the question of good taste, it is hardly admissible to interpret Christian symbols as verifiable or unverifiable "theories." One would have to consider the problems of *cognitio fidei* and *analogia entis*.

The lack of understanding for the experiential basis of Christianity also induces the author to see a gulf between Eastern and Western religiousness, which in this degree of absoluteness does not exist. For one reason or another he ignores the whole class of literature represented by Rudolf Otto's *Mysticism, East and West*.

The assumption of the gulf seriously impairs the interpretation of Oriental problems. It is not necessary, for instance, to be baffled by the task of explaining to the Western reader the meaning of the Confucian *li*. A judicious comparison with the Platonic *nomos* might easily clarify this matter.

Finally, the assumption of the two components, theoretical and aesthetic, obscures the most important problem of Western history, the differentiation of the spiritual personality, which began in Hellenic civilization with Heraclitus, Aeschylus, and Plato and was amalgamated with the parallel development in Hebrew history (Deutero-Isaiah, Christ). The development of this field of experiences, which characterizes Western history, is covered by the title "theory." The Oriental civilizations, on the other hand, appear in Northrop's presentation in a too-rosy light, because the insufficient development of these experiences is not recognized as their chief limitation.

The raising of these points is not intended to detract from the true importance of Northrop's treatise. The provincialism of Western public opinion is, indeed, one of the most disturbing factors in international politics. A sincere effort to militate against this source of friction deserves all praise, even if we have to take exception to technical points in the execution. Moreover, the two chapters on the United States and Great Britain will, under any conditions, stand by themselves as successful, hardly rivaled, attempts to take stock of the values that characterize Anglo-American democracy.

§52. *Post-War Governments of Europe*, edited by David Fellman (Gainesville: Kallman Publishing Company, 1946); reprint of an article from *Journal of Politics* 8, no. 3 (1946). Review originally published in *American Political Science Review* 41 (1947): 595-596.

This book comprises a series of articles on the post-war governments of Europe, most of them delivered as papers at a 1946 meeting of the American Political Science Association, some of them added in order to round out the subject matter. The contributors are John N. Hazard (Russia), Eugene P. Chase (England), Charles A. Micaud (France), Karl R. Bopp (National Banks of England and France), Max Ascoli (Italy),

Harold Zink (American Military Government in Germany), Paul R. Sweet (Austria), and Eric C. Bellquist (Scandinavian countries).

A collection of this kind inevitably is handicapped by the fact that every author treats his particular subject in his personal manner and that the various outlooks do not always dovetail. The merit of the collection will have to be found in the quality of the single articles rather than in an integrated view of the post-war constitutional problems of Europe. Agreeably enough, however, the present collection is distinguished from enterprises of a similar nature by a generally high level of all the contributions, so that in the aggregate it is a valuable and convenient instrument of reference for the major constitutional developments of the years 1944-1946. In spite of the generally good quality of the articles, some deserve special attention. The article by Hazard is distinguished as a comprehensive, accurate account of Russian developments; the article by Bopp is a fine study of the evolution of the central banking institutions of England and France preceding their nationalization; the article by Bellquist is a competent survey of Scandinavian developments since the First World War; a little gem is Zink's description of the Alice in Wonderland atmosphere that permeated the origins of our military government for Germany. The defects of the collection appear rather in its organization as a whole than in its single contributions. There are, above all, the obvious *lacunae* of Belgium, Holland, Switzerland, Spain, Poland, Hungary, and the Balkans, and an article on American military government in Germany can hardly be considered an adequate covering of the German problem. A more serious defect is the absence of an overall view of European political problems. There is hardly a trace of awareness that Hitler's attempt to conquer and unite Europe was more than the freakish idea of a power-lusting tyrant and that European post-Hitler politics has to be measured in terms of success in achieving by democratic means what Hitler failed to achieve by totalitarian means. Moreover, there seems to be no awareness at all that the population of Europe west of Russia is as large as the combined populations of the United States and the Soviet Union and that disorder in this gigantic, dynamic center of Western civilization has consequences for the rest of the world of which we have not yet seen the beginnings. Such an overall view might have been supplied by the introductory and concluding articles of the collection, but regrettably the authors have not availed themselves of the opportunity. The introduction by David Fellman is hardly more

than a presentation of the contributors to the reader. The concluding article on "Continuity and Change in European Governments," by J. G. Heinberg, does no more than assure us soothingly that, in spite of all change, European politics shows plenty of continuity, just like Missouri.

§53. *The Myth of the State*, by Ernst Cassirer (New Haven: Yale University Press, 1946). Typescript in the Eric Voegelin Library, University of Erlangen. A version of this review was subsequently published in *Journal of Politics* 9 (1947): 445-447.

It is a melancholy task in more than one respect to review this posthumously published book of the late Ernst Cassirer. It is a cause for regret that this should be the last time the admiration and gratitude of the reader will be aroused by a new revelation of Cassirer's vast erudition; it is a cause for reflection that the generation that carried an important phase in modern philosophy, that is, the neo-Kantian movement, is passing away; and the reading of the book causes a certain nostalgia, for from its pages breathes a sureness of intellectual position, a genteelness of philosophizing, that is rather the mark of a passing age than of the author. The task is melancholy also because this last book, perhaps more so than some of the earlier studies of Cassirer, leaves the reader with somewhat mixed feelings. The feeling of admiration for the great scholarship of the author will inevitably be mixed with a feeling of dismay caused by the evasion of fundamental issues and by the little firmness of grip on the problems. The *Myth of the State* is organized in three parts. The first part answers the question "What is a Myth?" The second part presents "The Struggle against Myth in the History of Political Thought," and the third part deals with "The Myth of the Twentieth Century." The first part is a brief study of the nature of myth, quite independent of the rest of the book. The second part surveys the principal phases of occupation with the problem of the state: Hellas and Plato, the Middle Ages, Machiavelli, natural right and enlightenment. The last part deals with the recrudescence of the myth of the state in a series of chapters on Carlyle, Gobineau, Hegel and the technique of the modern political myths.

The thesis of the book is based on a philosophy of history that is never made quite explicit. Cassirer seems to assume that the human mind evolves historically from an early mythical phase toward an increasingly rational penetration of the world: The idols of the myth give way to reason and science. There is a strong touch of Comte in this view of history, a touch that the reader can find already in Cassirer's *Das Mythische Denken (Philosophie der Symbolischen Formen, vol. 2, 1925)*. Now again Cassirer evokes the Comtean vision of crowning the edifice of science by a social science that will dispel the last shadows of the *idola fori*, the vision of a science that will bring to the study of society the same ways of reasoning, the same exactness of method that we find in physics and chemistry (295). These hopes of "Comte and of his pupils and adherents," however, proved to be "premature." The sudden rise of political myths in the twentieth century proves that "politics is still far from being a positive science, let alone an exact science." Myth seems to be a permanently lurking force in the universe. Culture can only arise when the "darkness of myth" is fought and overcome "by superior forces." When these forces, "intellectual, ethical and artistic," lose their strength, chaos will break forth and the myth will again pervade "man's cultural and social life" (298).

This argument reveals both the strength and weakness of Cassirer's position. The disengagement of philosophy and science from the ancient myth is, indeed, a trend in intellectual history, correctly observed by Turgot and Comte, but it is no more than one "thread" (Turgot) in a rich historical fabric. Cassirer's transfiguration of this Comtean idea into something like an Eastern struggle between the forces of Light and Darkness radiates a curious ambivalence on his concrete analyses. His concrete studies are always at their best when they describe the disengagement of consciousness from the myth; they are of doubtful value when it comes to the description of the new myth that takes the place of the old one. The study on Plato (chapter 6), for instance, is admirable in characterizing Plato's struggle against the disintegrating myth of the people, but is blind to the new myth of the Socratic soul, which forms the substance of Plato's own position. The extended study of Machiavelli (chapters 10-12) is excellent when it describes the disappearance of the spiritual, hierarchical conception of political order and the emergence of the new center of the state in the political activist, but Cassirer has achieved the almost incredible feat of forgetting about Machiavelli's myth

of the demoniacally closed personality and its *virtù*. Even when he describes the emergence of a new myth, as for instance in the fine characterization of Carlyle as a derailed Calvinist for whom the human hero has taken the place of an overpowering God, he seems to be insensitive to the inner movement of mythical creations: that the new myth emerges because the old myth has disintegrated. In the present book there is no awareness that the myth is an indispensable forming element of social order, though curiously enough, in his earlier work on the philosophy of the myth, Cassirer, under the influence of Schelling, had seen this problem quite clearly. The overcoming of the "darkness of myth" by reason is in itself a problematical victory because the new myth that inevitably will take the place of the old one may be highly unpleasant. The *Myth of the State* is written as if it had never occurred to the author that tampering with a myth, unless one has a better one to put in its place, is a dangerous pastime.

These criticisms are necessary in order to characterize the book as a whole; they are not meant to detract from the great achievements in details. Cassirer's studies are always valuable as far as they go. And there is one section in the book, the study on Carlyle, which is a worthy companion to earlier gems of Cassirer's art as a historian, such as the studies on *Goethe and Mathematical Physics*, or *Hölderlin and German Idealism*. A future editor might do a great service by collecting these masterpieces of Cassirer and making them accessible to the English-speaking public.

§54. *Sechs Jahre Minister der Deutschen Republik*, by Julius Curtius (Heidelberg: Carl Winter, Universitätsverlag, 1948); *Bemühung um Oesterreich, Das Scheitern des Zollunionsplans von 1931*, by Julius Curtius (Heidelberg: Carl Winter, Universitätsverlag, 1947). Publication of review not traced; typescript in Hoover Institution, Voegelin Papers, box 62, folder 63. 1948 (?).

Julius Curtius was minister of economics under the Weimar Republic from 1926 to 1929. After the death of Stresemann he succeeded him in the ministry of foreign affairs and held this position from October 1929 to October 1931. In the organization of his memoir, the

former Reichsminister follows his two periods of office. In the first part he deals with German economic policy from 1926 to 1929; in the second part he deals with German foreign policy from the Rhineland evacuation to Hitler. The chapters on the abortive policy concerning a customs union with Austria were somewhat enlarged by the author and published separately as the *Bemühung um Oesterreich*.

The memoir is, on the whole, a pleasantly unassuming account of the principal political events in which Curtius participated while he held office. It was originally written in the years 1934–1938 and, after the loss of the original draft, reconstituted in 1946. The reconstitution could be based, for the economic part, on copies of the original sketches, but the author does not explain the precise relation of the copies to the original beyond the information that all documentation was lost. For the part on foreign policy an apparently rather fragmentary sketch could be used, but preponderantly it seems to be an account from memory and from such general sources as were available in the Heidelberg university library. This genesis of the memoir will have to be considered by historians who want to use it as a source of information concerning specific facts. The account does not contain any surprising revelations; as far as this reviewer can see, our present knowledge of the pragmatic course of events will not have to be corrected. Of some value, however, will prove the episodic information incidental to an account that is rendered by a participant in affairs. The impressiveness of Brüning's scholarly objectivity on occasion of the visit in Chequers in June 1931 is well stressed; the description of Schacht's conduct on occasion of the reparations conference in the Hague (January 1930) casts a revealing light on the character of the former president of the Reichsbank; the tension with France on occasion of the projected customs union with Austria was personally exacerbated by Briand's feeling that his defeat in the presidential election of 1931 was caused by Curtius's action. But one begins to wonder about Curtius's sense of proportion when he solemnly disagrees with Francois-Poncet on the profound question when and where Briand, on occasion of his visit in Berlin, consumed pheasant with sauerkraut, and with what consequences.

While the value of the memoir as a source of information is limited, it has its importance as a historical document insofar as it reveals the personality of its author, as well as the intellectual and personal atmosphere in which politics was conducted in the 1920s. The impression is not edifying. In reading the well-rounded story of

the Austro-German customs union one is in turn disgusted by the naiveté of Curtius and Schober in believing they could get away with their project, by the French hysterics, and by the regrettable conduct of the Hague Court. This part of Curtius's memoir, moreover, has a distinct touch of insincerity. His thesis that the customs union had the purpose of strengthening the independent existence of Austria, and was not viewed by all concerned as a first installment of an Anschluss, is unbelievable, and elsewhere is contradicted by a number of details that rather clearly suggest the underlying intention. The memoir excellently communicates the general pettiness that explains the success of Hitler.

As a special documentary value of the memoir must be noted the poor quality of its writing. It is undistinguished at its best; and on occasion it degenerates to a barbarian officialese that is hardly intelligible. The account of political, economic, and legal matters is dry, but at least competent and objective. The account of personal motivations and ambitions, however, is of embarrassingly poor taste, and sometimes downright comic (see especially p. 107). And the grammar of narration presented an insurmountable obstacle to Curtius. It is perhaps symbolic of the times that the foreign affairs of a great power should be conducted by a man who is at war with the *consecutio temporum*.

§55. *Homo Ludens: Versuch einer Bestimmung des Spiellements der Kultur*, by Jan Huizinga (Basel: Burg-Verlag, 1944). Typescript in Hoover Institution, Voegelin Papers, box 62, folder 24. A version of this review was subsequently published in *Journal of Politics* 10 (1948): 179-187.

## I

In the course of his studies, the late Dutch historian Jan Huizinga became increasingly preoccupied with the factor of play in the growth of culture. To avoid misunderstandings: He was interested neither in play as a human activity nor in forms of play as they appear in all cultures; he was interested in play as an irreducible element in the nature of man, as an element that becomes the vehicle of cultural growth in law and politics, in science and philosophy, in poetry and

art. The nature of man as it reveals itself in the history of culture was his problem, and he found that the race of man is more fundamentally a race of *homo ludens* than of *homo sapiens*. Huizinga's interest in this problem can be discerned even in his earlier work, in particular in *The Waning of the Middle Ages*; it found its first systematic expression, however, in his speech "Over de grenzen van spel en ernst in de cultuur" (1933). He considered the problem again in his critique of the age *In the Shadow of Tomorrow*, and he elaborated it fully in his last great treatise, *Homo Ludens*.<sup>1</sup>

Those who have had the privilege of Huizinga's company in conversation will find his last work a mirror of his personality. They will hear again the voice of the sensitive spiritualist and cultivated humanist, of the man in whose refined erudition could be felt the tradition of Erasmus, and whose sense of humor and awareness for the importance of play made one inevitably think of the earthiness and wit of Brueghel. He was one of the rare figures in our time who imparted the impression of a fully developed man. History was for him the field in which the nature of man unfolds, both in its glory and its baseness. The writing of history must neither serve the *vana curiositas* about human affairs that Saint Augustine has condemned, nor can its meaning be exhausted by tracing a pragmatic course of politics. Man as a whole exists historically, and, therefore, history must become a history of human culture, embracing all human manifestations. The danger for the historian of becoming lost in this boundless field is averted by the development, on the part of the historian, of a system of categories that permits him to order and select the materials. It is human nature that manifests itself in history; hence a philosophy of human nature is required for the interpretation of its historical manifestations. The *Homo Ludens* is the systematic presentation of Huizinga's philosophical anthropology. Historical erudition and humanistic interpretation have amalgamated in this work into a theory concerning the basic element that pervades the cultural manifestations of man. This basic element Huizinga does not find in spirit or reason, he finds it in play; not *homo sapiens* is the creator of culture in history, but *homo ludens*.

1. The Dutch edition of the *Homo Ludens* was published in 1938. An enlarged German edition was published by the Akademische Verlagsanstalt Pantheon, Burg-Verlag, Basel, 1944. All references are to this German edition.

