

From Carl Schmitt, ‘Preface to the Second Edition: On the Contradiction between Parliamentarism and Democracy’ (1926), in Schmitt, *The Crisis of Parliamentary Democracy*, trans. Ellen Kennedy (MIT Press, 1985), pp. 3–17.

[...]

All specifically parliamentary arrangements and norms receive their meaning first through discussion and openness. This is especially true of the fundamental principle that is still recognized constitutionally, although practically hardly still believed in today, that the representative is independent of his constituents and party; it applies to the provisions concerning freedom of speech and immunity of representatives, the openness of parliamentary proceedings, and so forth.⁹ These agreements would be unintelligible if the principle of public discussion were no longer believed in. It is not as if one could ascribe other principles retrospectively and at will to an institution, and if its hitherto existing foundations collapse, just insert any sort of substitute arguments. Certainly the same institution can serve different practical purposes and thus allow various practical justifications. There is a “heterogeneity of purposes,” shifts in meanings from the practical principles. If we assume with Montesquieu, for example, that the principle of monarchy is honor,¹⁰ then this principle cannot be foisted onto a democratic republic any more than a monarchy could be founded on the principle of open discussion.

Indeed, a feeling for the specificity of principles seems to have disappeared and an unlimited substitution to have taken its place. In the review by Thoma mentioned above, that is really the basic idea of all the objections he raises to my article. But he does not reveal in any way at all, unfortunately, what the apparently so abundant new principles of parliamentarism are. He is satisfied in a short reference to mention “only the writings and speeches of Max Weber, Hugo Preuss, and Friedrich Naumann” in the years from 1917 onward.¹¹ What did parliamentarism mean to these German liberals and democrats struggling against the imperial political system? Essentially and most importantly it was a means for selecting political leaders, a certain way to overcome political dilettantism and to admit the best and most able to political leadership. Whether parliament actually possesses the capacity to build a political elite has since become very questionable. Today one would

⁹ [Tr.] Article 21 of the Weimar constitution reads: “The Members of the Reichstag are representatives of the entire nation. They are bound only to their consciences and are not bound by any instructions.” The other liberal freedoms mentioned by Schmitt were also incorporated in the constitution. Article 29 (“The Reichstag acts openly”) declared the principle of openness, and a closed sitting required a petition from fifty members and a two-thirds majority. Members also enjoyed parliamentary immunity according to article 36: “No member of the Reichstag or of a Landtag may, at any time, because of his vote or because of opinions expressed in the course of performing his duties, be juridically or officially prosecuted or in any other way made to answer outside the Assembly.” See Horst Hildebrandt, ed., *Die deutschen Verfassungen des 19. und 20. Jahrhunderts* (Paderborn: Schöningh, 1979), 69ff. On the theory of representation see Gerhard Leibholz, *Das Wesen der Representation* (Berlin: Walter de Gruyter & Co., 1929), and Schmitt’s critique in *Verfassungslehre* (Munich & Leipzig: Duncker & Humblot, 1928), 240ff. and 212ff. On the social function of political representation see Rudolf Smend, “Integration durch Representation,” in his *Verfassung und Verfassungsrecht* (1928) and reprinted in *Staatsrechtliche Abhandlungen und andere Aufsätze* (Berlin: Duncker & Humblot, 1955, 1968), 119–276; and Schmitt’s critique in *Verfassungslehre*, 207ff.

¹⁰ [Tr.] Montesquieu, *L’Esprit des lois* (1748); translated as *The Spirit of the Laws* (Chicago: Encyclopedia Britannica, 1952).

¹¹ [Tr.] On the role of Weber, Preuss, and Naumann see my introduction to this volume.

certainly not think so optimistically about this selection instrument; many would regard such hope as already outmoded, and the word *illusory*, which Thoma uses against Guizot, could easily be applied to these German democrats. What numerous parliaments in various European and non-European states have produced in the way of a political elite of hundreds of successive ministers justifies no great optimism. But worse and destroying almost every hope, in a few states, parliamentarism has already produced a situation in which all public business has become an object of spoils and compromise for the parties and their followers, and politics, far from being the concern of an elite, has become the despised business of a rather dubious class of persons.

For a principled reflection, that is still not decisive. Whoever believes that parliamentarism guarantees the best selection of political leaders remains convinced of that, at least today, not because of idealistic belief, but rather as a practical-technical hypothesis constructed on the English model, intended for application on the Continent, which one could reasonably discard if it did not succeed.¹² Nevertheless, this conviction can also be linked to belief in discussion and openness, and then it belongs to principled arguments for parliamentarism. Parliament is in any case only “true” as long as public discussion is taken seriously and implemented. “Discussion” here has a particular meaning and does not simply mean negotiation. Whoever characterizes every possible kind of deliberation and agreement as parliamentarism and everything else as dictatorship or tyranny—as M. J. Bonn does in his *Die Krisis der europäischen Demokratie*¹³ and also Richard Thoma in the review mentioned above—avoids the real question. At every diplomatic conference, in every congress of delegates, in every board of directors, deliberation goes on, just as it does between the cabinets of absolute monarchs, between corporations, between Christian and Turk. The modern institution of parliament does not arise from these. One should not dissolve concepts and ignore the specific qualities of discussion. Discussion means an exchange of opinion that is governed by the purpose of persuading one’s opponent through argument of the truth or justice of something, or allowing oneself to be persuaded of something as true and just. Gentz—in this matter still instructed by the liberal Burke—puts it well: The characteristic of all representative constitutions (he meant modern parliament in contrast to corporative representation or the estates) is that laws arise out of a conflict of opinions (not out of a struggle of interests).¹⁴ To discussion belong shared convictions as premises, the willingness to be persuaded, independence of party ties, freedom from selfish interests.

