

present in its real identity and must therefore always be represented by particular persons."¹³ The person of the representative makes present in a certain sense that which is not actually present (in this case, the political unity of the people). The body of the people becomes unified solely through the medium of a person or institution external to it. One can think here of Hobbes's Leviathan, which bestows (from above) political unity and agency upon what is concretely at first no more than a disbanded multitude: Understood in this way, the principle of representation has a variety of implications, according to Schmitt. Here we need note only that the representative, who by definition is external to the people, is independent from them and cannot be bound by their will.¹⁴

Schmitt sensed, then, the dual nature of elections. Strangely, however, he did not realize that, on his own definition of democracy – a political system based on identity between rulers and ruled – elections inherently entail a non-democratic element in that they cannot produce similarity or likeness between rulers and ruled. Rather, his account relates the duality of elections to the legal and constitutional form of the relationship between electors and elected. Election, he argues, *can* be a democratic method if those elected are regarded as "agents, proxies, or servants," that is, if they are treated as "dependent delegates." This, however, implies that elections are aristocratic if representatives are independent in the sense that constitutional theory gives to the term – that is to say, if they are not bound by instructions or imperative mandates. The term used in this passage ("*abhängigen Beauftragten*") belongs to the standard vocabulary of constitutional theory. For Schmitt, election is potentially *either* democratic *or* aristocratic ("*In der Wahl liegen beide Möglichkeiten*"). One or the other is actualized by the constitutional provisions regulating the relationship between constituents and representatives in the particular concrete case ("*in der Wirklichkeit*"). In other words, Schmitt does not see that elections *actually* have both an aristocratic and a democratic component, irrespective of the constitutional relationship between elected and electors. Even if representatives are not bound by mandates, elections are democratic in that they give each citizen an equal say in the selection and

dismissal of representatives. Conversely, even if representatives are bound by mandates or instructions, elections have an aristocratic character in that representatives cannot be similar to their constituents. They cannot be a people in miniature, spontaneously thinking, feeling, and acting like the people at large. And this is probably why the most democratically minded among the partisans of representative government advocated the practice of mandates and instructions. They wanted representatives to be constrained by legal provisions to counteract the effects of their inevitable dissimilarity.

Nevertheless, Schmitt's theory remains crucial to the understanding of elections in so far as it characterizes the fundamental principle of democracy as identity or resemblance between rulers and ruled. Schmitt perceives with great acumen that one of the most powerful appeals of democracy lies in the idea of similarity between rulers and ruled, even though he does not realize that the very nature of election impedes such similarity.

The specific form of the aristocratic component of election probably accounts for much of the exceptional success of this method for selecting rulers. In the allocation of public offices, election favors individuals or groups endowed with distinctive traits that are positively valued. However, elections present first the notable property that, except for the influence of wealth, the method does not predetermine *which* traits confer advantage in the competition for office. Even assuming that people are aware of the aristocratic effect, anyone may hope to benefit from it one day as a result of changes, either in the distribution of traits among the population, or in the relevant culture and value judgments, or both.

Moreover, in a particular context (i.e. taking as fixed the distribution of traits among the population and the value judgments that it makes), the simultaneous presence of elitist and egalitarian components helps secure a broad and stable consensus in support of the use of the elective method. In any society or culture, there are usually groups distinguished by their wealth or by some favorably judged trait not possessed by other groups. Such elites generally exercise an influence disproportionate to their numbers. Their support is, therefore, particularly important for the establishment and stability of institutions. Because the elective method tends *de facto* to reserve representative functions for those elites, it is particu-

¹³ Schmitt, *Verfassungslehre*, § 16, p. 205.

¹⁴ *Ibid.*, p. 212.

larly likely to get their support and approval, once such elites have grasped the aristocratic nature of the procedure. The advantages of wealth, as we have seen, can be mitigated or even abolished. But even if the effect of wealth is entirely canceled, the elective procedure still favors groups in possession of a favorably judged distinctive characteristic. One distinctive trait or another will inevitably be utilized in political choice, since cognitive constraints and the constraints of choice cannot be removed.

The unavoidable constraint of distinction further allows for some flexibility and leaves a margin of uncertainty, even within the limits of a given culture. In a specific cultural context not anyone can hope that his distinctive quality will be judged favorably, but nor does the culture unequivocally determine a single quality that people view positively. Therefore, various elites may hope to have their distinctive trait judged favorably or may at least attempt to achieve that result. The elective method is thus capable of simultaneously attracting support from a number of different elites.

Finally, even those who, in a given context, do not see themselves as possessing any favorably judged distinctive trait, cannot fail to realize (or can at least always be brought to realize) that they have a voice equal to that of everyone else in the selection and dismissal of rulers. They may also become aware that it is they who have the power to arbitrate between various elites in the competition for public office. Thus, because of its dual nature, election also gives to such ordinary citizens powerful motives for supporting its use.

The combination of election and universal suffrage even constitutes what might be called a point of argumentative equilibrium. Imagine a situation in which ordinary citizens (as defined above), realizing that elections reserve political office to persons superior to themselves, demand a new method of selection, one that ensures greater equality in the allocation of offices or a greater degree of similarity between rulers and ruled. The partisans of the existing elective system can argue that if, under conditions of universal suffrage and in the absence of legal parliamentary qualifications, the electorate decides to elect mainly elites, the responsibility lies with the voters, ordinary citizens included. Ordinary citizens are unlikely to insist that the power of selecting rulers be given to an authority other than the people. Similarly, if a particular elite calls for a

distribution procedure that gives it a larger share of posts than it obtains under an elective system, a counterargument is readily available. It can be retorted that having an outside authority arbitrate the competition for office among the various elites is the most prudent arrangement, because none of them could award itself a larger share of posts (or impose a procedure leading to that result) without some risk of provoking the opposition of the others. As Guicciardini was probably among the first to point out, letting those who do not have access to office arbitrate between competing elites is an acceptable solution from the standpoint of those elites themselves, because it avoids open conflict between them. So in both cases of protest against the elective system, a powerful argument can be mobilized to restore the initial situation.

This brings us back to the idea of the mixed constitution. The mixed constitution was defined as a mix of monarchical, aristocratic (or oligarchic), and democratic elements, the combination of which was seen as the cause of its astonishing stability.¹⁵ Leaving aside the monarchical dimension, election could, by analogy, be termed a mixed institution.

It should be stressed that the two dimensions of election (aristocratic and democratic) are objectively true and both carry significant consequences. Well-intended but perhaps naive democrats, when not simply unaware of the aristocratic aspect, are always looking for new arguments to prove that only the egalitarian dimension counts. But there will always be an empirical study to show that representatives belong primarily to certain distinguished strata of the population, and that this influences their decisions, thereby giving the lie to whatever novel argument has been advanced by pious democrats. Conversely, partisans of realism and demystification, whether they welcome or deplore the fact, will never succeed in demonstrating convincingly that the egalitarian aspect is pure delusion. No doubt the debate will go on.

Not only are the two dimensions equally real; they are inseparable. Unlike the mixed constitution, which was a complex structure comprising a number of elements, election by the people is a *simple* operation that cannot be split into its component parts.¹⁶ Its two

¹⁵ See chapter 2.

¹⁶ Recall that, in the mixed-constitution models, each of the three dimensions was

properties are so tightly interwoven that they cannot possibly be separated from each other. Neither the elites nor the ordinary citizens are in a position to retain the property that they regard favorably, while getting rid of the other, because neither dimension is embodied by a distinct institution. Moreover, the egalitarian and inequalitarian properties being the two sides of a single, indissoluble operation, the elective procedure may be perceived either as wholly democratic or as wholly aristocratic, depending on which way it is looked at.

In a passage of the *Politics* that can be interpreted in a number of ways, Aristotle wrote:

In a constitution that is well mixed, both of the elements [the democratic and oligarchical elements], and neither of them, should seem to be present [*dai' en tē politia tē mēnignē kalōs amphoterā dokein einai kai mēdeteron*]. It should be preserved by its own means and not by external aid, and by its own means not merely because a majority wants its preservation (for that could be the case even with a poor constitution), but because no single part of the city would wish to have a different constitution.¹⁷

One possible interpretation of this complex passage is that a mixed constitution is "well mixed" if it can be perceived as simultaneously democratic and oligarchic, or neither the one nor the other, because then both democrats and oligarchs will be able to see in it what they are looking for, and thus equally support the constitution.

Election is perhaps one of those institutions in which the mixture is so complete that elites and ordinary citizens alike can find what they want. The ambiguity of election may be one key to its exceptional stability.

ELECTION AND THE PRINCIPLES OF MODERN NATURAL RIGHT

As we have seen, the triumph of election as a method of selecting rulers owes much, historically, to the modern conception of natural

embodied in a distinct organ: consuls (or the king in the English system, which was also seen as a model of a mixed government) embodied the monarchic element, the Senate (or House of Lords) the aristocratic element, and the assemblies (or the House of Commons) the democratic element.

¹⁷ Aristotle, *Politics*, IV, 9, 1294b 35-40.

right which developed from writers such as Grotius, Hobbes, Pufendorf, Locke, and Rousseau. However, when compared with the principles of modern natural right, the aristocratic nature of election, as defined and set out here, seems to raise two related problems.

The modern conception of natural right rests on the idea that all human beings share an essential element of equality, whether it is termed free will, reason, or consciousness. Modern natural right theory acknowledges that many inequalities of strength, ability, virtue, or wealth separate human beings, but it holds that none of these inequalities gives by itself to those who are superior in one respect or another the right to rule over others.¹⁸ Because of the fundamental equality of all human beings, the right to rule can only come from the *free consent* of those over whom power is exercised. But if the intrinsic properties of election are such that the ruled are able to choose their rulers only from certain categories of the population, can they still be said to be giving their consent freely? Moreover, if it is true that election necessarily leads to the selection of individuals who are in some way superior, does it not follow that under an elective system it is their superior qualities that give some people power over others?

In response to the first problem, it must be noted that the constraints of distinction and salience do not in fact abolish voters' freedom. They merely imply that voters are only able to choose individuals who (1) possess a distinctive trait, that (2) is judged favorably, and (3) provides a criterion of political selection. However, as has been pointed out, only the first element (the existence of a distinctive trait) is an objective fact, determined by the

¹⁸ This is where the crucial difference lies between the ancient conception of justice (as found in Aristotle, for example) and the modern conception of natural right. For Aristotle, certain characteristics give by themselves or by nature to those who possess them a title to govern and to impose their will on others, even if in a city it is neither prudent nor entirely justified to reserve positions of power exclusively to those in possession of such characteristics. Certain people have a particular title to govern others, says Aristotle, because they realize or come closer than others to the excellence and flourishing of human nature. The fundamental divergence separating Aristotle from Grotius, Hobbes, Pufendorf, or Locke concerns the question of what it is that confers such a title to govern and impose one's will on others. Modern natural right theorists maintain that no particular quality gives a person the right to govern others. That right must of necessity be conferred externally, through the consent of those others.

statistical distribution of qualities within a given population. The other two elements (positive evaluation of the trait in question and its use as a criterion for selection) are decided by the electorate. So voters are free to choose among persons presenting qualities that are sufficiently rare to be noticeable. Their freedom is limited but not abolished. Not just anyone can be selected in a particular context (unlike with lot), but, within the limits traced by that objective context, any individual may appear superior to others in one respect or another. He may then be chosen in an elective system, so long as the others judge that person's distinctive feature positively and make it their criterion of selection. Since the elective method sets no objective limits on what may be judged favorably and serve as such a criterion, voters retain a broad measure of freedom.

