

# [Carl schmitt: the concept of the political](https://assignbuster.com/carl-schmitt-the-concept-of-the-political/)

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The tradition of the oppressed teaches us that the ‘ state of emergency’ in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight. Then we shall clearly realize that it is our task to bring about a real state of emergency (Benjamin: 1999: 248)

The pinnacle of great politics is the moment in which the enemy comes into view in concrete clarity as the enemy.(Schmitt: 1963: 1)

The purity of pόlemos or the enemy, whereby Schmitt would define thepolitical, remains unattainable… no politics has ever been adequate toits concept.(Derrida: 1997: 114)

## I Why Hegel Died

Schmittbegins Staat, Bewegung, Volk by stating that with the rise of the Nazi regime, Hegel died. By this, he did not mean that German Idealist philosophy had died, nor that the idea of the German state had died, far from it. Rather, Schmittidentified Hegelwith the bureaucratic class of the Bourgeois; Hegel died when the bureaucratic state was no longer a possibility, and the total or pure state emerged as a possibility.

It is this attempt to find a pure politics upon which to base the coming community that characterises Schmitt’s work. Der Bergriff desPolitischen (1963) is a vital text for Schmitt’s argument. In it, he lays out his fundamental distinction between friend and enemy that hebelieves is the definition of politics. From this basic antagonism, Schmitt argues for a total state, which can provide the obedience andsecurity that liberal contractualist theories are unable to offer. Thistotal state allows the enemy to come into view in ‘ concrete clarity.’Thus, the total state for Schmitt offers the transmutation of the enemy: friend relationship in the state of nature into the politics ofthe total state, where the sovereign can command the power over lifeand the power to name the enemy. It is only such a state, Schmittargues, that can resurrect the political from the morbid repetition ofthe bourgeois; only a total state can make clear the nature of sovereignty as an exception.

This essay will analyse how Schmitt’s thought evolved in the historical context of the Weimar republic. It will lay out Schmitt’s critique of bourgeois thought in the context of the Nietzscheanleitmotif underlying many of the thinkers (Jünger, Spengler) of theperiod. It will then explain how Schmitt attempts to resolve thisproblem by using Hobbes to rethink the notion of the political, and byrelying on the state of exception to guarantee the power of the law.

What is noticeable today is the extent to which scholars of the leftuse Schmitt. When Schmitt republished Der Bergriff in 1963, it was inan intellectual climate dominated by the Frankfurt school and theirreinterpretation of Marx. However, contrary to appearances andSchmitt’s intention, his work shares many characteristics with Adorno: both attack the notion of Enlightenment reason; both see reason as ableto co-exist with myth (though for Schmitt this is positive, for Adornocatastrophic). What is instructive about this convergence is the degreeto which what separated the thinkers of the Left from Schmitt is amatter of degrees. This issue will be explored further in this essay.

This essay will argue that Schmitt makes a number of pertinent critiques of democracy, and that his theory of sovereignty is a powerful and subtle account of the exercise of political power. However, Schmitt’s theory in Der Bergriff is fundamentally incoherenton a number of counts. As Derrida notes at the start of the essay, Schmitt’s concept of the political is unobtainable, it is structurallyanalogous to the concept of redemption in Christianity: it can onlyever occur in the future when placed in the present utterance ofspeech. That he has created a ‘ pure’ concept of the political is notonly immensely politically unsound, divorcing as it does the notion ofpolitics from the notion of the ‘ good life’ that we find in politicalphilosophy since Aristotle, it is theoretically suspect. Schmitt basesthe entire of his political theory on an aestheticisation of violence, which is not born out by the phenomenological experience of violence, and misunderstands the relationship between sovereignty and the social world.