¹² [Tr.] On the German reception of English parliamentary theory see Robert Redslob, *Die parlamentarische Regierung in ihrer echten und in ihren unechten Form* (Tübingen: Mohr, 1918), and Max Weber’s discussion of the English system in “Parlament und Regierung im neugeordneten Deutschland,” in Johannes Winckelmann, ed., *Max Weber. Gesammelte Politische Schriften* (Tübingen: Mohr, 1980), 353ff. See also Ludwig Bergsträsser, “Die Entwicklung des Parlamentarismus in Deutschland,” in Kluxen, ed., *Parlamentarismus*, 138–160.

¹³ [Tr.] M. J. Bonn, *Die Krisis der europäischen Demokratie* (Tübingen: Mohr, 1925). This book is noted with Alfred Weber’s *Die Krise des modernen Staatsgedankens in Europa* (Stuttgart: Deutsche Verlags Anstalt, 1925) in the *Berichte* for 1925–26 of the Deutsche Hochschule für Politik as “parallel” works; both analyse antidemocratic and antiparliamentary movements in the 1920s. The anonymous reviewer concluded that Bonn’s work was the better and more objective of the two: see *Zeitschrift für Politik* 15 (1926), 31.

¹⁴ [Tr.] See Edmund Burke, *Thoughts on the Cause of the Present Discontents* (1770); see also Schmitt’s discussion of Gentz in *Politische Romantik* (Munich & Leipzig: Duncker & Humblot, 1919), 13ff. Gentz, whom Schmitt calls Metternich’s journalistic clerk, translated Burke and Mounier into German and was the author of several counterrevolutionary tracts and histories: *Fragmente aus der Geschichte des politischen Gleichgewichts*

Most people today would regard such disinterestedness as scarcely possible. But even this skepticism belongs to the crisis of parliamentarism. The features just mentioned, which still officially belong to parliamentary constitutions, make quite clear that all specifically parliamentary arrangements assume this particular concept of discussion. The universally repeated maxim, for example, that every member of parliament is the representative, not of a party, but of the whole people and is in no way bound by instructions (repeated in article 21 of the Weimar constitution) and the recurring guarantees of freedom of speech and public sittings only make sense in terms of a correct understanding of discussion.¹⁵ By contrast conduct that is not concerned with discovering what is rationally correct, but with calculating particular interests and the chances of winning and with carrying these through according to one's own interests is also directed by all sorts of speeches and declarations. But these are not discussions in the specific sense. When two businessmen have agreed after a trade rivalry to talk about mutual business opportunities, both have an eye naturally on their own profits, but they can still arrive at a businesslike compromise. Openness is just as inappropriate in this kind of deliberation as it is reasonable in a real discussion. There has been deliberation and compromise, as has already been noted, everywhere in world history. People know that it is better most of the time to tolerate one another than to quarrel and that a thin settlement is better than a thick lawsuit. That is without a doubt true, but it is not the principle of a specific kind of state or form of government.

The situation of parliamentarism is critical today because the development of modern mass democracy has made argumentative public discussion an empty formality. Many norms of contemporary parliamentary law, above all provisions concerning the independence of representatives and the openness of sessions, function as a result like a superfluous decoration, useless and even embarrassing, as though someone had painted the radiator of a modern central heating system with red flames in order to give the appearance of a blazing fire. The parties (which according to the text of the written constitution officially do not exist) do not face each other today discussing opinions, but as social or economic power-groups calculating their mutual interests and opportunities for power, and they actually agree compromises and coalitions on this basis. The masses are won over through a propaganda apparatus whose maximum effect relies on an appeal to immediate interests and passions. Argument in the real sense that is characteristic for genuine discussion ceases. In its place there appears a conscious reckoning of interests and changes for power in the parties' negotiations; in the treatment of the masses, posterlike, insistent suggestion or—as Walter Lippmann says in his very

Europa (1804); *Über den politischen Zustand Europas vor und nach der französischen Revolution* (1801–1802); *Betrachtung über den Ursprung und Charakter des Krieges gegen die französische Revolution* (1907). On the reception of Burke's ideas in Germany see Ursula Vogel, *Konservativer Kritik der bürgerlichen Revolution*. August Wilhelm Rehberg (Neuwied am Rhein & Berlin: Luchterhand, 1972).