The response to the second problem has to do with a different consideration. Saying that, in an elective system, only those who are objectively different and perceived as superior can reach positions of power, is not the same as saying that *objectively superior* individuals alone can reach power. In the latter case, individuals would owe their position of power to their superiority. In the former, what brings them to power is the *perception* of their superiority or, to put it another way, the *judgment* other people pass on their distinctive characteristics. In an elective system, although an individual may be objectively outstanding in every respect, he will not be elected if his qualities are not perceived as superiorities by his fellow-citizens. Thus, power is not conferred by distinctive traits themselves, but by the agreement of others about what traits constitute superiority.

Thus the aristocratic nature of election *can* be compatible with the fundamental principles of modern political right. This compatibility, however, is actually achieved only if one crucial condition is met: voters must be free to determine which qualities they value positively and to choose from among those qualities the one they regard as the proper criterion for political selection. A distinction needs to be made between the purely formal constraints of objective difference and of perceived superiority on the one hand, and the specific contents of the distinctive traits and of the standards of judgment on the other. Formal constraints are compatible with the principles of modern right on the condition that the particular content of the superiority is a matter of free choice. It is not against the principles

of modern natural right that representatives belong mainly to certain categories of the population, so long as (and this is the essential condition) those categories are not objectively predetermined, but are freely chosen by the electorate.

Clearly, this freedom of choice regarding the content of the superiority is only imperfectly realized in contemporary representative governments. Nor was it ever actually achieved in the past. In this respect, the argument defended here does not amount to a justification of the status quo; rather, it points to the direction of the changes that would be required in representative governments in order to bring election into line with the normative principles that presided over its establishment.

The first and most important of those changes concerns the role of economic resources in elections. While the constraints of distinction and salience do not contravene the norms of modern political right, there is no doubt the constraint of wealth does. The reason is not, however, that there is something about wealth that makes it particularly unworthy to serve as a criterion for selecting rulers. It is rather that, if the advantage enjoyed by wealthy candidates (or the wealthy classes which candidates are inclined to address principally in their appeals for funds) derives from the cost of disseminating information, then superiority in wealth confers power *by itself*, and not because voters choose it as the proper criterion of selection. One can imagine a situation in which voters particularly value wealth and freely decide to adopt it as their selection criterion. They may believe that the rich are more likely to be good rulers than the poor, because, for example, there is often a correlation between wealth and education. In that case, wealth being freely chosen as the appropriate superiority, the principles of modern right are not violated. So the first change required is the elimination of the effect of wealth on election. A ceiling on electoral expenses, a strict enforcement of that ceiling, and a public financing of electoral campaigns are the most obvious means of progressing towards this goal. However, recent experience seems to show that such arrangements are not sufficient. They also present a number of technical difficulties, and no representative government appears, not even in our own day, to have solved this problem in a satisfactory manner. But even if the skewing effect of wealth is hard

to eliminate completely, the general direction of the changes required is fairly clear.

A second change would be needed, but its practical implications are far less clear. The elective method, as we have seen, is in itself open to changes in the distinctive traits that can serve as selection criteria. History shows that such changes have indeed taken place over the last two centuries. Different types of elites have succeeded one another in power.¹⁹ In light of the exigencies of natural right, this openness to change is one of the merits of election. It is a necessary condition if citizens are to be able to choose freely the kind of superiority they wish to select. However, openness to change is not in this case sufficient to secure freedom of choice. Such variation, as seen in the types of elites selected in the last 200 years, appears to have resulted mainly from social, economic, and technological developments. But freedom of choice is not secured if the specific content of the superiority is determined solely by external factors and circumstances. The distinctive traits of those who are elected ought, as far as possible, to result from a conscious and deliberate choice of the electorate.

One must note, however, that even if such changes were effected, one thing would still be ruled out by the elective procedure, namely that representatives be similar to their constituents. Elected representatives must of necessity have a positively valued trait that distinguishes them from, and makes them superior to, those who elect them. The democratic ideal of similarity between rulers and ruled has demonstrated, since the end of the eighteenth century, such a powerful appeal that it may not be unimportant to show that it is incompatible in principle with the elective procedure, however amended.

In an elective system the only possible question concerns the type of superiority that is to govern. But when asked "Who are the *aristoi* that should govern?" the democrat turns to the people and lets them decide.

¹⁹ We shall return to this point in chapter 6.

The verdict of the people

A number of twentieth-century authors have put forward theories of democracy that have been categorized (mostly by their critics) as elitist.¹ The first and most influential of these was advanced by Joseph Schumpeter. Such theories employ the term democracy to denote political systems of the type in place in Britain, the United States, or France – that is to say, governments we refer to here as representative.

These theories have been termed elitist not because they stress the qualitative superiority of representatives over those they represent (in the sense defined in the previous chapter), but because they highlight another difference, presented as essential, between representative government and government by the people. It has been pointed out, not without justification, that the epithet "elitist" ill-befits such theories, that it mistakenly connects them to the explicitly elitist conceptions of Gaetano Mosca or Vilfredo Pareto, for example, and finally that the term has more to do with political polemics than with scholarly analysis.² It is true (to take only the forerunner of such theories) that Schumpeter does not use the

¹ See for example, P. Bachrach, *The Theory of Democratic Elitism: A Critique* (Boston: Little Brown, 1967). Bachrach groups together under the title "democratic elitism" the theories of democracy proposed by Joseph Schumpeter in *Capitalism, Socialism, and Democracy* [1942], 3rd edn (New York: Harper & Row, 1957), Robert Dahl in *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956), or Giovanni Sartori in *Democratic Theory* (Detroit, MI: Wayne State University Press, 1962).

² It is particularly this point that Giovanni Sartori makes in his more recent *The Theory of Democracy Revisited*, 2 vols. (Chatham: Chatham House Publishers, 1987), Vol. I, p. 157.

concept of elites. He is not interested in the characteristics of representatives and makes no reference to Mosca or Pareto. One can understand, nonetheless, why many authors have characterized Schumpeter's definition of democracy as elitist.

Schumpeter stresses that, in contrast to what is assumed by the "classical" conception of democracy, the empirical reality of representative democracies is not that the electorate makes decisions on public affairs. Elections, Schumpeter argues, do not express any popular will concerning policies. In a representative democracy, he claims, the people do not govern indirectly "by choosing individuals who will assemble to put their will into action."³ The people merely select, from among a number of competitors, those who will make political decisions. Thus, in an often-quoted formulation, Schumpeter proposes to define democracy (or representative government) as "that institutional arrangement for arriving at political decisions, in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."⁴ In such a conception, representatives are not agents charged with implementing the popular will expressed in elections. Schumpeter's definition makes representative democracy something other than indirect government by the people. It has been termed elitist for that reason, elitist being here opposed to democratic. Supporters of government by the people see as undemocratic a conception that reduces representative democracy to a competition for votes.

Questions of terminology aside, the debate between Schumpeter and his critics draws attention to a real problem: do representative institutions establish any kind of link between the decisions of those who govern and the electorate's policy preferences? We have seen that the founders of representative government did not intend to create a system in which the popular will would govern, but neither did they desire that the decisions of representatives would have no connection with what voters want. Madison, as we have seen, described republican or representative government as a system that would "refine and enlarge the public views by passing them through the medium of a chosen body of citizens" ("Federalist 10"). A link of some sort was thus posited or presupposed between the

preferences of the people and the decisions of their representatives. However, the terms employed by Madison are only metaphors. Suggestive as these images are, their precise meaning remains unclear.

So we must look at the institutional arrangements that, in representative government, determine how public decisions are arrived at and how they relate to what the electorate wants.

PARTIAL INDEPENDENCE OF REPRESENTATIVES

It is a fact that the institutional mechanisms of representative government allow representatives a certain independence from their constituents' preferences. Representative systems do not authorize (indeed explicitly prohibit) two practices that would deprive representatives of any kind of independence: imperative mandates and discretionary revocability of representatives (recall). None of the representative governments established since the end of the eighteenth century has authorized imperative mandates or granted a legally binding status to the instructions given by the electorate. Neither has any of them durably applied permanent revocability of representatives.

The idea gained acceptance in eighteenth-century England that Members of Parliament represented the nation as a whole rather than their particular constituency. Voters of each electoral district were hence not authorized to give them "instructions."⁵ In the early nineteenth century, the Radicals attempted to reintroduce a practice analogous to that of instructions by requiring candidates to make "pledges", indeed after the First Reform Act (1832), they demanded that deputies be legally required to respect these promises. The Radicals' primary aim, however, was to shorten the length of parliamentary terms (which the Septennial Act of 1716 had set at seven years). It seems that pledges were merely, in their eyes, a "makeshift" and an expedient, failing a shorter parliamentary term.⁶ It should be noted, moreover, that Bentham expressly rejected the

⁵ See J. R. Pole, *The Gift of Government. Political Responsibility From the English Restoration to the American Independence* (Athens: University of Georgia Press, 1983), p. 103.

⁶ "Pledges are a makeshift, in the absence of shorter parliaments," wrote a Radical pamphleteer. D. Wakefield ("Pledges defended: a letter to the Lambeth electors,"

³ Schumpeter, *Capitalism, Socialism, and Democracy*, p. 250.

⁴ *Ibid.*, p. 269.

practice of instructions: voters should only be allowed to influence their representatives by their right not to reelect them.⁷ In any case, electoral pledges were never made legally binding in England.

In America, the practice of instructions was extensive, both during the colonial period and the first decade of independence.⁸ Some states, especially in New England, even included the right of instruction in their constitutions. When the First Congress (elected under the 1787 Constitution) discussed the constitutional amendments that became the Bill of Rights, some members proposed that the First Amendment (which guarantees freedom of religion and speech) include also the right to instruct representatives. The proposal was discussed at some length but was eventually rejected.⁹ American voters would remain free to give instructions, but these would have no legally binding force.

In France, deputies to the Estates General, including those summoned in 1789, were bearers of instructions (called *cahiers de doléances*). One of the first decisions of the French revolutionaries (July 1789) was to prohibit imperative mandates. This decision was never challenged, either during the revolution or afterwards. In 1793-4, a segment of the "Sans-Culotte" movement pressed to have elected officials made revocable at any point during their term by local electoral assemblies. The constitution voted by the Assembly in 1793 contained such a provision, but the constitution was never implemented.

Almost a century later, the Paris Commune (1871) established a system of permanent revocability for members of the Council. In fact Marx saw the practice as one of the most important and promising political inventions of the Commune. After pointing out that members of the Commune Council, elected by universal suffrage, were "responsible and revocable at any time" (*verantwort-*

lich und jederzeit absetzbar),¹⁰ Marx, in a passage reminiscent of Rousseau's famous chapter on representation, praised the system: "Rather than decide once every three or six years which member of the ruling class should 'represent' and trample on [zer- und zertreten soll] the people in Parliament, universal suffrage should serve the people constituted in communes as universal suffrage serves any other employer in search of workers, inspectors, and accountants for his business. And it is a well-known fact that companies, like individuals, when it comes to real business, usually know how to put each man in his place and, if once they make a mistake, are able to rectify it promptly."¹¹ However, the practice much vaunted by Marx was as short-lived as the Commune itself.

