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A Lost Opportunity to Parliamentarise the European Commission

Bagehot, Weber and a debate in 1960

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Abstract

The article emphasises the significance of EU studies for political thought and concepts. It deals with the seemingly technical topic of the membership of cabinet ministers in parliament. This practice arose in eighteenth-century Westminster and has been discussed since the mid-nineteenth century, Walter Bagehot's and Max Weber's writings being landmarks. When the European Parliamentary Assembly in 1960 interpreted the Treaty of Rome, it took the view, by a narrow margin, that membership in the Parliament was incompatible with membership in the Commission. The debate on the compatibility of dual membership could a way to promote the parliamentarisation of the EU.

Keywords: parliamentarism, separation of powers, Walter Bagehot, Max Weber, European Commission, European Parliamentary Assembly 1960, parliamentarisation of the EU

Separation of powers vs. parliamentarism

Democratic and representative political regimes can roughly be divided into two ideal types: parliamentary regimes and separation-of-power regimes. Britain epitomises the classical approximation to the first; the United States the second. Walter Bagehot claimed that the English constitution is 'a nearly complete fusion of the legislative and executive powers,'[1] as opposed to the presidential government of the United States, which Congress cannot dismiss. In this article, I will discuss this divide by examining the British practice in which ministers may be selected from among the members of parliament and retain their seats as parliamentarians. Whether the government ministers are understood to be officials or politicians largely depends on their status in parliament.

The European Union (EU), for its part, is a hybrid. There is a type of separation of powers between its major institutions (the European Parliament, the European Commission, the Council of the European Union, the European Council). However, each of the institutions contains parliamentary aspects in its own mode of proceedings. For judging the parliamentary quality of the EU, the question of whether members of the European Parliament may be elected commissioners and retain their parliamentary seats while serving as commissioners is of major importance, although this question is seldom debated among the EU politicians and scholars of today.

As a first step I shall present the classical arguments for the parliamentary responsibility of the government and for the membership of ministers in parliament. The practice of allowing dual membership in parliament and the cabinet became common already in the eighteenth century in Britain,[2] and was strengthened particularly by Henry George Grey and Walter Bagehot after the 1832 parliamentary reform and the

[1] W. Bagehot, *The English Constitution* (1867/1872) (Cambridge, 2001), p. 11.

[2] See W. Selinger, *Parliamentarism from Burke to Weber* (Cambridge, 2019), esp. pp. 47–58.

subsequent full parliamentarisation of government in Britain. The French system has remained ambiguous in its relationship towards parliamentarism since the French Revolution to the present. In the German Empire, the parliamentarisation of the government was on the agenda especially from 1917 until its end, and I shall analyse Max Weber's defence of parliamentary ministers, which was a major contribution to this debate.

Parliamentary governments are, of course, compatible with an independent judiciary, but the strong constitutional court in countries such as Germany and France limits the sovereignty of their parliaments. However, the discussion below is shaped by the fact that West European countries are divided regarding whether a minister can stay in parliament or must give up their parliamentary seat while serving as a minister. By the Bagehotian criteria, only the former group can be called parliamentary regimes.

In the debates on the application of the Treaty of Rome (1957), the status of the commissioners of the European Communities in relation to the European Parliamentary Assembly (EPA) raised a controversy. The debates concerned whether the European Commission is a cabinet-like political institution or a bureaucracy with a politically appointed head unaffiliated with parliament. I shall look at the EPA debates in 1960 in relation to the historical arguments in favour of parliamentary ministers.

Although European Parliament has gained de facto powers to appoint and dismiss the president and the members of the European Commission,[3] the formal bar against concurrent membership in the Commission and in Parliament persists. Removing this restriction could be an efficient move toward parliamentarisation of the EU. I shall discuss different ideal types for selecting commissioners from among the members of the European Parliament. The discussion will concern both the realizability of the

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3 See T. Tiilikainen and C. Wiesner, 'Towards a Political Theory of the EU,' in P. Ihalainen, C. Ilie and K. Palonen eds. *Parliament and Parliamentarism* (Oxford, 2016), pp. 292–310.

different options, and the type and degree of the parliamentarisation that such methods would bring to the EU.

Parliamentarians as ministers in Britain

The Long Parliament under the English Revolution in the 1640s had demonstrated for later times that parliament cannot govern by itself. Instead. a government under the control of the parliament was needed, as was well understood by the Glorious Revolution of 1688/89. How this control was to be achieved remained a matter of controversy. In the 1730s, the presence of an opposition in parliament was recognised.[4] In 1741 Samuel Sandys put forward a motion in the House of Commons for the dismissal of the Walpole government on purely political grounds, without using camouflaging juridical instruments such as impeachment.[5] One year later, Walpole resigned, having lost the confidence of the majority in the House of Commons. The task of turning the government's responsibility to parliament into a constitutional principle lasted almost 100 years. Only after the Great Reform Act of 1832 was it formally recognised that a government which lost a vote of no confidence in the Lower House must resign.[6]

Montesquieu presents his celebrated principle of separation between legislative, executive and judicial powers in the beginning chapter 'De la constitution de l'Angleterre' of the first volume of *De l'esprit des lois*.[7] In point of fact, Montesquieu said hardly anything in that chapter about England, discussing instead the ancient

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4 See K. Kluxen, *Das Problem der politischen Opposition* (Freiburg, 1956); Q. Skinner, 'The Principles and Practice of Opposition: The case of Bolingbroke versus Walpole,' in N. McKendrick (ed.) *Historical Perspectives*, (London, 1974), pp. 93–128.

5 T. Turkka, *Origins of Parliamentarism. A study on the Sandys motion* (Baden-Baden, 2007).

6 See e.g. N. Andrén, *Den klassiska parlamentarismens genombrott i England* (Uppsala, 1947).

7 Charles Louis de Secondat Montesquieu, 'Il y a dans chaque État, trois sortes de pouvoirs; la puissance législatif, la puissance exécutrice des choses qui dépendent du droit de gens, et la puissance exécutrice de celles qui dépendent du droit civil,' *De l'esprit des lois I-II* (Paris, 1979 [1748]), p. 294.

realms and the Dutch and Venetian regimes in the modern era. What he does state finally is that the English have established liberty in their laws.[8]

In his recent study *Parliamentarism from Burke to Weber,* William Selinger claims that Montesquieu's view on the English constitution was by no means generally shared among his contemporaries in Britain. 'Put it simply, a great many observers believed the English constitution was *not* actually balanced and that the prerogatives of the House of Commons were decisively superior to those of Lords and Crown. This was both celebrated and lamented'.[9] Contra Montesquieu was Jean Louis de Lolme who, in *The Constitution of England* (1771), argued that 'liberty *required* the House of Commons to be predominant over the Crown'.[10] More generally, Selinger concludes: 'Across the eighteenth century, ministers were regularly drawn from the House of Commons, and they fulfilled their executive duties while serving simultaneously in the legislative'.[11] He discusses in detail how politicians from Walpole to Burke defended this practice: Burke 'argued that the highest executive officials should be members of Parliament, and that the Parliament should have a decisive say over their appointments'.[12] In other words, as members of parliament the ministers would represent the monarch towards parliament and vice versa.