That his concept of politics is unobtainable is tacitly admitted bySchmitt (1996) in The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol. This work is written at theheight of Nazi power, and yet Schmitt reverses his earlier claim about the relationship between the state of exception and the total state. This book could be seen as the epitaph to the argument between Schmittand Benjamin (before Benjamin fled Germany to die at the Spanishborder) on the notion of the state of exception. In the quote from Benjamin that begins this essay he uses a distinction between a realand a fake state of emergency: what he understands is that the use of aconstant state of emergency is where the possibility of a relation between law and that state collapses. Sadly, Schmitt realised this too late.

## II Was God a Bureaucrat?

If there is today still no lack of those who do not know howindecent it is to “ believe”–or a sign of decadence, of a broken willto live–well, they will know it tomorrow. (Nietzsche: 1990: 3)

Schmitt developed most of his ideas in the shadow of the Weimarrepublic, a democracy struggling without an armed forced and without aclear government. In this period, many conservative thinkers lookedback to a time when man used to have God underwriting divine rule. Inthis Mythischer Traum (mystical dream), sovereignty was defined bytranscendence. Thus, it was a sphere separated off from the rest oflife: sovereignty was not a matter for discussion and popular will, itwas the law. Conservatives in Germany at the time thought many of theproblems of the Weimar Republic could be understood as a result of asecularisation that placed man at the centre of the world, and thusturned the idea of sovereignty as an exception to life into an idea ofpopular will: in Schmitt’s terms, transcendence is sacrificed to immanence.

In this critique, thinkers like Schmitt borrow a lot fromNietzsche’s critique of the herd mentality of the bourgeois. They seekto rediscover the will, and like Nietzsche in the quote that startedthis section, await the day when people will know their will is beingsapped. One should not believe (a matter of opinion and internalchoice): rather, one should obey. It is the liberal idea of belief thatthey see as central to an age of neutralisations and depoliticisations(to use Schmitt’s terms). In this age, politics fails to have a spherefor itself but is degraded by other considerations like morality andeconomics that fail to understand the absolute nature of sovereigntyand so fail to offer a solution to the state. Thus, Schmitt can see inthe fractured nature of the Weimar Republic a concept of the politicalthat fails to offer people what they require (security and obedience)and threatens to fall back into the civil war of the state of nature.

Primarily responsible for this is a liberal bourgeoisie that hasplaced government in the hands of a bureaucracy that depoliticises thesphere of government. The bourgeoisie, Schmitt (1985a: 15) claims, is “ a ‘ discussing class’ [that,] wanting to evade the decision…[and] shift all political activity onto the plane of conversation.” Thus forSchmitt, the bourgeoisie avoid the importance of the decision: of theauthentic act of politics. They encroach on sovereignty and (ibid: 44)“ aim with undeniable certainty as subjecting the state and politics toan individualistic, and thus private legal morality, partly to economiccategories – and thus robbing it of its specific meaning.” Thus, Bureaucracy tries to dilute the power of the state with individualismand thus creates a state unable to carry out its functions effectively. Schmitt’s dislike here of private legal morality is linked to hisdislike of the idea of the state allowing its citizens any autonomy: itis here that Schmitt breaks with Hobbes, as we shall see later. ForSchmitt, bureaucracy functions in terms of fixed procedures and therule: such procedures will never encompass the central element ofsovereignty, and will sap man’s spirit by being inauthentic to the truepolitical concept (which is the friend: enemy distinction).

In opposition to such apparent decadence, Schmitt postulateautochthonous decision. He argues that the bourgeoisie has sapped healthy German Lebensphilosophie, in an analogous way to the way thebureaucracy saps the notion of the political. He is in agreement withthinkers such as Spengler when they make a vitalist critique of thebourgeoisie. However, for Schmitt this critique also follows from hiswork on sovereignty. Already in Law and Judgment [1912] (see1914: 14: ff. 1) he noted that one cannot understand the legal order inrational terms alone, as a bureaucrat might understand the law in termsof legal precedent. Schmitt announces that the actual decision (whichmight change the precedent) is always an irreversible particularity. Here Schmitt draws attention to a fundamental distinction in his workthat is little remarked upon: that between constitutive andconstituting power. For Schmitt, power must always be understood interms of its possible constituting function: attempts that place powerwithin the realm of established constituted power (e. g. a set legalorder) miss the fundamental aspect of law and of power. Thus, Schmittremarks on bureaucratic interpretations of law (1985a: 71) “ everyrationalist interpretation falsifies the immediacy of life.