¹⁵ [Tr.] Political parties had no constitutional status in the Republic; like the constitution of the United States, the Weimar constitution did not mention them, and certain of its provisions could even be interpreted as barriers to the functioning of modern political parties in the state. Nevertheless, "the Weimar Republic had developed into a 'party state' precisely because the parties elevated themselves, through the socially subordinate organs of the state's will, into principal organs of governmental power and thereby to direct factors in the state." See E. R. Huber, *Deutsche Verfassungsgeschichte seit 1789*, vol. 6 (Stuttgart: Verlag W. Kohlhammer, 1981), 135. See also Sigmund Neumann, *Die deutschen Parteien. Wesen und Wandel nach dem Krieg* (Berlin: Verlag Junker & Dünhaupt, 1932), and Ludwig Bergsträsser, *Geschichte der politischen Parteien in Deutschland* (Mannheim, Berlin, & Leipzig: J. Bensheimer, 1924).

shrewd, although too psychological, American book *Public Opinion*—the “symbol” appears.¹⁶ The literature on the psychology, technique, and critique of public opinion is today very large.¹⁷ One may therefore assume as well known today that it is no longer a question of persuading one’s opponent of the truth or justice of an opinion but rather of winning a majority in order to govern with it.

What Cavour identified as the great distinction between absolutism and constitutional regimes, that in an absolute regime a minister gives orders, whereas in a constitutional one he persuades all those who should obey, must today be meaningless. Cavour says explicitly: I (as constitutional minister) persuade that I am right, and it is only in this connection that his famous saying is meant: “The worst chamber is still preferable to the best antechamber.”¹⁸ Today parliament itself appears a gigantic antechamber in front of the bureaus or committees of invisible rulers. It is like a satire if one quotes Bentham today: “In Parliament ideas meet, and contact between ideas gives off sparks and leads to evidence.”¹⁹ Who still remembers the time when Prévost-Paradol saw the value of parliamentarism over the “personal regime” of Napoléon III in that through the transfer of real power it forced the true holders of power to reveal themselves, so that government, as a result of this, always represents the

¹⁶ Walter Lippmann, *Public Opinion* (London: George Allen & Unwin, 1922). A recently published book—interesting, witty, and important despite all its leaps of thought is Wyndham Lewis, *The Art of Being Ruled* (London: Chatto & Windus, 1922). Lewis explains the transition from the intellectual to the effective and sensual through modern democracy, which initiates a general “feminization” that suppresses the manly.

¹⁷ But in this respect a remark made by Robert Michels in the foreword to the second edition of his *Soziologie des Parteiwesens* (Leipzig: Alfred Kröner Verlag, 1926) is exactly appropriate: “In the area of theoretical, but also applied, mass psychology German social science is a few decades behind the French, Italian, American, and English” (p. xviii). It only remains to be said that a book such as Michels’s, with its astonishing wealth of material and thought, would certainly be well suited to compensate for a decade’s backlog. [In this passage Michels not only notes that social science in Germany has remained far behind that of other countries but also connects the Germans’ lack of theoretical interest to their political culture: “Investigations into the character and concept of party life and leadership seemed bizarre from the start to the dominant conservative tendency in German intellectual life. The German socialists were for their part certainly a mass party but their great strength lay in this concept remaining unexamined. Finally democrats, whether bourgeois or radical, prove themselves just as suspicious, ticklish, and easily offended when it comes to investigations of the problem of leadership as the bourgeoisie is when it comes to analysis of private property and profit. ... To these a third thing must be added: The German national character with its overestimation of organizational factors must feel very painfully touched by this critique of the nature of political parties, as if things particularly valuable and central to it had been attacked.” Michels remarks in this foreword on the increased interest throughout Europe, during and after the war, in the complex of questions raised by his work, and he notes the appearance of Schmitt’s *Parlamentarismus* in the Ernst Zitelman Festschrift (1923). See Michels, *Soziologie des Parteiwesens*, xix–xx; translated as *Political Parties: A Sociological Study of the Oligarchical Tendency of Modern Democracy* (New York: Free Press, 1962). The English and American social science literature seldom brings Michels’s work into its historical context or compares it with other contemporary works to which Michels refers, such as Oswald Spengler’s *Der Untergang des Abendlandes. Umriss einer Morphologie der Weltgeschichtliche* (1922–23) and Sigmund Freud’s *Massenpsychologie und Ich-Analyse* (1921).—tr.]

¹⁸ [Tr.] Comte de Cavour was an enthusiastic follower of Benjamin Constant and Francois Guizot, and supported the bourgeois revolution of 1830 that overthrew Charles X. Elected to parliament in July 1848, Cavour became finance minister in 1850.

¹⁹ [Tr.] For a lucid discussion of Bentham’s views on parliamentary government and publicity, see Rosen, *Jeremy Bentham and Representative Democracy*.

strongest power in a “wonderful” coordination of appearance and reality?²⁰ Who still believes in this kind of openness? And in parliament as its greatest “platform”?

