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Switzerland as Compromise? The Federal State since 1848 between Reconciliation and Exclusion

1 Introduction

In 1964, Swiss law professor Max Imboden published his seminal essay “Helvetisches Malaise” (Helvetic malaise). Rather pessimistic, he complains about the status of Swiss democracy in that post-war era:

Our state institutions are certainly not outdated, but they are skewed in many ways. They go too far in one [way] and too short in the other; here they overtax and there they remain obtuse. This persistence with what became constitutional law under quite different sociological circumstances in the last century has fundamentally changed our attitude to the environment and to ourselves. In the nineteenth century we were a revolutionary nation; today we are one of the most conservative in the world. We ourselves feel little of this change. But every foreign observer feels it all the more. Shouldn't we occasionally learn more from the mirror that others hold up to us in benevolence? (Imboden 1971 [1964]: 289)¹

Imboden, vigorously longing for a relaunch of democracy (Tanner 2015: 354–355), counts among those grievances the decreasing interest and the disaffection towards politics together with a generally increasing attitude of conformism among the Swiss people. Furthermore, he asserts that there is a convergence of the different political party programs and says that he misses the “constructive and strongly dominant opposition” (Imboden 1971 [1964]: 287).²

Certainly, Imboden aimed to make a claim about 1960s democracy and society in Switzerland, rather than providing a historical account on Swiss nineteenth-century history. It is, however, important to dwell on that “revolutionary

1 “Unsere staatlichen Institutionen sind gewiß nicht überholt, aber sie stehen in vielem schief. Sie greifen im einen zu weit und im anderen zu kurz; hier überfordern sie und da bleiben sie stumpf. Dieses Verharren bei dem, was unter ganz anderen soziologischen Gegebenheiten im vergangenen Jahrhundert Verfassungsrecht wurde, hat unsere Haltung zur Umwelt und zu uns selbst von Grund auf geändert. Im 19. Jahrhundert waren wir eine revolutionäre Nation; heute sind wir eine der konservativsten der Welt. Wir selbst verspüren diesen Wandel wenig. Aber jeder ausländische Betrachter verspürt ihn um so mehr. Sollten wir gelegentlich nicht mehr aus dem Spiegel lernen, den uns andere in Wohlwollen hinhalten?” This and all translations from German below are by the author.

2 “Die konstruktive und kraftvoll überlegene Opposition fehlt.”

nation” he alludes to. After all, a similar panegyric is nowadays still uttered by official federal sources when the draft of the Swiss Federal Constitution of 1848 is called “a revolutionary masterpiece for a democratic federal state that is unique in Europe.”³ But what was so revolutionary about nineteenth-century Switzerland?

In 2023, many European countries commemorated the 175th anniversary of the 1848 Revolution, which is frequently referred to as the *Springtime of the Peoples*. From a historical perspective, these European revolutions failed to a large extent and, after a short period of euphoria, the previous reactionary *status quo* took over again. As frequently claimed, the Revolution of 1848 failed almost everywhere but in Switzerland (Bleyer 2022: 284), where, on September 12, 1848, the new Federal Constitution was approved.

From its inception, Swiss historiography and politics have generally celebrated the birth of the modern Swiss Federal state as an apotheosis of compromise and consensus (Krumm 2015: 247). Thomas Maissen (2022: 200), for instance, uses the expression “constitutional compromise” (*Verfassungskompromiss*) in reference to 1848. Considering the historical context, i.e., the immediate aftermath of a civil war, the search for accommodation between former enemies and the construction of a new state as a political homeland for victors and losers, the topic aligns with the themes that are notoriously linked to the need for compromise (Wendt 2013: 576–578; de Boer and Westphal 2023: 145). Yet compromise also played an eminent role in the decades to come. With the emergence of direct democracy, especially since the Constitution of 1874, and the consolidation of a consociational system (*Konkordanzdemokratie*) in the first decades of the twentieth century, the notion of a classic parliamentary opposition as typical for majoritarian democracies lost its meaning, while the people started exercising a *real* opposition by means of the two direct-democratic tools of referendum and initiative (Tanner 2015: 29; Schmitt 2007: 743). This system stands for “a deliberate search for compromises likely to be supported by as large a majority as possible; including interest groups and relevant stakeholders” (Papadopoulos and Sager 2023: 197). In the second half of the twentieth century, Switzerland was considered a paradigmatic example of consensus democracy (Vatter 2020: 50; Schmitt 2007: 742). Hence, the open confrontation between political parties, which is typical in the majority of the democratic world, has declined in favor of an allegedly constructive and consensual form of deliberation and decision-making (Sciarini 2023: 451–452). Nevertheless, in the last decades, Switzerland has experienced a stron-

3 “[. . .] ein revolutionäres Meisterwerk für einen europaweit einzigartigen demokratischen Bundesstaat”. *175 Jahre Bundesverfassung – Die Rückblende*.

ger polarization of party politics, which raises the question whether the country might still be considered a consociational system (Vatter 2020: 532; Sciarini 2015: 1–2, 2023: 466).

The scope of this chapter is twofold: The primary objective is to re-examine the generally accepted overarching narrative concerning the consensual birth of the modern confederation of 1848. In particular, this chapter questions to what extent the concept of compromise can be applied to describe the process of drafting the first Swiss constitution. As I will show further, there is a broad consensus among historians on the use of “compromise” to describe the genesis of the modern Swiss state. This is likely due to its use in a broader sense, meaning basically a “middle course.” Political science and political philosophy tend to define and separate concepts such as compromise and consensus.