After the reform of the parliament and the subsequent full parliamentarisation of government, the opposition between the parliamentary and presidential system became clearer. It was emphasised by Henry George Grey, who saw, in a key passage of *Parliamentary Government Considered with the Reference to Reform of Parliament,* the parliamentary seat of ministers as key element of parliamentary government.

8 Ibid. p. 304.

9 Selinger, *Parliamentarism,* pp. 18–9.

10 Ibid. p. 41.

11 Ibid. p. 47.

12 Ibid. p. 69.

It is the distinguishing characteristic of Parliamentary Government, that it requires the powers belonging to the Crown to be exercised through Ministers, who are held responsible for the manner in which they are used, who are expected to be members of the two Houses of Parliament, the proceedings of which they must be able generally to guide, and who are considered entitled to hold their offices only while they possess the confidence of the Parliament, and more especially of the House of Commons.[13]

Grey understood that ministers must also 'be able … to guide' the parliament, that is, to retain a priority in parliamentary initiative over the party groups and backbenchers. If this was not the case, he writes, '[w]e should have a government at once weak, capricious and tyrannical'.[14] The 1688 reform had prevented the development in Britain of what was known in France under the Third Republic as the *régime d'assemblée*. The British parliamentary ideal was a government in which the ministers knew the parliamentary procedures and rhetorical practices, as well as their advantages over the non-deliberative practices of officials and outside experts serving as ministers.

The classical defence of a parliamentary ministry is Walter Bagehot's *The English Constitution* (1867/1872). He emphasises the role of the cabinet collegium as the core of the ministry: 'By that new word we mean a committee of the legislative body selected to be the executive body. …It chooses for this, its main committee, the men to whom it has most confidence'.[15] However, the cabinet is 'a committee which can dissolve the assembly which appointed it; it is a committee with a suspensive veto'[16] that is, the right of the prime minister to dissolve the parliament.

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13 H. G. Grey, *Parliamentary Government Considered with Reference to Reform* (London, 1858), https://archive.org/details/parliamentarygo01greygoog/, p. 4. See also p. 66.
14 Ibid. p. 94.
15 Bagehot, *The English Constitution*, p. 9.
16 Ibid. p. 11.

To understand the cabinet as an executive committee of the parliament turns the tables in the relationship between parliament and government. Even if Bagehot also understands that the government is the permanent feature of any state and the parliament is mainly counterforce to hold the government in check, the parliamentarisation concerns the political top of the government, that is, the cabinet. Bagehot points out that the cabinet is not only responsible to parliament for its policies but forms a special kind of committee of the parliament, which, like all other committees, can consist merely of members of parliament. The procedure of parliamentary committees, based on debating *pro et contra,* provides the model for the internal 'collegial' working of the cabinet. The prime minister of the cabinet is comparable to the chair of a parliamentary committee, who has extensive powers not only in agenda-setting and conducting the debates of the committee, but also in being responsible for the committee towards the parliament as such.

The right to dissolve the parliament gives the prime minister, as the head of the cabinet, a guarantee against the danger of an irresponsible parliament. Bagehot is a strong advocate for a political minister remaining a member of parliament due to the advantages of that position in relation to both parliament and the officials of the ministry. 'The incessant tyranny of Parliament over public offices is prevented and can be prevented only by the appointment of a parliamentary head, connected by close ties with the present ministry and the ruling party in Parliament'[17]. In other words, the parliamentary minister can defend the policy of the government on an equal footing with other parliamentarians, being also one of them. At the same time a minister as an MP can protect the parliament from the cabinet's disregard for political considerations and against the bureaucratic self-sufficiency of ministerial officials: 'the intrusion from

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17 Ibid. p. 129.

without upon an office of an external head is not an evil, but that, on the contrary, it is essential for the perfection of that office'[18].

This dual position of a parliamentary minister gives her independent powers in both directions; however, the political status of the position remains ambivalent. A minister is a salaried state official, but has as a parliamentarian only one vote, as do all other MPs. In debate, ministers are in principle as free as any other members, but they are bound to defend the government motions and answer to members' questions and assertions regarding the ministry. The Bagehotian view allows ministers to take stand for their office or for the parliament separately in each case, while retaining a collegial loyalty to the cabinet as a whole.

The committee character of the cabinet allows Bagehot to replace the old conflict between parliament and government with a new divide: that between government and opposition *inside* parliament. The new disputes on the scarcity of parliamentary time and its distribution, activated by the Irish members in Westminster in the 1870s and 1880s, led to procedural reforms in the House of Commons and tended to increase the government's power in parliamentary agenda-setting and in deciding on the distribution of time, against which the parliament responded by procedural means in order to affirm its powers. The membership of ministers in parliament was not a sufficient guarantee, however, against government acquiring arbitrary powers.[19]

Ministers and parliament in France and Germany

The French Revolution followed the US model in insisting on the separation of powers, including the incompatibility of being a minister in government and at the same time a

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18 Ibid. p. 136.

19 See K. Palonen, *The Politics of the Parliamentary Procedure. The formation of the Westminster procedure as a parliamentary ideal type* (Leverkusen, 2014).

member of the *Assemblée nationale*: 'Sous la Constitution de 1791, les ministres ne pouvaient pas d'être députés'.[20] J.A.W. Gunn comments on the different ministerial styles: 'French ministers were pre-eminently administrators, whereas their British counterparts … excelled as speakers in parliament and party men'[21]. However, during the French restoration era the situation began to change, and Benjamin Constant in particular idealised the British practice instead.[22] Alan Laquièze notes that, while the Chartes of 1814 and 1830 allowed French ministers to enter and speak in the chambers, few ministers before the July monarchy were members of parliament.[23]

In the Third Republic, the parliamentary principle of the compatibility of parliamentary membership of ministers was strongly established, as Jules Poudra and Eugène Pierre write in their procedural commentary.[24] Not even in the Third Republic, however, was membership in the parliament obligatory for ministers, although the vast majority of them were parliamentarians, and this practice was continued in the Fourth Republic.