In addition to the aristocratic effects of election, another difference thus appears between representative government and democracy understood as government of the people by the people. This difference too was clearly perceived in the late eighteenth century by those who, like Rousseau, rejected representation. Delegation of governmental functions, necessitated by the size of modern states, might have been rendered compatible with the principle of government by the people. This could have been achieved by establishing a legal obligation for representatives to carry out the instructions of their constituents. In his *Considerations on the Government of Poland*, Rousseau accepted a form of representation for practical reasons. Drawing the logical consequences of his principles, he then recommended the practice of imperative mandates.¹² It is not only the

¹⁰ Marx, *Der Bürgerkrieg in Frankreich* [1871], in Karl Marx and Friedrich Engels, *Werke*, 36 vols. (Berlin: Dietz Verlag, 1957-67), Vol. XVII, p. 339. English trans. *The Civil War in France*, in K. Marx and F. Engels, *Collected Works* (New York: International Publishers, 1986), Vol. XXII, p. 331. It must be noted that the English translation is inaccurate. It reads as follows: the members of the Council were "responsible and revocable at short terms." The German "*jederzeit*" does not mean "at short terms," but "at any time." The difference is not insignificant.

¹¹ Marx, *Der Bürgerkrieg in Frankreich*, p. 340. English trans. *The Civil War in France*, p. 333. Here again, the English translation is incorrect. The first sentence of the passage cited here is rendered as: "Instead of deciding every three or six years which member of the ruling class was to misrepresent the people in Parliament." To render the two German verbs associated by Marx in the same phrase (*zerstreuen* [represent] and *zertreten* [trample on]) by one single verb (misrepresent) is not only inaccurate, it entirely fails to convey the radical criticism of representation implied by Marx's formulation. The same error can be found in another English translation: *The Civil War in France*, in Marx-Engels Reader, ed. R. Tucker (New York: W. W. Norton, 1972), p. 633.

¹² J.-J. Rousseau, *Considérations sur le Gouvernement de Pologne* [1772], in J.-J. Rous-

[1832]), quoted in N. Gash, *Politics in the Age of Peel* [1953] (New York: Norton Library, 1971), p. 30.

⁷ J. Bentham, *Constitutional Code* [1822-34], ed. F. Rosen and J. H. Burns (Oxford: Clarendon Press, 1983), Vol. I, p. 26.

⁸ See J. P. Reid, *The Concept of Representation in the Age of the American Revolution* (Chicago: University of Chicago Press, 1989), pp. 100-2.

⁹ See Debate in House of Representatives (August 15, 1789) (*Annals of Congress: The Debates and Proceedings in the Congress of the United States*, Vol. D, reproduced in P. B. Kurland and R. Lerner (eds.), *The Founders' Constitution*, 5 vols. (Chicago: University of Chicago Press, 1987), Vol. I, pp. 413-18.

delegation of government to a limited number of citizens that differentiates representation from government by the people, nor even the qualitative superiority of representatives over those they represent; the difference between the two systems also results from the partial independence of representatives.

Institutions or practices which give the people complete control over representatives have thus been proposed and occasionally established. Like the use of lot, such institutions were not strictly impracticable.¹³ The point could of course be made that, in governments whose sphere of activity has gone beyond the general and relatively stable rules necessary for collective life, and in which public authorities need to make a large number of concrete decisions and to adjust to changing circumstances, a system of imperative mandates becomes unworkable. Instructions presuppose that the electorate knows in advance the issues government will confront.¹⁴ However, this argument does not apply to permanent revocability of representatives. Being subject to recall leaves representatives with the freedom of action that is required to face unpredictable situations. But at the same time, permanent revocability guarantees the congruence between the preferences of the electorate and the decisions of those in power, since voters can immediately punish and dismiss a representative whose decisions they disagree with. Though a practicable system, revocability was never established in any lasting fashion, presumably on grounds of principle rather than for purely practical reasons. Furthermore, whatever the reason why imperative mandates and permanent revocability were rejected, that initial decision, never successfully challenged afterwards, points to a fundamental difference between representative government and a system that guarantees complete congruence between the preferences of the governed and the decisions of the elected.

seau, *Oeuvres Complètes*, Vol. III (Paris: Gallimard, 1964), p. 980. English trans. *Considerations on the Government of Poland*, in J.-J. Rousseau, *Political Writings*, trans. F. Watkins (Madison: University of Wisconsin Press, 1986), pp. 193-4.

¹³ It is noteworthy that Weber counts as characteristics of direct democracy the following practices and institutions: permanent revocability of public authorities, rotation in office, selection of public officials by lot, and imperative mandates. See Max Weber, *Economy and Society* [1921], ed. G. Roth and C. Wittich, 2 vols. (Berkeley: University of California Press, 1978), Vol. I, part I, ch. 3, § 19, p. 289.

¹⁴ This argument is put forward by Max Weber in particular. See *Economy and Society*, Vol. II, ch. 14, sec. 2, § 5, p. 1128.

Promises or programs might be put forward, but representatives have, without exception, retained the freedom to decide whether to fulfill them. Representatives undoubtedly have an incentive to keep their promises. Keeping promises is a deep-rooted social norm, and breaking them carries a stigma that can lead to difficulties in being reelected. Representatives remain, however, free to sacrifice the prospect of their reelection if, in exceptional circumstances, other considerations appear to them more important than their own careers. More importantly, they can hope that, when they stand for reelection, they will be able to convince voters that they had good reasons for their actions, even though that meant betraying their promises. Since the link between the will of the electorate and the behavior of elected representatives is not rigorously guaranteed, the latter always retain a certain amount of discretion. Those who insist that in representative democracy the people govern through their representatives must at least acknowledge that this does not mean that representatives have to implement the wishes of the electorate.

FREEDOM OF PUBLIC OPINION

Since the end of the eighteenth century, representation has been accompanied by the freedom of the governed at all times to form and express political opinions outside the control of the government. The link between representative government and the freedom of public political opinion was established straightforwardly in the United States, gradually in Britain, and after a complicated process in France.

Freedom of public political opinion requires two elements. In order that the governed may form their own opinions on political matters, it is necessary that they have access to political information, and this requires that governmental decisions are made public. If those in government make decisions in secret, the governed have only inadequate means of forming opinions on political matters. Making parliamentary debates public knowledge became accepted in Britain in the late eighteenth century (prior to which, the secrecy of debates was considered a prerogative of Parliament, essential for protecting against royal interference).¹⁵ In the United States, the

¹⁵ See Pole, *The Gift of Government*, pp. 87-116.

deliberations of both the Continental Congress and the Philadelphia Convention were kept secret. The first Senate elected under the Constitution initially decided that its proceedings should be secret, but the practice was discarded four years later.¹⁶ In France, the Estates-General of 1789 opted from the outset for the principle of openness and, thereafter, the debates of all the revolutionary assemblies took place in the presence of the public. Pressure (not to mention threats) from the galleries notoriously influenced the debates of the successive revolutionary assemblies. The French and American examples suggest that although a certain amount of openness of political acts is required to keep citizens informed, it is not necessary at each stage of the decision process. It is reasonable to think that the American public as a whole had a better opportunity of forming opinions about its Constitution (between the end of the Philadelphia Convention and the ratification debates) than the French public ever had with respect to the various revolutionary constitutions.

The second requisite for freedom of public opinion is freedom to express political opinions at any time, not just when voting in elections. However, the relationship between freedom of opinion and the representative character of government is not obvious. It might seem that representative governments established freedom of opinion because their founders adhered to the liberal principle that a part of individuals' lives should be free from the influence of collectively made decisions, even those made by elected representatives. One might indeed argue, following the distinction popularized by Isaiah Berlin, that freedom of opinion belongs to the category of "negative liberties" that protect the individual from the encroachment of government. Thus understood, freedom of opinion does not have an intrinsic connection with the representative character of government, because representation is concerned with giving citizens control over government, and therefore, with securing a "positive liberty." On this interpretation, then, representative government has been associated with freedom of opinion merely *de facto*, just because the partisans of representation happened to be at the same time partisans of the freedom of conscience.

¹⁶ See Pole, *The Gift of Government*, pp. 117-40.

There is no doubt that freedom of opinion was established in the wake of religious freedom, which protects the sphere of inner beliefs against state intervention. However, there is also an important intrinsic connection between freedom of opinion and the political role of the citizen in representative government.

This is particularly clear in the First Amendment to the US Constitution and in the debates over its adoption. The First Amendment stipulates that: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." Religious freedom and freedom of political expression are thus closely associated. One should also note that this formulation links individual and collective expressions of opinion: freedom of religion, which may apply to individuals, is joined with the rights of assembly and petition, which are collective expressions. The collective character of an expression affects its political weight: authorities can, without great risk, ignore the dispersed expression of individual opinions, but they cannot as easily disregard crowds in the streets, however peaceable, or petitions with thousands of signatures. Finally, by combining in the same clause both the freedom of assembly and the freedom to "petition the government for a redress of grievances," the First Amendment clearly reveals its political dimension: it is concerned with protecting not only the collective expressions of opinion in general, but also those specifically addressed to the authorities with the intent of obtaining something from them. Because the First Amendment guarantees freedom to petition the government at the same time that it guarantees freedom of religion, it establishes not merely a "negative freedom" of the individual, but also a way for citizens positively to act upon the government.

Moreover, the debate that led to the adoption of the First Amendment shows that its political implications were clearly on the minds of its framers. The mere fact that the questions of instructions and imperative mandates were discussed on this occasion demonstrates that the participants perceived a link between freedom of speech and representation. But various speeches, those by Madison in particular, make even clearer the political significance of the First Amendment.

Those who had proposed and supported the addition of the "right of instruction" had claimed that in a republican government the people must have the right to make their will prevail. Madison declared himself against including the right of instruction in the amendment, responding that this principle was true "in certain respects" but "not in others":

In the sense in which it is true, we have asserted the right sufficiently in what we have done [i.e. in formulating the amendment as proposed and as it was eventually adopted]; if we mean nothing more than this, that the people have a right to express and communicate their sentiments and wishes, we have provided for it already. The right of freedom of speech is secured; the liberty of the press is expressly declared to be beyond the reach of this government; the people may therefore publicly address their representatives, may privately advise them, or declare their sentiments by petition to the whole body: in all these ways they may communicate their wills.¹⁷

Freedom of opinion, understood in its political dimension, thus appears as a *counterpart* to the absence of the right of instruction. Freedom of public opinion is a democratic feature of representative systems, in that it provides a means whereby the voice of the people can reach those who govern, whereas the independence of the representatives is clearly a non-democratic feature of representative systems. Representatives are not required to act on the wishes of the people, but neither can they ignore them: freedom of public opinion ensures that such wishes can be expressed and be brought to the attention of those who govern. It is the representatives who make the final decisions, but a framework is created in which the will of the people is one of the considerations in their decision process.

