Warning Concerning Copyright Restrictions

The Copyright Law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted materials. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship, or research. If electronic transmission of reserve material is used for purposes in excess of what constitutes "fair use," that user may be liable for copyright infringement.
The *Nomos* of the Earth
in the International Law of
the *Jus Publicum Europaeum*

Carl Schmitt

*Translated and Annotated by G. L. Ulmen*

_Telos Press Publishing_
2006
TABLE OF CONTENTS

Translator’s Introduction ...........
Translator’s Note and Acknowledgments ......
Author’s Foreword ..................

Part I: Five I

Chapter 1. Law as a Unity of Law.........

Chapter 2. Pre-Global International Law...

Chapter 3. International Law
   A. The Republic of the Christian Empire
   B. The Christian Empire of the Antichrist

Chapter 4. On the Meaning
   A. Nomos and Law
   B. Nomos as Ruler
   C. Nomos with Homer
   D. Nomos as a Fundamental Principle

Chapter 5. Land-Appropriation of International Law

Part II: The Land-Appropriation

Chapter 1. The First Global
   A. Global Linear Thinking
   B. Rayas
   C. Amity Lines
   D. The Western Hemisphere

Chapter 2. Justification of Empires
   A. Vitoria’s Scholasticism
   B. Vitoria as a Theologian
   C. Vitoria’s Legacy
   D. Situating Vitoria’s Thought
Author's Foreword

This book, the defenseless product of hard experiences, I lay on the altar of jurisprudence, a discipline I have served for more than forty years. I cannot foresee who will take my offering in hand, be it a thoughtful or a practical person, be it a destroyer and annihilator who ignores the asylum I offer. The fate of a book does not lie in the author’s hands, any more than does his personal fate upon which it hinges.

Given this fact, the motto for this book might be two verses Goethe wrote in 1812:

All petty things have trickled away,
Only sea and land count here.

For I speak here of firm land and free sea, of land-appropriations and sea-appropriations, of order and orientation. However splendid that motto might be, it would be misleading. Both extraordinary verses steer attention too much away from international law, and to either a geographical-scientific or an elemental-mythological approach. That would not do justice to the essentially jurisprudential foundations of this book, which I have taken much pains to construct.

I am much indebted to geographers, most of all to Mackinder. Nevertheless, a juridical way of thinking is far different from geography. Jurists have not learned their science of matter and soil, reality and territoriality from geographers. The concept of sea-appropriation has the stamp of a

1. [Tr. Sir Halford John Mackinder (1861-1947) was both a geographer and a politician. In January 1887, the fame of his Oxford extension lectures resulted in an invitation to speak at the Royal Geographical Society in London. During the discussion after the lecture, he defined geography as “the science of distribution, the science, that is, which traces the arrangement of things in general on the earth’s surface.” In 1899, he was instrumental in establishing the first British school of geography, at Oxford. He is best known for his theory of the “heartland,” which influenced the geopolitical thinking of Karl Haushofer. Mackinder’s writings on land power are comparable to the ideas of Alfred Thayer Mahan (1840-1914) on sea power, which also influenced Schmitt’s thinking.]
jurist, not of a geopolitician. As a jurist, I agree with Camilio Barcia Trelles, an important scholar of contemporary international law, who also has dealt with the theme of land and sea.

The ties to mythological sources of jurisprudential thinking are much deeper than those to geography. These were revealed to me by Bachofen, but the many profound insights of Jules Michelet should not be forgotten. Bachofen is the legitimate heir of Savigny. What the founder of the Historical School of Law understood to be historical authenticity, Bachofen extended and made much more fruitful. This historical authenticity is not just archeology and a museum artifact. It concerns the existential question of jurisprudence, which today would be sundered between theology and technology if the ground of its being here and now were not understood properly and developed fruitfully in terms of its historical relevance.

For this reason, the question of presentation is especially difficult. At present, there are all sorts of restraints and restrictions. A critic unencumbered by them will have no trouble finding bibliographic and other imperfections. What is more, I avoid mention of contemporary affairs and break off at many points, so as not to give a false impression. All experts lament the Babylonian linguistic confusion of our time: the crudeness of the ideological struggle, the disintegration and contamination of the most common and familiar concepts of contemporary public life. Since both the given subject and the present situation are overwhelming, all we can do is sift through the wealth of material unnecessarily.
sift through the wealth of material, present new ideas objectively, avoid unnecessary controversy, and not fail to grasp the magnitude of our theme. Both the theme and the situation are overwhelming.

The traditional Eurocentric order of international law is foundering today, as is the old nomos of the earth. This order arose from a legendary and unforeseen discovery of a new world, from an unrepeatable historical event. Only in fantastic parallels can one imagine a modern recurrence, such as men on their way to the moon discovering a new and hitherto unknown planet that could be exploited freely and utilized effectively to relieve their struggles on earth. The question of a new nomos of the earth will not be answered with such fantasies, any more than it will be with further scientific discoveries. Human thinking again must be directed to the elemental orders of its terrestrial being here and now. We seek to understand the normative order of the earth. That is the hazardous undertaking of this book and the fervent hope of our work.

The earth has been promised to the peacemakers. The idea of a new nomos of the earth belongs only to them.

Carl Schmitt
Summer 1950
The ancient Greek word "nomos" is considered by the author to refer to the allocation of land, an act he regards as basic to the establishment of law since land is directly associated with power. "Jus publicum Europaeum" means "European public [i.e., international] law." The author associates international legal systems with regions of the earth, each possibly with a system of its own. Such a region is known as a "Grossraum". The narrative goes like this Nomos of the Earth in the International the Jus Publicum Europaeum. The Law of. Includes translator's introduction, translator's note and acknowledgments, glossary of foreign terms, subject index, and name index. ISBN: 0-914386-29-8 (cloth) 0-914386-30-1 (paper). The Nomos o f the Earth. Schmitt was not concerned primarily with a critique of the Versailles. tl Treaty, but with the fact that it had created neither a solid peace nor a new mtemational order. The Holy Alliance had been based on dynastic legitiÂ macy. It was replaced by the principle of nationality. In the 20th century, democratic revolutions introduced a new type of legitimacy, which 1 brought about the "Balkanization" of Europe.