The arguments of Burke, Bentham, Guizot, and John Stuart Mill are thus antiquated today. The numerous definitions of parliamentarism which one still finds today in Anglo-Saxon and French writings and which are apparently little known in Germany, definitions in which parliamentarism appears as essentially “government by discussion,”²¹ must accordingly also count as moldy. Never mind. If someone still believes in parliamentarism, he will at least have to offer new arguments for it. A reference to Friedrich Naumann, Hugo Preuss, and Max Weber is no longer sufficient. With all respect for these men, no one today would share their hope that parliament alone guarantees the education of a political elite. Such convictions have in fact been shaken and they can only remain standing today as an idealistic belief so long as they can bind themselves to belief in discussion and openness. What has been advanced during the last decades as new justifications for parliamentarism still only asserts that in our time parliament functions well or at least tolerably as a useful, even an indispensable, instrument of social and political technique. This is, just to affirm it once again, a completely plausible kind of observation. But one still has to take an interest in the deeper foundations of something Montesquieu called the principle of a state or governmental form, in the specific conviction that belongs to this as to every great institution, in the belief in parliament which once actually existed and which one no longer finds today.

In the history of political ideas, there are epochs of great energy and times becalmed, times of motionless status quo. Thus the epoch of monarchy is at an end when a sense of the principle of kingship, of honor, has been lost, if bourgeois kings appear who seek to prove their usefulness and utility instead of their devotion and honor.²² The external apparatus of monarchical institutions can remain standing very much longer after that. But in spite of it monarchy’s hour has tolled. The convictions inherent in this and no other institution then appear antiquated; practical justifications for it will not be lacking, but it is only an empirical question whether men or organizations come forward who can prove themselves just as useful or even more so than these kings and through this simple fact brush aside monarchy. The same holds true of the “social-technical” justifications for parliament. If parliament should change from an institution of evident truth into a simply practical-technical means, then it only has to be shown *via facta*, through some kind of experience, not even necessarily through an open, self-declared dictatorship, that things could be otherwise and parliament is then finished.

The belief in parliamentarism, in government by discussion, belongs to the intellectual world of liberalism. It does not belong to democracy. Both, liberalism and democracy, have to be distinguished

²⁰ [Tr.] Prévost-Paradol was a friend and classmate of Taine’s at the École Normale. He contributed political articles to the *Journal des Débats* and wrote three volumes of occasional pieces on public issues during the 1850s and 1860s (*Essais de politique et de littérature*).

²¹ [Tr.] The phrase is Harold Laski’s: “The fundamental hypothesis of government in a representative system is that it is government by discussion.” See Laski, “The Problem of Administrative Areas,” in *Foundations of Sovereignty* (New York: Harcourt, Brace & Co., 1921), 36.

²² [Tr.] The archetypal bourgeois king was Louis-Philippe. See Alfred Cobban, *A History of Modern France*, vol. 2 (Harmondsworth: Penguin, 1961), 133ff., and Karl Marx, “The Eighteenth Brumaire of Louis Bonaparte” (1852), in Karl Marx and Friedrich Engels, *Selected Works in Three Volumes* (Moscow: Progress Publishers, 1977), 394–487.

from one another so that the patchwork picture that makes up modern mass democracy can be recognized.

Every actual democracy rests on the principle that not only are equals equal but unequals will not be treated equally.²³ Democracy requires, therefore, first homogeneity and second—if the need arises—elimination or eradication of heterogeneity.²⁴ To illustrate this principle it is sufficient to name two different examples of modern democracy: contemporary Turkey, with its radical expulsion of the Greeks and its reckless Turkish nationalization of the country,²⁵ and the Australian commonwealth, which restricts unwanted entrants through its immigration laws, and like other dominions only takes emigrants who conform to the notion of a “right type of settler.”²⁶ A democracy demonstrates its political power by knowing how to refuse or keep at bay something foreign and unequal that threatens its homogeneity. The question of equality is precisely not one of abstract, logical-arithmetical games. It is about the substance of equality. It can be found in certain physical and moral qualities, for example in civic virtue, in *arete*, the classical democracy of *vertus* (*vertu*). In the democracy of English sects during the seventeenth century equality was based on a consensus of religious convictions.²⁷ Since the nineteenth century it has existed above all in membership in a particular nation, in national homogeneity.²⁸ Equality is only interesting and valuable politically so long as it has

²³ [Tr.] Cf. Aristotle, *Politics* (1280a): “In democracies ... justice is considered to mean equality. ... It does not mean equality—but equality for those who are equal, and not for all.” See also the *Ethics* (11376) on equity.

²⁴ [Tr.] Cf. Hermann Heller’s “Politische Demokratie und soziale Homogenität” (1928), in Heller, *Gesammelte Schriften*, ed., Christoph Müller, vol. 2 (Leiden: Sijthoff, 1971), 421–433, and the discussion of Heller in my introduction.