The Fifth Republic with its 'rationalised parliamentarism' or 'semi-presidentialism' broke with the principle, as stated in Article 23 of the Constitution of 4 October 1958.[25] Literature on the Gaullist regime has not paid major attention to this aspect, though there were important changes. For example, legitimation was given to the practice of electing 'technical ministers' without a parliamentary seat or

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20 J. Poudra and E. Pierre (*Traité pratique de droit parlementaire*, 1878, https://gallica.bnf.fr/ark:/12148/bpt6k58651348.langFR), p. 173. See Selinger, *Parliamentarism*, pp. 86–7.

21 J.A.W. Gunn, *When the French Tried to Be British. Party, Opposition and the Quest for Civil Disagreement 1814–1848* (Montreal: McGill-Queens University Press 2009), p. 211.

22 '[L]es ministres, siégeant dans les chambres, au nombre des représentants,' B. Constant, Principes du politique applicables à tous des gouvernements representatifs et particulièrement à la Constitution actuelle du France,' in *De la liberté chez les Modernes* (Paris, 1980 [1815]), p. 331.

23 A. Laquièze. *Les origines du régime parlementaire en France (1814-1848)* (Paris, 2002); '[s]ous le monarchie de Juillet, la compatibilité des fonctions devient quasi-systématique,' p. 224, see Poudra et Pierre, *Traité pratique*, p. 174.

24 'Aujourd'hui, les ministres … peuvent être membres du Sénat ou de la Chambre des Députés, and leurs fonctions ont compatibles avec le mandate du Sénateur ou de Député,' Poudra et Pierre, *Traité pratique*, p. 176.

25 'Les fonctions de membre du Gouvernement sont incompatibles avec l'exercice de tout mandat parlementaire,' (Texte intégral de la Constitution du 4 octobre 1958 en vigueur.) https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur.

parliamentary experience,[26] demonstrating the new priority given to executive power during the Fifth Republic.[27]

The male suffrage in the Reichstag elections of the Norddeutscher Bund from 1867 and of the German Empire from 1871 marked a degree of democratisation of the polity. In contrast, the federal states retained a census for the suffrage or plutocratic tripartite division of the electorate on the basis of taxation as in the election of the Prussian Landtag. A certain practice of parliamentary culture was part of this relative democratisation,[28] but without a parliamentary government. The Reichstag did not play any role in electing or dismissing the government, and there was no federal government at all, only the *Reichskanzler*, whereas Prussia and the other federal states had their own ministers without responsibility to parliaments.[29] Chancellor Otto v. Bismarck's view on parliament's political role can be compared with the later façade parliaments in the Soviet-style regimes. In a Reichstag debate on payment members of the Reichstag, he defended short parliament sittings and non-professional parliaments.[30]

Max Weber on parliamentarisation

Projects for parliamentarisation of the German Empire could be found among left-wing liberals and reformist social democrats.[31] Max Weber was among the few academics to support both parliamentarism and democracy as counterforces to what he saw as an omnipresent tendency towards bureaucratisation. In spring 1917 Conrad Haußmann

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26 See J. Garrigues dir, *L'histoire du parlement* (Paris, 2007), p. 437.

27 This change is discussed in detail in N. Roussellier, *La force de gouverner. Le pouvoir exécutif en France, XIX-XXI siècles* (Paris, 2015).

28 See M. L. Anderson, *Practising Democracy. Elections and Political Culture in Imperial Germany.*(Princeton, 2000).

29 See S. Whimster, 'Max Weber and Federal Democracy'. *Journal of Classical Sociology* 19, 2019, pp. 345–360.

30 Otto v. Bismarck, 'Wenn die Volksvertretungen wirklich ein lebendiges Bild der Bevölkerung zu geben fortfahren sollen, da müssen wir nothwendig kurze Parlamentssitzungen haben, … sonst können diese Leute nicht bereitwillig und mit voller Eingabe dazu herbeilassen, als Wahlkandidaten aufzutreten' (Reichstag, https://www.reichstagsprotokolle.de/index.html, 19 April 1871).

31 See M. Llanque, *Demokratisches Denken im Kriege* (Berlin, 2000).

from the liberal *Fortschrittliche Volkspartei* asked Weber for reform proposals. The removal of Article 9 of the *Reichsverfassung,* which excluded ministers from membership in the Reichstag, was a central point for Weber,[32] who did not see any substantial reasons (*sachliche Gründe*) for maintaining the paragraph.[33]

In a *Frankfurter Zeitung* article spring 1917 Weber's primary justification for removing the bars against dual membership was explicitly political: parliamentarians as ministers of the *Reich* should not lose their parliamentary influence,[34] Weber wanted to regard ministers as politicians allowed to stay in the Reichstag. This modest proposition did not yet introduce the 'parliamentary system', as that would have required a major constitutional change.[35] Weber supported parliamentary government on the principle that, while officials should follow the instruction of their superiors, politicians should follow their own convictions (*Überzeugungen*).[36] This demand, if met, would enable a minister's position as being a major step in their political career. In a further article from October 1917, Weber affirms with Bagehot the entrance of parliamentarians into government as strengthening a legitimate political leadership over the parliament, whereas in the existing system, the Reichstag remained a place for careerists without political influence over the parliament.[37]

Weber's main publication on the topic is, of course, *Parlament und Regierung im neugeordneten Deutschland*, based on a series of articles in *Frankfurter Zeitung* in spring 1917, later revised into an *akademische Streitschrift* in book form, published in

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32 M. Weber, 'Aufhebung der Inkompatibilität der Mitgliedschaft im Reichstag und Bundesrat', in Vorschläge zur Reform der Verfassung des Deutschen Reichs', *Max-Weber-Studienausgabe* I/15, eds W. J. Mommsen and G. Hübinger (Tübingen, 1984), p. 123.

33 Weber thought that it was politically an obvious mistake (*direkt fehlerhaft*) to treat Bundesrat and Reichstag as if they were necessarily opposed to each other, 'zwei notwendig gegnerische Mächte', ibid. p. 124.