Public expression of opinion is the key element here. It has the effect not only of bringing popular opinions to the attention of those who govern, but also of connecting the governed among themselves. Indeed this horizontal dimension of communication affects the vertical relationship between the governed and the government: the more the people are aware of each other's opinions, the stronger the incentive for those who govern to take those opinions into account. When a number of individuals find themselves expressing similar

¹⁷ Madison, "Address to the Chamber of Representatives," August 15, 1789 (*Annals of Congress. The Debates and Proceedings in the Congress of the United States, Vol. 1*), quoted in Kurland and Lerner (eds.), *The Founders' Constitution*, p. 415.

views, each realizes that he is not alone in holding a particular opinion. People who express the same opinion become aware of the similarity of their views, and this gives them capacities for action that would have not been available had they kept that opinion to themselves. The less isolated people feel, the more they realize their potential strength, and the more capable they are to organize themselves and exercise pressure on the government. Awareness of a similarity of views may not always result in organization and action, but it is usually a necessary condition. Moreover, public expression of an opinion generates momentum. People who silently harbor an opinion that is voiced aloud by others become more self-confident when they discover that they are not alone in thinking that way, and thus they become more inclined to express that opinion.

In fact, one of the oldest maxims of despotism is to prevent subjects from communicating among themselves. Although dictators often seek to know the political opinions of all their subjects severally and to form an aggregate picture, they take great care to keep such information to themselves.¹⁸ By contrast, one of the distinguishing features of representative government is the possibility for the governed themselves to become aware of each other's views at any time, independent of the authorities.

The expression of a shared political opinion seldom brings together all of the governed or even a majority of them. The electorate as a whole rarely expresses itself outside elections, though this can happen. Most of the time, then, the expression of public opinion remains partial in the sense that it is only the point of view of a particular group, however large. Opinion polls, which in recent decades have been added to the older forms of the expression of public opinion, are no exception to the rule. Polls, too, remain partial expressions of the popular will. This is not because only a small number of citizens are interviewed (representative sampling, properly used, ensures that the distribution of opinions is approximately the same in the sample as in the population at large), but because the questions are drawn up by particular people, namely the polling organizations and their clients. The entire population

¹⁸ We know, for example, that some governments of the formerly Communist countries occasionally carried out opinion polls, even taking advice from Western experts in the field. The results of such polls were never published, of course.

expresses opinions, but only on subjects that have been chosen by a particular group in the society. Moreover, respondents cannot express any opinion they wish, they must choose from among a predetermined set of alternatives. It is true that in an election citizens can also only choose from among a set of alternatives that they have not determined themselves (the candidates). In an election, however, the terms of the choice eventually offered to voters are the product of a process that is open to all (or all who wish to be candidates), whereas in a poll the alternatives from among which respondents have to choose remain under the exclusive control of the polling organization and its client.

Similarly, the expression of a shared political opinion rarely stems from the spontaneous initiative of all those who express it (although this too can happen). Usually, the initiative comes from an even smaller group of citizens who solicit the expression of the same opinion by a larger group. For instance, a small number of militants organize a demonstration and call for others to participate, or a few high-profile personalities start a petition and appeal for signatures. A measure of voluntariness nevertheless remains in the expression of those who agree to voice the opinion in question. They could have stayed away from the demonstration, or they could have refused to sign the petition; there was no penalty for such refusals. More importantly, expression of the opinion was neither compelled nor solicited by the government. Here again, polls do not depart from the rule. Granted, polling organizations and their clients do not invite the interviewees to express one view rather than another among those that are on offer, but they take the initiative of asking some questions rather than others and of formulating those questions in what they regard as the most appropriate manner. Opinion polls, therefore, do not provide wholly spontaneous opinions any more than do demonstrations or petitions.

A resurgence of the ideal (or ideology) of direct democracy accompanied the rise and growth of opinion polls. Owing to polls, it was said, it would at last be possible to find out what people truly and spontaneously believe or want, without any adulterating mediation.¹⁹ Critics retorted that opinion polls are no more than a way

¹⁹ A notable example of this rudimentary view can be found in George Gallup and Saul F. Rae, *The Pulse of Democracy* (New York: Simon & Schuster, 1940).

of manipulating opinion, precisely because they impose questions that might be quite foreign to people's concerns and to which people respond in order to please the interviewer or to avoid appearing ignorant.²⁰ One is tempted to say that the practice deserves neither so much credit nor so much blame. Opinion polls, like demonstrations and petitions, do not deliver the pure, undistorted opinion of the public. Although the medium of expression as well as the social identity of the mediators and of those who express opinions vary between opinion polls, demonstrations, and petitions, in all cases the opinions are solicited rather than spontaneous. Conversely, once the illusion is dispelled that opinion polls reveal what the people spontaneously think or are concerned with, there is no reason to regard polls as any more manipulative than calls to demonstrate or sign petitions.

So whether it takes the form of demonstrations, petitions, or polls, expression of public opinion is usually partial and initiated by small groups. However, from the point of view of those in power, even such limited expressions are worth taking into account in the decision-making process: an opinion voiced at one point by a particular group may become widespread, the group may be sufficiently organized and influential for its opinion to be difficult to ignore, or a series of polls may reveal a trend that foreshadows the result of a forthcoming election. Those in government have to estimate these various probabilities and decide in consequence what importance they want to give to this or that opinion.

Apart from situations in which the people seriously threaten public order and constrain those in government by a sheer contest of force, the only binding will of the citizens is that expressed in a vote. Independently of elections, however, the governed always have the possibility to voice a collective opinion that differs from that of the representatives. One generally terms as public opinion this collective voice of the people which, without binding power, can always manifest itself beyond the control of those in government.²¹

²⁰ See for example, Pierre Bourdieu, "L'opinion publique n'existe pas" [1972], in his *Questions de Sociologie* (Paris: Editions de Minuit, 1980), pp. 222-34; Pierre Bourdieu, "Questions de politique," in *Actes de la Recherche en Sciences Sociales*, Sept. 17, 1977.

²¹ The term is a matter of convention. A number of discussions prompted by the notion of public opinion in recent years turn out to be no more than terminological

Freedom of public opinion distinguishes representative government from what has been called "absolute representation," whose most notable formulation can be found in Hobbes. For him, a group of individuals constitute a political entity only when they have authorized a representative or assembly to act on their behalf and to whom they place themselves in subjection. Prior to designating the representative and independently of his person, the people have no unity; they are a *multitudo dissoluta*, a disbanded multitude. The people acquire political agency and capability of self-expression only through the person of the representative. Once authorized, however, the representative entirely replaces the represented. They have no other voice than his.²² It is precisely this total substitution that freedom of public opinion precludes. The populace can always manifest itself as a political entity having a (usually incomplete) unity independent of the representative. When individuals as a group give instructions to their representatives, when a crowd gathers in the street, when petitions are delivered, or when polls point to a clear trend, the people reveal themselves as a political entity capable of speaking apart from those who govern. Freedom of public opinion keeps open the possibility that the represented might at any time make their own voices heard. Representative government is, thus, a system in which the representatives can never say with complete confidence and certainty "We the people."

Both popular self-government and absolute representation result in the abolition of the gap between those who govern and those

disputes, even if the details of the arguments put forward are often of real interest. Studying historically the various meanings with which the term has been invested since its invention in the eighteenth century (from Rousseau, the Physiocrats, and Necker, through Bentham, Tocqueville, Mill, and Tardie, to Schmitt, Habermas, and Noëlle-Neumann) is an entirely justified pursuit, but one that would fill a whole volume. Having done some research on the subject, I feel that the definition I adopt is in keeping with the element shared by the various meanings that have been (simultaneously or successively) attached to the term "public opinion." However, in the context of the argument developed here, that definition may be regarded as stipulative. The argument concerns the existence and the influence, in representative government, of opinions that the governed can express at any time beyond the control of government. The term employed to denote the phenomenon constituted by those opinions is, strictly speaking, of no consequence.

²² See Hobbes, *Leviathan* [1651], ed. C. B. Macpherson (Harmondsworth, UK: Penguin, 1968), p. 220 (ch. 16), and ch. 18. The absolute nature of representation in Hobbes is analysed in a penetrating manner in H. Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967), pp. 15–27.

who are governed, the former because it turns the governed into the governors, the latter because it substitutes representatives for those who are represented. Representative government on the other hand, preserves that gap.

THE REPEATED CHARACTER OF ELECTIONS

The most important feature of representative systems that allows voters to influence the decisions of their representatives is the recurring character of elections. Indeed, repeated elections provide one of the key incentives for those in government to take account of public opinion. Representatives no doubt have many reasons for doing so, but the most powerful is that shifts in public opinion may prefigure the results of the forthcoming election.

Representative government is based not only on the election of those who govern, but on their being elected at regular intervals. This second characteristic is often overlooked or tends to be taken for granted. It is surprising that Schumpeter scarcely mentions the periodic nature of elections in his theory of democracy. Although, as we saw, Schumpeter presents his definition of democracy as closer to observable reality than is the "classical conception," his definition does not include the empirical fact that electoral competition is repeated. Having formulated his conception, Schumpeter adds, it is true, that it "implicitly" recognizes the people's power to dismiss rulers.²³ However, the principle that the electorate chooses its government by means of a competitive electoral process, in no way logically implies that the electorate can also regularly remove the government from office. Admittedly, since the late eighteenth century the two principles have always been associated in practice, but this does not warrant the claim that the second is somehow contained in the first.

Indeed, it is quite possible to conceive of a situation in which the position of ruler might be conferred by the will of the ruled following a competitive process, but in a definitive fashion – for instance, by election for life. Such a system is not only a logical possibility; it has actually been proposed. At the Philadelphia

²³ Schumpeter, *Capitalism, Socialism, and Democracy*, p. 269.

Convention, Hamilton suggested that the President be elected for life.²⁴ One must conclude from this that the principle of election for life was deliberately rejected, and for specific reasons, by the founders of representative government. Furthermore, it is immediately apparent that a system of election for life possesses one important property: it leaves voters with no effective means of influencing the actions of their rulers, once elected. The cardinals elect the Pope, but this does not make him any less independent of them in his actions. By contrast, if governments are regularly subjected to election, they can be changed if their performance has not proved satisfactory to voters. And since it is reasonable to suppose that the prestige and benefits attached to the position of ruler usually make them desire to be reelected, it seems that they have reason to take into consideration the wishes of the electorate in their decisions.

The principle of regularly renewed popular consent distinguishes representative government from modes of government deemed legitimate by Grotius, Hobbes, or Pufendorf. For them, popular consent, once given, is sufficient for the establishment of a legitimate government, either in the case of a sovereign having the right to appoint his successor or in the case of a dynasty. According to these authors, the people can *once and for all* transfer to some entity its right to govern itself, and such transfer is a valid and sufficient source of legitimacy, as long as it is freely consented to.²⁵ Among modern natural right theorists, only Locke mentions the need to renew popular consent by the regular election of Parliament. Representative government cannot be understood without mentioning the role of time.

Voters' preferences about future policies can exert only limited influence on public decisions, because, as noted earlier, when voters

²⁴ Hamilton, speech of June 18, 1787, in M. Farrand (ed.), *The Records of the Federal Convention of 1787*, 4 vols. (New Haven, CT: Yale University Press, 1966), Vol. 1, pp. 289–92.

²⁵ Grotius, Hobbes, and Pufendorf all emphasize that, by consenting to establish a government, the people transfer their right to govern themselves in perpetuity. The establishment of government is, thus, similar to alienation of property: a person is said to alienate a property when he sells it, thereby losing any right to it for ever. In a system of regular elections by contrast, the people transfer the right to govern only temporarily. In this sense, election at regular intervals should be seen as the mark of the inalienable nature of the sovereignty of the people.

elect a candidate with the aim of seeing his program implemented, they have no guarantee that the candidate will not break his electoral promises. On the other hand, by requiring those who are elected to answer on a regular basis to those who elect them, the representative system gives voters the effective ability to dismiss rulers whose policies fail to meet with their approval. Citizens do not necessarily use their vote to express preferences about public policy; they may also elect (or not elect) on the basis of the character of candidates.²⁶ But at least they are able, should they wish, to use their vote to express preferences about the policies that were pursued or are proposed.