²⁵ [Tr.] A transfer of Greek and Turkish populations in southeastern Europe was agreed to in the Treaty of Lausanne (November 21, 1922) and began in 1923; 1.2 million Greeks were transferred from Asia Minor to the Greek mainland and 330,000 Turks were sent from Macedonia, Thessalonika, and Epirus to Turkey. For a description of the hardship involved see Winthrop D. Lane, “Why Greeks and Turks Oppose Being ‘Exchanged,’” *Current History* 18 (1923), 86–90.

²⁶ [Tr.] From the early nineteenth century Australian law excluded certain immigrants on racial grounds. The policy of maintaining a “white Australia” was justified on the grounds of Australia’s geographical location and its historic ties to Britain; Asians were the principal target group. This policy was defended in a study by Myrna Willard, *A History of the White Australia Policy* (Melbourne: University of Melbourne Press, 1923). She writes, “National self-preservation is the object of the policy. Australians feared that non-European immigration ... might radically alter, perhaps destroy, the British character of the community. They knew that racial unity, though not necessarily racial homogeneity, was essential for national unity, for the national life. The union of a people depends on common loyalty to common ideals. ... To preserve the unity of their national life, a people can admit emigrants from alien races only if within a reasonable time they show a willingness and a capacity to amalgamate ideally as well as racially with them. Australians have formed their restrictive policy because, through their own experience and the experience of other countries, they believed that at present non-Europeans of the labouring classes have neither this willingness nor this capacity” (pp. 189–190). Further, “a restrictive policy seemed to conflict with the conception of the brotherhood of man and with the democratic ideal of the equality of all ... [but] Australians felt that it was ultimately in the interests of the British Empire itself” (pp. 205–206).

²⁷ [Tr.] “The English Commonwealth was in form a democracy, as compared with most republics then existing, but in substance it was an oligarchy, half-religious, half-military” [F. C. Montagne, *The History of England: From the Accession of James I to the Restoration (1603–1660)* (London: Longmans, Green & Co., 1907)]. On the Puritan sects and the democratic theory of John Lilburne see William Haller, *Liberty and Reformation in the Puritan Revolution* (New York: Columbia University Press, 1955).

²⁸ The political substance that belongs to democracy can certainly not be found in economics. Political homogeneity does not follow from economic equality; to be sure, great economic inequalities can play a—

substance, and for that reason at least the possibility and the risk of inequality. There may be isolated examples perhaps for the idyllic case of a community in which relationship itself is sufficient, where each of the inhabitants possesses this happy independence equally and each one is so similar to every other one physically, psychically, morally, and economically that a homogeneity without heterogeneity exists, something that was possible in primitive agrarian democracies or for a long time in the colonial states. Finally one has to say that a democracy—because inequality always belongs to equality—can exclude one part of those governed without ceasing to be a democracy, that until now people who in some way were completely or partially without rights and who were restricted from the exercise of political power, let them be called barbarians, uncivilized, atheists, aristocrats, counterrevolutionaries, or even slaves, have belonged to a democracy.

Neither in the Athenian city democracy nor in the British Empire are all inhabitants of the state territory politically equal. Of the more than four hundred million inhabitants of the British Empire more than three hundred million are not British citizens. If English democracy, universal suffrage, or universal equality is spoken of, then these hundreds of millions in English democracy are just as unquestionably ignored as were slaves in Athenian democracy. Modern imperialism has created countless new governmental forms, conforming to economic and technical developments, which extend themselves to the same degree that democracy develops within the motherland. Colonies, protectorates, mandates, intervention treaties, and similar forms of dependence make it possible today for a democracy to govern a heterogeneous population without making them citizens, making them dependent upon a democratic state, and at the same time held apart from this state. That is the political and constitutional meaning of the nice formula “the colonies are foreign in public law, but domestic in international law.” Current usage, that is, the vocabulary of the Anglo-Saxon world press, which Richard Thoma submits to and even accepts as the standard for a theoretical definition, ignores all of that. For him apparently every state in which universal and equal voting rights are made “the foundation of the whole” is a democracy.²⁹ Does the British Empire rest on universal and equal voting rights for all of its inhabitants? It could not survive for a week on this foundation: with their terrible majority, the coloreds would dominate the whites. In spite of that the British Empire is a democracy. The same applies to France and the other powers.³⁰

Universal and equal suffrage is only, quite reasonably, the consequence of a substantial equality within the circle of equals and does not exceed this equality. Equal rights make good sense where homogeneity exists. But the “current usage” of “universal suffrage” implies something else: Every adult person, simply as a person, should *eo ipso* be politically equal to every other person. This is a

negative—role in destroying or endangering political homogeneity. The further development of this thesis belongs to another context.

²⁹ [Tr.] Thoma argues that democracy requires universal suffrage; see my introduction to this volume.