34 'wenn Parlamentarier in leitende Reichsämter berufen werden sollen, ohne zugleich ihren Einfluß innerhalb des Parlaments aufgeben müssen', in 'Die Abänderung des Artikels 9 der Reichsverfassung' (*Max-Weber-Studienausgabe* I/15), p. 137.

35 'daß die leitenden Minister zugleich Führer der ausschlaggebenden Partei sein *müssen*, während die Beseitigung jener Bestimmung dies lediglich *ermöglichen* will. Ibid. p. 138.

36 Ibid. pp. 138–9.

37 'Stätte für das Getriebe von Strebern und Stellenjägern, ohne aber ihm politischen Einfluß einzuräumen' in 'Bismarcks Erbe in der Reichsverfassung,' (*Max-Weber-Studienausgab*e I/15), p. 153.

spring 1918.[38] Weber summarises his demand for bringing German practices in line with those in parliamentary countries and to remove the peculiar possibility that a minister could be member of the Landtag of federal states, but not of the Reichstag.[39]

This would not yet mean a full transition to the parliamentary system, but it would allow competent parliamentarians to be part of the leadership of the Reich.[40] The continuing party affiliation of a minister is not an argument against the juridical status of the minister as an official, although they would be dismissible by the parliament at any time and no formal qualifications for the office would be required. Weber insists, with Bagehot, that particularly the chancellor and the foreign minister should be politicians, as they are in other European states.[41]

Imperial Germany illustrated for Weber how an efficient officialdom was necessary for everyday rule, and precisely for that reason politicians were indispensable in parliament as a counterforce.[42] He does not, however, demand that politicians should replace officials – he holds an efficient officialdom to be necessary – but just therefore it should have a political counterweight that controls the knowledge claims of the officials.[43]

In Germany during the summer of 1917 the parliamentary parties tried to increase their power, but failed to do so, for Weber due to a system in which 'parliament and government were seen as opposed to each other'[44]. Unlike Bagehot, he does not speak

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38 'Parlament und Regierung im neugeordneten Deutschland,' (*Max-Weber-Studienausgab*e I/15.), pp. 202–302.

39 'Während also in parlamentarisch regierten Ländern es als unbedingt erforderlich gilt, daß die leitenden Staatsmänner dem Parlament angehören, ist das in Deutschland rechtlich unmöglich,' (ibid, p. 229.)

40 'Dieser Wegfall bedeutet an sich noch nicht die Einführung des parlamentarischen Systems …, sondern nur die *Möglichkeit*, daß ein politisch fähiger Parlamentarier zugleich eine politisch leitende Reichsstellung übernimmt', ibid.

41 Dem *leitenden* Politiker, vor allem …dem Reichskanzler und Auswärtigen Minister Preußens also, muß die *Möglichkeit* offenstehen, den Bundesrat als Vorsitzender unter Kontrolle der Vertreter der anderen Staaten zu leiten und zugleich den Reichstag als stimmführendes Mitglied einer Partei zu beeinflussen,' ibid. p. 230.

42 'Die modernen Parlamente sind in erster Linie Vertretungen der durch die Mittel der Bürokratie *Beherrschten*,' ibid. p. 226.

43 'Die *Leitung* der Beamtenschaft, welche ihr die Aufgaben zuweist, hat dagegen selbstverständlich fortwährend politische… Probleme zu lösen. Sie *darin* zu kontrollieren, ist die erste grundlegende Aufgabe des Parlaments. Und … jede einzelne noch so rein technische Frage in den Unterinstanzen *kann* politisch wichtig und die Art ihrer Lösung durch politische Gesichtspunkte bestimmt werden. *Politiker* müssen der Beamtenherrschaft das Gegengewicht geben,' ibid. p. 235.

44 'Regierung und Parlament als zwei getrennte Organe einander gegenüberstehen,' ibid. p. 241.

of a fusion between the legislative and the executive, which might have proved difficult to fathom in in a country like Germany with its great suspicion of parliamentarians.

Rather in passing, Weber presents his four criteria for parliamentarism: the selection of the head of government from the members of parliament; the confidence of government in parliament; the parliamentary responsibility of the government leaders towards parliament; and the parliamentary control of administration.[45]

Membership of the prime minister and other ministers in parliament is for Weber not an obligation, but it is a strong support for 'the parliamentary system' in all four points. His most original point lies in his strong measures for parliamentary control of administration, in which he proposes following the Westminster-type of parliamentary rights to cross-examine officials, the on-the-spot examination of officials' sources of information by parliamentary committee members as well as the creation of parliamentary examination commissions.[46] Behind this is also Weber's critique of the monopolistic knowledge claims by officials, related to his perspectivistic and rhetorical vision of knowledge based on debating *pro et contra*, for which the Westminster parliament served as a tacit model.[47]

A further point put forward by Weber was a strong defence of full-time professional parliamentarians in order to enable efficient control of the bureaucracy.[48] Weber understood well that not only the state officials, but also party functionaries resisted the idea of professionalising parliamentarians. Consistent with his view of the

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45 'Anders, wo das Parlament durchgesetzt hat, daß die Verwaltungsleiter entweder geradezu aus seiner Mitte entnommen werden müssen (*'parlamentarisches System'* im eigentlichen Sinn) oder doch, um im Amt zu bleiben, des ausdrücklich ausgesprochenen Vertrauens seiner Mehrheit bedürfen oder wenigstens der Bekundung des Mißtrauens weichen müssen (*parlamentarische Auslese* der Führer) und aus diesem Grunde, erschöpfend und unter Nachprüfung des Parlaments oder seiner Ausschüsse, Rede und Antwort stehen (*parlamentarische Verantwortlichkeit* der Führer) und die Verwaltung nach den vom Parlament gebilligten Richtlinien führen müssen *(parlamentarische Verwaltungskontrolle).* In diesem Fall sind die Führer der jeweils ausschlaggebenden Parteien des Parlaments notwendig positive Mitträger der Staatsgewalt.' ibid. p. 227.

46 Ibid. pp. 235–7.

47 A detailed discussion in K. Palonen, '*Objektivität' als faires Spiel. Wissenschaft als Politik bei Max Weber* (Baden-Baden, 2010), chapter 8. See also Palonen, *A Political Style of Thinking. Essays on Max Weber* (Colchester, 2017).

48 'Der Berufsparlamentarier ist ein Mann, der das Reichstagsmandat ausübt nicht als gelegentliche Nebenpflicht, sondern – ausgerüstet mit eigenem Arbeitsbüro und -personal und mit allen Informationsmitteln – als Hauptinhalt seiner Lebensarbeit', 'Parlament und Regierung,' p. 244.