## II

At first sight this theory may appear as a *tour de force* of originality. Nothing, however, would be more remote from a mind like Huizinga's. The importance of his theory consists precisely in the fact that it resumes the classic anthropology and regains for the interpretation of culture an element that the moderns have forgotten. The source of the theory of play as the element in which culture originates is Plato. In his last work, in the *Laws*, Plato has developed his theory of the connection between *paidià* and *paideía*, between the play of children and their education or formation to the full stature of man. The conduct of man is determined on the one hand by his desires, on the other hand by his insight into what is right and wrong. Since there is no prestabilized harmony between desire and insight, it becomes the task of education to train man from childhood to experience pleasure in what is good and to experience aversion toward what is evil. Such training is possible because there exists an elementary function in children that can be made the starting point for *paideía*, that is, the function of play, of *paidià*. We know that the young of all creatures cannot be quiet in body or voice; they leap and skip, they frolic with abandon and utter cries with delight. With regard to these elementary movements and noises of play, however, there is a difference between animals and men insofar as animals have no perception of order and disorder in such playful action, while to man the gods have given the perception of rhythm and melody. These elements of order in play become for Plato the starting point for the choric education of children, on which is grafted, in due course, the content of communal culture—from the proper participation in the choric rituals of the community to the insight into the aesthetic, moral, and religious values they embody. *Paideía*, in the sense of harmonization of desire with the spirit, leads from the play of children to the development of the adult personality, with the purpose of enabling man to enact his role completely in the "serious play" of a community in partnership with God.

This is the Platonic theory of the relationship between play and culture that Huizinga resumes in the *Homo Ludens*. Play is a fundamental function in the sense that it cannot be reduced to another factor. It must neither be interpreted in a utilitarian manner as serving a purpose, nor must its meaning be derived from the content it presents, for either attempt would destroy the independent meaning

of play. Moreover, play is not a function specific to man. It is to be found fully developed already in the animal world, and precisely its appearance in the animal world renders a clue to its interpretation.

In play we recognize the spirit. For play is not matter—whatever its essence may be. Even in the animal world it breaks through the limits of mere physical existence. If we consider it in the perspective of a world determined by forces and their effects, it is a *superabundans* in the full meaning of the word, something that is superfluous. Only through the influx of the spirit, which abolishes absolute determination, does the phenomenon of play become possible, thinkable, and intelligible. The existence of play confirms again and again the superlogical character of our situation in the cosmos. Animals can play, hence they are more than mechanical things. We play and we know that we play, hence we are more than merely reasonable beings, for play is unreasonable (5 ff.).

In this interpretation play becomes an “overflow” beyond the “normal” level of existence, a source for the creation of new worlds of meaning beyond the everyday world. By virtue of this quality of transcendence, play could become the vehicle of cultural growth through the creation of worlds of meaning in religions, legal institutions, languages, philosophy, and art.

The history of culture shows, indeed, that the spiritual worlds of the high civilizations grow out of archaic forms in which the origin in forms of play is still clearly discernable. The main body of Huizinga's work is devoted to the proof of this thesis. There would be no sense, however, in selecting this or that detail from the stupendous accumulation of ethnographic and historical materials for closer examination; the conclusiveness of the proof does not rest upon the single item but in the exhaustiveness of the survey of the various cultural aspects of archaic as well as high civilizations. Let us record, therefore, only the great topics. An introductory chapter on “Essence and Meaning of Play” is followed by a thorough survey of the expressions for the concept of play in ancient and modern languages. Chapter 3 deals with “Play and Competitiveness as Culture-Forming Functions” in general. Then follows the detailed survey of the various cultural manifestations: “Play and Law” (chapter 4), “Play and War” (chapter 5), “Play and Knowledge” (chapter 6), “Play and Poetry” (chapters 7 and 8). The next two chapters deal with “Playforms of Philosophy” (chapter 9) and “Playforms of Art” (chapter 10). Chapter 11 surveys “Cultures and Periods *sub specie*

*ludi*"; and the final chapter, 12, deals with "The Elements of Play in Contemporary Culture." The mere enumeration of topics shows the range and thoroughness of Huizinga's treatment. The political scientist should refer in particular to the sections on law and war, and in the closing chapter to such subsections as "The Element of Play in Politics," "Parliamentary Rules of the Game," "Parties," "International Law and Rules of the Game," "The Agonal Factor in Modern War," and "Puerilism."

### III

In the face of this magnificent achievement it would be improper to indulge in petty criticisms with regard to theoretical or factual details. There is, however, one critical argument that we may be excused to raise because it points to a weakness in Huizinga's interpretation of culture that has its source in the very strength of his position: There is even more to his theory of play than his treatment of the problem would reveal. And this "more" is of specific importance for a theory of politics.

We have seen that Huizinga defines the essence of play as a *superabundans*, as an overflow of the spirit beyond the level of necessity. In various contexts of his treatise he, furthermore, defines *necessity* on the human level as the sphere of action that serves the preservation and expansion of existence. In relation to this necessity of existence, play appears as the "superfluous," as a "free action" outside the course of "ordinary life." The player knows that in this function he is not "acting" in the pragmatic sense, but that he is "enacting" a role in an imaginative world. In spite of this consciousness of play, however, he can be completely absorbed by the spirit of a play that in itself is of no material or utilitarian interest. And by virtue of this enthusiastic absorption in nonpragmatic action, play worlds can be constituted, delimited by a time of their own (the play begins and ends), enacted in a space of their own (play field, sacred precinct), ordered by nonpragmatic rules (the rules of the game), and institutionalized in associations that cultivate a specific type of play and distinguish themselves from community life on the level of existential necessity, sometimes to the point of forming secret societies (21 ff.).

In this description of play Huizinga blends two elements that, in a philosophy of being, ought to be separated. The first of these

elements is what Huizinga calls the *superabundans*, the superfluous character of play. This element is not specifically characteristic of play on the animal or human level of being, as Huizinga maintains; it is the element of "transcendence," which is to be found on all levels of being, including the vegetative and inorganic ones. Even on this lower level the necessity of existence is heightened by qualities that have no pragmatic relations with "forces and their effects." The aesthetic and moral values that attach to the order in the universe as well as to colors and shapes in the organic realms are a *superabundans* beyond natural laws and physiological necessities. It seems that in recognizing transcendence for the animal and human realms, and in denying it to the subanimal realms of being, Huizinga has fallen a victim to the socially predominant, scientific interpretation of nature. If we accept the pervasiveness of transcendence through the realms of being, we must isolate this element and set it off as generic against the specific elements that characterize "play." That is, play is one of the phenomena of transcendence on the animal and human level.

The separation of generic and specific elements is of importance for the interpretation of political culture. In the archaic cultures, as for instance in the Babylonian and Sinic, but to a certain extent even in the Hellenic, we are faced with the problem that the existence of the polity is conceived in cosmological symbols. The possibility of such symbolization is inexplicable unless we allow for a continuity of meaning between the inorganic and human levels of being. The order of the community can be conceived as a cosmic analogue because the cosmos is more than the field of time-, space- and mass-relations that enter into the equations of physics; it also contains the *superabundans* of meaningful order, of form and rhythm that enters into the symbolization of human life in community. This affinity of meaning between the *superabundans* on the cosmic and human levels enables Plato, in the *Laws*, to conceive the polity as a ritual play in which the order of the cosmos is reenacted in the order of the community.

#### IV

The correction I have just suggested affects Huizinga's theory rather than the execution of his work. It is true that the problem of cosmological symbolism, which is of supreme importance in the in-

terpretation of early civilizations, cannot be covered adequately by a theory of play that restricts the element of transcendence to the animal and human spheres, but for the rest, that is, for intentions and execution of the theory, we may consider this correction implied, on principle, in Huizinga's approach to the interpretation of culture. Let us now proceed, if not to an evaluation of this approach—which would take considerably more space—at least to an indication of the direction that such an evaluation would have to take.

First we should consider that Huizinga's approach is not an isolated undertaking in our time. The substitution of *homo ludens* for *homo sapiens* as the creator of culture, this attempt to lay the foundations of culture deeper in the nature of man, so deep that actually they reach down to the animal nature, moves in a long-range trend that we can observe at least as far back as the eighteenth century. The interpretation of cultural realms of meaning, and in particular of the realm of politics, in terms of reason, rational action, contract, consent, and so forth, is inadequate because it rests on the enlargement into a general theory of politics of the political ideas of the rising bourgeoisie in the seventeenth and eighteenth centuries. With the insight that an Age of Reason is not an early but a late phase in a civilization arises the question of which elements in the nature of man have created and developed a civilization before it reached the phase of differentiated reason. The first, great, comprehensive answer to this question was Vico's *Scienza nuova*, and we can observe the search ever since for the determinants of a civilization, not in spirit and reason but in the natural conditions of man—be they the conditions of external nature or of the internal nature of the unconscious and its mythical creations. We can observe this trend in the philosophy of the unconscious from Schelling and Schopenhauer to Freud and Jung, as well as in the more dubious attempts to find an ultimate foundation for a philosophy of culture in an economic or biological naturalism.

In this general movement, the work of Huizinga marks a distinct advance for more than one reason. In the category of play we have an intermediate factor between the necessity of existence and the intellectual and spiritual content of the cultural worlds. On the one hand, play is a vehicle for worlds of meaning; it is not itself the meaning that is enacted in the play. On the other hand, it is not a determinant of meaning in the sense in which an economic motive could appear as the determinant of a Marxian ideological content.

It is an independent factor, a form arising from the animal level of being that is fit to become a carrier of the cultural worlds of meaning. By virtue of its transcendence beyond existential necessity, it links the spirit with animal nature without determining it pragmatically. Moreover, the peculiar characteristics of play, which Huizinga has worked out carefully, in particular the amalgamation of a consciousness of play with the seriousness of absorption in the play, will go far to explain certain phenomena that baffle the historian of political culture. Such a baffling phenomenon is, for instance, the tenacious resistance of the cosmological symbolism of early empires against any dissolution through the experience of the coexistence of other empires that symbolize themselves also in cosmological categories. By the principles of cosmological symbolism, only one such empire should enact the cosmos in the realm of human society; the appearance of rival empires, however, makes hardly a dent in the cosmic play: Societies seem to play their game, abiding by their rules, without regard to what is happening on the level of pragmatic history. A similar problem seems to be offered by the Western national states that, one after the other, between the sixteenth and nineteenth centuries, have discovered that they are chosen peoples and will rather fight each other to death than stop acting this role.

A second point that merits attention is the new aspect under which early civilizations appear in Huizinga's work. As a result of our conventional selection of materials from the history of politics and ideas, Greek civilization appears as a not too distant forerunner of our Western civilization, while the Asiatic civilizations appear as foreign worlds, little related to our own. From Huizinga's broad display of materials emerges an entirely different picture. On the one hand we become aware of the archaic elements in Hellenic civilization (which usually are overlooked); on the other hand, we find a surprising closeness of structure between Hellenic and Sinitic civilizations. The broad stream of meaning, which in traditional history runs in continuity from classic antiquity to the modern West, loses much of its importance, in Huizinga's presentation, if compared with the broad band of meaning that links Hellas and China. In this respect, *Homo Ludens* supports Toynbee's theory of the "generations" of civilizations.

Let us repeat that these remarks are no more than hints at the importance and the potentialities of Huizinga's theory. The nature of the problems on which we have touched should make it obvious

that a brief review is not the place for their serious discussion. We have filled our task if we have conveyed the impression that *Homo Ludens* is one of rare great works that advances substantially our understanding of man in historical and political existence.

§56. *On Tyranny: An Interpretation of Xenophon's Hiero*, by Leo Strauss, with a foreword by Alvin Johnson (New York: Political Science Classics, 1948). Review originally published in *Review of Politics* 11 (1949): 241–244.

The book *On Tyranny* by Professor Strauss has for its nucleus an analysis of the Xenophontic dialogue *Hiero*; in this respect, it is a contribution to the history of political thought. In addition, especially in the introductory chapter, it contains a number of reflections on the problem of tyranny in ancient and modern times, on differences between ancient and modern political science, and on the relation between the *Hiero* and Machiavelli's *Prince* as the points of closest contact between the ancient and modern approaches to the problem of tyranny—thus justifying the more general title that the author has chosen for his book.

An interpretation of the *Hiero* is a most valuable undertaking. The dialogue, though the only work of antiquity dealing specifically with the subject of tyranny, is much neglected, sharing this neglect with the other works of Xenophon in the shadow of the greater Plato. While Strauss's analysis will hardly shake the judgment that Xenophon was not a profound thinker, it certainly will compel a revision of judgment with regard to his psychological subtlety and his skill of composition as an artist. The *Hiero* is a conversation between the tyrant Hiero and the poet Simonides on the relative merits of the tyrannical and private life. As distinguished from the distribution of roles in the Platonic dialogues, the tyrant is charged with the indictment of tyranny, while the sage extends comfort to the unhappy tyrant and suggests means for making his tyranny a beneficent rule and his person beloved by the subjects. Strauss excels in his exposition of the dramatic qualities of the conversation: he shows how the sage, in control of the situation from the beginning, induces Hiero to assume the role of a critic of tyranny and drives him to the point where he can only envisage suicide as the solution

of his impossible situation, and then holds out to him the vision of a rule that will make him the happiest of men because he can hold power without being envied or despised. The interpretation as such, resting on the solid basis of impeccable erudition, is a model of careful analysis. It is strongly to be recommended to the attention of every political scientist in a time where historiography of political ideas is all too often conceived as the task of critically appraising the ideas of a thinker without adequately ascertaining what they are.

With regard to his reflections of a systematic nature, Strauss puts his critic at a disadvantage; for these reflections, while ranging widely, are formulated so tersely, and sometimes so esoterically, that the danger of misunderstanding is great. With all due apologies for mistakes that may arise from this source, I should say that the problem that interested the author most intensely was that of freedom of intellectual criticism under a tyrannical government. We are living in an age of tyranny, and therefore, not only what the ancients had to say on the subject is of interest, but perhaps even more so is how they managed to say it without getting killed too frequently in the process. The *Hiero* is full of instructive details with regard to this problem, and Strauss does not fail to point out the lessons. This freedom of criticism is intimately connected with the peculiar situation of the sage giving advice to the tyrant. Tyranny is considered in the Socratic circle to be a defective form of government; in the *Hiero*, the sage tenders advice for the practical improvement of the theoretically reprehensible form; he "collaborates" with tyranny. In his careful exploration of this problem, Strauss sheds some interesting light on the relation of the sage to civic freedom as well as on the potential conflict between freedom and virtue in government. Very convincing is his suggestion that Xenophon entrusted his argument for benevolent tyranny to Simonides because he is a "stranger" to the city, while the tyrant Hiero, who indicts tyranny there, is alive, to a degree, to the virtue of the citizen; and most valuable is the hint that Plato has entrusted the discussion of the problematic character of the rule of law in the *Statesman* to the "Eleatic Stranger," while the citizen Socrates is silently present.

From this point onward, however, we must venture to disagree with the author's reflections. In the exposition of Strauss, we miss a proper valuation of the point that for Xenophon as well as for Plato the problem of tyranny had already become one of historical necessity, and not merely one of theoretical discussion. The Socratic

circle might well define tyranny as a defective form of government; that, however, did not change the fact that the polis democracy had degenerated to the point where "tyranny" became the inevitable alternative to a democracy that had ceased to function effectively. In this twilight of historical transition to forms of government that in terms of later experience have been called "Caesaristic," the category of tyranny loses the significance that it has in the situation where the rule of law is a workable alternative. I should suggest, therefore, that a good many of the enigmas of the *Hiero* stem from the fact that a new political situation is discussed in terms of *tyranny* because a vocabulary more suitable to the new problems had not yet been developed. It has not escaped Strauss that in the second part of the *Hiero*, the terminology quietly changes. Simonides no longer speaks of the tyrant but uses the term *ruler*. This change of terminology seems to me not a mere matter of persuasive prudence, but seems to indicate a genuine theoretical necessity of dropping an inadequate term.

Since, most pertinently, the question of the "Eleatic Stranger" has been introduced, I also should like to stress that the *Statesman* is the third part of a Platonic trilogy, and that in the first part, the *Theaetetus*, in a famous digression, Socrates characterizes the situation of the philosopher as being that of a man who can live in his city with his body only but not with his soul. This is perhaps the most impressive symbol of the twilight of citizenship from which emerges into light the figure of the royal ruler, not the tyrant, of the *Statesman*.