³⁰ [Tr.] “It is true that Arabs could acquire, by naturalization, all the rights of French citizens; all they had to do was abandon their status in Moslem law, adopt monogamy, accept the full principles of the civil code: in short, by their standards, cease to be Moslems. Few were willing to pay this price” [D. W. Brogan, *The Development of Modern France (1870–1939)* (London: Hamish Hamilton, 1967), 222]. John R. Seeley (an exponent of the “Greater Britain” idea) wrote that India could not be part of Greater Britain in the same sense as “tens of millions” of Englishmen who lived outside the British Isles could be; on this strain of British imperial thought see John S. Galbraith, “The Empire since 1783,” in Robin W. Winks, *The Historiography of the British Empire-Commonwealth* (Durham: Duke University Press, 1966).

liberal, not a democratic, idea; it replaces formerly existing democracies, based on a substantial equality and homogeneity, with a democracy of mankind. This democracy of mankind does not exist anywhere in the world today. If for no other reason than because the earth is divided into states, and indeed mostly into nationally homogeneous states, which try to develop democracy internally on the basis of national homogeneity and which, besides that, in no way treat every person as an equally entitled citizen.³¹ Even a democratic state, let us say the United States of America, is far from allowing foreigners to share in its power or its wealth. Until now there has never been a democracy that did not recognize the concept “foreign” and that could have realized the equality of all men. If one were serious about a democracy of mankind and really wanted to make every person the equal politically of every other person, then that would be an equality in which every person took part as a consequence of birth or age and nothing else. Equality would have been robbed of its value and substance, because the specific meaning that it has as political equality, economic equality, and so forth—in short as equality in a particular sphere—would have been taken away. Every sphere has its specific equality and inequalities in fact. However great an injustice it would be not to respect the human worth of every individual, it would nevertheless be an irresponsible stupidity, leading to the worst chaos, and therefore to even worse injustice, if the specific characteristics of various spheres were not recognized. In the domain of the political, people do not face each other as abstractions, but as politically interested and politically determined persons, as citizens, governors or governed, politically allied or opponents—in any case, therefore, in political categories. In the sphere of the political, one cannot abstract out what is political, leaving only universal human equality; the same applies in the realm of economics, where people are not conceived as such, but as producers, consumers, and so forth, that is, in specifically economic categories.

An absolute human equality, then, would be an equality understood only in terms of itself and without risk; it would be an equality without the necessary correlate of inequality, and as a result conceptually and practically meaningless, an indifferent equality. Now, such an equality certainly does not exist anywhere, so long as the various states of the earth, as we said above, distinguish their citizens politically from other persons and exclude politically dependent populations that are unwanted, on whatever grounds, by combining dependence in international law with the definition of such populations as alien in public law. In contrast it appears that at least inside the different modern democratic states universal human equality has been established; although there is of course no absolute equality of all persons, since foreigners and aliens remain excluded, there is nevertheless a relatively far-reaching human equality among the citizenry. But it must be noted that in this case national homogeneity is usually that much more strongly emphasized, and that general human equality is once again neutralized through the definitive exclusion of all those who do not belong to the state, of those who remain outside it. Where that is not the case, where a state wants to establish general human equality in the political sphere without concern for national or some other sort of homogeneity, then it cannot escape the consequence that political equality will be devalued to the extent that it approximates absolute human equality. And not only that. The sphere of the political and therefore politics itself would also be devalued in at least the same degree, and would become

³¹ At least in this respect, a “pluralism” exists. For the social pluralism into which contemporary democracies of mankind will dissolve, according to the prognosis of M. J. Bonn in *Die Krisis der europäischen Demokratie* (1925), another, more effective form already exists and has always existed.

something insignificant. One would not only have robbed political equality of its substance and made it meaningless for individual equals, but politics would also have become insubstantial to the extent that such an indifferent equality is taken seriously. Matters that are dealt with by the methods of an empty equality would also become insignificant. Substantive inequalities would in no way disappear from the world and the state; they would shift into another sphere, perhaps separated from the political and concentrated in the economic, leaving this area to take on a new, disproportionately decisive influence. Under conditions of superficial political equality, another sphere in which substantial inequalities prevail (today, for example, the economic sphere) will dominate politics. This is completely unavoidable and any reflection on political theory recognizes it as the real grounds for the much-deplored dominance of economics over state and politics. Wherever an indifferent concept of equality, without the necessary correlate of inequality, actually takes hold of an area of human life, then this area loses its substance and is overshadowed by another sphere in which inequality then comes into play with ruthless power.

The equality of all persons as persons is not democracy but a certain kind of liberalism, not a state form but an individualistic-humanitarian ethic and *Weltanschauung*.³² Modern mass democracy rests on the confused combination of both. Despite all the work on Rousseau and despite the correct realization that Rousseau stands at the beginning of modern democracy, it still seems to have gone unnoticed that the theory of the state set out in *Du Contrat social* contains these two different elements incoherently next to each other.³³ The façade is liberal: the state's legitimacy is justified by a free contract. But the subsequent depiction and the development of the central concept, the "general will," demonstrates that a true state, according to Rousseau, only exists where the people are so homogeneous that there is essentially unanimity. According to the *Contrat social* there can be no parties in the state, no special interests, no religious differences, nothing that can divide persons, not even a public financial concern. This philosopher of modern democracy, respected by significant national economists such as Alfred Weber³⁴ and Carl Brinkmann,³⁵ says in all seriousness: finance is something for slaves, a *mot d'esclave*.³⁶ It should be noticed that for Rousseau the word *slave* has an entirely consequential meaning attained in the construction of the democratic state; it signifies those who do not belong to the people, the unequal, the alien or noncitizen who is not helped by the fact that *in abstracto* he is a "person," the heterogeneous, who does not participate in the general homogeneity and is therefore rightly excluded from it. According to Rousseau this unanimity must go so far that the

