Democracy and rights seem two closely related subjects. That is especially true in liberal democratic thinking which unites a concern for democracy and individual rights. Yet there is also a longstanding worry about the way in which democracy bears upon rights, as if one were a threat to the other. So what is the truth about that relation?

The first task we encounter in examining this question is the identity of democracy itself. That, of course, is a much disputed matter and there is a great deal of ideological competition in the modern world for proprietorship of the term ‘democracy’. Here I shall simply stipulate a meaning of the term to serve as basis for the analysis of this chapter. By democracy I shall understand a form of decision making in which all of those who are bound by the decisions have the right to participate equally in their making. The fundamental idea of democracy is that of a people, a ‘demos’, ruling itself and it is that idea that I have sought to capture in this definition. In spite of the controversy that surrounds the meaning of ‘democracy’, it is unlikely that anyone would deny the adjective ‘democratic’ to the sort of decision procedure I have just described. The complaint that my definition is more likely to evoke is that it is hopelessly idealistic. It sets the standard for democracy so high that no modern political system does or could meet it. However my definition is intended to characterise democracy in its ideal or pure form. Actual political systems which claim to be democratic should be understood as more or less close approximations to that ideal and, of course, there will come a point at which a regime will be so far removed from the ideal that it becomes plainly ‘undemocratic’ rather than merely less democratic (cf. Lively, 1975, pp. 29–51).

My other defence of this idealised definition is that, in what follows, I shall be concerned mainly with the way democracy and rights are related in principle. That relation is best pursued by way of an unadulterated notion of democracy. The modifications required by the messy world of practice can be built in at a later stage.
Democratic and non-democratic rights

How far does a commitment to democracy entail a commitment to rights? In the first place, it is useful to distinguish between two sorts of right: 'democratic' and 'non-democratic'. Democratic rights are rights which are essential constituents of the democratic process; non-democratic rights are rights which are not.

The most obvious democratic right is the right to vote. A political system which does not extend that right to its adult population, even though it requires them to comply with its decisions, cannot be described as democratic. We would also normally require that a democratic right to vote must be a right to a vote which counts equally with other votes. Ideally conceived, a democratic system is not only one in which all citizens may participate but also one in which each citizen may participate on terms equal with others. But a right to participate equally in decision making goes beyond mere voting. It also entails a right to take part in other aspects of the decision-making process that preface the ultimate act of decision taking, such as discussion and debate. That is why the right to speak, the right to hear and the right to publish are also properly characterised as 'democratic' rights. To these we may add 'secondary' democratic rights which are rights in virtue of their being essential to participating in a particular form of democracy. Political parties, as they exist in the modern world, were unknown to the democracy of ancient Athens largely because its direct form of democracy and its filling of government posts by lot made them unnecessary. But political parties have become crucial to the functioning of indirect democracy in modern states so that, in those states, the right to form and to belong to political parties is properly included in the list of democratic rights.

Thus there are certain rights which are intrinsic to the democratic process and whose respect is demanded by democracy itself. We may even say that those rights set limits to what a majority may do in the name of democracy. Such a majority would act undemocratically, in spite of its being a democratic majority, if it used its powers to deprive any section of the 'demos' of these democratic rights. There is, then, at least one way in which a limit on the power of the majority is consistent with democracy itself. A constitution which divested its democratic legislature of the power to remove democratic rights would be no less a democratic constitution for