These considerations would perhaps also compel some revision of certain Xenophontic problems. Strauss opposes the *Cyropaedia*, as a mirror of the perfect king, to the *Hiero*, as a mirror of the tyrant, that has influenced the Machiavellian *Prince*. The opposition does not seem to me to exhaust the problem. Under another aspect, both the *Cyropaedia* and the *Hiero* are on the same side, for the very motivation of the *Cyropaedia* is the search for a stable rule that will make an end to the dreary overturning of democracies and tyrannies in the Hellenic poleis, and what makes the many tribes and nations obey Cyrus is not all sweetness and reason but the "fear and terror" that he inspires. Both works fundamentally face the same historical problem of new rulership; and it is again perhaps only the lack of an adequate vocabulary that makes the two solutions of the perfect

king and the improved tyrant look more opposed to each other than they really are.

This suggestion gains in plausibility if we take a closer look at the parallel with Machiavelli's problem, which Strauss stresses strongly. If I understand him rightly, he sees the *tertium comparationis* between the *Hiero* and the *Prince* in the tendency of both works to obliterate the distinction of king and tyrant. In this tendency of the *Prince* he recognizes its specifically "modern" character, and even one of the "deepest roots of modern political thought"; precisely for the understanding of this aspect of modern political thought, he finds some attention to the *Hiero* "very useful, not to say indispensable." We believe that the comparison touches a decisive point for the understanding of both Xenophon and Machiavelli, but we also believe that it will need some reformulation in detail. It seems to us insufficient to state that in the *Hiero* and the *Prince* we have the point of closest contact between "ancient" and "modern" political thought. The contact certainly is there, but it is because of the fact that both Xenophon and Machiavelli are in the position of "moderns" in their respective civilizations. That is, the parallel between the two thinkers is a consequence of the parallel between their historical situations. The distinction between king and tyrant is obliterated in the *Prince*, because Machiavelli, like Xenophon, was faced with the problem of a stabilizing and regenerating rulership after the breakdown of constitutional forms in the city-state; it is obliterated because Machiavelli, too, was in search of a type of ruler beyond the distinction of king and tyrant that is politically significant only before the final breakdown of the republican constitutional order.

Luckier than Xenophon, however, Machiavelli was able to find a name for the new type of ruler that he envisaged. He called it the *profeta armato*, the prophet in arms; and for his paternity he claimed (besides Romulus, Moses, and Theseus) precisely the Xenophontic Cyrus whom, as the perfect king, Strauss would rather put in opposition to the tyrant, Hiero. The figure of the Sicilian tyrant would have been too weak for carrying the burden of the savior/prince that Machiavelli wanted to put on his shoulders; the composite figure of the *profeta armato* resembles rather Plato's royal ruler in the *Statesman* than any of the Xenophontic types. The obliteration of the old distinctions, we should say, is rather a result of the attempt at creating a new type. Within this new type, however, Machiavelli lets the good royal and bad tyrannical variants reappear, for he distinguishes

between the "princes" whose actions are inspired by the *virtú ordinata*, leading them toward the necessary public order, and those whose *aceleratezze* are motivated by the lust for personal power. Machiavelli, thus, has actually achieved the theoretical creation of a concept of rulership in the post-constitutional situation, and he has also achieved the theoretical distinction of the good and bad variants within the new type, corresponding to the distinction of king and tyrant in the constitutional situation. Xenophon, on the other hand, has in this respect achieved no more than the shift from the term *tyrannos* in the first part, to the term *archon* in the second part of the *Hiero*.

In order to round out this problem, it may be worthwhile to recall that the influence of Xenophon on Machiavelli's *Prince* makes itself felt in a roundabout way that Strauss does not mention. Machiavelli's image of the prince is not quite original in its time. It must be seen against the background of the new genus of a "mirror of the prince" that sprang up in the second half of the fifteenth century in connection with the events in the Near East, that is, against the background of the *Vita Tamerlani* as created by Poggio Bracciolini and standardized by Enea Silvio. Especially Machiavelli's most complete evocation of the savior prince in the *Vita di Castruccio Castracani* is hardly thinkable without the standardized model of the *Life of Timur*. Now, this *Vita* of the Timur class uses for its pattern—besides the young Moses and the early years of Cyrus as reported by Herodotus—the Xenophontic Cyrus, in particular the ruthlessly conquering Cyrus of *Cyropaedia* 1.4–5 who compels obedience by fear and terror. This line of Xenophontic influence is of special interest for Strauss's problem of tyranny because, by way of the *Vita Tamerlani*, there has entered into the classical pattern of the post-constitutional conqueror and ruler the nonclassical conception of the new ruler as the avenger of the misdeeds of a corrupt people, that is, the idea of the ruler as the *ultor peccatorum*. This new factor, which has amalgamated with the Xenophontic elements, is also to be found in Machiavelli—in the *Castruccio* as well as in the apocalyptic aspects of the *profeta armato* in the *Prince*, particularly in the last chapter. The spiritual, apocalyptic aspect of the new ruler, however, is neither "ancient" nor "modern"; it is Western-Christian as opposed to Hellenic-Pagan. The "modernity" of Machiavelli's prince has a specific tone through the absorption of such medieval-Christian antecedents as the Joachitic dux, Dante's *veltro*,

and the realization of these ideas in the savior-tribunate of Rienzo. "Modern tyranny" must remain unintelligible unless we have proper regard for the fact that it is a phenomenon in Western, not Hellenic, society and that, consequently, it is burdened with the tradition that leads from medieval and Renaissance Paracletes to the secularized Supermen of the nineteenth century and after. No problem of this kind is to be found in Xenophon, nor anywhere else in Hellenic civilization before Alexander, except again in the evocation of the royal ruler in Plato's *Statesman*.

Nevertheless, there is one point in which one can speak of the quite specific influence of the *Hiero* on Machiavelli, and that is with regard to the *contemptus vulgi*. One of the finest parts of Strauss's analysis concerns the subtle gradation of human ranks in the *Hiero*. The dialogue starts with the question of the relative merits of the life of the tyrant and the life of the private man. Then, in the conversation, emerge the nuances of the "gentleman," the "just man," the "brave man," the "real man," and the "sage." With the elimination of these various types and their possible attitudes toward the government of the tyrant, there remains as the socially relevant type that the tyrant must face in the mass, a somewhat nondescript, washed-out creature who, indeed, can be managed by various enticements and fears, by prizes for good conduct, and by persuasion. The advice to the tyrant with regard to this problem, and the implied contempt of the mass of human sheep, have indeed, as Strauss points out, their striking parallels in the respective chapters of the *Prince*. The influence of the *Hiero* on Machiavelli is perhaps most tangible with regard to the view of the mass man who is incapable of self-government and who thereby makes the new type of ruler historically necessary.

We have touched on a considerable number of problems, but not by far have we exhausted the wealth of this compact volume. We hope to have made it clear, however, that the book by Strauss is a most noteworthy contribution to the systematic problems of political theory. Every political scientist who tries to disentangle himself from the contemporary confusion concerning problems of tyranny will be much indebted to this study and inevitably will use it as a starting point.

The book is preceded by a charming foreword from the pen of Alvin Johnson. The distinguished scholar and educator stresses the affinities between Xenophon and America. Like an American, Xenophon

"failed to see the things that aren't there. And, indeed, as a wide-awake young fellow, Xenophon managed to get into the presence of Socrates, but got little that was Socratic out of his encounters." Instead, he was gallant and resourceful. He speculated on true happiness, "but no more than an American did he break his head on it. He wanted pragmatic answers, not nebulous ultimacies."

§57. *Old China Hands and the Foreign Office*, by Nathan A. Pelcovits (New York: King's Crown Press, 1948). Review originally published in *Social Research* 16 (1949): 102-104.

Mr. Pelcovits's book is a valuable study, shedding light on a phase of Western imperialism about which numerous misapprehensions are still current. Why, after the Treaty of Nanking, did not the British government pursue a more aggressive policy toward China? Why, in the face of pressure from the British business community in China, did it adopt the policy of limited liability? Why, in brief, has China not become a second India?

For the answers to these questions Pelcovits has made ample use of such hitherto untapped sources as the records of the British Chambers of Commerce, the correspondence of the leading British firm in China, and materials from the British Board of Trade. From his study of these documents emerges the thesis that there was no disagreement between the Old China Hands and the Foreign Office with regard to the fundamental policy that British commerce should be expanded and given adequate governmental protection. There was, however, a profound disagreement with regard to the value of the China trade. From the 1840s to the beginning of the twentieth century, the business community clung to the idea that the potential market of 300 million to 400 million people was a gold mine to be opened and exploited by Britain, if necessary by war. This is the idea that Pelcovits characterizes as the "folklore of the Treaty Ports." In the 1850s the Board of Trade and the Foreign Office, for their part, arrived at the conclusion that the China trade would never amount to much because the self-sufficient, low-standard Chinese economy would never absorb appreciable amounts of Western goods. While the governmental estimates of the midcentury proved over-pessimistic, and trade did increase somewhat in volume toward the end of the century, the governmental view of the

situation was on the whole the correct one. In accordance with this view the British government consistently rejected all political adventures that might result in a breakdown of the Chinese imperial government and compel the assumption of British responsibilities in China, such as the establishment of a Yangtze protectorate, because the profits from trade would never pay for the cost of such adventures to the nation.

The respective opinions of the Old China Hands and the British government remained constant throughout the period under observation. With careful documentation Pelcovits traces the relations between merchants and government from the Treaty of Tientsin, through the Battle of Concessions and the propaganda for the Yangtze protectorate, to the Mackay Treaty. As the arguments on both sides remain essentially the same, varying only slightly with changes in the general political situation, it is not exactly a dramatic story. Moreover, the author has deliberately restricted himself in his interpretations to an exhaustive proof of his main thesis, without a glance left or right at the suggestive questions raised by his materials. The only concession he makes is the admission that his book is an interesting case study of pressure group tactics—which indeed it is. As a consequence—and this is the only criticism I can make—the story moves through a vacuum of unevaluated issues.

The monotony of *déjà vu*, which the author himself points out, could have been broken by a few reflections on the merits of the arguments advanced in the long-drawn debate. For instance, the Foreign Office was certainly right in its pessimistic evaluation of the future of China trade, but the basis for its view was the fact that by the midcentury the low quality of Western machine goods did not permit them to enter into serious competition with better and cheaper Chinese textiles. Toward the end of the century this situation changed materially with the improvement of machine-made goods. One would suspect that the sources used by Pelcovits would contain more on this problem than the one or two vague hints reported by the author; and if they do not, it would be of interest to know even that much for certain. Moreover, while the government was right in its evaluation for the short run of half a century, the merchants were right, precisely because of their primitive, brutal aggressiveness, in the long run, because primitive, brutal aggressiveness of the Western industrial and commercial type became the determining factor in world history for the twentieth century. In-

tervention in "backward China," administrative and economic reform, large-scale industrialization, building of railroads, and so forth, formed the imperialistic program of aggressive businessmen in the nineteenth century; the substance of the program has not changed—it has been taken over by a Chinese national political movement. The program endures, only the protagonist changes. The British government simply did not feel strong enough to undertake a transformation of China, which obviously will not be realized easily even by an indigenous political movement. The British restraint in the nineteenth century, which is so excellently documented by Pelcovits, would be the symptom, in a longer perspective, of the limitations and decline of Western imperialism. The exploitation of the Chinese opportunity would have required the industrialization of China, and that was a task beyond British strength. Although the author has declined to touch on the implications of his story, the book stands as a valuable contribution to the history of imperialism in its own right. In the contemporary flood of books on China by people unqualified to write them, Pelcovits's study, with its solid, balanced documentation, comes as a relief.

§58. *Western Political Thought: An Historical Introduction from the Origins to Rousseau*, by John Bowle (New York: Oxford University Press, 1948). Review originally published in *Review of Politics* 11 (1949): 262–263.

Mr. Bowle is a historian by profession, an ardent admirer fortified with loud convictions about the English way of life, and something like a positivist in his philosophy of history. His *Western Political Thought* shows both the virtues and vices of such a mixture. Let us dwell on the virtues first. Nobody who is acquainted with the field will deny that the conventional treatment accorded to the history of political ideas is in dire need of reform. Bowle's book introduces one such most valuable reform insofar as it takes the problem of continuity in history seriously. He does not throw us into the history of ideas with the Greeks and then treat us to the high spots of Western political thought, with empty centuries in between, as is usually done. He really starts at the neolithic beginnings, proceeds through the Near Eastern civilizations, and only then lets the

Greeks have their place. He accords proper space to Hellenism and Christianity, and he has a splendid chapter on the Teutonic, Frankish, and Scandinavian contributions to the political culture of the Middle Ages. As far as the materials of his account are concerned, Bowle has at his command the solid background of the *Cambridge History* and of Toynbee's *Study of History*; as far as the principle of his approach is concerned, he seems to hold the not-too-clearly expressed idea that political thought is an efflorescence of human civilization beyond the merely biological level, an intellectual and emotional "awareness" of the conditions of human existence that will lead to civilizing improvement on these elementary conditions through "knowledge and power." So far, so good: The book can be recommended as a reliable one-volume introduction to the historical cultures out of which Western political thought, in the wider sense intended by the author, has grown.

Less satisfactory is the account of political thought itself. The author is severely handicapped by his almost chauvinistic Anglo-mania. From numerous incidental judgments throughout the book something like the following worldview emerges: It is the purpose of man to feel at home on this earth and to make the best of things. Anything that is conducive to an increase in the pleasure of existence is a good thing, and everything that has contrary effect is a bad thing. The Anglo-Norse mixture is just right: Be venturesome and healthily aggressive, appropriate the good things of the earth, plunder the others, brook no interference with yourself, be fiercely loyal to your clan, don't trust the Continentals, accept "caritic" Christianity but resist the church, enjoy the changing colors of the sea in motion but don't think too much, and above all respect the king as the mascot and corn-king of the English tribe. Especially beware of the feelings of fear and sin that the Jews wanted to inflict on mankind. Keep an open mind for religion, but don't become fanatical, and instead subordinate it to the requirements of civilized living. An exception to this rule should only be made when English loyalties are involved: When the Puritans display an uncivilized "distrust of beauty," that still is a "contribution to British and North American Civilization" for all the beauty disliked by the Puritans there is "sometimes implied amateurishness, frivolity, lack of method and of fibre."

With this pleasant set of values as the premise, the result is inevitable. The book does not contain a single interpretation of a major thinker that could be considered even faintly adequate. Moreover,

when it comes to problems of thought, the author loses all sense of proportion. The section on Egypt, for instance, is rich in anecdotal detail but does not even mention Ikhnaton; we get a good idea of the love life of Saint Augustine, but no clearness about his philosophy of history; the Venerable Bede's poem on the cuckoo (so dear to the heart of the Englishman) gets a page, but the *York Tracts* are not mentioned; Saint Thomas's systematic philosophy of law is accorded two inadequate pages, while Bracton's diffuse meandering on the subject gets five; etc. The incidental judgments on various subjects are primitive, to put it mildly: Orphic mysteries are "revolting," monasteries are "curious," and theology is "alien." A masterpiece is the sentence that characterizes the main works of Plato: The *Republic* is distinguished by its "literary and aesthetic quality," the *Statesman* is "short," and the *Laws* is "rigid and authoritarian."

The author can indulge in his maltreatment of great thinkers without qualms because in his philosophy of history the life of intellect and spirit has no autonomous value. It is to be tolerated insofar as it enhances the "good life," but is to be shunned insofar as it diverts the attention of man toward a transcendental destiny of the soul. The whole history of mankind has only two really important revolutions: the neolithic revolution that brought grain-crops and the domestication of animals, and the Industrial Revolution. The rise and fall of civilizations is an affair about which people of "good sense" do not bother. Pessimism with regard to the fate of our civilization is a Continental aberration that Englishmen should avoid. In fact, our civilization is as vital as we can desire it to be. We are rid of the religious obsession that plagued the Middle Ages and we have the advancement of science that gives us all the power that we want for increasing the good life. In a sense, we are back to the harmony with nature in which lived our primitive ancestors. When magic failed they turned to religion and now "the attempt to master nature begins again . . . science may be said in some sense to be magic that works." In conclusion, let us not overlook the observation that Hellenic civilization most probably declined because "the actinic rays of the Levantine sun were in the long run harmful." By contrast we may assume that good old England has a better chance of survival, surrounded as she seems to be by a dense fog.