³² The distinction (between democracy and liberalism) has been very successfully brought out in an essay by Werner Becker ["Demokratie und Massenstaat"] in the journal [*Die*] *Schildgenossen* (September 1925) [459–478]. It is based on an excellent paper read at my politics seminar during the summer semester, 1925. Herman Hefele's article ["Demokratie und Liberalismus"] in *Hochland* (November 1924) [34–43] also emphasizes the distinction between liberalism and democracy. Nevertheless I maintain, in contrast to Becker and Hefele, that the definition of democracy is an identity of governed and governing.

³³ [Tr.] Jean-Jacques Rousseau, *Du contrat social* (1762); English translation by Maurice Cranston, *The Social Contract* (Harmondsworth: Penguin, 1968). Cf. Schmitt's review of C. E. Vaughn's *Studies in the History of Political Philosophy before and after Rousseau* (London: Longmans, Green & Co., 1925) in the *Deutsche Literatur-Zeitung* 46 (1925), 2086–2090.

³⁴ Alfred Weber, *Die Krise des modernen Staatsgedankens in Europa* (1925).

³⁵ Carl Brinkmann, "Carl Schmitt's *Politische Romantik*," *Archiv für Sozialwissenschaft und Sozialpolitik* 54 (1925), 533.

³⁶ [Tr.] "Ce mot de *Finance* est un mot d'esclave; il est inconnu dans le cité." *Du contrat social*, Bk. III, chap. 15, sect. 3.

laws come into existence *sans discussion*. Even judges and parties in a suit must want the same,³⁷ whereby it is never even asked which of the two parties, accused or accuser, wants the same. In short, homogeneity elevated into an identity understands itself completely from itself. But if unanimity and agreement of all wills with one another is really so great, why then must another contract be concluded or even construed? A contract assumes differences and oppositions. Unanimity, just like the general will, is either there or not and it may even be, as Alfred Weber has accurately pointed out, naturally present.³⁸ The idea of a free contract of all with all comes from a completely different theoretical world where opposing interests, differences, and egoisms are assumed. This idea comes from liberalism. The general will as Rousseau constructs it is in truth homogeneity. That is a really consequential democracy. According to the *Contrat social*, the state therefore rests not on a contract but essentially on homogeneity, in spite of its title and in spite of the dominant contract theory. The democratic identity of governed and governing arises from that.

The state theory of the *Contrat social* also proves that democracy is correctly defined as the identity of governed and governing. When it has been noticed, this definition,³⁹ which appears in my *Politische Theologie* (1922) and in the article on parliamentarism, was partially rejected and partially taken over. Here I would like to mention that while its application to contemporary state theory and its extension to a new range of identities are new, it is ultimately an ancient, one can even say classical, definition that conforms to a tradition that is for these reasons no longer well known. Because of its reference to interesting and particularly urgent consequences in public law today, Pufendorf's formulation should be quoted.⁴⁰ In a democracy, where those who command and those who obey are identical, the sovereign, that is, an assembly composed of all citizens, can change laws and change constitutions at will; in a monarchy or aristocracy, "where there are some who command and some who are commanded," a mutual contract is possible, according to Pufendorf, and thus also a limitation of state power.

A popular presentation sees parliamentarism in the middle today, threatened from both sides by Bolshevism and Fascism. That is a simple but superficial constellation. The crisis of the parliamentary

³⁷ "On doit concevoir . . . faute d'un intérêt commun qui unisse et identifie la règle du juge avec celle de la partie." *Du contrat social*, Bk. II, chap. 4, sect. 7.

³⁸ [Tr.] Weber, *Krise des modernen Staatsgedankens*.

³⁹ [Tr.] "To the concept of God in the seventeenth and eighteenth centuries belonged the idea of the transcendence of God over the world, as the transcendence of the sovereign over the state belonged to its state philosophy. In the nineteenth century everything became increasingly dominated by conceptions of immanence. All the identities that recur repeatedly in the political theory and jurisprudence of the nineteenth century rest on such conceptions of immanence: the democratic thesis about the identity of the governed and the governing; the organized state theory and its identity of the state and sovereignty; the jurisprudence of Krabbe and its identification of sovereignty with the positive law, and finally Kelsen's theory of the identity of the state with the system of positive law" [Schmitt, *Politische Theologie* (Munich & Leipzig: Duncker & Humblot, 1922), 63]. On legal positivism see my introduction to this volume.