Furthermore, given the assumption that, after the establishment of parties as political actors in the last decade of the nineteenth century, compromises have been common practice, I purpose to elucidate how compromises are used for the sake of exclusion, thus unveiling a dark side of compromise. As a matter of fact, the term is generally positively connoted (de Boer and Westphal 2023: 150) and suggests a particular moral virtuosity (Zanetti 2022: 14). However, it is important to point out that the compromise has often been regarded as a “panacea for various political ills.” Consequently, a critical view has been generally lacking and the “vices of compromise” (Ruser and Machin 2017: 9) have been underestimated. As Ruser and Machin (2017: 30) have eloquently put it, “[w]ithin eagerness to reach a compromise lurks the risk that a wealth of different perspectives of the issue are underestimated and undermined.” Was this the case in Swiss politics since the foundation of the modern Confederation?

2 The Compromise of 1848?

2.1 A Tortuous Path

The new charter of 1848 granted universal male suffrage, freedom of the press, and freedom of speech, and abolished internal tariffs. Hence, for several decades, Switzerland was a liberal, parliamentary, and democratic republic surrounded by (reactionary) monarchies (Kölz 1992: 624; Maissen 2022: 208–209). In this sense, Imboden’s use of “revolutionary” should be understood in its positive connotation, as synonymous with highly and radically progressive. Yet the adjective may also refer to revolution in the sense of upheavals, coup d’états, and political violence in general, considering that the 1830s and 1840s in Switzerland were deca-

des of political unrest and polarization. These circumstances resulted in an irreconcilable front between the Liberal Radicals on one side, aiming at implementing the political achievements of the French Revolution such as secularism and popular sovereignty, and, on the other, the Catholic-Conservatives insisting on a loose confederacy of sovereign cantons and on the relevance of faith for political suffrage (Mooser 1998: 46–47; Schaffner 1998: 202–210). Violent episodes corroborate the dramatic development of those days: in September 1839, the Liberal government of Zurich was overthrown by a popular movement led by Protestant Conservatives. Subsequently, the word *putsch* spread over the German language and beyond (Prieto 2017; Clark 2023: 229). In 1841, the Canton of Aargau closed all monasteries in its territory, resulting in an outrage of Catholic-Conservative cantons. When the Canton of Lucerne – one such Catholic-Conservative canton – appointed Jesuits to teach at its higher education institutions, radical volunteers tried to overthrow the government of Lucerne through the so-called *Freischarenzüge* of 1844, and again in 1845. They were not successful though. As a response, the seven Catholic-Conservative cantons of Lucerne, Zug, Uri, Schwyz, Unterwalden, Fribourg, and Valais decided to create an alliance of mutual support against those attacks. This was the birth of the *Sonderbund* of 1845 (Schaffner 1998: 203–210; Andrey 2006: 623–630). However, this kind of separate alliance infringed upon the Federal Treaty or *Bundesvertrag* of 1815, which was a sort of constitution *avant la lettre*. In October 1847, the Federal Diet or *Tagsatzung*, which was the executive assembly of representatives from each of the twenty-five cantons, and where radicals and liberals held the majority, ordered the dissolution of the *Sonderbund* league. Given the refusal of the *Sonderbund*, the Confederation opted for a military solution and mobilized the armies. This resulted in a civil war which lasted about three weeks in November 1847. On November 29, Valais, the last of the *Sonderbund* cantons, surrendered to the federal troops. Constantin Siegwart-Müller, leader of that league, fled to Austria. He was sentenced in absentia to twenty years in prison by a lower court in Lucerne; however, this sentence was set aside by Lucerne's Supreme Court, and he returned to Switzerland in 1857 (Remak 1993: 178; Prieto 2023: 1–2).

Swiss historiography tends to underline the relatively low death toll, with about 100 fallen and less than 300 wounded soldiers altogether (Prieto 2021: 112–113). It is therefore unsurprising that Joachim Remak's popular account on the matter bears the title *A very civil war* (Remak 1993). The relatively limited number of casualties is notoriously linked to a speech delivered by General Guillaume-Henri Dufour, Commander-in-Chief of the federal army, in the early days of the war. In Dufour's view, the *Sonderbund*'s soldiers were enemies but first and foremost Swiss brothers. Therefore, he exhorted his soldiers not to apply excessive violence (Herrmann 2006: 110–111; Martín-Moruno 2023: 7). Hence, one

could argue that the fundament for the reconciliation and the willingness to compromise after the war was already laid in the very beginning of the belligerent episodes.

2.2 A New Constitution

Once the *Sonderbund* was defeated, Switzerland needed a new constitution more than ever. A commission to revise the *Bundesvertrag* had already been set up in August 1847, but it never started its work due to the civil war. Finally, on February 17, 1848, the new constituent commission, composed of representatives of each canton, except for Neuchâtel and Appenzell Innerrhoden, started working. Most of the representatives were Liberal politicians. Even the representatives of the defeated *Sonderbund* cantons did not belong to the Conservative elite, but were Liberals, Radicals, or moderate Conservatives at most (Kölz 1992: 547–548; Zimmer 2003: 132–133; Herrmann 2014: 414). In other words, no representatives of the defeated regime actually participated in the constituent process. This is due to the fact that the Federal Diet, following a decree from January 10, 1848, held the prerogative to appoint the representative for the constituent commission from among the delegates of one canton. Therefore, for instance, the representatives of Lucerne, Fribourg, and Valais were all Radical politicians (Kölz 1992: 547–548), while those of Schwyz, Uri, Obwalden, and Zug were moderate Liberals.