§59. *Grundlinien der Antiken Rechts- und Staatsphilosophie, Zweite Erweiterte Auflage*, by Alfred Verdross-Drossberg (Vienna: Springer Verlag, 1948). Review originally published in *Western Political Quarterly* 2 (1949): 437-438.

Professor Verdross-Drossberg's *Outline of Ancient Philosophy of Law and State* has appeared in a second, enlarged edition. That a republication was necessary after only two years shows that the merits of the book have found recognition. It is by far the best brief study of that subject matter in existence, combining the advantages of a lucid textbook with those of a scholarly treatise based on the sources as well as on the most recent monographic literature. The second edition is substantially a reprint of the first, with its great centerpiece on Plato and Aristotle, preceded by the study of Hellenic antiquity and enlightenment and followed by the pagan doctrine of the empire. Nevertheless, there are a few additions that merit attention. The summary of the chapter on Plato is considerably enlarged by a survey of recent literature on Platonic problems. The works of Karl Popper (*The Open Society and Its Enemies*, 1945) and John Wild (*Plato's Theory of Man*, 1946) have received careful criticism. Moreover, the author now uses the categories of static and dynamic religion, developed by Bergson in his *Deux sources de la moral et de la religion*, in order to arrive at a more precise characterization of Platonic ideas. New, too, are the four pages of "Notes" appended to the book. In part, they deal with the reviews the first edition received internationally, and in part they refer to special points in new monographs. The most interesting of them is a note on a study by Gohlke on the genesis of Aristotle's *Politics*. It seems, according to Gohlke, that book 7 of *Politics* is not a sketch of an "ideal" state at all. Rather, it is a tract advising Alexander not to pursue his policy of amalgamating Hellenes and Asiatics but to separate them in upper and lower classes in the planned new foundations of cities. If Gohlke's thesis should prove tenable, it would cast an entirely new light on Aristotelian ideas. The book with its additions is a most refreshing symptom of the revived interest in ancient political ideas and a renewed understanding of their importance for the present.

§60. *The New Science of Giambattista Vico*, translated from the third edition (1744) by Thomas G. Bergin and Max A. Fisch (Ithaca: Cornell University Press, 1948). Review originally published in *Catholic Historical Review* 35 (1949-1950): 76-77.

Messrs. Bergin and Fisch, continuing their labor of love, have added a translation of Vico's *Scienza nuova* to their translation of his *Autobiography*, published in 1944. The importance of the undertaking is beyond doubt. The work of Vico is recognized today as the magnificent beginning of a modern philosophy of history and politics, and historians and political scientists, as well as the educated public generally, will be grateful to have this classic accessible. The translation is based on the edition of the *Scienza nuova* by Nicolini in the *Scrittori d'Italia*. Their choice has the advantage that the translators could avail themselves of Nicolini's excellent editorial work in modernizing and simplifying Vico's punctuation and in breaking down the text into manageable, numbered paragraphs. And the scholar will be especially grateful for this procedure because, as a consequence, the text of the translation can be easily checked against the edition of Nicolini, which is now in general use. The translators have done a first-rate piece of work. The English text is lucid and readable. Moreover, a checking of numerous passages against the original reveals that the translation is impeccable in rendering Vico's meaning as well as the inflections of his sentence structure. Especially the translators should be congratulated on their careful rendering of the important *Elementi* and *Principi*. Occasionally an insuperable difficulty occurs, such as the rendering of *volgare* by *vulgar*; since any other rendering would ruin the meaning even more, on such occasions an explanatory footnote would have helped. One may also take exception to an occasional rendering of *autore* as *founder*. The translation is correct, but the word pattern of Vico is affected. Setting aside such minor points, the translation (wherever I checked it) is a model achievement. The present translation renders the third edition of the *Scienza nuova*. As a consequence of Vico's meditative mode of writing, the *Terza scienza nuova* is in fact not a third edition of the *Prima* at all, but a new work. It does not supersede the *Prima*, and the ideas contained in the *Prima*, but omitted in the *Terza*,

are essential to a complete understanding of Vico's philosophy of history. We should like to hope that the translators will continue their work and complete it through a translation of the first *Scienza nuova*.

§61. *Europa und das Römische Recht*, by Paul Koschaker (Munich: Biederstein, 1947). The typescript of this "reader's report," dated 1950 and prepared for a Mr. Wilkerson of Louisiana State University Press, can be found in the Hoover Institution, Voegelin Papers, box 63, folder 2.

Paul Koschaker's *Europa und das Römische Recht* is without doubt a standard treatise of the highest scholarly qualifications. It pursues the penetration of Roman Law into Western European civilization from the beginnings in the migration period to the present. Scope and timing of the work are determined by the consideration that Roman law has become a decisive factor in European history, while at the same time its active cultivation as a positive law has come to its end with the Nazi regime in Germany. A new situation has been created insofar as the education in Roman law as part of a practical lawyer's training has disappeared from the Western scene with its breakdown in its last stronghold of the German universities. The time has come, therefore, to reassess the importance of Roman law as a perennial legal culture that has grown into the West, independent of its practical function in a lawyer's curriculum.

Koschaker is eminently qualified to undertake this task. His profound historical knowledge, as well as his mastery of the field of comparative legal cultures, lend to his work a dimension in depth of time as well as of geographical extension that probably could not be achieved by any other living scholar. I should like to draw attention to the following major complexes, each of them representing a major monographic achievement on the respective subject:

- (1) The definition of *Europe*, genesis of the European idea, interpretation of the Carolingian empire, and of the second empire up to the investiture struggle (chapters 1-6).
- (2) History of the revival of Roman law from the Glossators to the Humanists (chapters 7-9).

- (3) The problem and history of the reception of Roman law, based on a brilliant sociological analysis of the function of the "jurist" in the process, branching out in a broad comparative study for England, France, and Germany (chapters 10–13).
- (4) A monographic study of natural law in connection with Roman law for Germany from the seventeenth to the nineteenth century, with an excellent analysis of German romantic and historical law-schools (chapters 14–15).
- (5) The crisis of the Roman law in Germany through the creation of the civil code and the breakdown under the National Socialist regime (chapters 16–17).
- (6) Summary of the general crisis of Roman law in practice and evaluation of Roman law as a legal culture of permanent importance in the study of law (chapter 18).

With regard to all of the enumerated complexes the book is a standard treatise, without rival. It is indispensable for every scholar who is occupied with problems of European legal history. Especially should be stressed the excellent bibliography up to the latest publications. As far as I am personally concerned, I have ordered a copy for myself because I need it as a permanent reference work for European legal history from the fourth century to the present. The book should have interest for the following classes of readers: lawyers, historians of law, general historians (medieval and modern), historians of ideas, persons interested in comparative law, sociology of law, especially of the function of lawyers in the formation of law, general readers in other fields that are at all connected with the history of European culture, and general readers with historical interests.

The question whether the book should be translated into English will be principally a question of evaluating the market. There can be no doubt that a good number of potential readers who are scholars will know German, do not need an English translation, and will prefer the German original even when a translation is made. On the other hand, I have a suspicion that several of the above-named classes of potential readers do not know German in appreciable numbers and will be very grateful to have an English translation of such a handy standard work. I should say, therefore, that at least the library market is assured. How big the sale to individual customers would be, I feel unable to appreciate because I know too little about the book-buying habits of scholars. All I can say is that I would buy

a copy if I did not know German. The footnotes alone with their enormous references to literature on legal history in English, French, Italian, and German make the book a treasure for anybody who works in this field.

In case a translation should be made it would be possible to drop some of the materials on the National Socialist literature on Roman law. It has perhaps only an ephemeral interest, and perhaps none at all for readers who are not rooted in Central European problems. A few pages might be saved in this way, without impairing the permanent value of the work.

As always in such matters, there is the question whether the publication of a work of this kind in English will be an appropriate undertaking for the LSU Press. There can be no doubt that the work will not be a fast best-seller. It will sell slowly, over the years, with its increasing prestige. Such sales might go up in future years because the field of comparative law is relatively new and is gaining attention only recently. The number of scholars in the field is low, but their work is rapidly gaining recognition. It would be certainly increase the prestige of the LSU Press to be in on the ground-floor of this new science with a treatise that will hold importance for decades.

Moreover, if such a publication should be undertaken, I should like to draw the attention of the press to the fact that profound changes in legal and political science occur generally in our time. If the press should be interested in this matter, it would be worth consideration to embark on a more general program of translations of European works of great quality that have been published in recent years but are practically unknown in America. A publisher who would embark on such a program not only would gain prestige, but a series of such translations might prove profitable because the works support each other and the series as a whole would become an item for automatic purchase by libraries. If the LSU Press should be interested in the question, I shall be very happy to furnish information on important works that have come to my attention in recent years.

§62. *Geschichtswissenschaft*, by Fritz Wagner (Freiburg: Verlag Karl Alber, 1951). Review originally published in *American Political Science Review* 47 (1953): 261-262.

The present volume is the first in a series entitled "Orbis Academicus," a major publishing enterprise under the general editorship of Fritz Wagner and Richard Brodführer. German science as an institution has suffered a serious break of continuity through the National Socialist interference with academic organization and personnel. The "Orbis Academicus," in each of its volumes, surveys the "history of problems" of one of the sciences in order to take stock of the present state of affairs and to show the development leading up to it. It will be an indispensable means of orientation for the younger generation of German scholars who suffer from "loss of memory" through the interruption, but it also will be a valuable aid to every scholar in search of information on the development and state of problems in his science.

The volume on *Geschichtswissenschaft* is edited by Fritz Wagner, professor of modern history at the University of Marburg. It assembles the sources concerning the principles of a "science of history" from antiquity to the present. The editor does not too well define in his otherwise excellent introductory notes what he means by "science of history," but the actual solution as well as the incidental comments show that negatively he wants to narrow his task to "critical" history, thus excluding uncritical, annalistic historiography and the constructions of a philosophy of history. Positively he sees the "critical" trend running toward a penetration of historical materials by the principles of a philosophical anthropology. This delimitation of his task determines the proportions of the work. The selections from classic and medieval authors, from the Renaissance, the Enlightenment, and the Romantic period fill about one-half of the text; the other half is devoted to the period from Savigny's historical school to the First World War. In the second part the heaviest accents fall on "Germany's Classic Contribution," with ample selections from Ranke and Droysen, and on "Historism," with equally generous selections from Dilthey, Yorck-Wartenburg, Troeltsch, and Max Weber. Between these two pillars are placed the positivistic and Marxist sources, and a section on the "Struggle for the Concept of

Culture" containing, among others, very interesting passages from such American historians as Marsh, Parker, and McMaster.

There is not much sense in quarreling with the editor about this or that detail of his preferences. Where the limitations of the enterprise lie the reader will easily discover when he compares the Greek section in Wagner's volume with Toynbee's *Greek Historical Thought*. The work as it stands is an important source book on principles of critical history, without a rival. The American reader will find it most useful as a convenient manual, practically complete, of the German contributions to the problem from Ranke to the present. The value of the book is materially enhanced by a voluminous critical bibliography (391-438) and an equally careful biographical dictionary (439-463).

§63. *Plato's Modern Enemies and the Theory of Natural Law*, by John Wild (Chicago: University of Chicago Press, 1953); *In Defense of Plato*, by Ronald B. Levinson (Cambridge: Harvard University Press, 1953). Review originally published in *American Political Science Review* 48 (1954): 859-862.

The world wars in which we are engaged are wars of the spirit, as Nietzsche prophetically styled them. The warfare on the battlefields was preceded, and is accompanied, by the literary warfare of the ideologists against the classic and Christian substance of Western civilization. Of the many phases on the various fronts not the least interesting, though perhaps not the most dangerous, is the bush war, if the metaphor be allowed, conducted during the last twenty-five years by ideologists in the English-speaking world against Plato. Some of the outstanding encounters were John J. Chapman's *Lucian, Plato and Greek Morals* (1931), Warner Fite's *The Platonic Legend* (1934), R. H. S. Crossman's *Plato Today* (1939), Alban D. Winspear's *The Genesis of Plato's Thought* (1940), and Karl R. Popper's *The Open Society and Its Enemies* (1945; 2d ed. 1950).

The reception of this class of literature followed, on the whole, the lines of the schism in Western civilization in general, and its English-speaking subdivision in particular. The so-called liberals (from muddled, through pink, to red) were enthusiastic. The scholars expressed

their anger with more or less politeness. As representative I quote a sentence from a lecture by Mure, before the Royal Institute of Philosophy, on occasion of Popper's treatise: "One would say, indeed, that he had flung scholarship to the winds in the pursuit of his thesis, could one be sure that he had had any to fling." My own attitude should be reported, for what it is worth. I read Winspear's treatise at the time of its publication, because I considered it my duty to know what a Marxist ideologist would do to Plato; and I considered my duty done with reading that one sample. I have not seen Crossman's *Plato Today*, because I had read previously one of his other books. Chapman and Fite I have sampled but not read. My intention to follow the same course in the case of Popper was frustrated, because too many students wanted my more detailed criticism of the work.

The adumbrated situation provides the setting for the two books under review. Their authors are philosophers and scholars who ordinarily would not spend their time writing volumes of criticism on ideological literature. None of the enumerated anti-Platonic writings taken singly would have justified their enterprise. But the series forms a pattern, and the cumulative effect of the ideological attack makes itself felt in the wide acceptance of the caricature of Plato as a sort of fascist, or generally totalitarian, thinker. The social effect of acceptance has motivated both Wild and Levinson, and Wild, in particular, mentions the students whose request for information forced him, over the years, to pay closer attention to the ideologists. That social pressure is in itself a significant phenomenon. It is possible only because, on the one hand, our academic institutions are deeply corroded by personnel who furnish resonance for publications of their sect; while, on the other hand, entirely too many talk about the "classical and Judaeo-Christian tradition" without shouldering the burden of appropriating it through study of the sources. The two books have importance, therefore, not only as a criticism of the literature in question, but as documents of the intellectual climate. A future historian will read them with interest, especially the fat volume of Levinson, for they reveal what kind of literary production required detailed analysis and refutation because its readers, who presumably were educators and their students, swallowed it hook, line, and sinker. The aggregate social effect, thus, has motivated the books. And apparently it was Popper's work that broke the camel's back; for while the others receive their due share of attention, it is on Popper that both authors bestow most of it.

In their defense of Plato the two authors use in part the same tactics. Wild devotes about one-fourth of his book to direct criticism of the above-mentioned literature, under chapter headings of "Plato as an Enemy of Freedom and the Open Society" and "Plato as an Enemy of Democracy." Having accomplished his task of demolition as briefly as possible, he proceeds to develop a theory of natural law on the basis of Plato's philosophy, in order to show positively its supreme importance for the rational foundation of social order. This second part of his book far overshadows in importance the first; we can only regret that the occasion will not allow a detailed examination of the author's position. It must be sufficient to say that Wild reestablishes ontology as the basis of a theory of natural law and, therefore, has to go back of the Stoics to Plato and Aristotle in order to find the idea of nature from which could arise the notion of a law of nature. Anybody who is concerned with problems of natural law today will receive help in clarifying his own position from a careful examination of Wild's "Moral Realism." Even the reader who agrees with Wild on principle will feel, however, that his argument would gain in weight if for its basis it went somewhat further back than Plato. Felix Heinemann's *Nomos und Physis* (Basel, 1945) could be used with profit.

In the first part of his book, with its direct criticism of the anti-Platonic literature, Wild refers on occasion to Levinson's work (which was in progress at the same time as his) for a more detailed elaboration, as well as for the philosophical foundation, of his own criticism. Levinson first states carefully the nature of "The Attack on Plato" (3-25) and then proceeds to a detailed examination of the charges against Plato and their refutation. Hence, the main body of the work is organized as a classification of the charges and their subdivisions, such as the attacks on Plato as a literary artist, on his mental and moral stature, on his opinions concerning sex and marriage, on his humanitarianism, on his opinions concerning slavery, barbarians, manual workers, and the common man in general, on his Sicilian politics, his duplicity, his lust for self-aggrandizement and power, and, finally, on his totalitarianism. The text is followed by sixteen appendices (583-645), in small print with double columns, on charges of a more intricate nature that require a correspondingly more extensive treatment.