## III The Failure of German Democracy

The increasing uncertainty and chaos in the Weimar republic led manyto fear a communist revolution. In a true Schmittean spirit (the enemy of my enemy is my friend), the climate of the Weimar republic brought together the conservative revolutionaries with the Nazis. Fearingcommunism, which for Schmitt would be the triumph of the non-politicalsphere (class), and detesting the bureaucracy of democracy, which theycompared to the notion of the content last man in Nietzsche, theywanted an active nihilism to give democracy its last push. They saw aclass of Hero’s emerging in opposition to the bourgeois after thedemise of the democratic state. This democratic state, as was clear toSchmitt from his analysis of the situation, cannot demand to name anenemy from the people and cannot control the enemies that emerge withinits own ranks.

However, Schmitt split from many conservatives in how he thoughtthis ‘ revolution of will’ should be brought about. Many conservativesblamed modernism for the bureaucracy and hankered after a return to Godas the sovereign and the hierarchies of aristocracy. While Schmittagreed that modernism gave rise to humanitarian democracy as much astechnology, he did not think we could return to the past. He thoughtthat as politics had lost its lieu propre (proper place), and had beenintruded upon by the realm of economics, anything now had the potentialto be political. Thus, he saw in modernism something that wascompatible with the will. As he noted in Der Bergriff (1963: 75):

Economics is no longer eo ipso freedom; technology serves not only(the ends of) conflict, but instead just as much the production ofdangerous weapons and instruments: its progress does not further eoipso the humanitarian-moral perfection that was conceived of in the 18Cas progress.

Within technology, he saw the possibility for a new state: based ondictatorship. Such a political entity would be able to decide on apublic enemy, and thus subsequently demand that the citizen either killor sacrifice his own life, which for Schmitt was the mark ofsovereignty. Thus, he claims the striking thing about the counterrevolutionaries of state of the 19C is that the moment the monarchycollapsed and they realised it could not be returned, they called fordictatorship. Schmitt claims (ibid: 78):

The true significance of those counterrevolutionaries of state liesprecisely in the constituency with which they decide. They heighten themoment of decision to such an extent that the notion of legitimacy, their starting point, was finally dissolved.

What such a dictatorship would allow is the return of a true sovereign.

## IV Political Theology

All significant concepts of the modern theory of the state aresecularised theological concepts not only because of their historicaldevelopment–in which they were transferred from theology to the theoryof the state, whereby, for example, the omnipotent God became theomnipotent lawgiver–but also because of their systematic structure(systematischen Struktur), the recognition of which is necessary for asociological consideration of these concepts. (Schmitt: 1963: 36)

For Schmitt, the dictatorship of the future would allow again the lieupropre of sovereignty to be regained. This proper place, for Schmitt, is a theological place. This point is much disputed by Schmittscholars, see for example Meier (1995) and Mouffe (1999). In the quoteabove, it can be argued that Schmitt sees politics as theological: which would be to say his politics is a theological one whereby theomnipotent God is an omnipotent lawgiver. Or, it can also be arguedthat for Schmitt, theology itself is political: that theology is thebasis for politics and the two meet at the point of sovereignty. Thisessay will leave aside for the moment the secondary aspect of thisquote, which is that there is also a historical development that makesmodern theories of the state theological concepts: it is enough to notethat in either theory, the democratic notion of the people at thecentre of sovereignty misunderstand the nature of the sovereign.

