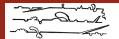


Returning home one evening you discover, that someone has broken into the kitchen and grabbed your dinner. As stealing is just as damaging to society as lying, this is, in Kantian terms, strictly off limits. Yet Fichte makes a case for an exception.

Fichte holds that all rational state constitutions must ensure that everyone is able to live from his labor. If someone is unable to do so „the contract is completely canceled“. His fellow citizens are legally bound to relinquish an appropriate part of their property.

rightfully belongs to the one in need

„As soon as someone suffers from need, that portion of others' property that would be required to spare him from such need no longer belongs to those others; rather, it rightfully belongs to the one in need.“



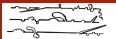
Hegel has a similar argument to include lifesaving exceptions into the framework of a national constitution. An individuals life is the epitome of her concerns and may, in acute emergencies, collide with external property entitlements. In such a case life „can claim the right of necessity, not on the ground of equity but of right“.

freedom denied

„For instance, by the theft of a loaf of bread a property is doubtless injured. Still, if the act was the means of prolonging life, it would be wrong to consider it as ordinary theft. If the man whose life is in danger were not allowed to preserve himself, he would be without rights; and, since his life is refused him, his whole freedom is denied to him also.“

Need reveals

„Need reveals the finite and contingent character of both right and well-being...“



Kant's „Metaphysic of Right“ is unable to account for the travails of in effect existing freedom. It cannot deal with emergencies as integral part of the human condition. In Hegel's account of constitutional monarchies a synthesis between the absolute singularity of the prince as well as the state's legislative and executive functions is put forward.

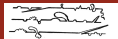
Within this framework the prince embodies a foundational exception to his subjects.

Abstract Sovereignty

„Sovereignty, at first only the universal thought of this ideality, exists merely as a subjectivity assured of itself, and as the abstract and so far groundless self-direction and ultimate decision of the will. “

The Monarch

„... the element which implies absolute decision is not individuality in general but one individual, the monarch.“

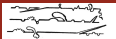


A well-ordered state rests on the separation of powers and on their proper balance, laid down by the constitution. If it is properly designed the monarch „has often nothing to do but sign his name“.

Put the dots upon the i

„In a completed organization we have to do with nothing but the extreme of formal decision, and that for this office is needed only a man who says “Yes,” and so puts the dot upon the “i.” “

This does not, however, hold in troubled times.

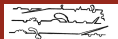


The monarch's signature is, however, not just a formality. The prince is the singular subject embodying final political decisions, „at once the culmination and beginning of the whole.“ He adds his definitive „I will“ to legislative matters.

This is crucial in emergencies („Zustand der Not“), when the corporate state threatens to fall into disarray.

„Sovereignty of the people“: a confused Idea

„The people apart from their monarch, and the common membership necessarily and directly associated with him, is a formless mass. It is no longer a state. In it occur none of the characteristic features of an equipped whole, such as sovereignty, government, law-courts, magistrates, professions ...“



Schmitt recognizes that approximately normal conditions have to hold for the rule of law to be obtained. Politicians may simply „put their dots upon the ‚i.‘ “.

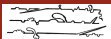
Business as usual

„Every general norm demands a normal, everyday frame of life to which it can be factually applied and which is subjected to its regulations. The norm requires a homogeneous medium.“

But: „There exists no norm that is applicable to chaos.“ Someone has to decide whether and how specifically a normal situation exists.

Trans-usual Business

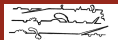
„For a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists “



An infamous application of this sovereign decision was the quashing of the so-called „Röhm Putsch“, actually a purge of the leadership of the para-military SA by the SS. Schmitt praised Hitler's „Gesetz über Maßnahmen zur Staatnotwehr“

„The Führer protects the Law“

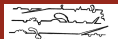
„The Führer protects the law from the worst kind of abuse when, in the moment of danger, he immediately creates law by virtue of his leadership as the supreme judge: „In this hour, I was responsible for the fate of the German nation and thereby became the supreme judge of the German Volk.“ “



The recourse to emergency legislation is typical of contemporary nation states.

The Camp

„From this perspective, the camp . . . will appear as the hidden paradigm of the political space of modernity . . .“



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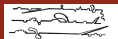
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We are, in 2020, again subjected to a state of emergency.

An alleged Epidemic

„Faced with the frenetic, irrational and entirely unfounded emergency measures adopted against an alleged epidemic of coronavirus“



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The prospect is an unprecedented collapse of civilisation.

Liquidation of all Values

„It is a truly sad spectacle to see an entire society ... liquidate all of its ethical and political values en bloc. When all of this is over, I know I will no longer be able to return to the normal state.“