Westminster procedural rule that the plenum deals with general principles, while committees conduct detailed debates, Weber links the professional parliamentarian with 'the working parliament'.[49] He shows that a debating parliament and a working parliament are not polar opposites; indeed, both are indispensable.[50]

Although there are few references to Bagehot in the writings of Max Weber, he must have known well *The English Constitution.* Writing 50 years earlier, Bagehot did not speak of the professionalisation of politics as a common practice, for his was not yet the context of democratised suffrage, contested elections and the proliferation of items on the parliamentary agenda. The German experience of bureaucratic rule radicalised Weber's measures for parliamentary control of government, although also in the work of Bagehot we can find aspects of a rhetorical and parliamentary vision of knowledge.[51] Weber was content with enabling the parliamentarians to become ministers, but in Weber's view we find lacking the exclusiveness of Bagehot's view of the cabinet as an executive committee of the parliament.

Weber called for applying parliamentary principles to the German federal order. He demanded removing the bar against parliamentarians serving as ministers at the federal-government level as well as federal-state levels, and he urged the abolition of the imperative mandate that bound for their Bundesrat representatives.[52] In the booklet *Deutschlands künftige Staatsform* (January 1919), Weber supported the establishment of an elected federal chamber (*Staatenhaus*), realising how the new parliamentary

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49 'Denn nur qualifizierte Berufsparlamentarier, welche durch die Schule intensiver Ausschußarbeit eines *Arbeits*parlaments gegangen sind, können verantwortliche Führer, aus sich hervorgehen lassen,' ibid. p. 245.

50 See K. Palonen, 'Was Max Weber Wrong about Westminster?,' *History of Political Thought* 35, 2014, pp. 519–37.

51 See W. Bagehot, *Physics and Politics* (Boston, 1956 [1872]). On its connections to nineteenth-century rhetorical thought in Britain, see K. Palonen, *From Oratory to Debate. Parliamentarisation of Deliberative Rhetoric in Westminster* (Baden-Baden, 2016), pp. 188–90.

52 'Parlament und Regierung', 285–92. See also S. Whimster, Introduction to 'The Future Form of the German State', forthcoming in *Max Weber Studies* 21:1, 2021.

ministers would be weakened if obliged to struggle with both the President of the Reich and a Bundesrat bound to instructions.[53]

Parliament in the European integration

On the European continent the polities with a parliamentary government differ from each other in the degree to which they allow ministers to be elected from among the members of parliament, e.g. whether a majority of the ministers can be from parliament, and whether they can then simultaneously retain their seat in parliament or must leave it when entering the government. These political differences between the West European countries have not prevented them from being regarded as parliamentary governments. This contrast, however, became important in the context of European integration from the 1950s onwards. The difference provoked a major dispute regarding the polity of the European Communities after the Rome Treaty of 1957.

As it well known, the key ideologists of European integration, such as Jean Monnet, realised in the European Coal and Steel Community (ECSC) since 1950, were no admirers of the parliamentary system. Their work was shaped by the 'crisis of parliamentarism' that was omnipresent in the twenties and thirties[54] as well as by their strong belief in planning after WWII also in the West European countries. For the planning ideologists – similarly to those espousing the 'governance' in modern times – the criticism and the amendment motions put forward by parliamentarians were seen as disturbing.

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53 M. Weber, 'Deutschlands künftige Staatsform,' *Mas-Weber-Studienausgabe 1/16,* eds. W. J. Mommsen and W. Schwendtker (Tübingen, 1991), p. 41.

54 See e.g. C. Gusy ed. *Demokratie in der Krise: Europa in der Zwischenkriegszeit* (Baden-Baden, 2008)

The key institution in the ECSC was the *haute autorité* in French*, hohe Behörde* in German, a title hinting at its office-like character.[55] In the Rome Treaty, it was renamed the European Commission.[56] Nonetheless, like other new post-war institutions, such as the Council of Europe, the West European Union or even NATO, the ECSC had its own Common Assembly of parliamentarians, selected by the parliaments of the six member states. Although the Treaty gave limited powers to this Assembly, based on the annual report of the *haute autorité*. The *rapporteur* of the Common Assembly, Pierre Wigny emphasised how the Assembly had enlarged its activities – increasing its meetings, setting up a system of committees and presenting votes of no confidence, not only in connection with the annual report – in short, acting as though it were a proper parliament.[57]

The Rome Treaty created the European Communities in 1957 as well as the European Parliamentary Assembly (EPA), which in 1963 renamed itself the European Parliament. An empowerment of the EPA, in contrast to the ECSC, was granted in the Treaty itself in the extension of votes of no confidence to matters outside that of the annual report. In the Paris Treaty of the ECSC, the German wording to raise a question of confidence was *auf Grund des Berichtes*; the Rome Treaty uses the formula *wegen der Tätigkeit der Kommission*.[58] This is in line with the long-term trend of strengthening parliamentary powers, beginning with Sandys' Motion of 1741 onwards.[59]

Besides extending the possibilities to raise questions of no confidence, the Rome Treaty suggested other measures to empower the EPA, such holding direct elections,

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55 European Community of Steal and Coal 1950, *Treaty of Paris* (http://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-paris)

56 European Communities 1957, *Treaty of Rome* (http://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-rome)

57 P. Wigny, *L'Assemblée Parlementaire dans l'Europe des Six* (1958) (http://aei.pitt.edu). The report is discussed in K. Palonen, 'Parliamentarisation as Politicisation,' in C. Wiesner ed. *Rethinking Politicisation in Political Science, Sociology and International Relations* (London, 2021), pp. 75-80.

58 Article 144. See also European Parliament, *The establishment and initial work of the European Parliamentary Assembly after the Rome Treaties* (https://www.europarl.europa.eu/RegData/etudes/STUD/2019/635610/EPRS_STU(2019)635610_EN.pdf, 2019), p. 8.

59 See Turkka, *Origins of Parliamentarism*.

increasing the EPA's financial powers and, in a continuation of the line of the Common Assembly, establishing parliamentary-style practices of a kind that the Commission and Council of Ministers could not so easily dismiss or ignore.