In a situation in which representatives are subject to reelection, each new election allows voters to express two types of preferences regarding public policy. People may use their vote to express rejection and to stop the incumbents from pursuing the current policy, or they may use their vote to bring about the implementation of a proposed policy. Obviously, these two types of preferences may be combined in varying proportions. However, as a result of the absence of imperative mandates the two types of preferences are not equally effective. By not reelecting the incumbents, voters do indeed prevent them from continuing a rejected policy, but by electing a candidate because he proposes a particular policy they are not necessarily bringing about the adoption of that policy. In representative government negation is more powerful than affirmation: the former constrains those in power, while the latter remains an aspiration.

One may wonder, however, what degree of control the electorate can really exercise through the ability to dismiss rulers. Since citizens are unable to compel those they elect to pursue a particular policy, they cannot, by unseating representatives whose policy in a given area they reject, ensure that the action of the new representatives will be any different from that of their predecessors. Imagine a situation in which a government (or administration) is dismissed because unemployment increased during its term in office, and challengers win the election by promising to restore full employment. Once in power, however, they decide not to keep their

²⁶ On this point, see the arguments set out in chapter 4.

promises, either because these were no more than electoral rhetoric to begin with, or because, on assuming office, they discover new information that convinces them that a policy of full employment is unfeasible. The members of the new government, knowing that unemployment brought about the defeat of their predecessors, have reason to believe that it might also bring about their own defeat at the next election. However, to obviate that eventuality, they may decide to give voters cause for satisfaction in other areas, for example, by combating crime more vigorously than had been done before. The conclusion could be drawn, then, that the ability to dismiss rulers whose policy they reject does not really permit voters to orient the course of public policy.

One intuitively senses that repeated elections give the governed a certain control over the conduct of public affairs, but why this should be so is not obvious, given the absence of imperative mandates and of binding electoral promises. Theories of democracy, such as Robert Dahl's, which stress the importance of repeated elections and argue that this recurring character makes governments "responsive" or "accountable" to voters do not succeed in showing the precise mechanism through which voters' repeated expression affects public decisions.

The central mechanism whereby voters influence governmental decisions results from the incentives that representative systems create for those in office: representatives who are subject to reelection have an incentive to *anticipate* the future judgment of the electorate on the policies they pursue. The prospect of possible dismissal exercises an effect on the actions of the government at every point of its term. Representatives pursuing the goal of reelection have an incentive to ensure that their present decisions do not provoke a future rejection by the electorate. They must, therefore, try to predict the reactions that those decisions will generate and include that prediction in their deliberations. To put it another way, at any point in time it is in the interest of the government to take into account in its *present* decisions the future judgment of voters on those decisions. That is the channel through which the will of the governed enters into the calculations of those in power. In the above-mentioned example of a new government fighting crime instead of trying, as promised, to reduce unemployment, con-

sideration of the popular will plays a part in the calculations. What actually happens is that those in power proceed on the assumption that, come the next election, voters will reverse their previous order of preferences and give greater weight to considerations of law and order than they did before. Since those acceding to power know that their chance of reelection depends on that assumption being correct, they have a powerful motive for not forming it lightly.

It is because Schumpeter failed to note the central importance of anticipation in the decision-making of representatives that he wrongly believed that representative democracy could be reduced to the competitive selection of decision-makers and that he could dismiss as myth the idea of voters influencing the content of public decisions.

But if the central mechanism whereby voters can influence public policy is anticipation by those in government, one key implication follows. What those in government must anticipate in order to avoid being voted out of office is a judgment of their policies that, at the time it is expressed, will relate to the past. Voters thus influence public decisions through the *retrospective* judgment that representatives anticipate voters will make. This is not to say that, as a matter of fact, voters generally make their electoral decisions on the basis of retrospective considerations, though some empirical studies do point to the importance of the retrospective dimension in actual electoral behavior.²⁷ The argument is rather that, in view of the institutional structure and the incentives it creates for representatives, it is by voting in a retrospective manner that voters are most likely to influence the decisions of those who govern. Voters may not behave in this way, of course, but in that case they are conferring greater freedom of action on their representatives. In other words, in a representative system, if citizens wish to influence the course of public decisions, they *should* vote on the basis of retrospective considerations.²⁸

²⁷ The classic empirical study of retrospective voting is that of M. Fiorina, *Retrospective Voting in American National Elections* (New Haven, CT: Yale University Press, 1981).

²⁸ It has been shown, by means of a formal model, that retrospective voting does indeed enable citizens to control their representatives; see J. Ferejohn, "Incumbent Performance and Electoral Control," in *Public Choice*, Vol. 50, 1986, pp. 5-25. In Ferejohn's model, voter control through retrospective voting presupposes two conditions: (1) the electorate must vote exclusively on the basis of retrospective

The question occurs whether it is plausible that people vote on the basis of retrospective considerations when the election of representatives is by definition an act whose consequences lie in the future. Why should the electorate behave like a god, dealing out rewards and punishments? When citizens vote, they inevitably have their eyes on the future. However, they do in fact have good reasons for using the candidates' records as criteria of decision in an act that bears on the future. They know (or at least it would be reasonable for them to know) that electoral pledges are not binding and that those who are elected often fail to keep them. So it may, from their standpoint, be reasonable to take no notice of the candidates' programs in the belief that their records offer a better way of predicting future conduct than do their words. Furthermore, even assuming that voters choose to pay some attention to the candidates' promises, they know, or should know, that the credibility of those promises is an open question. It is not reasonable on their part to suppose that candidates will necessarily honor their commitments. But one of the only means available to assess how much trust is to be placed in candidates' commitments is the way in which those candidates have conducted themselves in the past. On both counts, therefore, it may be reasonable for voters to use the past behavior of candidates as criteria in decisions bearing on the future.

Of course, the ability of voters to form a retrospective judgment and the effectiveness of that judgment presuppose institutional conditions that do not always obtain in existing representative governments, or that obtain only to varying degrees. Three conditions are particularly important. First, voters must be able clearly to assign responsibility. In this regard, coalition governments, or institutional arrangements that favor coalition governments (proportional representation, for instance), impair retrospective judgment. Under a coalition government, when the electorate

considerations; and (2) in evaluating a representative's performance, voters must take into account aggregate social or economic data (e.g. the overall increase in unemployment during the representative's term) rather than their personal situation (e.g. the fact that they lost their jobs during that period). Ferejohn sums up the second precondition by saying that, to exert effective control over their representative, voters must be "sociotropic" rather than purely individualist. It must also be noted that in this model there is only one representative (or party) that voters need to reelect or not. Apparently, dealing mathematically with a situation in which the incumbent is in competition with other candidates involves major difficulties.

disapproves of a particular policy, the members of the coalition are able to shift responsibility for the unpopular decisions on to each other. If a policy is the outcome of intricate negotiations among a number of partners, it is extremely difficult for voters to assign blame when that policy provokes their rejection. Second, voters should be able to drive from power those they consider responsible for a policy they reject. Here again, proportional representation gets in the way of such retrospective sanctioning.²⁹ Finally, if incumbents have access to resources that are not available to their opponents (e.g. using government employees to help disseminate electoral messages), the mechanism of retrospective sanctions is impaired because it becomes structurally more difficult for voters not to reelect a representative than to reelect him.

The fact remains, however, that given the institutional structure of representative government and the desire of those in office to retain power, it is the retrospective judgment delivered by the electorate that counts in the deliberations of the decision-makers. If representatives assume that voters will make up their minds at the next election solely on the basis of the programs put forward at that time, they have complete freedom of action. They are able, in the present, to pursue whatever policies they wish, telling themselves that there will be plenty of time, in the next election campaign, to propose a program that is sufficiently attractive for the electorate to return them to power.

Attention should also be drawn to another key property of the mechanism of retrospective sanction. The arrangement leaves most of the *initiative* to those in government. Granted, representatives are not absolutely free to make any decision they wish, since they must act in such a way as not to provoke rejection by the voters at the end of their term. Nevertheless, representatives have a much wider margin of freedom than they would if they had to implement the prospective choices of the electorate. They may, for example, embark on a policy entirely on their own authority and even

²⁹ On these points, see G. Bingham Powell, "Constitutional design and citizen electoral control," in *Journal of Theoretical Politics*, Vol. 1, 1989, pp. 107-30; G. Bingham Powell, "Holding governments accountable: how constitutional arrangements and party systems affect clarity of responsibility for policy in contemporary democracies," paper delivered at the 1990 meeting of the American Political Science Association (manuscript).

contrary to the wishes of the people, if they anticipate that, once implemented, that policy will not provoke rejection. They can thus reveal to the electorate that a policy of which voters had no idea or that they did not want at the time of its adoption may in fact be one they find satisfactory.

Imagine an economic crisis marked by both high unemployment and a large public deficit. If those coming to power determine that the crisis is essentially due to low investment by firms, they may decide to raise taxes (something voters, presumably, will not appreciate) in order to reduce the budget deficit and the need for government to borrow on the capital market. If their diagnosis is correct, interest rates will go down, firms will be able to finance their investments more cheaply, and they will begin to hire once again. Those in government may think that, at the next election, the electorate will take account of their reduction of unemployment.

Many policies appear in a different light depending on whether it is their immediate or long-term effects that are considered, or even whether they are looked at before or after their application.³⁰ Since retrospective appraisal of policies occurs only at elections and not immediately after each initiative, most of the time voters have to pronounce not only on the initiative itself, but on the actual decision and on the effects that it has had time to produce. Except for decisions made on the eve of an election, voters are thus placed in the position of evaluating public decisions in light of their consequences. If the people governed itself, in order to make rational decisions it would need to anticipate their consequences; in representative government, the effort of anticipation required of the people is less great, the consequences of public decisions having

³⁰ A notable example of the second category of policies mentioned here is analysed by R. Fernandez and D. Rodrik in "Resistance to reform: status quo bias in the presence of individual specific uncertainty," in *American Economic Review*, Vol. 81, No. 5, 1991 (December), pp. 1146-55. The article studies a policy that, once implemented, will bring a small benefit to a very large number of individuals while imposing a high cost on a very small number. However, people do not know in advance whether they will be among the beneficiaries or among the losers. In such conditions, the expected utility of the policy in question is negative for a very large number of people. So there would never be a majority in favor of its adoption *ex ante*. However, once the policy has been implemented, and the uncertainty regarding the identity of the winners and losers has been removed, it will have the approval of the very large number who will have gained. There will thus be an *ex post* majority to uphold it.

already manifested themselves, at least in part, at the time when the electorate delivers its verdict.

The institutional structure of representative government thus gives a quite specific shape to the relationship between the elected and the electorate, one that is different from what both common sense and democratic ideology imagine. It confers influence over the course of public policy to citizens passing retrospective judgment on the actions of their representatives and the consequences of those actions, not to citizens expressing *ex ante* their wishes regarding actions to be undertaken. In representative government, the electorate judges *ex post facto* the initiatives taken in a relatively autonomous manner by those it has placed in power. Through their retrospective judgment, the people enjoy genuinely sovereign power. Come election time, when all has been said for and against the incumbents' policy, the people render their verdict. Against this verdict, whether right or wrong, there is no appeal; that is the democratic aspect of election. However, every election is also – and inseparably – a choice regarding the future, since it is about appointing those who will govern tomorrow. In this, its prospective aspect, election is not democratic, because the governed are unable to compel those who govern to implement the policy for which they elected them.