By virtue of its size, orderly organization, and thoroughness the work of Levinson becomes a handbook on ideological anti-Platon-

ism. Moreover, since the refutation of the charges required an elucidation of Plato's own position concerning the various problems, it is a handbook on that part of Plato's work that is involved in the charges. Beyond its primary critical purpose the book is a convenient reference work on Platonic topics that appear frequently in current political debate. The critical work itself is a giant feat of excellent and devoted scholarship. To be sure, the ideological literature in question is an easy target for a scholar who knows his business. But anybody who has ever tried to criticize a piece of work that includes mistranslations, use of passages out of context, distortions through omission or generalization, appeals to prejudices of the reader, inarticulate premises, impertinent non sequiturs, misreading of an author's intentions in the light of Marxism, Freudianism, or positivism, and so forth, will know that such an "easy target" requires an unusual amount of critical labor. Levinson has performed his task, which often must have been unbearably tedious for him, not only with merciless competence, but with rare good humor and in urbane form. The book can be read with pleasure as a model of critical work; the pleasant form only heightens the effect of the massacre.

Wild and Levinson, and especially the latter, have done a public service. We are in their debt for their performance of a tiresome but necessary task. And they have raised a warning signal for ideologists that the time when they could get away with everything is over. For all that, unstinted praise is deserved. Still, the war is not over; and there are certain drawbacks in the method of both authors that require attention. They both proceed by accepting the charges of the ideologists at their face value and then refuting them by recourse to the Platonic text. That procedure is effective in the forensic sense, because the vast majority of the charges are made with such preposterous incompetence that confrontation with reality by a competent scholar is devastating. Moreover, it is the only procedure possible in the analysis of detail. Nevertheless, it should be supplemented by a questioning of the charges, not with regard to their contents, but with regard to their premises. Unless that is done, quite possibly the essential points of both the ideological and the philosophical positions will be missed. If, for instance, the charge that Plato is an enemy of the open society (in Popper's sense of the word) is examined and effectively refuted, as is done by both Wild and Levinson, and if nothing more is said about the matter, then the critic has made the fateful admission that the "open society" is an

issue at all and that it would be a bad thing if Plato were found guilty of being its enemy. The detailed examination, therefore, should be followed (or preceded) by an explanation of why the question as such is nonsensical. Plato was not a democrat or fascist, not a totalitarian or humanitarian, not a friend or an enemy of the open society, for the good reason that he was a philosopher and not a political ideologist. Hence, one can save the reputation of Plato forensically by refuting the charges on this or that count and still destroy the work of Plato by admitting the question at all. Neither Wild nor Levinson, let us hasten to say, are guilty of such betrayal. They both are aware of the problem and mention it. Nevertheless, one would have wished to see it more in focus and given the space which it deserves.

The restraint that both authors show in this respect is all the more surprising because their main target, Popper's *Open Society and Its Enemies*, would have offered them the best possible occasion for penetrating to the center of the evil. For the concepts of the closed and open society, which have achieved a certain notoriety through Popper, were drawn by him from Bergson and perverted practically into the opposite of the meaning which they have in the *Deux sources de la morale et de la religion*. In Bergson's conception, the archaic society is closed by the authority of its myth; it opens when individuals appear, the prophets, mystics, and philosophers, who open their soul to transcendental reality and establish the possibility of existence in spiritual community, under this higher authority, in opposition to the closed society. And one of the great figures in this liberating opening of society was Plato. Popper's misinterpretation of the concepts of a great philosopher seems to have escaped both Wild and Levinson. It could have been put to good use in the detailed refutation of charges against Plato. And, more important, it would have shown, in a model case, the root of the evil, that is, the hatred of the ideologist for the authority of the spirit.

§64. *Politique et philosophie chez Thomas Hobbes*, by Raymond Polin (Paris: Presses Universitaires de France, 1953). Review originally published in *American Political Science Review* 49 (1955): 597-598.

This monograph by Raymond Polin, professor at the University of Lille, will be welcomed by political scientists and philosophers as

a masterly exposition of Hobbesian problems. Politics was the center of Hobbes's philosophizing. And it could be the center, because the order of inquiry was for him determined, not by exigencies of philosophical problems, but by practical, utilitarian considerations. While Descartes composed a philosophy of the universe in which man found his place, Hobbes "wrote a philosophy of man, which he used as his model when he sketched a philosophy of the universe." That is the thesis used by Polin as his guide through the complexities of Hobbes's work from the *Elements of Law* to the *Dialogue between a Philosopher and a Student of Common Law*. The problems are presented in systematic sequence, beginning with chapters on human nature, rationalism, force, and history, and concluding with the theories of opinion and of the public person. Under each head the problem is traced through the Hobbesian corpus, with ample quotations and references, so that the monograph will prove a valuable index for future students. Of special interest are the chapters on "Le Bien et le Mal," from which Hobbes emerges as the great conservative, as well as on "Doctrine des Vertus," in which Polin takes issue with Leo Strauss's assumption that a development from aristocratic to bourgeois virtues can be discerned in Hobbes. The study is conducted with conscientious regard for philological methods—no anachronisms about Hobbes the "totalitarian" or "fascist" will be found in it.

In reading the book one wishes more than once that the author had restrained himself somewhat less in characterizing the historical place and effects of Hobbes. While occasionally he refers to the resumption of Hobbesian themes in Rousseau, Hegel, or Marx, he makes no concerted attempt, as he could well have done on the basis of his analysis, to validate the Marxian dictum that we all stem from Hobbes. He is clear and elaborate on the point that a rational science of politics is possible for Hobbes because for him the polity is a work of human reason, but he does not mention that Vico built his *Scienza nuova* on the same principle, or that Marx used the same argument (directly, as well as via Vico) as the basis for his dialectical materialism. One also would have wished to see a reference to Locke's very Hobbesian introduction of "desire" as the principle that leads from the state of nature in the economic form of subsistence farming to the money economy. References of this type seem to have been omitted because the author's own secularist position did not permit him to discern secularism as the historically

influential determinant in the work of Hobbes and to characterize it appropriately by philosophical standards. Such criticisms, however, concern only the conclusions that Polin might have drawn from his own analysis; they do not touch the excellence of the study itself. The Hobbesian problems are presented so impeccably that the reader is almost forced to draw the conclusions himself.

§65. *Medieval Political Ideas*, by Ewart Lewis (New York: Alfred A. Knopf, 1954). 2 vols. Type-script in Hoover Institution, Voegelin Papers, box 64, folder 20. A version of this review was subsequently published by *Yale Review* 44 (1955): 616–668.

As far as science is concerned, the darkness of enlightenment ceased to brood over the Middle Ages more than three generations ago, and in our time, with the increasing recognition that modern Western civilization has been unfolding in continuity with its millennial period of growth, they are about to lose even their middleness. On the college level, however, the news has not yet spread sufficiently to become fully effective in the creation of teaching aids. Courses in the history of political ideas, in particular, are badly handicapped, because important sources are inaccessible to the students for lack of adequate translations. *Medieval Political Ideas*, by Professor Ewart Lewis of Oberlin College, is therefore a welcome publication. It is a source book on medieval political ideas ranging in time from the investiture struggle to the end of the fifteenth century. With regard to principles of selection, it moves in a tradition that was set by the Carlyles in their work on *Mediaeval Political Theories in the West*.

The sources are arranged under eight topics: 1. The Idea of the Law; 2. Property and Lordship; 3. The Origin and Purpose of Political Authority; 4. The Individual and the Community; 5. The Structure of Government in the State; 6. The Structure of Authority in the Church; 7. The Problem of the Empire; 8. Regnum and Sacerdotium. Each group of sources is preceded by an introductory study of the topic, providing background and context for the following selections. In all, there are about 335 pages of sources, about 254 pages of the author's text, and about 72 pages of notes, bibliographies, and index.

Within the limits imposed by these principles of selection, as well as by space, the work is excellently done. The sources selected are

really the important ones, and the translations, as far as I could discern without checking details, appear to be made with great care and competence. The introductions by the author, which generally deserve praise for their conciseness and lucidity, go in many respects beyond their utilitarian purpose of providing background and context. The various sections on John of Paris, Marsiglio of Padua, and William of Occam, for instance, convey in their aggregate a view of the essential position of the three thinkers that will merit the interest of scholars. Inevitably in a work of such scope, exception may be taken to this or that detail. If, for instance, lack of space prevented the printing of both of the sources for the Gelasian principle, one might have preferred the briefer and clearer formula of *Tractatus IV* to the more prolix one of the Letter to Anastasius (623). In the bibliographic note on Roman law in the Middle Ages, the only work mentioned in addition to Savigny is Vinogradoff's rather brief introduction, while the recent standard treatise by Koschaker, *Europa und das Römische Recht* (1947), has been omitted (635). The author's rejection of Averroist influences in Dante (214, 485) is in conflict with her quite justified suspicion (199) that the Averroist conception of a universal intellect had some influence nevertheless. Dante indeed refers (*De Monarchia* I. 3) to Averroës's commentary on Aristotle's *De Anima* as the source for his conception of the nature of man which requires a world-monarchy for its fulfillment. Exceptions of this kind, however, do not affect the high value of the work as a whole.

We have briefly characterized, through reference to the work of the Carlyles, the principle of historical selection employed by the author. As it originates in English constitutionalism, and conceives politics in terms of institutional devices, derivation of authority, and distribution of jurisdictions among the organs of government, it will encounter difficulties when it is applied to political cultures, past and present, that regrettably are disinclined to conform to the English pattern. We cannot understand the momentum of Soviet politics if we disregard the philosophies of history of Khomiakov, Dostoyevsky, and Marx and restrict ourselves to the institutional pattern of "dictatorship," and the essence of Platonic politics will escape us if we find nothing in the *Republic* but a somewhat utopian blueprint for a constitution. Similar problems will arise in the treatment of medieval politics, and since Lewis conscientiously explores her sources, the fact has not escaped her. The summary of Jordan of

Osnabrück, for instance, concludes with the sentence: "For political theory in the more technical sense, the treatise has little significance, but it is a striking illustration of what was perhaps the most deeply-rooted and persistent of medieval ways of thinking about the empire" (441). The observation is excellent—but it raises the issue whether the "technical sense" of political theory should not be revised in such a manner that it will cover "the most deeply-rooted and persistent ways of thinking" about politics that characterize a period. If the author preferred the "more technical sense" as her historiographic principle nevertheless, some critical justification of the preference would have been indicated, especially since there exists a considerable literature, represented by such works as Alois Dempf's *Sacrum Imperium* (1929), and Friedrich Heer's *Aufgang Europas* (1949), which treats medieval political culture in the light of the principles that emerge from the sources themselves. This class of literature not only is absent from the bibliographical notes of Lewis's work, but obviously has not been absorbed into her picture of medieval politics. As a consequence, major aspects of order, in a less technical but distinctly medieval sense, do not come into proper view. The ideas originating in the successive waves of orders, from the Cluniac, through the Cistercian, to the Mendicant, for instance, receive no attention. The all-pervasive Pseudo-Dionysius cannot be prevented from appearing now and then, but his central position for the creation of the idea of hierarchy is not clarified. The ideas of the heretical sectarian movements are dismissed for lack of literature, though the voluminous work of Scotus Erigena was condemned by the Church because of its effectiveness in sectarian circles. The great symbolistic movement and the new philosophy of history of Joachim of Flora are not mentioned. And the Dante of the *Divina Commedia* is "left to the controversies of specialists."

I have carefully distinguished between internal and external criticism. The work can be accepted as excellent by those who want to measure the political thought of mankind by English constitutional techniques, and those who prefer critical standards of historiography will still find it useful as far as it goes.

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# Index

- Absolute monarchy, 55. *See also* Monarchy
- Absolute state, 66. *See also* State
- Aceleratezze*, 172
- Adams, Henry, 152
- Aeschylus, 154
- Aesthetic versus theoretical components  
of reality, 151, 153, 154
- Albert the Great, 30–31
- Alexander, 173, 179
- Allgemeine Staatslehre* (Kelsen), 132
- Alsace-Lorraine school of geographers,  
20
- America: discovery of, 20. *See also*  
United States
- American Declaration of Independence,  
105
- American Political Science Association,  
154
- American Revolution, 104–5, 151
- Amerika: Vorbild und Warnung*  
(Mowrer), 24–25
- Anastasius, Letter to, 192
- Anthropology, 40, 184
- Anti-Semitism, 102
- Archon*, 172
- Arendt, Hannah: *Origins of*  
*Totalitarianism*, 2
- Arendt, Wilhelm: *Die Staats- und*  
*Gesellschaftslehre Alberts des*  
*Grossen*, 30–31
- Aristotle, 9, 77–78, 99, 151, 179, 187,  
192
- Artifacts, 90–91
- Asceti*, 116
- Ascoli, Max, 154
- Association of American Law Schools,  
131
- Atom bomb, 144
- Aufgang Europas* (Heer), 193
- Aufgegebenes* (whole as given up), 71
- Augustine, Saint, 12, 161, 178
- Aus dem Arbeitsleben Amerikas*  
(Tänzler), 19, 22
- Auslandskunde* (foreign studies), 76
- Austin, John, 132
- Austria, 4, 134, 136, 142, 159, 160
- Autarchy, 99, 100
- Authoritarian state, 82
- Autobiography, 134–36
- Autobiography* (Vico), 180
- Averroës (Ibn Rushd), 192
- Bakunin, Mikhail, 145
- Balkans, 155
- Bauch, 71
- Baumgarten, Eduard: *Benjamin Franklin,*  
*Der Lehrmeister der amerikanischen*  
*Revolution*, 4, 104–8
- Beard, Charles Austin, 27, 28
- “Because” motive, 89, 90
- Bede, Venerable, 178
- Behaim, Martin, 20
- Belgium, 56, 72, 155
- Bellquist, Eric C., 155
- Bemühung um Oesterreich Das*  
*Scheitern des Zollunionsplans von*  
*1931* (Curtius), 158–60
- Benedictov, 147

- Benjamin Franklin, *Der Lehrmeister der amerikanischen Revolution* (Baumgarten), 4, 104–8  
 Bentham, Jeremy, 132  
 Berdyaev, Nikolay A., 125, 139  
 Berger, Peter: *Faschismus und Nationalsozialismus*, 115–16  
 Bergin, Thomas G.: *New Science of Giambattista Vico*, 180–81  
 Bergson, Henri-Louis, 88, 92, 179, 189  
*Berliner Tageblatt*, 22  
 Birth control, 25  
 Bismarck, Otto von, 136  
 Bloch, 59  
*Blutsgemeinschaft* (community of blood), 98, 99  
 Böhmer, Walther: *Mitt Gott für Trust und Dividende*, 18  
 Boissonnet, J.: *La misère par la surabondance: Karl Marx, père de la crise mondiale*, 117  
 Bolshevism, 102, 103, 149  
 Book reviews: deadlines for, 1; in newspapers, 1; praise and criticism by Voegelin in, 5; scholarly practice of, 1; standard approach to, by Voegelin, 2; style of, used by Voegelin, 2–3; by Voegelin, 1–6  
 Bopp, Karl R., 154  
 Bosnia, 72  
 Bowle, John: *Western Political Thought: An Historical Introduction from the Origins to Rousseau*, 176–78  
 Braciolini, Poggio, 172  
 Bracton, Henry de, 178  
 Briand, Aristide, 159  
 Britain. *See* Great Britain  
 British Empire, 85  
 Burckhardt, Jacob, 58, 129, 130, 131  
 Busnell, S. T., 21  
  