The Working Party of the Political Affairs Committee of the EPA, established 'in accordance with article 40.2 of the Rules of Procedure and chaired by Belgian Socialist Fernand Dehousse, a professor of international law, prepared a report on the application of the Treaty.[60] A few years later, de Gaulle, who had been the French president since 1959, began actively opposing Dehousse's supra-nationalism and took measures to keep the EPA's powers strictly limited, as he had done for the French Parliament with he 1958 constitution.[61]

Regarding parliamentarisation of the Commission, a report by the Dehousse Working Group and debates in the EPA in May 1960 bring to light to the conflicting views about the relationship between the EPA and the Commission. The Treaty required all members of the Commission to serve the common good (*zum allgemeinen Wohl*) of the community and, in following their duties, neither ask nor receive instructions from any other party or occupy any other paid or unpaid position (article 157 |2]).[62] These wordings do not in themselves exclude EPA members from serving on the Commission, if it is recognised that the commissioners can be politicians. Politicians can serve Europe independently of their citizenship or party affiliation, and with Bagehot and Weber, we could argue that membership in the EPA supports the politics that commissioners are entitled to pursue and cannot be equated with paid or unpaid positions or activities The Working Party and the EPA of 1960 had the power to interpret whether dual membership was compatible with the Treaty, and as even the

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60 *The case for elections to the European Parliament by direct universal suffrage. Selected documents* (1969)

61 See U. Tulli, Which Democracy for the European Economic Community? Fernand Dehousse versus Charles de Gaulle. *Parliaments, Estates & Representation* 37, 2017, pp. 301–17.

62 (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:11957E/TXT, Official text, DE)

Commission was on the side of compatibility, we can speak of this as having been a lost opportunity for parliamentarisation.

Among the countries of the European Communities in 1960, the Netherlands, Luxemburg and, as mentioned, France with the Fifth Republic's constitution, excluded their ministers from the membership in parliament, whereas this was a regular practice in West Germany, Italy and Belgium. In the explanatory statement to the 'Report on the composition of the elected Parliament', appended to the first chapter of the draft convention, *rapporteur* Maurice Faure, a member of the *Parti radical* in opposition to de Gaulle, described the situation of the member states and concluded: 'The Working Party was thus sharply divided over this question of principle, and the proposal to abolish incompatibility for members of the High Authority and of the two Commissions was rejected, receiving an equal number of votes for and against'[63]. Changing an existing practice of the Common Assembly would have required a majority of votes, and this was not achieved.

In a debate in the EPA on 11 May 1960, Faure commented:

> [S]hould this incompatibility be extended to the duties of … member[s] of any of the three European executives? This raised a basic question concerning the political philosophy each of us abstracts from the parliamentary system. Is this system one of strict separation of powers necessarily entailing incompatibility between the duties of minister and the duties of parliamentarian, for example, as in the Netherlands and, since the latest constitution came into force, in France? Or is the parliamentary system a much more flexible one in which the simultaneous exercise of the duties of parliamentarians and minister is not only wholly feasible but even logical?[64]

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63 Dehousse. General Report (*The Case*), p. 47.
64 Ibid. p. 83.

Although defending the report, Faure comments: 'Personally, I supported the compatibility of mandates as a means of imparting greater political emphasis to the mandates of members of the executives'.[65] The key question for him seems to be a Weberian point: whether the European Commission should be considered mainly as a political or as an administrative institution?

In the report Faure also emphasised how the EEC Commission (as well as that of Euratom and the High Authority of the ECSC) supported the compatibility: 'For their part, the members of the High Authority and of the two Commissions consulted by the Working Party were unanimously in favour of compatibility, which they felt would serve to underline the political character of their duties and to distinguish them even more dearly from their administrative aspects'.[66] Thus, it was not the Commission that prevented the parliamentarisation of its membership; on the contrary, it emphasised the disjunction between the cabinet-like political level and the lower, administrative levels within the Commission.

Referring to the view finally adopted by the working party, Faure identifies the leading defender of the incompatibility, a Dutch Socialist, Marinus van der Goes van Naters:

Mr. Van der Goes van Naters, in a note submitted to the Committee, had stressed the difficulty of comparing the institutional structure of the Communities with that of the member States, and restored the debate to the practical plane. The presence of the executives in the European Parliament would tend to weaken the latter, at a time when a balanced relationship within the Communities was already being threatened by the existence of two kinds of executive bodies. Indeed, by taking part in the activities and voting of the European Parliament, members of the

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65 Ibid.

66 Ibid. p. 47

three executives could exert a marked influence on the control the European Parliament exercised over their activities, thus weakening the still precarious cohesion of the political groups.[67]

This argument resembles the eighteenth-century debates about whether ministers are agents of the monarch or of the parliament and the nineteenth-century arguments about whether they are parliamentary watchdogs towards the administrative apparatus. Van der Goes van Naters emphasises exlusively on the legislative vs. executive divide, thus reducing the parliament to a legislature and not separating the political and administrative levels in government, a key insight of both Bagehot and Weber.[68]

In a debate on 11 May 1960, Belgian Christian Democrat Philippe Le Hodey admitted that 'the functions of a member of the Commissions or of the High Authority are not real ministerial functions'.[69] With this vision of the future he, nonetheless, supported their transformation into a European government, and thought therefore that the members should be politicians:

> These people are going to become either officials, high officials or highly-qualified technicians – but still, as officials, subject to an authority – or else real political leaders shaping the future of the European Communities. These are the alternatives.
>
> For the purpose of building Europe, we should do all in our power to ensure that the European institutions develop into a real European Government. This can only happen if members of the Commissions and of the High Authority are elected on the basis of universal suffrage, and keep in touch with the electors and with members of the Parliament by themselves belonging to it and understanding and sharing its concerns. In this way they wou1d become a force in European

67 Ibid. p. 48

68 See K. Palonen, 'Rethinking Political Representation from the Perspective of Rhetorical Genres.' *Theoria. A journal in social and political Theory*, 66 (2019), pp. 27–50.

69 Dehousse, General Report (*The Case*), p. 131

policy. But if we debar them from our Parliament, we shall be casting them back into the category of European officials.[70]

Le Hodey does not so much maintain that the commissioners should be directly elected, but that they should be members of the parliament. In the confrontation between being officials under 'an authority' vs. independent 'political leaders', we can identify the Weberian contrast between two types of actors. It seems that Le Hodey would support an obligatory membership in parliament, thus making the collegium of the commissioners like the Bagehotian executive committee of the parliament.

Another member who supported the removal of the incompatibility is the Luxembourgish Christian Democrat Marcel Fischbach, who proposed to terminate it after a transition period: 'If we really think that members of the Commissions should one day be nominated or elected from among members of this Parliament, we have every reason to enhance its importance by admitting members of the Commission to it'.[71] He in a sense turns the perspective around and claims that membership of the Commission in parliament might strengthen parliament's powers in its struggles with other European institutions.