Important debates included the question whether the new parliament should be unicameral or bicameral, which was linked to the issues of national and cantonal sovereignty. Finally, the bicameral solution was seen as a “compromise” (Kölz 1992: 561) between those representatives insisting on the *status quo* and the radicals who aimed for a unitarian republic. Accordingly, the new “Federal Assembly” (*Bundesversammlung*) was composed of a “National Council” (*Nationalrat*), with one representative per 20,000 inhabitants, and a “Council of States” (*Ständerat*), with two representatives per canton. This solution counterbalanced the power of those cantons with larger populations such as Zurich, Bern, and Aargau and was clearly inspired by the United States’ legislative system. However, unlike the parliament, the new government did not propose a presidential system like in the previously mentioned model, but a collegial system as was in use in most of the cantonal governments. Eventually, a “Federal Council” (*Bundesrat*) consisting of seven councilors, one of them being the “Federal President” (*Bundespräsident*) as a *primus inter pares*, to be elected by the Federal Assembly, was disposed. Still the cantons kept important competences in terms of taxes, police, education, church affairs, transport, and the administration of the armies, as each canton had its own. Yet the key element of

the new charter was the transformation of the former *Staatenbund* (confederation of loose states) into a *Bundesstaat* (federal state) (Zimmer 2003: 129–130).

The commission finished the draft of the new Federal Constitution on April 8, 1848, a mere 51 days after its conception. Subsequently, the draft was sent to the Federal Diet which, after another round of candid deliberations, approved it by 13 of the 22 cantons on June 27, 1848 (Segesser 1965: 30; Kölz 1992: 608). Between July and early September, it was the cantons' turn to discuss the draft in their parliaments and to ratify it by letting their population decide at the ballot boxes. Finally, 15½ cantons approved the charter. It is noteworthy that two strongholds of the defeated *Sonderbund* were among them: Fribourg, and Lucerne. This was due to the following reasons: In Fribourg the population did not vote at all and the draft was approved by the parliament's majority which was now dominated by the Liberals. In Lucerne, now ruled by the Liberals too, the non-voters were counted as yes votes, in accordance with local practice (Schaffner 1998: 207). According to Kölz (1992: 609), Lucerne's voters had actually rejected the constitution. All other former *Sonderbund* cantons plus Ticino – i.e., a total of 6½ cantons – declined the charter, too. The issue was sent back to the Federal Diet which declared the new constitution as approved, considering that more than two thirds of the cantons and the population had given their assent. This interpretation was highly polemical, since the no votes had been grotesquely downplayed. Although no member of the Federal Diet voted against the approval on September 12, 1848, there were some reluctant voices. The representative of the canton of Schwyz, for instance, remarked that under the *Bundesvertrag* – which was still in force – a majority of *three quarters* was needed to declare war or to make peace. How was it possible that now a mere *two thirds* majority sufficed to approve a much more important issue, such as a new constitution? I borrow here Kölz's words on the final approval: "It was a decision that was not covered by existing constitutional law and was therefore formally unlawful and revolutionary" (Kölz 1992: 611).⁴ Following this interpretation, the illegality and opacity of this process should be forgiven for the sake of the revolutionary task, i.e., forging a national, liberal, and democratic state. However, the fraudulent behavior did not stop with the adoption of the new constitution. The first elections under the new regime in October 1848 experienced similar irregularities aimed at favoring the Liberals and Radicals at the expense of the Catholic-Conservatives (Herrmann 2006: 126). From this point of view, one might question whether the constituent process and the first months of the Swiss federal state should be considered a genuine compromise. After all, the war had ended with a

4 "Es war ein Beschluss, der vom bestehenden Staatsrecht nicht gedeckt war, insofern formell unrechtmässig und mithin revolutionär war."

defeat, not with a peace agreement. The victors' prepotent conduct and the lack of transparency suggest rather an unspoken *diktat* instead of a compromise.