 Calhoun, John C., 69  
*Cambridge History*, 177  
 Capitalism, 32, 34–36, 106  
 Carducci, Bartolommeo, 136  
*Carl Schmitts Theorie des "Politischen"* (Krupa), 109–10  
 Carlyle, Thomas, 156, 158  
 Carlyles, 191  
*Cartesian Meditations* (Husserl), 93, 127  
 Cartesian reduction, 128  
 Cassirer, Ernst: *Goethe and Mathematical Physics*, 158; *Hölderlin and German Idealism*, 158; *Das Mythische Denken*, 157; *Myth of the State*, 156–58  
 Catholicism, 25, 72, 100–103, 149, 150. *See also* Christianity  
 “Causal” science, 9  
 Cavour, Conte di, 136  
 Central Europe, 117, 183  
 Chaddock, R. E., 27  
 Chandler, Albert R.: *Rosenberg’s Nazi Myth*, 137  
 Chapman, John J., 185  
 Charisma of ruler, 58, 59n3  
 Chase, Eugene P., 154  
 China, 139, 149, 150, 152, 167, 174–76  
 Christianity: Bowle on, 177; and Descartes’s *Meditations*, 129; and equality of all humans, 39–40; and National Socialism, 100–103, 137; Northrop on, 153; Protestantism in United States, 152; and theories of community, 72. *See also* Catholicism  
 Churchill, Winston, 136  
 Civil law, 132  
 Class conflict, 22, 117, 144  
 Class structure: Laum on upper and lower classes, 98; Marxian class theory, 118; ruling class, 117–19; in United States, 33, 35–36; working class, 21–22, 117; and Ziegler, 68  
 Coal mining, 22–23  
 Cohen, Hermann, 10  
 Columbia University, 28  
 Common law, 132  
 Communism, 138–46. *See also* Soviet Union  
 Community, 70–72, 79  
 Community to Being, theory of, 41  
 “Complete English Tradesman,” 70  
 Comte, Auguste, 14, 118, 153, 157  
 Confucius, 154  
*Coningsby* (Disraeli), 69  
 Constitutional law: Jellenik on, 74–75; Laband on, 74–75; Schindler on, 81–84; Schmitt on, 42–66; of Soviet Union, 29, 148; and standardized norms,

- 43–44; Weimar constitution, 42, 63, 65. *See also* Constitutions
- Constitutional Law and Social Structure* (Schindler), 81–84
- Constitutions: amendment of, 64; of Corsica, 69; of Czechoslovakian republic, 93–95; definition of, 43, 64; history of, 54; legitimacy of, 50; of Poland, 69; politically immanent concepts of, 64; Sander on, 93–95; Schmitt on, 42, 63–66; unity of, 48, 51, 52; validity of, 47–50; Weimar constitution, 42, 63, 65. *See also* Constitutional law
- Contemporary Italy: Its Intellectual and Moral Origins* (Sforza), 134–36
- Content-normative theory of law, 44–45
- Corsica, 69
- Crisis of European Sciences and Philosophy* (Husserl), 127
- Crossman, R. H. S., 185
- Crowd psychology, 119
- Curtius, Julius: *Bemühung um Oesterreich Das Scheitern des Zollunionsplans von 1931*, 158–60; *Sechs Jahre Minister der Deutschen Republik*, 158–60
- Cyropaedia*, 170, 172
- Cyrus, 170, 171
- Czechoslovakian constitution, 93–95
- Dallin, 139
- Daniel Defoe, Essay on Projects: Rechtsgefühl in Justiz und Politik* (Jacob), 69–70
- D'Annunzio, Gabriele, 136
- Dante Alighieri, 136, 172, 192, 193
- Danzig, 72
- Darlan, Admiral, 123
- De Anima* (Aristotle), 192
- Declaration of Independence, American, 105
- Decline of Liberalism as an Ideology: With Particular Reference to German Politico-Legal Thought* (Hallowell), 124–25
- Defoe, Daniel, 69–70
- De Kay, Denise, 134
- De Kay, Drake, 134
- Democracy: and homogeneity, 61–62; and identity, 59, 61–62; and proportional representation, 119; rulership in, 57, 59–60; Schindler on, 83; Schmitt on, 53, 55, 57, 59–62, 65–66; unity of, 65–66; Ziegler on, 67–68; Zimmern on future of, 85. *See also* Constitutions
- De Montmorency, Alec: *Enigma of Admiral Darlan*, 123
- Dempf, Alois, 193
- Der Boden* (soil), 74, 75
- Der politische Volksbegriff im modernen Italien* (Raschhofer), 96
- Der sinnhafte Aufbau der sozialen Welt* (Schütz), 87–93
- Descartes, René, 128, 129, 190
- Deschamps, 14
- Descriptive phenomenology, 126, 127
- Deutsche Gemeinschafts-philosophie der Gegenwart* (Steingraber), 70–72
- Deutschland und Amerika* (Panhorst), 19–21
- Deux sources de la moral et de la religion* (Bergson), 179, 189
- Dewey, John, 27, 104, 108
- De Winiarski, 15
- Dialectic, 83, 85, 109
- Dialectical movements of law, 83
- Dialogue between a Philosopher and a Student of Common Law* (Hobbes), 190
- Dictatorship, 67, 120–22, 123, 144
- Dies Committee, 140
- Dilthey, Wilhelm, 38, 40, 184
- Disraeli, Benjamin, 69
- Divina Commedia* (Dante), 193
- Dostoyevsky, Fyodor, 192
- Dotrina del Fascismo* (Mussolini), 116
- Double-norm, 16, 17
- Droysen, Johann Gustav, 184
- Dual state, 121
- Dual State: A Contribution to the Theory of Dictatorship* (Fraenkel), 120–22
- Dummheit*, 4–5
- Dunkmann, 71
- Durando, Giacomo, 96
- Dux, 172
- Dynasty, 66

- Eastman, Max, 139
- Ebenstein, William: *Pure Theory of Law*, 131–34
- Eckhart, Meister, 137
- Economic systems: capitalism of Europe, 32, 34, 35, 36; capitalism of United States, 32, 34–36, 106; of France, 117; Konrad on, 12–13; Laum on, 97–100; Nazi economy, 120–22; Trisca on history of, 14–15; of United States, 23
- Economy and Society* (Weber), 88
- Education, 85, 162
- Education of Henry Adams* (Adams), 152
- Edwards, Jonathan, 32
- Egypt, 178
- Eisler, Gerhart: *Lessons of Germany: A Guide to Her History*, 146–47
- Elections: Napoleonic plebiscites, 52–53; in Soviet Union, 140–43; in United States, 140, 141
- Elementi di Scienza Politica* (Mosca), 117–19
- Elements of Law* (Hobbes), 190
- Elite, 117–19
- Emerson, Ralph Waldo, 104, 108
- Engel-Janosi, Friedrich: *Growth of German Historicism*, 129–31
- Engels, Friedrich, 40, 146
- England. *See* Great Britain
- Enigma of Admiral Darlan* (de Montmorency), 123
- Enlightenment, 69–70
- Enmity versus friendship, 41
- Entstehung des Staates: Eine Staatstheoretische Untersuchung* (Horneffer), 78–81
- Epistemic correlation, 150, 151
- Epistemology, 45, 46, 78, 97
- Equality, 39–40, 61–62
- Erasmus, 161
- Erkenntnis* (cognition), 10
- Erwachte Volk* (awakened people), 73
- Essai sur la réforme intellectuelle et morale de la France*, 119
- Essay on Project* (Defoe), 69–70
- Ethnic crisis of United States, 23
- Ethnology and ethnographic materials, 98–99, 113, 163
- Europa und das Römische Recht* (Koschaker), 181–83, 192
- Europe: capitalism of, 32, 34, 35, 36; compared with United States, 32, 33, 35; liberal idea in, 35; population of, 155; post-World War II governments of, 154–56; relationship between United States and, 24–25, 85; and Roman law, 181–83. *See also* specific countries
- Evolution, theory of, 23–24, 25
- Existential will. *See* Will
- Farber, Marvin: *Foundation of Phenomenology: Edmund Husserl and the Quest for Rigorous Science of Philosophy*, 126–29
- Faschismus und Nationalsozialismus* (Berger), 115–16
- Fascism, 96, 115–16, 145
- Fellman, David: *Post-War Governments of Europe*, 154–56
- Fichte, Johann Gottlieb, 12, 124
- Fink, Eugen, 127
- Fisch, Max A.: *New Science of Giambattista Vico*, 180–81
- Fite, Warner, 185
- Ford, Henry, 21
- Formal law, 16
- Form of the History of the American Commonwealth and Union, 1620–1864* (Baumgarten), 104
- Forms of Individuality* (Jordan), 37
- Foundation of Phenomenology: Edmund Husserl and the Quest for Rigorous Science of Philosophy* (Farber), 126–29
- Fraenkel, Ernst: *Dual State: A Contribution to the Theory of Dictatorship*, 120–22
- France: and autarchy, 99, 100; banking in, 155; and Darlan, 123; economy of, 117; Franklin's impact on, 105; and French Revolution, 60–61, 67, 96, 118; and idea of nation, 96; and idea of the people, 96; and institutional theories, 110; monarchy in, 59; national idea in, 66; Popular Front government in, 117; and race theory, 102; tension between Germany and, 160; Third Republic of, 123; working class in, 117

- Francois-Poncet, 159  
 Franklin, Benjamin, 4, 104–8  
 Frantz, 67  
 Freedom, 62  
 French Revolution, 60–61, 67, 96, 118.  
*See also* France  
 Freudianism, 188  
 Freud, Sigmund, 166  
 Freyer, 84, 115  
 Friend-enemy problem, 41  
 Frobenius, 71  
 Frontier, 35  
 Fuggers, 20  
 Funck-Brentano, 59
- Gee, Wilson: *Research in the Social Sciences*, 26–28  
*Gegebenes* (whole as given), 71  
*Gegenstand*, *Gegenstandregionene* (subject matter), 10  
*Geistesgeschichte* (cultural/intellectual history), 18, 104  
*Geisteswissenschaft* (human science), 44  
*Geisteswissenschaften* (natural and human sciences), 9  
 Gelasian principle, 192  
*Gelten* (validity), 47–48  
*General Theory of Law and State* (Kelsen), 131–34  
*Genesis of Plato's Thought* (Winspear), 185  
 Germany: and anti-Semitism, 102; and colonization, 20–21; decline of liberalism in, 124–25; de-Nazification of, 143; and economics, 97–100; economy of National Socialism, 120–22; Franklin's impact on, 105; and historicism, 129–31; history of, by Eisler, Norden, and Schreiner, 146–47; and idea of the state, 85; industry in, 18; national idea in, 66, 96; National Socialism in, 4, 98, 100–103, 115–16, 120–22, 137, 142; Northrop on, 150; and philosophy of community, 70–72; political education of, 40, 41; population of, 100; post-World War I developments in, 18; post-World War II government of, 154–56; relationship between America and, 20–21; tension between France and, 160; Weimar Republic, 42, 63, 65, 158–60  
*Geschichtswissenschaft* (Wagner), 184–85  
*Geschlossene Wirtschaft: Soziologische Grundlegung des Autarkieproblems* (Laum), 97–100  
*Gesetzseins* (being lawful), 50  
*Gewalt* (force), 52  
 Gibson, W. R. Boyce, 127  
 Gide, 15  
 Gioberti, Vincenzo, 96  
 Giolitti, Giovanni, 136  
*Glasperlenspiel* (Hesse), 3  
 Gneist, Rudolf von, 67  
 Gobineau, Joseph-Arthur de, 118, 156  
 God, 25, 39–40, 71, 162  
 Goethe, Johann Wolfgang von, 130, 137, 158  
*Goethe and Mathematical Physics* (Cassirer), 158  
 Gohlke, 179  
 Government: and nationality, 85; post-World War II governments of Europe, 154–56; specification of concept of, 67. *See also* Constitutions; Democracy; Monarchy; Nation; State  
 Great Britain: banking in, 155; and British Empire, 85; and China trade, 174–76; and Defoe, 69–70; and de-Nazification of Germany, 143; Franklin's impact on, 105; and idea of the state, 85; and institutional theories, 110; Northrop on, 149, 150, 154; Parliament of, 69, 141  
*Greek Historical Thought* (Toynbee), 185  
 Grotius, Hugo, 77, 124–25  
*Growth of German Historicism* (Engel-Janosi), 129–31  
*Grundlagen des Nationalsozialismus: Eine ideengeschichtliche Untersuchung* (Hudal), 100–103  
*Grundlinien der Antiken Rechts- und Staatsphilosophie, Zweite Erweiterte Auflage* (Verdross-Drossberg), 179  
*Gründungswillen* (will to found), 79–80  
 Gumplowicz, Ludwig, 118  
 Gurian, Waldemar, 5, 139

- Hagiography, 146
- Hallowell, John H.: *Decline of Liberalism as an Ideology: With Particular Reference to German Politico-Legal Thought*, 124–25
- Hamel, Walter: *Das Wesen des Staatsgebietes*, 72–75
- Hamilton, Alexander, 105
- Handbuch der Amerikakunde: Handbücher der Auslandskunde* (von Hartig and Schellberg), 76
- Hankins, Frank Hamilton: *Introduction to the Study of Sociology*, 26
- Hare, Thomas, 69
- Haret, 15
- Hartmann, Nicolai, 72, 80
- Harvard Law School, 28
- Hauriou, Maurice, 81, 110
- Haushofer, 76
- Hazard, John N., 154
- Heer, Friedrich, 193
- Hegel, G. W. F., 12, 67, 68, 72, 80, 130, 147, 156, 190
- Heidegger, Martin, 41
- Heinberg, J. G., 156
- Heinimann, Felix, 187
- Heller, 84
- Henry Ford* (Marquis), 19, 21
- Heraclitus, 154
- Herder, Johann, 129, 130
- Herodotus, 172
- Herzegovina, 72
- Hesse, Hermann, 3
- Hiero* (Xenophon), 168–74
- Hintze, 115
- Historicism, 124, 129–31
- History, science of, 184–85
- History of Political Ideas* (Voegelin), 1, 4
- Hitler, Adolf, 116, 137, 145, 155, 159, 160. *See also* National Socialism
- Hobbes, Thomas, 77, 189–91
- Hoche, A. E.: *Das Rechtsgefühl in Justiz und Politik*, 86–87
- Hoi kat'exochen* (form of chief men), 58–59
- Hölderlin and German Idealism* (Cassirer), 158
- Holland, 155
- Homogeneity and democratic state, 61–62
- Homo Ludens: Versuch einer Bestimmung des Spielements der Kulture* (Huizinga), 160–68
- Horme* (beginning), 78
- Horneffer, Reinhold: *Die Entstehung des Staates: Eine Staatstheoretische Untersuchung*, 78–81
- Horton, 125
- Horvath, Barna: *Rechtsoziologie: Probleme der Gesellschaftslehre und der Geschichtslehre des Rechts*, 110–15
- Hudal, Alois: *Die Grundlagen des Nationalsozialismus: Eine ideengeschichtliche Untersuchung*, 100–103
- Hugenberg, Alfred, 121
- Huizinga, Jan, 2; *Homo Ludens: Versuch einer Bestimmung des Spielements der Kulture*, 160–68; *In the Shadow of Tomorrow*, 161; *Waning of the Middle Ages*, 161
- Humans. *See* People
- Humboldt, 130
- Hungary, 155
- Husserl, Edmund, 10–11, 17, 88, 92–93, 126–29
- Ideal type, 91
- Ideas* (Husserl), 92, 127
- Idée directrice*, 110
- Identity principle of the state, 54–56, 59–62
- Ideologies, 4, 34–35, 68, 118, 124, 133, 150, 152, 153
- Ikhnaton, 178
- Immigrants, 33, 35–36
- Imperative, theory of, 11
- Imperialism of United States, 33
- In Defense of Plato* (Levinson), 185–89
- India, 150, 152
- Indian Council, 21
- Individualism, 31, 35
- Individuality, 37–38
- Industrial Revolution, 85, 178
- Industry, 18
- “In-order-to” motive, 89–90
- Institution, 110
- International law, 96, 132