In the EPA debate on 17 May 1960, Le Hodey explained his amendment to reconsider incompatibilities at the time when the parliament is directly elected: 'What do Mr. Dehousse and I want, Mr. President? We want the elected Parliament to be absolutely free to decide on the question of incompatibilities'[72]. He even supported allowing European Parliament membership for ministers of member-state governments:

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70 Ibid. p. 132.
71 Ibid. p. 145.
72 Ibid. p. 187.

> If we want the elected Parliament to attract leading figures of the great national parties in countries where ministerial office is compatible with parliamentary office, we should lay down that membership of the Government of a member State is compatible with membership of our Parliament. May I remind you that, in practice, membership of this Parliament has always been compatible with ministerial office?[73]

Several members turned militantly against this proposed compatibility. The Dutch Christian Democrat Pieter Alphons Blaisse insisted: 'The question of incompatibility with the offices listed in this Article seems to me to be so essential for the proper running of the Parliament and for the separation of powers – a principle still embodied in our constitutions – that I cannot accept that these incompatibilities should be restricted to the transitional period'.[74] The Belgian Socialist member Roger De Kinder supported this view: 'All of us here were brought up on the thinking of Montesquieu. As Mr. Blaisse has just said, we should be lowering the status of a Parliament we want to see elected by universal suffrage if we allowed legislative and executive functions to be combined'.[75]

Le Hodey disputed the applicability of the separation of powers principle: 'In spite of the principle of the separation of powers, are not Mr. De Kinder or Mr. Dehousse, Belgian ministers, members of the legislative assemblies in Belgium? The separation of powers has nothing to do with the incompatibility of a ministerial office with membership of a Parliament, and one should not quote Montesquieu on this subject'.[76]. À la Bagehot and Weber, he insists that the 'influence' is two-way: 'Members of the executive will undoubtedly exert influence over us, but shall not we in our turn be able to influence them? If they are members of this Parliament, will not our

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73 Ibid. p. 190.
74 Ibid. p. 190.
75 Ibid. p. 191.
76 Ibid. p. 191–2.

influence over them be greater than theirs over us?'.[77] Finally, he links

parliamentarisation with Europeanisation. 'Either we intend gradually to create a

European Government, a European policy, or we want to have an executive secretariat,

a secretariat of high officials, intelligent, qualified, cultivated, but in no sense leaders of

the unification of Europe'.[78]

All this does not convince De Kinder: 'Without presuming to anticipate the

intentions of members of the executives, I feel it would, in a sense, be like having an

enemy in the camp'.[79] Such a view would seem again to restrict parliamentary powers

to legislating, not really enabling a parliamentarisation of government in the sense of

Bagehot and Weber.

Van der Goes van Naters claimed that Le Hodey's amendment was 'liable to upset

the entire balance of our institutions', referring to its having been already rejected three

times in the EPA.[80] He then made a rather surprising argument: 'Compatibility would

bring out the political character of the executive function. I do not wish to contest this

political character, but it is not yet sufficiently developed for me to entirely approve of

it. We must make the executives less dependent on the ministers and more dependent on

Parliament'.[81] In addition, he claimed that when membership in parliament is 'socially'

an office: 'The independence of the executives would thus be threatened; this is my first

major objection.'[82] Bagehot and Weber would insist on the distinction between the

political and administrative aspects of the executive, which is indispensable for

understanding that parliamentary ministers are as important for controlling the

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77 Ibid. p. 193.
78 Ibid.
79 Ibid.
80 Ibid. p. 194.
81 Ibid.
82 Ibid. p. 195.

administration as are parliamentary committees, whereas partisan patronage of the administration by parliamentarians would hardly increase parliamentary control of it.

Van der Goes van Naters's final argument concerns the overwhelming power of the commissioners over the parliament:

> Even if the twenty-three were not all members of the Parliament, a number of them certainly would be, so that, from the very beginning, and especially in the political groups, the three executives would influence every policy to be pursued; whereas we parliamentarians would never have the same opportunity vis-a-vis the executives. The increase in influence would thus be strictly one-sided. There too, unfortunately, the position of the Parliament would be weakened.[83]

It is difficult to see why incumbent commissioners, not being members of the European Parliament before a direct election, would have such power. If the parliament elected the commissioners amongst themselves, there would, of course, be no guarantee that the former commissioners would be re-elected.

Le Hodey was supported by the French MRP member Alain Poher: 'If we want our Parliaments to be assemblies where a real European policy is shaped, and if we do not want the representatives of the Commissions to be technocrats – something of which, in my view, they have too often been reproached – then the members of the European Commissions must be able to stand for election to this Parliament'.[84] Again, for Poher the politician vs. official divide is more important than that between legislative and executive powers.

A different argument for the incompatibility was offered by the French Socialist Roger Carcassonne:

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83 Ibid.
84 Ibid. p. 196.

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> I believe that the office of member of the High Authority is a supernational one. As the EGSC
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> Treaty points out, when a member of the High Authority is appointed – and the Treaty says this –
>
> he may no longer engage in any other occupation in his own country. He must perform his duties
>
> in a completely independent manner. Yet as soon as he is elected in a member State and sits in this
>
> Parliament, his office takes on a national character.[85]

This argument relied completely on the existing practice, in which the members were elected from the parliaments of the member states. After the direct elections, the member states retained the status of the electoral districts, but the citizens of the European Community member states could be candidates also for other member states, and thus the membership of the European Parliament would no longer have this 'national' character'.

The parliamentarisation of the commissionaires

In the debate of 1960, the relationship concerned, strictly speaking, the European Parliamentary Assembly and the three 'executive' institutions, i.e. the European Commission of the EEC, the Euratom Commission and the High Authority of the European Coal and Steel Community. In 1963 the EPA was renamed the European Parliament (EP), and it has been elected directly since 1979. The three executive institutions were united into the European Commission. Despite these and other changes in the treaties and in the practices, it seems that no major debate like that of 1960 on the compatibility of membership on the commission with membership in the EP has been conducted.

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85 Ibid. p, 197.