2.3 A Matter of Compromise?

As already remarked, Swiss historiography has shown a strong preference for the use of "compromise" to describe the constituent process of 1848. As far back as Numa Droz's 1899 essay, the struggles for a constitutional revision in the 1860s and 1870s were said to be driven by the same "understanding compromise" (Numa Droz 1899: 331) as that of 1848. Also Robert Grimm (1976 [1920]: 367), a Marxist and a member of the Social Democratic Party, described the constitution as a "a compromise that intervened in a centralized manner wherever bourgeois-capitalist interests demanded it, and in a federalist manner wherever it could be done without affecting these interests."⁵ For Anton Largiadèr, the constitution of 1848 "bears the sign of compromise on its forehead" (1927: 106). Edgar Bonjour first uses terms such as "understanding" (*Verständigung*) and "fair balance" (*gerechter Ausgleich*) to finally call it a "work of compromise" (*Kompromisswerk*) (Bonjour 1938: 454), thus echoing the same expression as Eduard Fueter (1928: 38) from a decade before. Similarly, Valentin Gitermann interprets the constitution as a "practical compromise between centralistic and federalist tendencies" (1941: 482).⁶ Wolfgang von Wartburg calls the Swiss Constitution of 1848 "one of the most fortunate creations in Swiss history" (von Wartburg 1951: 205).⁷ Instead of "compromise," he uses expressions such as "the victors' moderation" (*die Mäßigung der Sieger*) and "viable balance" (*lebensfähiger Ausgleich*). The term "compromise" is also missing in Helbling (1982 [1963]: 130–131), although the author paraphrases a similar idea. Jonathan Steinberg refers to the solution of the *Sonderbund* war as resting on a "compromise between centralism and particularism" (Steinberg 2003 [1976]: 48–49). Ernst Bohnenblust describes the charter as an act of "understanding, of compromise among the parties" (Bohnenblust 1974: 439).⁸

5 "Es ist ein Kompromiß, das überall dort zentralistisch eingriff, wo die bürgerlich-kapitalistischen Interessen es heischten, föderalistisch dort, wo es ohne Beeinträchtigung dieses Interesses geschehen konnte."

6 "Da man die Lehren der Helvetik nicht vergessen hatte und den unitarischen Gedanken nicht auf die Spitze treiben wollte, trachtete man nach einem zweckmäßigen Kompromiß zwischen zentralistischen und föderalistischen Tendenzen."

7 "[. . .] eine der glücklichsten Schöpfungen der Schweizer Geschichte."

8 "[. . .] ein Werk der Verständigung, des Kompromisses zwischen den Parteien."

Alfred Kölz coined the term “constitutional compromise” (Kölz 1992: 563) which was recently echoed by Maissen (2022: 200). For Oliver Zimmer, the constitutional draft “embodied a compromise between the centralism of the radicals and the ultra-federalism of the conservatives” (Zimmer 2003: 133). German historian Volker Reinhardt (2010: 134) resorts to the same term in his depiction, where liberal thought prevails over the two extremes of the Radicals and Conservatives. Ruffieux (2006: 670) does not use the term for 1848 but for the political situation in the last third of the nineteenth century, while Regina Wecker describes the results of 1848 as a “compromise among different forces” (Wecker 2014: 450).⁹ Marc H. Lerner also refers to a “constitutional compromise” (Lerner 2012: 319–320), while Irène Herrmann is no exception either, stating that “the constitution [of 1848] was a solution built on compromise” (Herrmann 2023: 39).

While there seems to be a broad consensus among scholars on the suitability of the term “compromise” for the constituent process of 1848, I would like to point out another historian who steps out of line. Martin Schaffner claims:

The constitution [of 1848] was not created in a time of peace and order, but in the context of the most violent internal conflicts that shook modern Switzerland, apart from the general strike of 1918. It was therefore not the product of a negotiated consensus between political opponents, but a text that bore the marks of the preceding conflicts and was shaped by the interests of the victorious party in the civil war of 1847. (Schaffner 1998: 210–211)¹⁰

This leads to the question of whether the Swiss constituent process of 1848 can be considered a proper compromise, which is also closely linked to the definition of this term. According to Alexander Kirshner, “[a] compromise is the product of a negotiation in which at least one of the parties willfully accepts an outcome inferior to the outcome they would most prefer” (Kirshner 2018: 283). At first sight, we could agree that the federal state of 1848 made both the Catholic-Conservatives and the Liberal-Radicals equally unhappy, since the result was neither the continuation of the loose confederacy of states, which the former had longed for, nor the unitarist republic – i.e., a “French Republic *en miniature*” – which the latter had advocated. For Véronique Zanetti (2022: 21), a “symmetry of might” is not a necessary precondition for a compromise. This lack of symmetry is also given in the Swiss 1848 scenario between the Liberal winners and the ul-

⁹ “Kompromiss zwischen verschiedenen Kräften.”

¹⁰ “Die Verfassung [von 1848] war nicht in einer Zeit von Ruhe und Ordnung entstanden, sondern im Kontext der heftigsten inneren Konflikte, welche die moderne Schweiz, vom Generalstreik von 1918 abgesehen, erschütterten. Sie war darum nicht das Produkt eines ausgehandelten Konsenses zwischen politischen Gegnern, sondern ein Text, der die Spuren der vorangegangenen Auseinandersetzungen aufweist und von den Interessen der Siegerpartei im Bürgerkrieg von 1847 geprägt ist.”

tramontane, Catholic losers. However, the key issue is that a compromise is always an interaction *between two or more actors* (de Boer and Westphal 2023: 144 and 146). Yet the ability to act as an actor presupposes agency, which is the capacity and the liberty to act. The defeated *Sonderbund* cantons and their military and political leaders were despoiled of any power (Remak 1993: 176–178; Mooser 1998: 48), hence they had no agency anymore. They were excluded from the negotiations. Instead, moderate Liberals and Radicals acted *in loco victorum*. Since there is no such thing as a “unilateral compromise,” the constituent process of 1848 can hardly be seen as a compromise, but rather as a set of concessions the victors made to the defeated for the sake of a long-term reconciliation. Certainly, negotiations were held between Radicals and Liberals, but these are two nuances of the same political family. Nevertheless, even among the representatives of these relatively familiar ideologies there were irreconcilable positions, as the next example will show.