Again, therefore, in a different form this time and in the conduct of public policy, we find the same combination, within a single action, of democratic and non-democratic dimensions, as we found to characterize election considered as a procedure for selecting individuals. But here there is the additional paradox that it is by considering the past that voters are best able to influence the future.

TRIAL BY DISCUSSION

It has become common today to consider that representative government was originally viewed and justified as "government by discussion." The analyses of Carl Schmitt appear to have played a key role in the diffusion of this interpretation.³¹ It is worth noting, however,

³¹ See in particular C. Schmitt, *Die Geistesgeschichtliche Lage des heutigen Parlamentarismus* [1923], [1926]. English translation: *The Crisis of Parliamentary Democracy*, trans. E. Kennedy (Cambridge, MA: MIT Press, 1988), pp. 3-8 (Preface to the 2nd

that the texts cited by Schmitt in support of his view date principally from the nineteenth century, when representative government was no longer an innovation. He cites much less frequently writings or speeches of the seventeenth and eighteenth centuries, the period when the principles of representative government were first formulated and put into place.³² The virtues of discussion are certainly praised by Montesquieu, Madison, Sieyès, or Burke, but as a theme it occupies a much smaller space than in Guizot, Bentham, or, later, John Stuart Mill. Discussion is not even mentioned in Locke's *Second Treatise on Government*. And neither the American Founding Fathers nor the French Constituents of 1789-91 defined representative government as "government by discussion." Furthermore, the formula of "government by discussion" is quite confused. It does not indicate exactly what place discussion is supposed to occupy in government. Is it thought to direct all stages of the decision-making process or only certain ones? Does the phrase mean that, in representative government, as in the "perpetual conversation" dear to the German Romantics, everything is the subject of unending discussion?

Even if discussion does not figure as prominently in the formulations of the inventors of representative government as it does in nineteenth-century reflections, there is no doubt that, from the origins of representative government, the idea of representation was associated with discussion. This found expression in an arrangement, adopted in Britain, the United States, and France, whereby representatives enjoy complete freedom of speech within the walls of the assembly. The link between representation and discussion can be understood only by introducing the intermediary notion of assembly. Representative government has always been conceived and justified as a political system in which an assembly plays a decisive role. One might imagine, as Schmitt rightly points out, that representation could be the privilege of a single individual, ap-

edn), and pp. 33-7, 48-50; or C. Schmitt, *Verfassungslehre* (Munich: Duncker & Humblot, 1928), §24, pp. 315-16.

³² Schmitt relies principally on the texts by Guizot collected in his *Histoire des origines du gouvernement représentatif* (Brussels, 1851); see Schmitt, *The Crisis of Parliamentary Democracy*, pp. 34-5. On the role of discussion and of the "sovereignty of reason" in Guizot, see Pierre Rosanvallon, *Le Moment Guizot* (Paris: Gallimard, 1985), pp. 55-63, 87-94. Schmitt also quotes Burke, Bentham, and James Bryce.

pointed and authorized by the people.³³ It is nonetheless undeniably true that representative government was neither proposed nor established as a regime in which power was entrusted to a single individual chosen by the people, but as one in which a collective authority occupied a central position. Schmitt and many authors after him, however, go beyond noting the link between the representative idea and the role of the assembly; they interpret the preeminent place accorded to the assembly as the consequence of a prior and more fundamental belief in the virtues of debate by a collective authority and in the principle of government by truth (*veritas non auctoritas facit legem*).³⁴ According to this interpretation, the structure of beliefs justifying representative government defined as government by an assembly would have been as follows: truth must "make the law," debate is the most appropriate means of determining truth, and therefore the central political authority must be a place of debate, that is, a Parliament.

In reality, the arguments of the inventors and first advocates of representative government do not follow this pattern. In Locke, Montesquieu (in his analysis of the English system), Burke, Madison, and Sieyès, the collective nature of the representative authority is never deduced from a prior argument concerning the benefits of debate. In all these authors, the fact that representation requires an assembly is put forth as self-evident. Actually, the association between representation and assembly was not a creation *ex nihilo* of modern political thought, but a legacy of history. Modern parliaments have taken shape through a process of transfor-

³³ "If for practical and technical reasons the representatives of the people can decide instead of the people themselves, then certainly a single trusted representative could also decide in the name of the people. Without ceasing to be democratic, the argumentation would justify an antiparliamentary Caesarism" (Schmitt, *The Crisis of Parliamentary Democracy*, p. 34).

³⁴ Schmitt, *The Crisis of Parliamentary Democracy*, pp. 35, 43. This idea is developed at length by Jürgen Habermas in *The Structural Transformation of the Public Sphere* [1962] (Cambridge, MA: MIT Press, 1989). Schmitt draws a parallel between the value placed on debate by advocates of parliamentarism and the merits of the market as extolled by liberals: "It is exactly the same: That the truth can be found through an unrestrained clash of opinion and that competition will produce harmony" (*The Crisis of Parliamentary Democracy*, p. 35). The idea that truth emerges from discussion is in fact quite common, and Western philosophical tradition, starting with Plato and Aristotle, has given many elaborate versions of it. It is not justified to consider it a belief specific to liberal thought taken in its narrowest sense.

mation (gradual in England, rather more abrupt in France), or imitation (in the American colonies) of representative bodies begun in feudal society, the "assemblies of estates." The first advocates of modern representative assemblies insisted that they differed from previous institutions, but that very insistence showed an awareness of the links between the old and new. The collective nature of the representative authority was one such element of continuity. In writings and speeches by the founders of modern representation, discussion appears as a characteristic of assemblies that is inevitable and in a certain way natural.

Moreover, the idea of representative government has from the start been linked to an acceptance of social diversity. Representation was first proposed as a technique that permitted the establishment of a government emanating from the people in large, diverse nations. Madison and Siyès asserted repeatedly that direct democracy was made possible in ancient republics by the homogeneity and small size of the body politic. They stressed that these conditions no longer obtain in a modern world characterized by the division of labor, the progress of commerce, and the diversification of interests. (Inversely, the most notable opponent of representation, Rousseau, condemned "commercial society," the progress of the arts and sciences, and praised small, homogeneous communities enjoying unadulterated unity.) In the eighteenth century, it was generally considered that representative assemblies ought, within limits, to reflect that diversity. Even among authors such as Siyès or Burke, who emphasized most insistently that the role of the assembly was to produce unity, it was assumed that representatives, elected by diverse localities and populations, imparted a certain heterogeneity to the assembly.³⁵ The representative body was thus always seen as both collective and diverse in character.

³⁵ The most significant of Burke's writings in this connection is his famous "Speech to the Electors of Bristol," in which he declares: "If government were a matter of will upon any side, yours, without question, ought to be superior. But government and legislation are matters of reason and judgment, and not of inclination; and what sort of reason is that in which the determination precedes the discussion, in which one set of men deliberate and another decide, and where those who form the conclusion are perhaps three hundred miles distant from those who hear the arguments? ... Parliament is not a *congress* of ambassadors from different and hostile interests, which interests each must maintain, as an agent and advocate, against other agents and advocates; but Parliament is a *deliberative* assembly of one

It is the collective and diverse character of the representative organ, and not any prior or independently established belief in the virtues of debate, that explains the role conferred on discussion. In a collective entity whose members, elected by diverse populations, are initially likely to hold different points of view, the problem is to produce agreement, a convergence of wills. However, as we have seen, at the root of their political conceptions, the founders of representative government posited the equality of wills: no intrinsic superiority gives certain individuals the right to impose their will on others. Thus, in an assembly where a convergence of wills must be achieved despite diverse starting positions, if neither the most powerful, nor the most competent, nor the wealthiest are entitled to impose their will, all participants must seek to win the consent of others through debate and persuasion. The obviousness of this solution, given the principle of equality of wills, explains why it is rarely the subject of explicit argument among the founders, and why discussion is presented as the natural way for representative assemblies to proceed. Equality of wills, the root of the elective procedure for appointing rulers, likewise makes discussion the legitimate form of interaction among them.

The idea of discussion and of its function that prevailed among the earliest advocates of representation is expressed with particular clarity in Siyès's *Vues sur les moyens d'exécution dont les représentants de la France pourrout disposer en 1789*, a pamphlet that can be considered one of the founding texts of modern representative government. The passage that Siyès devoted to debate clarifies several crucial points, and is worth quoting at some length. It must first be noted that Siyès introduces his reflections on debate *after* he has established the necessity of representative government, and he does so to respond to objections made "against large assemblies and against freedom of speech." He thus assumes, without further justification, that representation requires an assembly and that the role of an assembly is to debate.

nation, with *one* interest, that of the whole – where not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole." E. Burke, "Speech to the Electors of Bristol" [1774], in R. J. S. Hofmann and P. Lewick (eds.), *Burke's Politics: Selected Writings and Speeches* (New York: A. A. Knopf, 1949), p. 115; original emphasis.

First, one disapproves of the complication and slowness that affairs appear to take in large deliberating assemblies. This is because in France one is accustomed to arbitrary decisions that are made secretly, deep in ministerial offices. A question treated in public by a large number of people with separate opinions, all of whom can exercise the right of discussion with more or less prolixity, and who allow themselves to vent their ideas with a warmth and brilliance foreign to the tone of society, is something that must naturally frighten our good citizens, as a concert of noisy instruments would most certainly tire the weak ear of those ill in a hospital. It is difficult to imagine that a reasonable opinion could arise from such a free and agitated debate. It is tempting to desire that someone greatly superior to everyone else should be called forth to make all these people agree who otherwise would spend all their time quarrelling.³⁶

For Siéyès, then, discussion provides the solution for two related problems. Disagreement will inevitably reign at the outset in an assembly, but on the other hand, representative government rejects the simple and tempting solution advocated by its critics: that it should terminate such discord through the intervention of one will that is superior to the others. Later in the text, Siéyès continues:

In all the deliberations, there is something like a problem to be solved, which is to know in a given case, that which general interest prescribes. When the debate begins, one cannot at all judge the direction that it will take to arrive surely at this discovery. Without doubt the general interest is nothing if it is not the interest of someone: it is that particular interest that is common to the greatest number of voters. From this comes the necessity of the competition of opinions.³⁷ That which seems to be a mixture, a confusion capable of obscuring everything, is an indispensable preliminary step to light. One must let all these particular interests press against one another, compete against one another, struggle to seize the question, and push it, each one according to its strength, towards the goal that it proposes. In this test, useful and detrimental ideas are separated; the latter fall, the former continue to move, to balance themselves until, modified and

³⁶ E. Siéyès, *Vues sur les moyens d'exécution dont les représentants de la France pourront disposer en 1789* (Paris: unnamed publisher, 1789), p. 92.