- International Phenomenological Society, 126
- Interpretative sociology (*verstehender Sociologie*), 88, 92
- In the Shadow of Tomorrow* (Huizinga), 161
- Introduction to the Study of Sociology* (Hankins), 26
- Introductory Sociology* (Muntsch and Spalding), 25
- Iran, 144
- Is and Ought, 43–46, 71, 112–13, 133
- Islam, 152
- Isolation, 98, 99–100
- Italy, 66, 67, 96, 102, 115–16, 134–36
- Jacob, Ernst Gerhard: *Daniel Defoe, Essay on Projects: Rechtsgefühl in Justiz und Politik*, 69–70
- Jahrbuch für Philosophie und Phänomenologische Furschung*, 126
- James, William, 32, 108
- Japan, 100, 139, 150, 152
- Jefferson, Thomas, 105
- Jellinek, Georg, 51, 52, 72, 73, 75
- Jews. *See* Judaism
- Joachim of Fiore (Flora), 172, 193
- John of Paris, 192
- Johnson, Alvin, 168, 173
- Johnson, Hiram, 139
- Jordan, E.: *Forms of Individuality*, 37; *Theory of Legislation: An Essay on the Dynamics of the Public Mind*, 37–38
- Jordan of Osnabrück, 192–93
- Journal of Politics*, 4
- Judaism, 102, 177
- Jung, Carl, 166
- Jüngst, Ernst: *Die Wirtschaftlichen und sozialen Verhältnisse im Kohlenbergbau der Vereinigten Staaten*, 19, 22–23
- Justice, 86–87
- Kahn, Hannah D., 117
- Kant, Immanuel, 10, 72, 76–77, 79, 81, 128
- Kaufmann, Eric, 72
- Kaufmann, Felix, 134; *Die Kriterien des Rechts*, 15–18; *Logik und Rechtswissenschaft*, 3, 9–12, 15–16
- Kelsen, Hans, 3, 11, 12, 17, 44–45, 51, 52, 109, 131, 147; *Allgemeine Staatslehre*, 132; *General Theory of Law and State*, 131–34; *Théorie Générale du Droit International Public*, 132
- Khomiakov, Aleksey, 192
- Kingship. *See* Monarchy
- Knechts, Josef, 3
- Knorr, Klaus, 120
- Knowledge, 12
- Koellreutter, 84
- Konrad, Heinrich: *Das natürliche System der menschlichen Gesellschaft oder die Entstehung der Arten im periodischen System der sozialen Elemente*, 12–13
- Koschaker, Paul: *Europa und das Römische Recht*, 181–83, 192
- Kräftegeladene Lebenswille* (vital life-will), 38
- Kriterien des Rechts* (Kaufmann), 15–18
- Krüger, F., 71
- Krupa, Hans: *Carl Schmitts Theorie des "Politischen"*, 109–10
- Kulturwissenschaften* (natural and cultural sciences), 9
- Laband, 75
- Labor. *See* Working class
- Latin America, 149
- Laum, Bernard: *Die Geschlossene Wirtschaft: Soziologische Grundlegung des Autarkieproblems*, 97–100
- Law: ancient philosophy of, 179; civil, 132; common, 132; constitutional, 29, 42–66, 74–75, 81–84; content-normative theory of, 44–45; dialectical movements of, 83; formal, 16; Horvath on, 110–15; international, 96, 132; Kant's philosophy of, 77; Kaufmann on criteria of, 16–18; Kaufmann on science of, 3, 10–12, 15–16; Kelsen's pure theory of, 3, 11, 12, 16, 17, 44–47, 51, 52, 109, 131–34, 147; material, 16; moral imperative of, 49; natural, 125, 133, 185–89; normative

- theory of, 43–49; positive, 132, 133; *Rechtssatz* (legal thesis), 11, 16; *Rechtswesenslehre* (nature of law), 16; Roman, 181–83, 192; sociology of, 110–15; Soviet legal theory, 147–49; Soviet versus Western constitutional law, 29; validity of, 47–50; Wolff's theory of, 76–77
- Laws (Plato), 162, 165, 178
- Layman versus scholar, 150
- Leadership of the state, 79–80, 81. *See also* Rulership
- League of Nations, 85
- Lebensphilosophie*, 38, 40
- Lebensraum*, 98
- Le Bon, Gustave, 119
- Lectures on the Consciousness of Inner Time* (Husserl), 127
- Legislation, 38
- Legislature, 141
- Legitimacy, 50, 67, 68
- Lehmann, 71
- Lenin, V. I., 138, 146
- Lessons of Germany: A Guide to Her History* (Eisler, Norden, and Schreiner), 146–47
- Levinson, Ronald B.: *In Defense of Plato*, 5, 185–89
- Levy, 76
- Lewis, Ewart: *Medieval Political Ideas*, 191–93
- Liberalism, 32–36, 39, 62, 67, 68, 124–25, 185
- Liberum veto*, 142
- Life of Timur*, 172
- Lincoln, Abraham, 104
- Litt, Theodor, 80, 82, 84, 115
- Livingston, Arthur, 117, 119
- Locke, John, 35, 70, 77, 125, 151, 153, 190
- Logic, 10–11
- Logical Investigations* (Husserl), 92, 127
- Logic and the Science of Law* (Kaufmann), 3, 9–12, 15–16
- Logik und Rechtswissenschaft* (Kaufmann), 3, 9–12, 15–16
- Logos, 10
- Lowenstein, Edith, 120
- LSU Press, 183
- Luce, Clare, 139
- Lucian, Plato and Greek Morals* (Chapman), 185
- Ludwig, Heinz: *Systematische Wirtschaft*, 19, 22
- Lütkens, Charlotte: *Staat und Gesellschaft in Amerika*, 31–37
- Lyons, Eugène: *Sacco und Vanzetti*, 19, 22
- Machiavelli, Niccolò, 25, 136, 156, 157, 168, 170–73
- Macht* (power), 52
- Macht und menschliche Natur: Fachschriften zur Politik und staatsbürgerlichen Erziehung* (Plessner), 38–41
- Maier, Heinrich, 80
- Manchuria, 144
- Mancini, Pasquale Stanislao, 96
- Mannheim, Karl, 41, 68, 147
- Manzoni, Alessandro, 136
- Maritain, Jacques, 139
- Marquis, S.: *Henry Ford*, 19, 21
- Marsh, 185
- Marsiglio of Padua, 192
- Marx, Karl, 40, 130, 138, 146, 189–91, 192
- Marxism, 118, 138, 139, 142, 144, 147, 149, 166, 184, 186, 188
- Material law, 16
- Mathesis universalis*, 10
- Mayflower Compact, 104
- Mazzini, Giuseppe, 96, 136
- McMaster, 185
- Meaning and meaningful action, 88–93
- Mechanical sociology, 15
- Medieval Political Ideas* (Lewis), 191–93
- Medieval Political Theories in the West* (Carlyle and Carlyle), 191
- Meditations* (Descartes), 129
- Méditations Cartésiennes* (Husserl), 93, 127
- Meeting of East and West: An Inquiry Concerning World Understanding* (Northrop), 5, 149–54
- Mehring, Franz, 146
- Meinecke, Friedrich, 68
- Mein Kampf* (Hitler), 137, 145
- Merkel, 95, 134

- Mesotes*, 99  
 Methodological purity, 44, 46, 51  
 Mexico, 150  
 Micaud, Charles A., 154  
 Middle Ages, 191–93  
 Mill, John Stuart, 35  
 Mining, 22–23  
 Minority rule, 119  
 Mirkin-Getzewitsch, Boris S.: *Die rechtstheoretischen Grundlagen des Sowjetstaates*, 29  
 Misch, 40  
*Misère par la surabondance: Karl Marx, père de la crise mondiale* (Boissonnet), 117  
*Mitt Gott für Trust und Dividende* (Böhmer), 18  
 “Mixed form” of the state, 82  
*Moderne Nation* (Ziegler), 66–69  
 Monarchy, 55, 59, 114, 171  
 Moral imperative of law, 49  
 Mosca, Gaetano: *Ruling Class*, 117–19; *Teorica dei Governi*, 118  
 Moses, 172  
 Motivations, 89–90  
 Mowrer, Edgar Ansel: *Amerika: Vorbild und Warnung*, 24–25  
 Müller, Johann, 20  
 Muntsch, Albert: *Introductory Sociology*, 25  
 Mure, 186  
 Mussolini, Benito, 75, 96, 116, 136, 145  
 Mutschmann, 76  
 Mysticism, 129  
*Mysticism, East and West* (Otto), 153  
*Mythische Denken* (Cassirer), 157  
*Myth of the State* (Cassirer), 156–58  
  
 Namslau, Guenter: *Rechtfertigung des Staates bei Christian Wolff*, 76–78  
 Napoleonic plebiscites, 52–53  
 Napoleonic wars, 118  
 Nation: French idea of, 96; German idea of, 66, 96; and legitimacy, 67; Mussolini on, 96; specification of concept of government, 67; Ziegler’s sociological approach to, 66–69; Zimmern on, 85. *See also* State  
 Nationality, 85  
*Nationality and Government, with Other War-Time Essays* (Zimmern), 85  
 National Socialism, 4, 98, 100–103, 115–16, 120–22, 137, 142  
 Natorp, 71  
 Natural law, 125, 133, 185–89  
*Nature of the Law* (Voegelin), 2  
*Natürliche System der menschlichen Gesellschaft oder die Entstehung der Arten im periodischen System der sozialen Elemente* (Konrad), 12–13  
 Nazism. *See* National Socialism  
 Necker, Jacques, 69  
 Neo-Comtean philosophy of history, 153  
 Neo-Hegelian politico-legal theory, 124  
 Neo-Kantianism, 3, 44, 45, 46, 51, 63, 97, 124, 134, 156  
 Neolithic revolution, 176, 178  
*New Science of Giambattista Vico* (Bergin and Fisch), 180–81  
*New Science of Politics* (Voegelin), 1, 3, 4  
 Newton, Isaac, 153  
 Nicolini, 180  
 Niebuhr, Reinhold, 125, 130  
 Nietzsche, Friedrich, 130, 185  
*Nomos*, 154  
*Nomos und Physis* (Heinimann), 187  
 Norden, Albert: *Lessons of Germany: A Guide to Her History*, 146–47  
 Normative theory of law, 43–49  
 Norms: belief in obligatory nature of, 50; constitutional law and standardized norms, 43–44; double-norm, 16, 17; Horvath on, 112; and Kelsen’s pure theory of law, 44–45, 52, 134; normative theory of law, 43–49; Schmitt on, 46, 109; theory of, 11, 16; validity of, 48–50  
 Northrop, F. S. C.: *Meeting of East and West: An Inquiry Concerning World Understanding*, 5, 149–54  
 Norway, 123  
 Nötzel, 139  
  
 Oberlin College, 191  
 Objective meaning, 90–91  
 Obscurantism, 129  
*Ökonomie* (economy), 12

- Old China Hands and the Foreign Office* (Pelcovits), 174–76
- On the Form of the American Mind* (Voegelin), 4
- On the Life of Labor in America* (Tänzler), 22
- On Tyranny: An Interpretation of Xenophon's Hiero* (Strauss), 168–74
- Open Society and Its Enemies* (Popper), 179, 185, 187, 189
- "Orbis Academicus" series, 184
- Order, 109–10
- Order and History* (Voegelin), 1, 4
- "Original Power of the Collective Body of the People," 70
- Origin of the state, 78–81
- Origins of Totalitarianism* (Arendt), 2
- Other, understanding of, 88, 90–91
- Otto, Rudolf, 153
- Ought and Is, 43–46, 71, 112–13, 133
- Outline of Ancient Philosophy of Law and State* (Verdross-Drossberg), 179
- Paideia*, 162
- Paidia*, 162
- Panhorst, Karl H.: *Deutschland und Amerika*, 19–21
- Paracletes, 173
- Pareto, Vilfredo, 117, 119
- Park, Robert E., 27
- Parker, 185
- Parliament, 68, 69, 141
- Pashukanis, 147
- Pathos, 58–59
- Peace, 113–14
- Pelcovits, Nathan A.: *Old China Hands and the Foreign Office*, 174–76
- People: "awakened people" (*Erwachte Volk*), 73; French concept of, 96; as *homo ludens*, 160–68; Horneffer's human types, 81; Italian idea of, 96; Schindler on concrete human being, 82–83; and the state, 56–58; state as person, 73, 75; *Volksgeist* (spirit of a people), 66
- Persons. *See* People
- Pétain, Philippe, 123
- Phenomenology, 92, 126–29
- Philosophical Essays in Memory of Edmund Husserl*, 126
- Philosophy: Plessner on, 38–41; and politics, 38–41; science of, 126–29; Socrates on philosopher, 170. *See also* specific philosophers
- Philosophy and Phenomenological Research*, 126
- Philosophy of Arithmetic* (Husserl), 127
- Pius IX, 136
- Pius XI, 136
- Planck, Max, 153
- Plato: on autarchy and *mesotes*, 99; Bowle on, 178; Cassirer on, 156, 157; modern enemies of, 5, 185–89; on *nomos*, 154; on play, 162, 165; on society, 12; on state, 14; on tyranny, 168; Verdross-Drossberg on, 179; Xenophon compared with, 168
- Works: *Laws*, 162, 165, 178; *Republic*, 14, 178, 192; *Statesman*, 170, 171, 173, 178; *Theaetetus*, 170
- Platonic Legend* (Fite), 185
- Plato's Modern Enemies and the Theory of Natural Law* (Wild), 185–89
- Plato's Theory of Man* (Wild), 179
- Plato Today* (Crossman), 185
- Play, 160–68
- Plessner, Hellmuth: *Macht und menschliche Natur: Fachschriften zur Politik und staatsbürgerlichen Erziehung*, 38–41
- Poland, 69, 142, 155
- Polin, Raymond: *Politique et philosophie chez Thomas Hobbes*, 189–91
- Polis, 66, 170
- Political formula, 118, 119
- Political science: Bowle on history of Western political thought, 176–78; categories of, 38; Plessner on, 38–41; Rumpf on sociology and, 84–85; Schmitt's political theory, 109–10. *See also* Politics
- Politics: Medieval political ideas, 191–93; *Rechtsgefühl* (right and wrong) in, 86–87; of Soviet Union, 5, 138–46; of United States, 23, 33, 34. *See also* Political science
- Politics* (Aristotle), 77–78, 179
- Politique et philosophie chez Thomas Hobbes* (Polin), 189–91

- Politische und soziologische Staatslehre* (Rumpf), 84–85
- Popper, Karl R., 5, 179, 185, 186, 189
- Portuendo y Barcelo, 15
- Positive law, 132, 133, 188
- Positivism, 124, 131, 176
- Post-War Governments of Europe* (Fellman), 154–56
- Pound, Roscoe, 27, 28
- Power, 41, 52, 54, 65–66
- Pragmatism, 32, 104, 108
- Prince* (Machiavelli), 168, 171, 173
- Profeta armato*, 171, 172
- Progress, 153
- Prologomènes à une Mécanique Sociale* (Trisca), 14–15
- Proletariat, 145. *See also* Working class
- Propaganda, 119
- Proportional representation, 119
- Prospects of Democracy, and Other Essays* (Zimmern), 85
- Protestantism, 153
- Prussia, 146–7
- Pseudo-Dionysius, 193
- Psychology, 108
- Public opinion, 53, 154
- Pufendorf, Samuel von, 77
- Pure theory of law, 3, 11, 12, 16, 17, 44–47, 51, 52, 109, 131–34, 147
- Pure Theory of Law* (Ebenstein), 131–34
- Puritans, 177
- Race ideas, 4, 103–4, 116, 118, 136
- Ranke, Leopold von, 27, 67, 68, 130, 131, 185
- Raschhofer, Hermann, *Der politische Volksbegriff im modernen Italien*, 96
- Rechtstheoretischen Grundlagen des Sowjetstaates* (Mirkin-Getzewitsch), 29
- Rechtfertigung des Staates bei Christian Wolff* (Namslau), 76–78
- Rechtsgefühl* (right and wrong), 86–87
- Rechtsgefühl in Justiz und Politik, Das* (Hoche), 86–87
- Rechtsoziologie: Probleme der Gesellschaftslehre und der Geschichtslehre des Rechts* (Horvath), 110–15
- Rechtsphilosophische Schule der Reinen Rechtslehre* (Ebenstein), 133–34
- Rechtssatz* (legal thesis), 11, 16
- Rechtswesenslehre* (nature of law), 16
- Reich, 66
- Reichstagsrede*, 116
- Religious crisis of United States, 23
- Renan, Joseph-Ernest, 119
- Representation principle of the state, 54–59, 119
- Republic* (Plato), 14, 178, 192
- Research in social sciences, 26–28
- Research in the Social Sciences* (Gee), 26–28
- Rheinland occupation, 72
- Richter, 76
- Rienzo, Cola di, 173
- Right and wrong, 86–87
- Ripley, 22
- Risorgimento*, 96, 135
- Rist, 15
- Rockefeller, John D., 36
- Romagnosi, 96
- Romania, 15
- Roman law, 181–83, 192
- Romulus, 171
- Rosenberg, Alfred, 101, 137
- Rosenberg's Nazi Myth* (Chandler), 137
- Rothacker, 68
- Rousseau, Jean-Jacques, 69, 77, 96, 190
- Rulership, 41, 55, 57–61, 68, 169–72
- Ruling class, 117–19
- Ruling Class* (Mosca), 117–19
- Rumpf, Max: *Politische und soziologische Staatslehre*, 84–85
- Russia, 136, 142. *See also* Soviet Union
- Saarland, 72
- Sacco, Nicola, 22
- Sacco und Vanzetti* (Lyons), 19, 22
- Sacrum Imperium* (Dempfi), 193
- Saint-Simon, Claude-Henri de Rouvroy, comte de, 118
- Sales methods, 22
- Salomon, 68
- Sander, Fritz, 134; *Staatslehre, 2; Verfassungsurkunde und Verfassungszustand der Tschechoslowakischen Republik*, 93–95
- Santo Domingo, 21