2.4 The Jews in the Constituent Process

Despite the opacity of the constituent process, the Federal Constitution granted important rights. Article 41 guaranteed the freedom of establishment: “The Confederation shall guarantee to all Swiss citizens belonging to one of the Christian confessions the right to settle freely throughout the Confederation [. . .].”¹¹ Article 44 stipulated: “The free exercise of worship is guaranteed to the recognized Christian confessions throughout the Confederation. The Cantons, as well as the Confederation, are reserved the right to take appropriate measures for the maintenance of public order and peace among the confessions.”¹² Article 48 set equality before the law: “All cantons are obliged to treat all Swiss citizens of Christian confession equally to the citizens of their own canton in legislation as well as in judicial proceedings.”¹³ Granting equal rights to Protestants and Catholics meant the end of discrimination as was common, e.g., in *Sonderbund* Lucerne, as its consti-

11 “Der Bund gewährleistet allen Schweizern, welche einer der christlichen Konfessionen angehören, das Recht der freien Niederlassung im ganzen Umfange der Eidgenossenschaft [. . .].” *Bundesverfassung der Schweizerischen Eidgenossenschaft, vom 12. September 1848.*

12 “Die freie Ausübung des Gottesdienstes ist den anerkannten christlichen Konfessionen im ganzen Umfange der Eidgenossenschaft gewährleistet. Den Kantonen, sowie dem Bunde, bleibt vorbehalten, für Handhabung der öffentlichen Ordnung und des Friedens unter den Konfessionen die geeigneten Maßnahmen zu treffen.”

13 “Sämtliche Kantone sind verpflichtet, alle Schweizerbürger christlicher Konfession in der Gesetzgebung sowohl als im gerichtlichen Verfahren den Bürgern des eigenen Kantons gleich zu halten.”

tution from 1841 shows (Kölz 1992: 424). Under § 26, the charter – in force until the defeat of 1847 – stated: “In order to be politically eligible to vote, one must: a) be of the Roman Catholic religion [. . .].”¹⁴ However, the new Federal Constitution still insisted on Christian faith as a precondition to enjoy political and civil rights. One consequence of this was the exclusion of the Jews living in Switzerland from political and social life.

In 1848, approximately 3,000 Jews living in Switzerland were still deprived of political rights and could not find a place within the new constitution. At the time, the majority of the Jewish community was living in two villages of Aargau – Oberendingen and Lengnau – as well as in Avenches and Geneva, i.e., in the French-speaking part of Switzerland (Mattioli 1998a: 218). Despite the small size of the Jewish population and therefore the limited probability to come across a Jew, the anti-Jewish reflex among the Swiss population was considerable.

However, the Canton of Aargau had granted certain rights, including the right of residence in those two villages – and only in those –, the right to pursue professional freedom, and the right to acquire real estate. Nevertheless, even there they were not granted full citizenship and were still discriminated in many ways, e.g., by means of the mandatory curfew (Mattioli 1998a: 221, 1998b: 70).

As Swiss historian Aram Mattioli (1998a: 222) points out, the fact that Jews were excluded from the Federal Constitution of 1848 is not due to the fact that nobody thought about them, i.e., that they were somehow forgotten. The reason for this lies in the antisemitic attitude of most of the members of the constituent commission (Mooser 1998: 51). Nevertheless, there was a heated debate about the question of whether the constitution should grant full citizenship to Jews living in Switzerland. At its sixth session on February 24, 1848, the issue was brought up by the Liberal representative of Aargau, Friedrich Frey-Herosé, who advocated for the equal treatment of Jews and Christians (Süess 2014: 27–28). The representative from Zurich, the Liberal lawyer Jonas Furrer, vigorously replied:

In some cantons it would be considered a real misfortune if the free right of settlement were extended to this class [the Jews], and if the municipalities, like the other Swiss citizens, could be forced to grant the Jews a domicile. Thus, the Israelites had tortured the Zurich district of Regensberg, in the neighborhood of the Aargau Jewish communities of Endingen and Lengnau, and sucked it dry through usury in such a way that the legislature would

¹⁴ “§ 26. Um politisch stimmfähig zu sein, muß man: a) Römisch-christkatholischer Religion [. . .] sein.” *Verfassungen des Kantons Luzern. Staatsverfassung vom 1. Mai 1841*. Surprisingly, the following constitution of Lucerne from February 1848 still limited the right to vote to Catholics.

have to consider more serious measures against this evil. (Schiess 1848: 36; cited in Süess 2014: 28)¹⁵

As many as 17 members, against three, rejected the idea of granting emancipation to the Jews (Süess 2014: 28). During the debate in the Federal Diet, the issue was tabled again. Frey-Herosé depicted a favorable image of the Jews. The hatred against the “Israelites” was based on prejudices and ignorance. This plea was seconded by the delegates from Geneva, Neuchâtel, Vaud, and Bern, who nevertheless in their pro-Jewish statements deployed some stereotypes, too (Süess 2014: 31; Zimmer 2003: 133–134). Furrer, again, opposed this approach. He was supported by the vast majority of representatives.