³⁷ The importance of these sentences (the emphasis is mine) cannot be overestimated. They demonstrate that for Siéyès, (1) parliamentary debate does not constitute a disinterested activity, oriented solely by the search for the truth, but a process that aims to identify the interest common to the greatest number, and (2) the general interest, unlike Rousseau's "general will," does not transcend particular interests and is not of a different nature than them.

purified by their reciprocal effects, they finally melt into a single opinion.³⁸

For the founders of representative government, debate thus performs the specific task of producing agreement and consent; it does not in itself constitute a principle of decision-making. What turns a proposition into a public decision is not discussion but consent. It must be added that this consent is the consent of a majority, not universal consent, and even less an expression of some truth.³⁹ As Locke had already observed, the essential function of the principle of majority rule is to make decision possible. Locke wrote:

For that which acts any community, being only the consent of the individuals of it, and it being necessary to that which is one body to move one way; it is necessary the body should move that way whether the greater force carries it, which is the consent of the majority; or else it is impossible it should continue act or continue one body, one community...⁴⁰

It is worth noting that this key text of Locke does not base the principle of majority rule on the qualities or virtues of the majority, (e.g. its aptitude for expressing what is true and just), but on the stark fact that decisions need to be made and actions taken. Debate, on the other hand, cannot meet that need; it does not provide a decision-making principle. On a given subject, discussion ceases when agreement has been reached by all participants and no one has any further objections, but by itself discussion contains no limiting principle. The consent of the majority, by contrast, does provide a principle of decision-making, because it is compatible

³⁸ Siéyès, *Vues sur les moyens...*, pp. 93–4.

³⁹ The statement (in the text just quoted) that, at the end of the debate, opinions "finally melt into a single opinion," might suggest that Siéyès makes unanimity the principle of decision-making. This is not the case, as an earlier passage from the same pamphlet shows: "But for the future, requiring that the common will always be this precise sum of all wills would be equivalent to renouncing the possibility of forming a common will, it would be dissolving the social union. It is thus absolutely necessary to resolve to recognise all the characters of the common will in an accepted plurality" (Siéyès, *Vues sur les moyens...*, p. 18). In his reflections on debate, his principal aim is different, so he does not go to the trouble of repeating the argument.

⁴⁰ J. Locke, *Second Treatise of Government*, ch. 7, § 96, in J. Locke, *Two Treatises of Government*, ed. P. Laslett (Cambridge: Cambridge University Press, 1988), pp. 331–2; original emphasis. The arguments of Locke and Siéyès on this question are obviously very close. Locke's formulations are perhaps a little more incisive, which is why they are cited here.

with the temporal limitations to which all action, and particularly all political action, is subject. One can at any time count heads and determine which proposition has obtained the broadest consent. Academic debates can be governed exclusively by the principle of discussion because, unlike political debates, they are not subject to any time limit. The founders of representative government certainly did not confuse a parliament with a learned society.

The principle of representative government must therefore be formulated as follows: no proposal can acquire the force of public decision unless it has obtained the consent of the majority after having been subjected to trial by discussion. It is the consent of the majority, and not debate, that makes the law. The principle presents a notable feature: in no way does it regulate the origin of the proposals or projects to be discussed. There is nothing in the principle to prevent a member of the debating authority from conceiving and formulating a legislative proposal outside the assembly and the context of discussion. Nothing in the principle implies either that only members of the assembly are entitled to formulate propositions. Thus, the principle of representative government does not determine the origin of the proposals to be discussed by the assembly; they may come from anywhere. It is of no importance whether a bill originates within the assembly, whether an individual conceived it in the isolation of his study, or whether it has been prepared by persons outside the assembly. One can only say that, in so far as formulators of such bills know in advance that their proposals will be debated, they have an incentive to anticipate various arguments that their bills may elicit, and to take them into account when conceiving and formulating propositions. Some members of the assembly may form their proposals during the course of a debate, because the arguments give them new ideas, but this is not a necessary implication of the principle. A proposition may also be amended in the course of the discussion, in which case the final decision incorporates elements that originated in the debate. But that, too, is not necessarily implied by the principle of debate: a proposal may eventually win the consent of the majority and thus become a decision in the same form in which it was originally brought before the assembly.

The fact that the decision is made by a collective body at the end

of a debate guarantees only one thing: that all legislative proposals have to undergo the *trial* of discussion. Debate acts as a screen or filter, whatever the origin of the bills may be. But this is enough to secure an essential effect on decision-making: no measure can be adopted unless a majority deems it *justified* after argumentative scrutiny. Representative government is not a system in which everything must originate in debate, but in which everything has to be justified in debate.

Such a fervent advocate of discussion as John Stuart Mill considered that, in matters of legislation (not to mention administration), Parliament was not a suitable place for the conception and formulation of proposals. He suggested that propositions of laws be drafted by a commission of experts appointed by the Crown and then brought before Parliament only for discussion and approval. He even went so far as to deny Parliament the right to amend the commission's propositions in the course of discussion. Mill wrote: "[The bill] once framed, however, Parliament should have no power to alter the measure, but only to pass or reject it; or, if partially disapproved of, remit it back to the Commission for reconsideration."⁴¹ According to Mill, the principal function of the debating body should be to grant or withhold "the final seal of national assent" after a public exchange of arguments, not to conceive and formulate legislative measures.⁴² As Mill emphasized, the principle of representative government is not violated if bills are in fact prepared, with or without discussion, by persons outside the assembly and not even elected by it. This explains why representative government proved compatible with the development and increasing role of bureaucracy. It is of no importance that proposed laws are mainly drafted by bureaucrats or non-elected experts, as long as none of these propositions becomes law without being debated by the elected collective authority.

To define representative government simply as government by discussion is thus insufficient. It obscures the fact that it is the function of persuasive discussion neither to make decisions, nor

⁴¹ J. S. Mill, *Considerations on Representative Government* [1861], ch. V, in J. S. Mill, *Utilitarianism, On Liberty, and Considerations on Representative Government*, ed. H. B. Acton (London: Dent & Sons, 1972), p. 237.

⁴² Mill, *Considerations on Representative Government*, p. 240.

necessarily to generate proposals for decision, but only to produce consent in a situation in which no individual will is entitled to impose itself on others. Once again, we see here the critical role of passing judgment: proposals are not necessarily initiated by the debating body, but no proposal is passed unless it has been submitted to its judgment.

Thus, analysis of the system of decision-making shows that, in contrast to what both common sense and democratic ideology affirm, representative democracy is not an indirect form of government by the people. Such analysis, however, also makes apparent a positive characteristic of representative democracy, namely the central role granted to the judgment of the community. The electorate as a whole is made judge of the policies implemented by its representatives: the electorate's retrospective appraisal of the relatively independent initiatives of those in government influences the conduct of public affairs. The role of the debating body is also primarily that of judge, in the sense that all proposals must be submitted for its approval, even though they do not all originate from within. For different reasons in each case, it is thus the concept of passing judgment that best describes the role assigned to the community, whether to the people itself or to its representatives. Representative democracy is not a system in which the community governs itself, but a system in which public policies and decisions are made subject to the verdict of the people.

6

Metamorphoses of representative government

It is sometimes claimed that, in Western countries, political representation is experiencing a crisis. For many years, representation appeared to be founded on a powerful and stable relationship of trust between voters and political parties, with the vast majority of voters identifying themselves with, and remaining loyal to, a particular party. Today, however, more and more people change the way they vote from one election to the next, and opinion surveys show an increasing number of those who refuse to identify with any existing party. Differences between the parties once appeared to be a reflection of social cleavages. In our day, by contrast, one gets the impression that it is the parties imposing cleavages on society, cleavages that observers deplore as "artificial." Each party used to propose to the electorate a detailed program of measures which it promised to implement if returned to power. Today, the electoral strategies of candidates and parties are based instead on the construction of vague images, prominently featuring the personality of the leaders. Finally, those moving in political circles today are distinguished from the rest of the population by their occupation, culture, and way of life. The public scene is increasingly dominated by media specialists, polling experts, and journalists, in which it is hard to see a typical reflection of society. Politicians generally attain power because of their media talents, not because they resemble their constituents socially or are close to them. The gap between government and society, between representatives and represented, appears to be widening.

Over the last two centuries, representative government has under-

gone significant changes, notably during the second half of the nineteenth century. The most obvious of these, the one on which most histories of representative government concentrate, concerns voting rights: property and culture have ceased to be represented and suffrage has been extended. This change took place along with another: the rise of mass-based parties. Modern representative government was established without organized political parties. Most of the founders of representative government even regarded division into parties or "factions" as a threat to the system they were establishing.¹ From the second half of the nineteenth century, however, political parties organizing the expression of the electorate came to be viewed as a constitutive element of representative government. Moreover, as we have seen, the founding fathers had banned imperative mandates and the practice of "instructing" representatives, and they clearly had a deep distrust of electoral pledges, even of a non-binding nature. Mass parties, by contrast, made the political platform one of the main instruments of electoral competition.

The rise of mass parties and political programs seemed to transform *representation* itself understood as a link between two terms—that is to say, both the qualitative relationship between representatives and represented (in the sense defined in chapter 4), and the relationship between the wishes of the governed and the decisions of the governors. First, rather than being drawn from the elites of talent and wealth, as the founding fathers had wished, representative personnel seemed to consist principally of ordinary citizens who had reached the top of their parties by dint of militant activity and devotion to a cause. Moreover, since representatives, once elected, remained under the control of party managers and activists, as a result of the party's internal discipline, the autonomy pre-

¹ It is sometimes thought that, whereas the English and the Americans were always more favorably disposed to political parties, hostility toward "factions" was more prevalent in the French political culture of the late eighteenth century. This claim is inaccurate. Virtually all of the Anglo-American political thinkers of the same period were opposed to party system. (See Richard Hofstadter, *The Idea of a Party System. The Rise of Legitimate Opposition in the United States 1780–1840* (Berkeley: University of California Press, 1969), esp. ch. 1. Edmund Burke's praise for parties was an exception; moreover, Burke did not have in mind parties analogous to those which came to dominate the political scene from the second half of the nineteenth century.

viously enjoyed by representatives during their term appeared to be violated. And political platforms seemed to further restrict the freedom of action of representatives.

This is why a number of late nineteenth-century observers interpreted the new role played by parties and platforms as evidence of a crisis of representation.² The model of representative government was then identified as "parliamentarianism" or "liberal parliamentarianism." The English system as it had functioned prior to 1870, was regarded as the most perfected form of representative government.³ At the beginning of the twentieth century reflections on a "crisis of parliamentarianism" multiplied.⁴ It gradually became apparent, however, that if mass parties had indeed brought about the demise of "parliamentarianism," representative government had not been destroyed in the process; its constitutive principles, including the partial autonomy of representatives, were still in effect.

Observers then came to realize that a new and viable form of representation had emerged. This was not conceptualized as unambiguously as parliamentarianism had been, but its identification as an internally consistent and relatively stable phenomenon was signaled by the coining of new terms: "party government" among Anglo-American theorists, "*Parteiendemokratie*" among German authors. Each of these terms aimed at gathering under a single heading the characteristics which distinguished the new form of representative government from parliamentarianism.

Even though some writers initially deplored the demise of parliamentarianism, the new form of representation was eventually hailed as progress. It was definitely accepted as an advance toward democracy, not only because of the expanded electorate but also because of the new ways in which representatives were linked to the electorate. Parties brought representatives closer to the grassroots,

² See Moisey Ostrogorsky, *La Démocratie et l'organisation des partis politiques*, 2 vols. (Paris: Calmann-Lévy, 1903), *passim*, esp. Vol. I, p. 568.