- Savigny, Friedrich Carl von, 184, 192  
 Scandinavia, 155  
 Schacht, Hjalmar, 158–60  
 Scheler, Max, 71, 72  
 Schellberg, W.: *Handbuch der Amerikakunde: Handbücher der Auslandskunde*, 76  
 Schelling, Friedrich, 93, 131, 158, 166  
 Schindler, Dietrich, 84; *Verfassungsrecht und soziale Struktur*, 81–84  
 Schlesinger, A. M., 27  
 Schlesinger, Rudolph: *Soviet Legal Theory: Its Social Background and Development*, 147–49  
 Schmitt, Carl, 2, 3, 39, 68, 84, 109–10; *Verfassungslehre*, 42–66  
 Schmoller, Gustav von, 14  
 Schober, Johann, 160  
 Scholarship, 150  
 Schopenhauer, Arthur, 130, 131, 166  
*Schreckensherrschaft in Amerika* (Souchy), 19, 21–22  
 Schreier, 134  
 Schreiner, Albert: *Lessons of Germany: A Guide to Her History*, 146–47  
 Schulz, 71  
 Schuman, Frederick L.: *Soviet Politics: At Home and Abroad*, 5, 138–46  
 Schütz, Alfred, 2; *Der sinnhafte Aufbau der sozialen Welt*, 87–93  
 Schütz, Max, 3  
 Schwarz, Hermann, 71  
 Science, 9–12, 16–17, 27–28, 44, 153, 157  
 Science of history, 184–85  
 Science of law, 3, 10–12, 15–16  
 Science of philosophy, 126–29  
*Scienza nuova* (Vico), 166, 180, 190  
 Scotus Erigena, 193  
*Scrittori d'Italia*, 180  
*Sechs Jahre Minister der Deutschen Republik* (Curtius), 158–60  
 Secondary studies, 68–69  
*Seiendes* (simple existing thing), 67  
 Sein ("is"), 43–46, 71, 112–13, 133  
*Seinsverbundenheit* (community to Being), 41  
 Separation of powers, 38  
 Sforza, Count Carlo: *Contemporary Italy: Its Intellectual and Moral Origins*, 134–36  
 Shils, E. A., 120  
 Siberia, 142  
 Siegfried, André: *Die Vereinigten Staaten von Amerika: Volk-Wirtschaft-Politik*, 19, 23–24  
 Siéyès, Emmanuel-Joseph, 96  
 "Sign" theory, 92  
 Sigwart, 51  
 Silvio, Enea, 172  
*Sinnlichkeit* (sensibility), 10  
 Smend, 68, 82, 84, 115  
 Smith, Adam, 14  
 Social class conflict. *See* Class conflict  
*Social Contract* (Rousseau), 69  
 Social Democratic Parties, 142  
 Social meaning, 88–93  
 Social mechanism, 15  
 Social sciences: research in, 26–28; social hierarchy of personnel in, 28  
 Social whole, theory of, 71  
 Society: Albert the Great's theory of, 30–31; history of theory of, 14–15; Jordan on relationship between individuals and, 37–38; Konrad's theory of, 12–13; Lütken's on United States, 31–37; Plato's theory of, 12; Schmitt on, 51; theories of, 12–13  
 Sociology: Catholic perspective on, 25; creation of types in, 92; definition of, 25; interpretative sociology (*verstehender Sociologie*), 88, 92; introduction to, 25–26; of law, 110–15; mechanical sociology, 15; Rumpf on political theory and, 84–85; of Weber, 66, 87–90; Ziegler's sociological approach to the modern nation, 66–69  
 Socrates, 157, 170, 174  
 Soelde, 71  
 Soil, 74, 75  
*Sollen* ("ought"), 43–46, 71, 112–13, 133  
 Sorel, Georges, 75, 145  
 Souchy, Augustin: *Schreckensherrschaft in Amerika*, 19, 21–22  
*Soul of the State (The Know Thyself)*, 14  
*Soviet Legal Theory: Its Social Background and Development* (Schlesinger), 147–49  
*Soviet Politics: At Home and Abroad* (Schuman), 5, 138–46

- Soviet Union: constitutional law in, 29, 148; and de-Nazification of Germany, 143; elections in, 140–43; legal theory of, 147–49; and Nazism, 144; Northrop on, 149, 150; politics of, 5, 138–46; population of, 155; post–World War II government of, 155; as world power, 149
- Spain, 123, 155
- Spalding, Henry S., *Introductory Sociology*, 25
- Spann, Othmar, 31, 71
- Spencer, Herbert, 118
- Spengler, Oswald, 71
- Spranger, Eduard, 80
- Staatlich* (sovereign) society, 77
- Staatliche Vernunftperson* (reasoning state-person), 73
- Staatsidee* (idea of the state), 81
- Staatslehre* (political theory), 42, 84, 109, 132
- Staatslehre* (Sander), 2
- Staats- und Gesellschaftslehre Alberts des Grossen* (Arendt), 30–31
- Staatswissenschaft* (political science), 38, 41, 66
- Staat und Gesellschaft in Amerika* (Lütken), 31–37
- Stahl, Friedrich Julius, 67
- Stalin, Joseph, 142
- State: Albert the Great's theory of, 30–31; ancient philosophy of, 179; Aristotle on, 77–78; Cassirer on myth of, 155–58; and charisma of ruler, 58, 59n3; and constitutional theory, 63–66; definition of, 48, 51, 72–73; diversity of forms of, 54–62; dual state, 121; elements of, 80; and form of chief men, 58–59; German political theory on, 50–52; German versus English idea of, 85; Hamel on state territories, 72–75; homogeneity and democratic state, 61–62; Horneffer's theory of origin of, 78–81; identity principle of, 54–56, 59–62; Jellinek on, 51, 73; Kelsen on, 51, 131–34; leadership of, 79–80, 81; Lütken on United States, 31–37; “mixed form” of, 82; Mussolini on, 96; pathos of, 58–59; people and, 56–58; as person, 73, 75; politically immanent concepts of, 64, 65; representation principle of, 54–59; and rulership, 41, 55, 57–59; Sander on, 94; Schindler on, 81–84; Schmitt's theory of, 48, 51, 54–62, 109–10; soil of, 74, 75; soul of, 14; unity of, 51–52; Weber's theory of, 83–84; Wolff's theory of, 76–78. *See also* Constitutions; Democracy; Monarchy; Nation
- Statesman* (Plato), 170, 171, 173, 178
- State territories, 72–75
- Stein, 67, 68
- Steingraber, Hans: *Deutsche Gemeinschafts-philosophie der Gegenwart*, 70–72
- Stoics, 187
- Strauss, Leo, 2; *On Tyranny: An Interpretation of Xenophon's Hiero*, 168–74
- Stresemann, Gustav, 158
- Structure of the Nazi Economy* (Sweezy), 120–22
- Stuchka, 147
- Study of History* (Toynbee), 177
- Subjective meaning, 90–91
- Superabundans*, 163–65
- Supreme Court, U.S., 32–33
- Sweet, Paul R., 155
- Sweezy, Maxine Y.: *Structure of the Nazi Economy*, 120–22
- Switzerland, 155
- Symbol: of the state, 60–61; of unity, 59
- Synopsis, 112–13
- Systematic Economics* (Ludwig), 22
- Systematische Wirtschaft* (Ludwig), 19, 22
- Taine, Hippolyte-Adolphe, 118
- Tänzler, Fritz: *Aus dem Arbeitsleben Amerikas*, 19, 22
- “Teleological” science, 9
- Telos, 73, 74, 75
- Teorica dei Governi* (Mosca), 118
- Territories, 72–75
- Thayer, 22
- Theaetetus* (Plato), 170
- Theoretical versus aesthetic components of reality, 151, 153, 154
- Théorie Générale du Droit International Public* (Kelsen), 132

- Theory of Legislation: An Essay on the Dynamics of the Public Mind* (Jordan), 37–38
- Theseus, 171
- Thomas Aquinas, 111, 151, 178
- Thou relationship, 90, 91, 93
- Tillich, Paul, 125
- Tolerance, 106–7
- Tönnies, Ferdinand Julius, 70
- Totality, theory of, 71
- Toynbee, Arnold, 177, 185
- Tractatus IV*, 192
- Transcendence, 165
- Transcendental ego, 128
- Trattato* (Pareto), 117
- Treitschke, Heinrich von, 67
- Trennungsdenken* (thinking in terms of division), 109
- Triepel, 72
- Trisca, Peter: *Prologomènes à une Mécanique Sociale*, 14–15
- Troeltsch, Ernst, 184
- Turgot, Anne-Robert-Jacques, 157
- Twain, Mark, 106
- Types of humans, 81
- Tyrannos*, 172
- Tyranny, 168–74
- Ultor peccatorum*, 172
- Unconscious, 166
- Undverbindung* (“and connection”), 41
- Ungegebenes* (whole as nonexistent), 71
- Ungesellige Geselligkeit* (“unsociable sociability”), 79, 81
- Unions, 22
- United States: and American Revolution, 104–5, 152; capitalism in, 32, 34–36, 106; class structure of, 33, 35–36; coal mining in, 22–23; compared with Europe, 32, 33, 35; and de-Nazification of Germany, 143; economy of, 23; elections in, 140, 141; ethnic and religious crisis of, 23–24; Ford in, 21; and Franklin, 104–8; frontier in, 35; handbook on, 76; immigrants in, 33, 35–36; imperialism of, 33; labor in, 22; “legend of liberal America,” 32, 34, 35; Lütkens on, 31–37; Northrop on, 149, 150, 152, 154; politics of, 23, 33; population of, 155; relationship between Europe and, 24–25, 85; relationship between Germany and, 20–21; sales methods in, 22; social sciences research in, 26–28; Supreme Court of, 32–33; Voegelin on, 3–4; working class in, 21–22; as world power, 149; Xenophon compared with, 173–74
- U.S. Commerce Department, 18
- U.S. Supreme Court, 32–33
- Unity: of constitution, 48, 51, 52; of democracy, 65–66; of state, 51–52, 65–66; symbol or theory of, 59
- Universalism, 31
- University of Chicago, 149
- University of Leipzig, 69
- University of Lille, 189
- University of Marburg, 184
- University of Munich, 1
- University of Virginia, 26
- University of Wisconsin, 106
- USSR. *See* Soviet Union
- Validity: definition of, 49, 50, 50n1; of law and constitutions, 47–50; of norms, 48–50; Schmitt on, 47–50, 50n1; Weber on, 48
- Vanzetti, Bartolomeo, 22
- Veche* (assembly), 142
- Veltro*, 172
- Venezuela, 20
- Verdross-Drossberg, Alfred, 134; *Grundlinien der Antiken Rechts- und Staatsphilosophie, Zweite Erweiterte Auflage*, 179
- Vereinigten Staaten von Amerika: Volk-Wirtschaft-Politik* (Siegfried), 19, 23–24
- Verfassungslehre* (Schmitt), 42–66
- Verfassungsrecht und soziale Struktur* (Schindler), 81–84
- Verfassungsurkunde und Verfassungszustand der Tschechoslowakischen Republik* (Sander), 93–95
- Vermoege*n (wealth), 12
- Verreligionisierung* (religionization), 102
- Verstand* (understanding), 10
- Verstehender Sociologie* (interpretative sociology), 88
- Vico, Giambattista, 166, 180–81, 190

INDEX

- Vieche* (assembly), 142  
 Vinogradoff, 192  
*Virtù ordinata*, 172  
 Vishinsky, 147  
*Vita di Castruccio Castracani* (Machiavelli), 172  
*Vita Tamerlani*, 172  
 Voegelin, Eric: book reviews by, 1–6; on *Journal of Politics* editorial board, 4; as Laura Spellman Rockefeller Fellow, 3; motivations for work by, 4; praise and criticism in book reviews by, 5; standard approach to book reviews by, 2; style of, for book reviews, 2–3. *See also* specific works  
 Volga-German Republic, 142  
*Volk*, 96, 98, 102, 116  
*Volksgeist* (spirit of a people), 66  
*Volkswirtschaften* (peoples' economies), 99  
*Volkswirtschaftslehre* (peoples' economic theory), 98  
 Von Hartig, E.: *Handbuch der Amerikakunde: Handbücher der Auslandskunde*, 76  
 Von Stein, Lorenz, 64  
 Voting. *See* Elections  
  
 Wagenführ, Horst, 116  
 Wagner, Fritz: *Geschichtswissenschaft*, 184–85  
 Waldseemüller, Martin, 20  
 Walter, Gerda, 71  
*Waning of the Middle Ages* (Huizinga), 161  
 Ward, Lester Frank, 15  
 Warren, Josiah, 35  
 Weber, Alfred, 115  
 Weber, Max, 3, 48, 59n3, 66, 68, 83–84, 87–90, 106, 184  
 Weimar Republic, 42, 63, 65, 158–60  
 Welsers, 20  
*Weltanschauung*, 101–3  
  
 We relationship, 90  
*Wertgehalt* (value-content), 73  
*Wesen des Staatsgebietes* (Hamel), 72–75  
*Western Political Thought: An Historical Introduction from the Origins to Rousseau* (Bowle), 176–78  
 Weygand, Maxime, 123  
 Weyr, 134  
 Wild, John, 5, 179; *Plato's Modern Enemies and the Theory of Natural Law*, 185–89  
 Will: *Kräftegeladene Lebenswille* (vital life-will), 38; of leader and origin of the state, 79–80; Schmitt on, 47, 52–53, 54, 65–66  
 William of Occam, 192  
 Winspear, Alban D., 5, 186  
*Wirtschaft* (economic system), 12  
*Wirtschaftlichen und sozialen Verhältnisse im Kohlenbergbau der Vereinigten Staaten* (Jüngst), 19, 22–23  
 Wissler, Clark, 27  
 Wolff, Christian, 76–78  
 Woodworth, R. S., 27  
 Working class, 21–22, 117  
  
 Xenophon, 168–74  
  
 Yorck-Wartenburg, 184  
*York Tracts*, 178  
 Young, Allyn A., 27  
  
 Ziegler, Heinz O.: *Die moderne Nation*, 66–69  
 Zimmern, Alfred E.: *Nationality and Government, with Other War-Time Essays*, 85; *Prospects of Democracy, and Other Essays*, 85  
 Zink, Harold, 155  
*Zoon politicon*, 118