Jonas Furrer, a lawyer and freemason who had studied law at prestigious universities such as Heidelberg and Göttingen, became one of the leading figures in the first years of the new Confederation. His arguments against the emancipation of the Jews show an attitude of economic protectionism in favor of the Swiss/Christians. In November 1848, Furrer was elected by the Federal Assembly as the first Federal President of the Swiss Confederation (Feusi Widmer 2009).

The Jews in Switzerland had to wait until 1866 for freedom of movement and until the new Constitution of 1874 for freedom of worship (Mattioli 1998b: 73–79). Hence, the “revolutionary” Constitution of 1848 was less generous and more reactionary in terms of Jewish emancipation than the constitutions of several monarchies such as the Kingdom of Sardinia (1848), Bavaria (1861), Baden (1862), Württemberg (1864), Austria (1867), and, first and foremost, France, back in 1791 (Mattioli 1998a: 217). Even more striking: in 1868, Benjamin Disraeli, a Jew who had also been baptized, became Prime Minister of the British Empire.

The country whose constitutional birth has so often been described as a sort of epitome of compromise did not experience anything remotely comparable when dealing with the destiny of a minority. That same minority which elsewhere had been treated with far more generosity.

15 Schiess 1848: 36: “Es würde nun in manchen Kantonen als ein wahres Unglück betrachtet werden, wenn das freie Niederlassungsrecht auch auf diese Klasse ausgedehnt würde, wenn mithin die Gemeinden, gleichwie den übrigen Schweizerbürgern, gezwungen werden könnten, den Juden ein Domizil zu gewähren. So hätten die Jsraeliten den zürcherischen Bezirk Regensperg, in der Nachbarschaft der aargauischen Judengemeinden Endingen und Lengnau, in der Weise torturirt und durch Wucher ausgesaugt, daß die Gesetzgebung wohl noch auf ernstere Maßregeln gegen das daheringe Unwesen bedacht sein müsse.”

3 Towards the Institutionalization of Consensual Politics

While the new constitution of 1874 provided both a strengthening of centralism and of direct democracy through the optional referendum, the polarization between Liberalism and Catholic-Conservatism increased (Altermatt 2021: 16). Especially the optional referendum became one of the Conservatives' favorite tools to undo laws adopted by the Liberals (Altermatt 2021: 24–25; Schmitt 2007: 741; Degen 1998: 147). If the constitution of 1848 had expelled the Jesuits from the Swiss territory, the new charter emphasized this additionally. The new constitution prohibited the establishment of new monasteries or the restoration of abolished ones, it made the establishment of dioceses subject to federal approval and it excluded Swiss clerics – both Catholic and Protestant – from election to the National Council. Yet the approval of the new constitution also meant that the end of the *Kulturkampf* in Switzerland was near, and a new era of political Catholicism had begun. In 1891, Josef Zemp was elected the first Catholic-Conservative federal councilor, thus establishing the first *Bürgerblock* or bourgeois alliance (Degen 1998: 146–148). Swiss historian Urs Altermatt coined the term “historical compromise” (*Historischer Kompromiss*) to describe the integration of the former adversaries into the government (Herrmann 2006: 153–154). While the Liberals consolidated their power through the transformation from a parliamentary group into a proper party in 1894 (*Freisinnig-Demokratische Partei*, FDP), the Catholic-Conservatives could profit from the success and their traditional, former *Sonderbund* strongholds. In 1900, one fifth of the National Council and one third of the Council of States were Conservatives. The former enemy had become an ally to the FDP, since both were now threatened by the emergence of a political newcomer: the Social Democrats (*Sozialdemokratische Partei*, SP) – then with a strong revolutionary wing and deeply inspired by Marxism (Tanner 2015: 36–37; Herrmann 2023: 41–42). Social claims (e.g., the 48-hour working week and an old-age insurance), and political claims (female suffrage and a government representing popular sovereignty) led to the Swiss general strike from November 12 to 14, 1918 (Tanner 2015: 148–150). The FDP's parliamentary hegemony was further eroded by means of the introduction of proportional representation for federal elections in 1919, thus supplanting the majoritarian representation – “the winner takes it all” principle – from which the Liberals had profited for decades. This reform favored both the SP and another newcomer: the national-conservative “Party of Farmers, Traders and Independents” (*Bauern-, Gewerbe- und Bürgerpartei*, BGB) (Vatter 2020: 96–97; Tanner 2015: 159–160).

3.1 The *Bürgerblock* of 1919

In the elections of 1919, the FDP had fallen from 101 to only 61 seats; the Catholic-Conservatives could hold their 41 – as many as the SP, after they gained an additional 21. This was the BGB's first federal election, winning as many as 28 seats. In the face of such an electoral defeat, the FDP decided to concede a second executive seat to the Catholic-Conservatives, thus consolidating the pre-existing antisocialist *Bürgerblock* (Maissen 2022: 246; Zala 2014: 499; Jost 2006: 772). Ten years later, the *Bürgerblock* was renewed insofar as the FDP *sacrificed* another of its seats in the Federal Council, which was given to the BGB (Vatter 2020: 203; Degen 1993: 33–34).

According to Pietro Morandi (2016), the foundation of an alliance of middle-class parties against Social Democracy and, since 1920, against Communism, is seen as a fundamental aspect of the Swiss consociational system. Karl Schmitt (2007: 742–744) interprets this system as a sort of prevention or remedy against direct-democratic maneuvers, especially the referendum which has the potential to overturn a law adopted by the Federal Assembly through a plebiscite.