³ Both the Birmingham Caucus and the National Liberal Federation, generally regarded as the first mass based political organizations, were founded around 1870.

⁴ To mention only examples among the most significant and influential, see Carl Schmitt, *Die geistesgeschichtliche Lage des heutigen Parlamentarismus* [1923], English translation: *The Crisis of Parliamentary Democracy* (Cambridge, MA: MIT Press, 1988), and Gerhard Leibold, *Das Wesen der Repräsentation* [1929] (Berlin: Walter de Gruyter, 1966).

making possible the nomination of candidates whose social position, way of life, and concerns were close to those of the rank and file. These changes were interpreted as progress towards greater democratic identity and resemblance between governors and governed.⁵ Moreover, since election platforms enabled voters to choose the direction of the government, and since, furthermore, party organizations exercised continuous control over their members in Parliament, it was felt that "party democracy" enhanced the role of the popular will in the conduct of public affairs.⁶ When it became clear that mass parties had not undermined representative institutions, the changes that at first had seemed to threaten representation were reinterpreted as rendering it more democratic. Representative government seemed to be moving toward an identity of representatives and the represented, and toward popular rule. Ceasing to dwell on how far the system had traveled, commentators looked rather towards the future. Representative government may not have been democratic from the beginning, but now it seemed that it would increasingly become so. Democracy was on the horizon. This progress towards democracy was interpreted as an extension of Whig history, or in a Tocquevillian mode, as a step in the irresistible advance of equality and popular government only imperfectly implemented by liberal parliamentarianism.

A curious symmetry thus emerges between the present situation and that of the late nineteenth and early twentieth centuries. Now, as then, the idea is gaining currency that representation is in a state of crisis. This parallel prompts the hypothesis that we are witnessing today perhaps less a crisis of political representation than a crisis of a particular form of representation, namely the one established in the wake of mass parties. Is it possible that the various developments affecting representation today signal the emergence of a third form of representative government, one that possesses as much internal coherence as parliamentarianism and party democracy?

It is even more curious that today's alleged crisis of representation is commonly ascribed to the erosion of the very features that

⁵ See chapters 3 and 4 on the significance of these notions of democratic identity and resemblance.

⁶ The term "party democracy" is mine; it is coined as a combination of the English "party government" and the German "*Parteiendemokratie*."

differentiated party democracy from parliamentarianism. These were the features that seemed to bring representative government closer to popular rule, namely the identification of voters with particular parties and their representatives in Parliament, and the choice of representatives on the basis of platforms. It was believed that the type of representation constitutive of representative government at its origins had been forever superseded. The role of mass parties and platforms seemed to be the consequence of extended rights of suffrage, and since it did not appear likely that universal suffrage would be challenged in the future, it was felt that the nature of representation had been irreversibly altered. Current developments suggest that such a prognosis may have been incorrect. The changes wrought by party democracy were perhaps less fundamental than was supposed. We must, then, take a closer look at the turn associated with party democracy and compare it with the changes occurring today. The history of representative government presents perhaps a sequence of three forms separated by two breaks.

In this chapter, we shall examine the metamorphoses of representative government in the light of the four principles identified in previous chapters: election of representatives at regular intervals, the partial independence of representatives, freedom of public opinion, and the making of decisions after trial by discussion. At no time have those principles ceased to apply. So let us analyse and compare the successive ways in which they were implemented.

One thing needs to be made clear, however, with regard to the fourth principle (trial by discussion). Studying the successive forms of public discussion throughout the history of representative government does pose a problem not encountered in the case of the first three principles. The election of representatives at regular intervals, the relative freedom of action that they enjoy, or the free expression of political opinions are easily identified and defined. The notion of discussion is more elusive, the phenomena it denotes harder to pin down. The problem is further complicated by the fact (already noted) that the earliest advocates of representative government did little to develop the notion, even if they did make use of it. In their reflections on debate within the assembly, they did not appear to speak of just any type of verbal exchange. Sieyès and Burke, for example, expected discussion to facilitate agreement and produce

"insights" through the exchange of "arguments" and "reasons." But that merely shifts the problem to the notions of insights, arguments, and reasons, which lend themselves to a variety of interpretations. So if we want to study the changes public discussion has gone through, we cannot avoid providing a definition.

In the following pages, then, "discussion" will be understood as meaning a type of communication in which at least one of the parties (a) seeks to bring about a change in the other party's position, and (b) does so using propositions that are impersonal or relate to the long-term future.

The first characteristic denotes the element of persuasion that political discussion must include if it is to perform its essential function of generating consent, particularly the consent of a majority. Only persuasive discourse seeking to change the opinion of others is in fact capable of eliciting the consent of a majority where, at the outset, there is nothing but a large number of divergent opinions. This first characteristic distinguishes discussion from types of verbal communication in which interlocutors do not seek to persuade each other – for example, when individuals exchange information or, as lawyers in a courtroom, appear to reply to each other, while in fact attempting to persuade a third party.

The second characteristic (the use of impersonal or long-term propositions) corresponds to the rational, argumentative dimension of discussion. This distinguishes discussion from what one might call haggling, in which the participants seek to change each other's positions through rewards or threats affecting each other's immediate personal interests.⁷ For example, we call it haggling, not discussion, when one party seeks to change the other's mind by offering money, goods, or services in exchange.

The distinction between haggling and discussion enables us to clarify the rational nature of discussion without recourse to the exacting category of "disinterested discussion."⁸ To capture the

⁷ I use the term "haggling," despite its shortcomings, to distinguish what is meant here from the notion of "bargaining," as it has been elaborated in "bargaining theory." The standard concept of bargaining implies the use of threats and rewards, but it does not make reference either to their individual nature or to their immediacy. On the distinction between discussion and bargaining, see, for example, J. Elster, "Argumenter et négociateur dans deux assemblées constituantes," in *Revue Française de Science Politique*, Vol. 44, No. 2, April 1994, pp. 187–256.

⁸ In a sense, any kind of sensible, comprehensible communication necessarily

argumentative dimension of discussion deemed integral to representative government, one might be tempted to reserve the term "discussion" for wholly disinterested exchanges in which interlocutors seek to persuade each other to adopt a position purely on the grounds that it is true or conforms to moral norms. "Disinterested discussion" is doubtless an apt and fruitful concept from a general philosophical point of view, but in politics it constitutes only an extreme situation. To seek to make it a central category in an analysis of representative government would be an *angélisme*.

The notion of haggling is more useful for purposes of political analysis because it distinguishes among forms of interested communication, which provide the staple of politics. There is a difference between haggling, in which one party promises another that, should he adopt a certain position, a reward or penalty will incur, and discussion in which one party also appeals to the other's self-interest, but in this case, by showing him that, should he adopt a position, some advantage or harm will result for the group to which he belongs, or to himself personally but over the long run.

Haggling uses propositions addressing the other party as an individual, and as he is at the moment he is addressed. Discussion, on the other hand, uses impersonal and general propositions concerning classes of individuals, or propositions bearing on the long term.⁹ In order to formulate such propositions, the speaker

involves reason. But when the founders of representative government thought about the type of exchange to which that system should assign a crucial role, they obviously had in mind a kind of communication that appealed to reason in a preeminent way. It is the nature of this preeminent use of reason that needs to be defined and made operative in order to study the successive forms of discussion in representative government.

⁹ The characteristics of generality and long-term relevance may of course be combined. Political actors often seek to persuade by highlighting the benefits that classes or groups will enjoy in the long term. In the description of discussion given here (the use of impersonal propositions or ones that relate to the long term), the "or" is not exclusive; it merely reflects the fact that it is possible to use propositions that relate to classes but not in the long term. For instance, it might be argued that, if a certain decision is made a class will obtain an immediate benefit. In haggling, on the other hand, the characteristics of individuality and immediacy seem more rarely separated. When someone is personally offered a reward to make a political decision, the offer nearly always relates to the present or near future. This is because it is only with great difficulty that long-term rewards can be made the object of offers in the strict sense of the term (see below). This accounts for the lack of symmetry between the definition of haggling (using propositions that are personal and bear on the short term) and that of discussion (using general or long-term propositions).

must engage in classification and abstraction. He must associate people according to traits he deems relevant, instead of viewing them as concrete individuals. Or he must form an idea of their lasting identity, beyond their immediate transient characteristics. Symmetrically, the person to whom the speech is addressed has to make a mental detour in order to conceive what he stands to gain; he needs to see himself not as a concrete, named individual (which is his immediate perception of himself) but as a member of a class. Or, he must detach himself from his present identity to form an idea of his future identity. It follows that this type of communication requires both parties to detach themselves from the singular and the immediate in order to attain the general and durable. This calls for reason.

Moreover, in haggling, the proposition that indicates to the other party that he will obtain some benefit has the specific linguistic status of an offer, or a threat. The actualization of its content (benefit or loss) is certain, as soon as the proposition has been uttered, or at least this actualization depends solely on the will of whoever formulated the proposition. The same cannot be true (barring exceptional circumstances) when the propositions announcing a gain or loss for the other party are general and impersonal, or bear on the long term. Usually a person cannot offer a reward (or make a threat) to whole classes, since to do so, he would have to have at his disposal an inordinate amount of resources – the more substantial, indeed, the larger the class he makes the offer or the threat to. In this case, then, the proposition announcing the gain or loss at least partially assumes the character of a prediction, the realization of which does not depend solely on the will of the person uttering the proposition but also on external factors, such as the cooperation of a large number of other people or, more generally, social and economic forces. The same reasoning applies to propositions announcing a long-term benefit for the other party: the more distant the point in time to which such propositions refer, the more they constitute predictions, since the passage of time increases the probability of intervening events. And clearly, this predictive quality is even stronger if the propositions concern both classes and the longer term.

But to make predictions without exposing oneself to being refuted

by the facts, one has a strong incentive to analyse the world and understand the way it works. One is pushed to know, for one cannot merely will. In this sense too, then, communication that uses general or long-term propositions calls for the use of reason. Reason being this time distinguished from volition, rather than from immediate perception. The predictive dimension inherent in the communication that announces general or long-term benefits gives rise to its persistent character. The speaker multiplies arguments to show that the benefit will materialize, because he cannot simply offer that benefit. When a person is offered a good in exchange for something, either that person accepts the offer and the communication ends, or that person rejects it and a different offer has to be made. One does not pile up arguments to get the other's agreement. The two sides haggle until they agree on a price; they do not "argue."

The personal offering of money, goods, or services in exchange for political action is widespread, as the familiar phenomena of corruption and patronage attest. So, the concept of haggling introduced here is not simply an intellectual construct designed to contrast the notion of discussion. The definition of discussion as communication aimed at bringing about a change of mind through the use of impersonal or long-term propositions is only of an ideal-type. It can sometimes be difficult to determine whether a situation falls on one side or the other of the definitional boundary. For example, information is occasionally provided with the intention of changing the other party's opinion, and it will then be hard to tell whether the situation is one of persuasive communication or not. Similarly, it may sometimes be difficult to decide whether a proposition is impersonal or not. On which side of the line between haggling and discussion are we to place the situation where one person seeks to persuade another by offering rewards for the other's relatives or friends? Applying the distinction between short term and long term can also, on occasion, give rise to similar problems. Nevertheless, the concept of discussion retains a certain utility, making it possible to classify concrete situations according to how closely they approximate it.

The definition set out here does purport to capture an eternal and universal essence of discussion. The claim is not even that it is