Still, the question of whether the Commission is comparable to a government, or is at least a 'de facto government,'[86] and whether its members should be understood as politicians or officials, remains as important as ever. This dividing line was supplemented in 1960 with an understanding of the parliament as either a legislative (as in the strict separation of powers system), or a deliberative and representative assembly (as in the parliamentary system). Also included in the debate was whether the Commission combines government and administration, or whether those inside it can distinguish between a political or 'cabinet' level at the top and a bureaucratic apparatus below it. A third level was evoked by Carcassonne: is the European Parliament a national or a supranational institution. Whereas the two first questions still remain debated, the supranational character of the EP is now clearly accepted and institutionalised in the organisation and in the rules of procedure.

Today we can still identify with the full parliamentarisation of the European Commission as a major objective for parliamentarising and politicising the EU. Contemporary EU scholars tend to be sceptical about the parliamentarisation- of-government model and tend to opt for a controlling European Parliament instead, thus accepting the separation-of-powers model as their point of departure.[87] They are, of course, right in insisting that, after the decision of 1960, such parliamentarisation would require changing the treaty. However, there would be no requirement for the president of the Commission to have a Westminster-style right to dissolve the EPA, and neither would a parliamentarised European Commission require a strict division between the government and opposition parties. The federal character of the EU could be also

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86 This term is used by, for example, T. Tiilikainen, 'The Role of the European Parliament in the EU's Political Order,' in C. Wiesner, T. Turkka and K. Palonen eds, *Parliament and Europe* (Baden-Baden, 2011), pp. 25–40.

87 See for example P. Dann, *Looking through the Federal Lens: The semi-parliamentry Democracy of the EU*, 2002, https://jeanmonnetprogram.org/archive/papers/02/020501.pdf; T. Tiilikainen, *The Concepts of Parliamentarism in the EU's Political System*, 2019, https://www.fiia.fi/wp-content/uploads/2019/04/wp109_eu-parliamentarism_2.pdf

manifested in the establishment of a grand coalition of all pro-EU parties within the Commission, which is where the current situation is heading, although the Green parties still do not have their 'own' commissioner.

Despite the unlikelihood of such changes in the present EU, I want to continue the analysis on the level of a thought experiment. The discussion of 1960 as well as the longer history of theories of parliamentarism indicate, indeed, a number of different ideal-typical possibilities for such a parliamentarisation, and these are worth discussing in detail. In terms of the parliamentary membership of the commissioners, the ideal-typical alternatives can be presented with the following schematic:

Table 1

EP membership of Commission candidates

The EP seat is:

    1. Optional for candidates, disallowed for Commission members

    2. Obligatory for candidates, disallowed for Commission members

    3. Optional for candidates, retainable by Commission members

    4. Obligatory for candidates, retainable for Commission members

The first type is the current practice. Commissioners may be selected from among EP members (but aren't obliged to be EP members), but if elected to the Commission they lose their seats in parliament and are replaced by their deputies according to the system of proportional representation.

The second type, obligatory membership in parliament up to the moment of election, but if elected to the Commission then excluded from EP membership, would emphasise the political representativeness of the Commission cabinet as well as

parliamentary experience. The *Spitzenkandidaten* principle is a minimalist version of this type, restricted to the President of the Commission. The time schedule of the cabinet would then still remain closer to the bureaucratic level of the Commission than to that of the European Parliament.

Weber's proposal for Germany in 1918 as well as some of the 1960 proposals corresponds to the third type: candidates to the Commission may be from parliament, and if elected, could retain their parliamentary seats. This would introduce a divide between parliamentarians and others, between politicians and specialists, inside the collegium of commissioners. The parliamentarians would be closely bound to the sitting schedule of the European Parliament, whereas the specialists would tend to follow the office hours of Commission officials.

The fourth type, membership in parliament would be obligatory for candidates to the Commission, and if elected, they could retain their parliamentary seats, best corresponds to the Bagehotian ideal of a cabinet of commissioners as the executive committee of parliament. The modes of proceeding of such a cabinet would be comparable to the other committees of the European Parliament, and sharply distinct from the merely administrative levels of the Commission. The cabinet of commissioners would not only be representative, but also deliberative, and follow the parliamentary model in its internal procedures.

The second, third and fourth type would have in common an increased interest in EP membership, at least among the first rank of politicians. For the chances of the parliamentarising the EU Commission, types 2. and 3. might, at first sight at least, appear more realistic than the full programme.

In the selection of the commissioners, parliamentary experience and political competence in the parliamentary debating-style have gained ground. Membership in the

EP would not only limit the range of viable candidates for the commission, but also highly increase the significance of the EP seat for those candidates, especially with the current criterion of one commissioner per member country. Losing the seat as a commissioner would be less a question of the separation of powers than one of the time budget of the commissioners, which might be difficult to coordinate with the EP.

The option of Commission candidates having membership in the parliament would correspond to the practice of most EU countries' governments. Such membership has been proposed in the European Parliament at least once, by Belgian Socialist A.J. Delcroix on 13 January 1999.[88] In the European Convention of 2002-2003 the theme was at least informally discussed.[89]

At this level, a new type of political struggle over the power shares in the collegium of commissioners would be likely to arise. Parliamentary commissioners would have the parliamentary vote, competence and experience as well an identification with other MEPs in terms of their time schedules and in their political resources, whereas the others could count among their political strengths their bureaucratic experience or expertise in the field, the internal time schedule of the commission and an identification with other officials on the Commission. Which of them would prevail is difficult to say *a priori*. When the offices of the commissioners are no longer like government departments, but their profiles are re-tailored according to their weight as politicians, this would strengthen the commissioner candidates, due to their parliamentary experience, over candidates with only office competencies.

The political advantages of the full parliamentary style with membership as a prerequisite for the commissioners would definitely be a stronger influence in making the cabinet of commissioners follow the model of the parliamentary committees,

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[88] https://www.europarl.europa.eu/doceo/document/CRE-4-1999-01-13-ITM-004_EN.html.
[89] Private communication from Convention member T. Tiilikainen to the author, February 2021.

however unfamiliar this would be for the Francophone tradition of European integration.

The political legitimacy of the European Commission would benefit from the parliamentary selection of its members. Parliamentary procedures, rhetoric and time schedules would expand the deliberative style of proceeding, extending also to some degree the officials of the commission. Their 'parliamentarisation' would not follow *the spoils system* of party appointments but replace the monocratic model of acclamation with the rhetorical model of debating *pro et contra*. This would be especially advantageous when regarding the commission not only as government (in the wide sense), but also as a pro-European think tank. In order to take the full step in parliamentarisation of the commission, obligatory membership in the EP would be the most plausible model.