Do these alliances – between the FDP and the Catholic-Conservatives first, and additionally with the BGB later – count as compromises? A compromise is always a second-best solution when solving a conflict; there is always a “bitter pill” that must be swallowed (Zanetti 2022: 22–23; Willems 2016: 248–249; Ruser and Machin 2017: 12). From the perspective of the Liberals, making the concession of one, two and, finally, three of their seats in the Federal Council, was certainly such a bitter pill. However, if we focus on the actors – those “junior partners” of the FDP – which would benefit from this, we can hardly find a comparable concession or humiliation from the side of the Catholic-Conservatives or the BGB. As mentioned above, Zanetti (2022: 21) argues that for a compromise there is no need to be on a par with each other. However, concessions are only made by the FDP, while the other two are put in a situation that consolidates their political power; apparently, they did not have to give up anything. Through their electoral success, the Catholic-Conservatives and the BGB were put in a position of strength and legitimacy. Thus, this agreement does not fulfill the requirements of a compromise. Instead, the category of the deal may be more appropriate (Willems 2016: 252). From this point of view, we could also argue that a compromise was made, yet within the party itself, that is among different party factions or members favoring or opposing this new political *menage à trois*. Yet we should not forget that this modus of “giving up some power to retain the power” implies the exclusion of a third (or fourth) actor. Since the second half of the 1920s, the SP had been gaining more and more seats in the National Council. In 1928, the Social Democrats received a greater number of votes than the FDP, yet due to the distribution of their

voters they were assigned fewer seats. One year later, the question of the Social Democrats' participation in the Swiss government was raised and triggered an important debate within the party. Those in opposition were afraid of too many concessions to the adversaries and of "a social democratic federal councilor captive of the bourgeois majority" (Degen 1993: 34, 1998: 154–155). The party finally decided to run with a candidate who eventually failed. In 1935, the SP became the strongest party with 50 seats in the National Council (Degen 1993: 30–31). The exclusion of the leftist party by the *Bürgerblock* needed to be reconsidered and the SP could not be wronged or ignored anymore.

3.2 The Spiritual National Defense

Philosopher Anton Ford claims in an essay on compromise:

In any decision where justice is at stake, a party to a compromise stands in relations of right to (no fewer than) two other parties: namely, (1) the other party to the compromise, and (2) whatever third party the decision threatens to wrong. (Ford 2018: 54)

The polarization of politics in the 1930s by means of small fascist parties that mushroomed all over Switzerland presented the established parties with new challenges. A new culture of compromise was required and aged dichotomies had to be reconsidered for the sake of resistance against these new threats. The "third party" of the past could now prove to be a valid partner. In response to the rise of totalitarian movements outside and within Switzerland, as well as irredentist claims at the beginning of that decade, the Swiss democratic parties responded with a strengthening of "typically Helvetic" values and mentalities such as democracy, federalism, liberalism and republicanism. The so-called "Spiritual National Defense" (*Geistige Landesverteidigung*) was meant as an integrative force in terms of culture, politics, and economy. Nowadays this movement is seen as a controversial chapter in Swiss history, as it involved a broad spectrum of ideologies: from Reactionary Conservatism, through Liberalism to Social Democracy. Its historical interpretation oscillates between a sort of "Helvetic totalitarianism" and an "anti-authoritarian basic compromise" (Jost and Imhof 1998; Tanner 2015: 234–245; Prieto 2020: 260–261).

Within the Spiritual National Defense, the so-called "Principles Movement" (*Richtlinienbewegung*) (1937–1940) was both a center-left forum for discussion and a political movement embracing progressive parties, trade unions, and employers' associations. With the aim of strengthening democracy and guaranteeing the rights of employees and peasants, and with its variety of goals and claims, this movement was a fertile soil for compromises. While the Social Democrats joined

the movement in order to defend their democratic and proletarian interests, and to propose measures to mitigate the consequences of the economic crisis, there was also the bitter pill of assenting to support the military defense of Switzerland. In this case the Communists were excluded from the movement (Degen 2009). A particular idea of a *Volksgemeinschaft* was set up, though not based on racial aspects or on blood-and-soil ideologies, but instead opposed to them and based on a patriotic panegyric of democracy (Imhof 1996a: 21). However, the many contradictions of the Spiritual National Defense showed their various shortcomings. A conservative patriotism combined with conformism, the establishment of anticommunism as a subliminal state doctrine – i.e., a “Swiss McCarthyism” –, a general xenophobic mistrust and political control and surveillance were some of the far-reaching consequences of this movement (Rauber 2009: 190–192; Prieto 2015: 173–180, 2020: 259–264; Tanner 2015: 310, 338–343; Buomberger 2017: 27–28).