For Schmitt, the sovereign is he who creates law. However, in thiscreation, the sovereign has an interesting ontological characteristic. For (Schmitt: 1963: 36) “ although he stands outside the normally validlegal system, he nevertheless belongs to it, for it is he who mustdecide whether the constitution needs to be suspended in its entirety.” Thus, for Schmitt the sovereign is included in the legal order only atthe point of its own suspension. This can be understood as theexception. For instance, in a state of exception, the law is suspendedby an act of law itself: in that act, the exceptional nature of thedecision of sovereignty becomes clear, and one can see that law iscreated by an exceptional decision that can be recalled at any time inthe state of exception. This point is the original point that lies atthe foundation of law, and thus, is the foundation for Schmitt conceptof the political. For Schmitt, the political is preceded in a certainsense by the state. As Agamben (1995: 26) explains:

The exception does not subtract itself from the rule; rather, therule, suspending itself, gives rise to the exception and, maintainingitself in relation to the exception, first constitutes itself as a rule. . . The sovereign decision of the exception is the originaryjuridico-political structure (struttura) on the basis of which what isincluded in the juridical order and what is excluded from it acquiretheir meaning

Is this anarchy? For if it was, then Schmitt would be arguing forreplacing the Weimar republic with a state no better than the state ofnature. This is not the case. For Schmitt (1963: 12):

What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order… Because theexception is different from anarchy and chaos, order in the juristicsense still prevails, even if it is not of the ordinary kind.

Schmitt is keen to maintain a constant relation between the state ofexception and the state of law. It is still the law that suspendsitself through the figure of the sovereign. For Schmitt, it is thisdecision that is at the heart of sovereignty. Rather than sovereigntybeing a matter for popular will, Schmitt understands that underlyingthe founding of any law is a moment where law must be suspended. Thismoment returns in the state of exception. This state of exceptionguarantees the power of the sovereign. It also reveals that sovereigntyis pure immediacy, rather than representation (which is the makingpresent of something which is absent). As Schmitt notes of thesovereign decision (1985b: 31): “ the decision becomes instantlyindependent of argumentative substantiation and received autonomousvalue.” This argument, Schmitt claims, understands the true power oflaw in a way rationalist jurisprudence fails to do.

We see that Schmitt argument about the decision versus the rule is nota new concept in his thought in the 1920’s. The similarity betweenthese statements and those in Law and Judgement indicate this projecthad been there from the very start. In the Political Theology he givesa good definition of his project: (ibid: 22): “ precisely a philosophyof concrete life must not withdraw from the exception and the extremecase, but must be interested in it to the highest degree.” Through thisproject Schmitt attempts to break out of the choice between nihilisticindividualism (the bureaucratic state) and community based politics(communism, as well as regimes based on tradition) by emphasising thesingularity of sovereignty.

## V Solutions: Sovereign Violence

Schmitt now has a critique of the contemporary world, and a desiredworld he would like to go to. He finds his means in violence. Throughviolence Schmitt argues it is possible to break with rule based systemsof sovereignty. As he notes (1985b: 12): “ the norm is destroyed by theexception.” Thus through the exceptional act the possibility of safetyand passive nihilism is destroyed, (ibid) “ in the exception the powerof real life breaks through the crust of a mechanism that has becometorpid with repetition.” There is a strong theological undertone tosuch violence. The exception here functions much like the sacrifice inreligion. It is that which is outside the limits of the rule; thatwhich is offered up to something absolutely interior. Indeed, we couldgo so far as to say that what the miracle is for theology, the state ofexception is for Schmitt. Both are exemplary, singular: and yet bothdefine the basis for the rule: one by proof of God’s existence, theother by proof of the existence of sovereignty.