⁴⁰ Pufendorf, *De jure naturae at gentium* (1672), Bk. VII, chap. 6, sect. 8. [A two-volume edition of the original text and an English translation was published by the Clarendon Press in 1934. Schmitt refers to the chapter "On the Characteristics of Supreme Sovereignty" and the following passage: "But in aristocracies and monarchies, where there are some who command and some who obey, and when therefore the latter can secure some fights from the promises and pacts of the former, there is clearly to be seen a difference between absolute and limited sovereignty" (vol. 2, p. 1065).—tr.]

system and of parliamentary institutions in fact springs from the circumstances of modern mass democracy. These lead first of all to a crisis of democracy itself, because the problem of a substantial equality and homogeneity, which is necessary to democracy, cannot be resolved by the general equality of mankind. It leads further to a crisis of parliamentarism that must certainly be distinguished from the crisis of democracy. Both crises have appeared today at the same time and each one aggravates the other, but they are conceptually and in reality different. As democracy, modern mass democracy attempts to realize an identity of governed and governing, and thus it confronts parliament as an inconceivable and outdated institution. If democratic identity is taken seriously, then in an emergency, no other constitutional institution can withstand the sole criterion of the people's will, however it is expressed. Against the will of the people especially an institution based on discussion by independent representatives has no autonomous justification for its existence, even less so because the belief in discussion is not democratic but originally liberal. Today one can distinguish three crises: the crisis of democracy (M. J. Bonn directs his attention to this without noticing the contradiction between liberal notions of human equality and democratic homogeneity); further, a crisis of the modern state (Alfred Weber); and finally a crisis of parliamentarism.⁴¹ The crisis of parliamentarism presented here rests on the fact that democracy and liberalism could be allied to each other for a time, just as socialism and democracy have been allied; but as soon as it achieves power, liberal democracy must decide between its elements, just as social democracy, which is finally in fact a social-liberal democracy inasmuch as modern mass democracy contains essentially liberal elements, must also decide. In democracy there is only the equality of equals, and the will of those who belong to the equals. All other institutions transform themselves into insubstantial social-technical expedients which are not in a position to oppose the will of the people, however expressed, with their own values and their own principles. The crisis of the modern state arises from the fact that no state can realize a mass democracy, a democracy of mankind, not even a democratic state.

Bolshevism and Fascism by contrast are, like all dictatorships, certainly antiliberal but not necessarily antidemocratic. In the history of democracy there have been numerous dictatorships, Caesarisms, and other more striking forms that have tried to create homogeneity and to shape the will of the people with methods uncommon in the liberal tradition of the past century. This effort belongs to the undemocratic conception, resulting from a blend of liberal principles in the nineteenth century that a people could only express its will when each citizen voted in deepest secrecy and complete isolation, that is, without leaving the sphere of the private and irresponsible, under "protective arrangements" and "unobserved"—as required by Reich voting law in Germany.⁴² Then every single vote was registered and an arithmetical majority was calculated. Quite elementary truths have thus been lost and are apparently unknown in contemporary political theory. "The people" is a concept in public law.⁴³ The people exist only in the sphere of publicity. The unanimous opinion of one hundred million private persons is neither the will of the people nor public opinion. The will of the people can be expressed just as well and perhaps better through acclamation, through something taken for granted,

⁴¹ [Tr.] See note 13, above.

⁴² [Tr.] Article 125 of the Weimar constitution stated: "The freedom and the secrecy of the ballot are guaranteed." Reich and Länder legislation defined this provision further. See Gerhard Anschütz, *Die Verfassung des deutschen Reichs vom 11 August 1919* (Berlin: Stilke Verlag, 1928), 332–333.

⁴³ [Tr.] Schmitt quotes from the second sentence of the Weimar constitution; see Anschütz, *Die Verfassung des deutschen Reichs*, 36ff., on the meaning of the sentence "All state power comes from the people."

an obvious and unchallenged presence, than through the statistical apparatus that has been constructed with such meticulousness in the last fifty years. The stronger the power of democratic feeling, the more certain is the awareness that democracy is something other than a registration system for secret ballots. Compared to a democracy that is direct, not only in the technical sense but also in a vital sense, parliament appears an artificial machinery, produced by liberal reasoning, while dictatorial and Caesaristic methods not only can produce the acclamation of the people but can also be a direct expression of democratic substance and power.

Even if Bolshevism is suppressed and Fascism held at bay, the crisis of contemporary parliamentarism would not be overcome in the least. For it has not appeared as a result of the appearance of those two opponents; it was there before them and will persist after them. Rather, the crisis springs from the consequences of modern mass democracy and in the final analysis from the contradiction of a liberal individualism burdened by moral pathos and a democratic sentiment governed essentially by political ideals. A century of historical alliance and common struggle against royal absolutism has obscured the awareness of this contradiction. But the crisis unfolds today ever more strikingly, and no cosmopolitan rhetoric can prevent or eliminate it. It is, in its depths, the inescapable contradiction of liberal individualism and democratic homogeneity.