3.3 The Magic Formula

Despite the movement’s fragility, the beginning of the Cold War provided a new occasion to deploy the old remedy from the 1930s. The Spiritual National Defense experienced its palingenesis. Unlike the period before and during World War II, the “Second” Spiritual National Defense was no longer a measure conditioned by the country’s isolation but rather a result of Switzerland’s ideological and economic integration in the “Free World.” The movement was now readjusted to fight Communism in all its nuances (Imhof 1996b: 183; Buomberger 2017: 210–249). The 1950s were a decade characterized by anti-communist reflexes as well as economic growth and prosperity. As the menaces from the 1930s had done before, the Cold War brought the political parties closer together. Swiss Social Democracy abandoned its class-struggle rhetoric to embrace new tones more in line with mainstream Liberalism, coming to an agreement with capitalism and defending consumerism as a social achievement (Furrer 1998: 111; Prieto 2015: 187–188; Tanner 2015: 355–357). By the end of the decade, the main political parties had lost much of their profiles. Consociational democracy was now the cornerstone of Swiss politics and would be in force for many decades to come. In 1959, as four seats of the seven-headed Federal Council were up for election, two members of the SP were elected into the executive. This was the beginning of the so-called “magic formula” (*Zauberformel*), that is, two seats for the three strongest parties and one for the fourth. This distribution, which has no legal or constitutional fundament, was immutable until 2003, but is now still “in force” (Papadopoulos and Sager 2023: 198). This process of ideological neutralization led to a permanent, and in many cases irreversible loss of the importance of political

parties. This permanent grand coalition was conceived on the grounds of particular values, such as anticommunism, military defense and capitalism. The compromise generated stability again, but at the expense of clear political profiles and real confrontation. “It reduced competition to form the government and led to self-sufficiency in setting electoral goals” (Ladner et al. 2023: 319), giving birth to a sort of permanent “government of national unity,” i.e., something that elsewhere is related to authoritarian, wartime, emergency or transitional governments, but not to daily democratic business.

4 Conclusion

Manfred Hettling recalled at the end of the twentieth century:

The immense internal heterogeneity [of Switzerland], the balancing of diversity and the integration of differences through the principle of *concordance*, a key word in the Swiss self-image, has often slowed down change. However, this consensual mode has also meant that reforms, once they have been decided and anointed with the democratic oil of the plebiscite, have often led to faster and more sustainable social change than in the supposedly more reform-capable statist neighboring states such as France, Italy and Germany, which are able to react quicker to crisis. (Hettling 1998: 8–9)¹⁶

However, Hettling also refers to a somewhat “autistic view” on the self and to an outspoken form of isolation, as if he was talking about a patient in need of therapy. Regarding the magic formula, Karl Schmitt (2007: 744–745) expressed a similar critique: Swiss consociational democracy might be a legitimate and valid path in order to integrate both majorities and minorities, providing a culture of inclusion, yet “[t]he price of high integration performance is the system’s inhibition of innovation, which penalizes change and favors defenders of the status quo.”¹⁷

If we praise compromise, consensus, or concordance in Switzerland for the ability to integrate and include minorities into the new nation, we should not for-

16 “Die immense innere Heterogenität [der Schweiz], das Austarieren von Vielfalt und die Einbindung von Unterschieden durch das Prinzip der *Konkordanz*, ein Schlüsselwort des Schweizer Selbstverständnisses, hat Veränderungen zwar oft verlangsamt. Jedoch hat dieser konsensuale Modus auch dazu geführt, daß Reformen, waren sie einmal beschlossen und mit dem demokratischen Öl des Plebiszits gesalbt, oft schneller und nachhaltiger zu gesellschaftlichen Veränderungen geführt haben als in den vermeintlich reformfähigeren und schneller auf Krisen reagierenden statistisch geprägten Nachbarstaaten wie Frankreich, Italien und Deutschland.”

17 “Der Preis der hohen Integrationsleistung ist die Innovationshemmung des Systems, das Veränderungen benachteiligt und Verteidiger des Status quo begünstigt.”

get that the opposite is also true. I borrow here Ruser and Machin's words when they say "that in spite of the claim to include 'everyone', compromises often exclude highly relevant perspectives, and this may precipitate the premature suturing of the political debate" (Ruser and Machin 2017: 31–32, original emphasis). Since the beginning of the modern Swiss Confederation of 1848, compromise – although I have demonstrated that this term is quite inappropriate – has been utilized to exclude political adversaries. While the discrimination of the Jewish population during the constituent process was performed on a simple majority basis, the "compromise of 1848" meant a segregation of the losers – the Catholic-Conservatives – by the Liberal and Radical winners. The following compromise, which involved the inclusion of the former opponents, was meant to ban the Social Democrats from executive power. As soon as the latter became too important to be ignored, they were integrated and the Communists became the new wronged third party. It seems that Switzerland has been practicing a very distinct form of compromise, which integrates at the expense of "threatening" minorities. Is this maybe a dark side of compromise, performed in the antechamber rather than in the parliament hall, with open confrontation and full transparency? The alterations and transformations of political goals by means of compromise are likely to "generate disillusion and apathy with particular political parties, as well as democratic politics in general" (Ruser and Machin 2017: 30). These grievances are the dark side Imboden referred to in his "Helvetisches Malaise" from 1964.

I started my chapter by quoting Max Imboden, and I will end with him, too. Imboden, who died in 1969, could not witness the introduction of female suffrage in 1971 (Degen 1998: 156–157). I argue that there is a nexus between the excessive culture of compromise as practiced in Switzerland and the inhibition of societal progress. The tradition of avoiding conflicts raises the question of whether compromises are the end (or purpose) of politics or simply *the end* of politics, tout court.

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