When man is attuned to battle, he will once more realise the nature ofexistence and thus the nature of sovereignty. Schmitt here finds astrange bedfellow in the socialist Georges Sorel, who he quotesapprovingly on many occasions. In his essay on Sorel, he notes(Schmitt: 1933: 18) “ warlike and heroic conceptions that are bound upwith battle and struggle were taken seriously again… as the trueimpulse of an intensive life.” Both Schmitt and Sorel agree on the needfor swift action and decision, both on the need for man to besubservient to a higher myth. There only point of disagreement is onwhich particular myth needs to be followed. Sorel, as a Marxist, usesthe myth of the proletarian. However, for Schmitt this is anon-political notion, allowing ideas of economics to infuse what shouldbe a pure sphere of sovereignty. The idea of the nation is that onlymyth that can keep such a purity alive. In a staggering display ofblindness to history Schmitt notes (1914: 70): “ the stronger myth isnational. The national myth has until today always been victorious.” Onthe same subject he quotes Mussolini approvingly (ibid: 75-76) when heclaims “ we have created a myth, this myth is a belief, a nobleenthusiasm: it does not need to be a reality.”

We should note at this juncture several subtleties of Schmitt’sargument. While he reverses Clausewitz, and claims politics should beplaced in the cause of war, he does so only to the extent that waremerges as a possibility to return to an autonomous notion of thepolitical sphere. Schmitt does not advocate violence for the sake ofviolence, but rather, as a way to bring democracy to its limit point. At this limit point, man will realise the impermanence of his existence(the friend: enemy distinction at the heart of politics) and realisethat only a total state allows for this distinction to be transcendedthrough the absolute notion of sovereignty. Thus, war appears inSchmitt as a constant possibility: which is to say, as a way ofconstantly realising the nature of man’s existence. In this, theAusnahmmezustand (state of exception) is not dissimilar from whatHeidegger (1962: 312) calls a Grenzsituation, where “ Dasein glimpsestranscendence and is thereby transformed from possible to realexistence.”

Further, the relationship of violence to the state of exception shouldbe clarified. The state of exception is not, in and of itself, violent. Schmitt makes two distinct arguments here that are structurallysimilar. He argues that through war man can realise the basic conceptof the political and rise above the bourgeois mentality to become ahero. In this, man is exceptional and breaking through the rules ofpeace time. He also argues that it is in the state of exception that wefind the true nature of sovereignty and only a state that keeps thisabsolutely singular notion of sovereignty will be able to succeed. Itis important to bear in mind these arguments are separate and Schmittis not arguing for violence for itself.

However, he does make several errors of analysis it is pertinent todemonstrate here. While Schmitt dislikes the bourgeoisie immensely, itis striking to note the degree to which his thesis on the power ofviolence as a singularity in which being is rediscovered is similar tothe argument of bourgeois artists (most pertinently the FuturistMarinetti, who embraced Italian Fascism) in favour of art for artssake. The problem in this argument is that there is nothing in violenceper se that makes it singular. As a series of ethnographies of war(Richard: 1996) have made clear: war follows cultural patterns and, farfrom being cleansing, can be banal and quite the opposite of aGrenzsituation. Schmitt’s eulogisation of law seems like the yearningsof a bourgeoisie after an authentic existence expressed in anexoticised Other.

Despite the fact that the state of exception and the violence/wararguments are separate, their structural similarity should make usaware that for Schmitt, an aestheticisation of politics (politics as apure sphere being equivalent to art for arts sake, or in Schmitt’sconcept of the state, the state is simply that which is for itself)underlies his entire political theory. Moreover, this aestheticisationis a facile one that is at odds with the nature of war and the natureof violence. Following from this, it becomes clear that the exceptionis not a ‘ pure’ example of politics: in as much as it is the basis forpolitical order, it is bound up in, for instance, economics. ForSchmitt to claim that it is ‘ pure’ requires the assumption that thestate precedes politics, a claim, as we see in the next section, Schmitt cannot sustain.

## VI Hobbes and the Root of Liberalism

The fundamental theological dogma of the evilness of the world andman leads, just as does the distinction of friend and enemy, to acategorization of men and makes impossible the undifferentiatedoptimism of a universal conception of man (Schmitt: 1963: 65)

Schmitt seeks to return to Thomas Hobbes. However, the Thomas Hobbes hesearches for is not the contractual Hobbes who allows citizens someelement of self-control. Rather, he returns to Hobbes as the theoristof the state of nature. It is here that Schmitt seeks to ground hisnotion of the political. Man is originally living in contingent, riskycircumstances, when any man around him could be his enemy: indeed, ishis enemy. Schmitt notes (ibid: 61) “ all genuine political theoriespresuppose man to be evil, meaning dangerous and dynamic.” It is thisdangerous man that political theory must confront: a man without theillusions of democracy and self-improvement. He notes (ibid: 65) “ forHobbes… the pessimistic conception of man is the elementarypresupposition of a specific system of political thought.”

Because man always requires an enemy, it is this conception of manthat can only be assuaged by sovereignty powerful enough the give apublic enemy: to command obedience in return for protection. Toresurrect such a man in Hobbes, it is necessary to remove Hobbes fromhis later work, which ‘ taints’ him. In this task, Schmitt performs someinteresting manoeuvres. Normally, Hobbes is criticised today in afacile way by those who argue that there is no state of nature; thatman always presupposes culture, exchange and reciprocity. Hobbes makesclear in a footnote (1997: 312) that the state of nature did not need tohave occurred: it is a model for politics. Most interpret this to meanit is a model for human nature. However, Schmitt interprets the stateof nature as the state of sovereignty in some senses. Sovereignty isalso an exception that sublimates the category of friend: enemy ontothe national stage. As Schmitt notes of international politics(1963: 69): “ in it, states exist among themselves in a condition ofcontinual danger, and their acting subjects are evil for precisely thesame reasons as animals are stirred by their drives.”

What is faulty and interesting about Schmitt’s thesis is partly theextent to which it underlies all his other hypotheses. He argues thatpolitics presupposes the state. What this ignores is that there isalways already an encultured human, an encultured state. This is lessproblematic in Agamben’s formulation of Schmitt because he sees thisstate of sovereignty as reflecting the character of sovereignty itself: it does not require an original sovereignty, merely that the exceptionoccurs every time a sovereignty institutes itself. However, Schmittrequires that we begin from a point of enemy, and without this, thejustification for the total state begins to crumble.

The violence of the original friend: enemy distinction is similar tothe violence with which he wants to bring down democracy and allow mento realise their need for dictatorship. Indeed, he makes (1963: 58) theexplicit statement: “ the word struggle (Kampf) like the word enemy, isto be understood in its existential primordiality (seinsmässigeursprünglichkeit).” Thus, in the struggle for the nation in the time oftotal mobilisation, we find the true relationship of singularsovereignty and the enemy: friend distinction presents itself. AsSchmitt notes (ibid: 32) “ to the enemy concept belongs the very presentpossibility of combat.”

In embracing Hobbes in this fashion, he attempts to attack theproject of Liberalism founded on moderating Hobbes. He disagrees withthe possibility Hobbes holds out for that people can improve themselvesto a degree, and in doing so relinquishes the notion of the ‘ goodlife.’ The life in the state is a life for itself: the state becomes aself-sufficient cause for all. To ground this Geist-like state, hetakes as his basis what he finds to be human in Hobbes. Namely (Hobbes: 1997: 99): “ the passion to be reckoned upon, is fear.” This fear shoulddrive men to accept the singularity of the state. Hobbes claims (ibid: 102) “ every man to every man, for want of a common power to keep themall in awe, is an enemy.” For Schmitt, the common awe is the state: andthe reason the state can take this role is because it can designate thecommon enemy and in doing so, command the sacrifice of the personwithin its sphere. Here we see the theological leitmotif in the thoughtof Schmitt emerge again. The sovereign becomes like God: he who candemand the sacrifice of life. To reformulate this statement inSchmittean terms, the sovereign is he who can demarcate the boundary ofthe rule and the exclusion, and include you within an exclusion. Thisconcept is much more absolute than Hobbes, who holds out forself-improvement. Yet, for Schmitt this later Hobbes misses theabsolutely singular nature of human existence and of sovereignty.

As we have already emphasised, Schmitt does not use Hobbes to get toa state of nature. Rather he uses Hobbes to establish the reality ofhumanity without illusions. Hobbes was writing in a time of civil war, which Schmitt liked to think was analogous to the Weimar republic. Insuch a period (Hobbes: 1997: 26): “ all legitimate and normativeillusions with which mean like to deceive themselves regardingpolitical realities in periods of untroubled society vanish.” He seesHobbes as trying (1963: 52) to “ instil in man again the mutual relationbetween protection and obedience.” This mutual relation finds itsanswer in Schmitt’s total state.

## VII The Total State

Insofar as it is not derived from other criteria, the antithesis offriend and enemy corresponds to the relatively independent criteria ofother antitheses: good and evil in the moral sphere, beautiful and uglyin the aesthetic sphere, and so on. In any event, it is independent, not in the sense of a distinct new domain, but in that it can be basedneither be based on any one antithesis or any combination of otherantitheses, nor can be traced to these.(Schmitt: 1963: 45)

Schmitt places politics in its own sphere: a sphere that we cannotestablish, as Derrida astutely noted. We might argue that this positionof absolute submission before the state is functionally similar to theposition that a worshipper finds himself before God. We find this inthe Der Bergriff when Schmitt (ibid) states that “ to the state as anessentially political entity belongs to the jus belli, i. e. the realposition of deciding in a concrete situation upon an enemy and theability to fight him with the power emanating for the entity.”

Yet, this is not a new development in Schmitt’s thought. Theabsolutist nature of Schmitt’s thought can also be found in his earlywork. In 1914, in The Value of the State and the Significance of theIndividual, he argues (1914: 101) that “ no individual can have autonomywithin the state,” and that “ the individual is merely a means to theessence, the state is what is most important.” Here, the state emergesin Schmitt’s work as something essential. As a sociologist, Schmitt wasaware of the temporal formation of the state. Yet he also considered itas a Platonic form that one aspires towards.

With the emergence of the Nazi state, Schmitt joined the Nazi party andwrote legal tracts for them. However, increasingly isolated and underthreat as an unconventional thinker, he went into early retirement. TheNazi state did not emerge as the total state, as he tacitly admits inhis work on the Leviathan. Interestingly for a scholar who placed somuch emphasis on the real and the concrete evidence of life: hissolution was a Platonic state. Schmitt tries in vain to exclude allother categories from the political. What he finds is that when, as inthe Nazi regime, the constitutions exists alongside thenon-formalisable decision of the state of exception (the Führer’s ruleis the law, as Goebbels never tired of saying), the one requires ageneralised state of emergency. In such a state of emergency the linkthat Schmitt sees as essential, that which is between law and decision, is broken. This is not to say there is not order in the generalisablestate of emergency, far from it, but to claim that, with Agamben(1995), nomos and animos enter a state of undecidability that breaksthe Schmittean dream of such a state providing security.

## VIII Conclusion

Behind the idea of the total state stands the correct realisationthat the contemporary state possesses new mechanisms of power and possibilities of enormous intensity.(Schmitt: 1963: 186)

This statement by Schmitt is correct. There are indeed great mechanismsof power and intensity in the idea of the total state. Furthermore, these are weapons of the modern age. Schmitt’s positive legacy is theelucidation of the grounds of sovereignty in a founding violence thatoccurs when law suspends itself in its own creation. Thisunderstanding, while it needs to be nuances, it still useful fordemocracy today. An understanding of the way in which supposedlydemocratic regimes today use and instrumentalise violence and a stateof exception is vital to combating the excesses of sovereignty. We could for example look to the way the Guantanamo bay inmates are placed in a category which is now beyond the friend: en