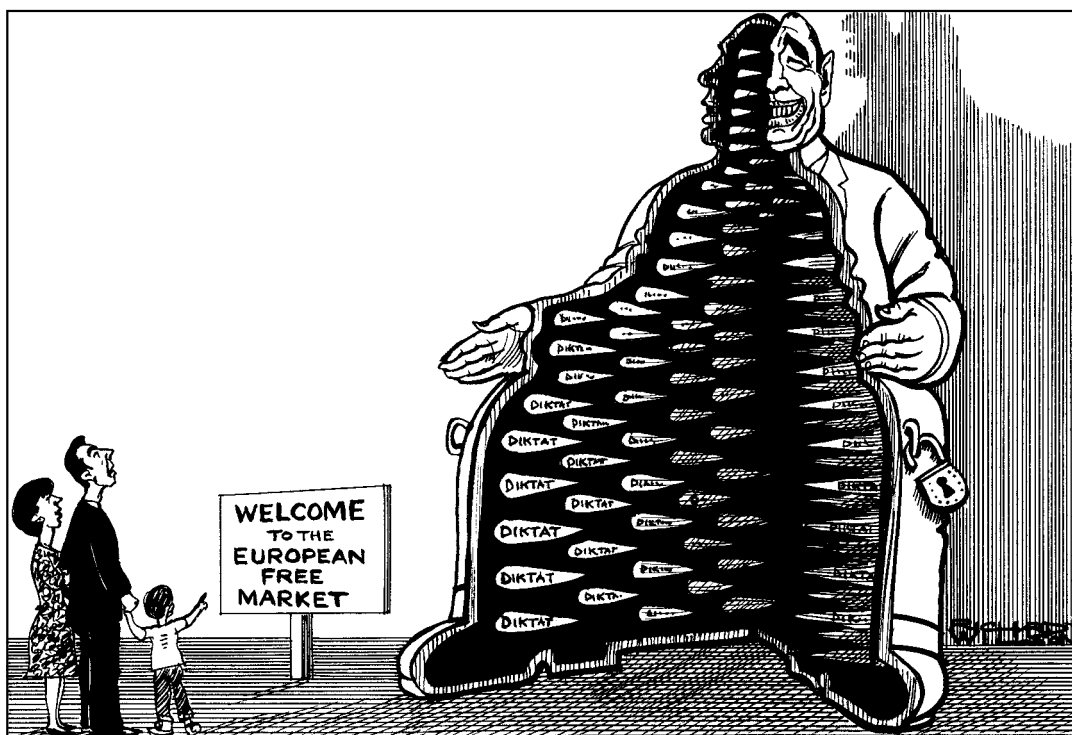


# THE EUROPEAN JOURNAL

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THE JOURNAL OF THE EUROPEAN FOUNDATION



*Keith Marsden*

*Former advisor to the World Bank*

**A Guide to Eurospeak: how we are misled**

*&*

***André Monteyne, Patrick Nicholls, MP,  
Laurence Robertson, MP, and David Leibler***

# THE EUROPEAN JOURNAL

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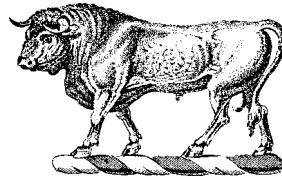
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## “Euro Not Political,” Says Politician

**T**HE PRIME MINISTER has gone further than ever before in his attempt to deny the political consequences of joining the euro. Speaking on the 20th of July in Okinawa, Mr Blair said that “[w]hat the inward investor really wants to know – what these Japanese companies want to know – is that we will take a decision on the euro according to the economic interests of the country and that we will not take it on political grounds.”

The latest in a series of leaks from Number 10 contradicts flatly the Prime Minister’s comments. The leaked document states that scrapping the pound is an intensely political matter that turns on “sovereignty, identity, and taxes”.

As I said in *The Times* (24 July), it is absurd to deny the political implications of changing the nation’s currency for one controlled by eleven other nations. Even the President of the European Central Bank, Wim Duisenberg, admits that “the process of monetary union goes hand in hand, must go hand in hand, with political integration and ultimately political union. EMU is, and was meant to be, a stepping stone on the way to a united Europe.”

To carry on denying what is admitted freely in the rest of Europe – that the euro is manifestly political – is, as the latest leak proves, a patronising falsehood. The Prime Minister has failed to accede to my repeated calls in the House of Commons for him to issue a White Paper explaining the euro’s political implications to the British people. Now he denies that there are any such implications. How absurd.

If the matter is not political, why then is it being decided by politicians? Why not give the decision to the Governor of the Bank of England, Sir Eddie George, who is a self-declared realist on the issue? Certainly, a referendum activated by the Bank of

England would command more credibility than one initiated by the Chancellor and his Five Economic Fudges. The timing of the referendum could also be left to Sir Eddie, thus tying the event to the mythic phenomenon of ‘convergence’, rather to the whims of a dissembling New Labour *élite* at war with themselves.

If the public took the decision in their present mood, the result would be a resounding ‘No’. Even the European Union’s own polling organisation, Eurobarometer, reports that just 22% of Britons support the euro. Even more interesting is the fact that only 25% of respondents describe EU membership as ‘a good thing’. This second finding is a clear warning to the Labour and Conservative parties alike. Unless they are offered a clear alternative in the form of renegotiation, the British people will demand the only other course open to them: withdrawal.

As for persuading Japanese investors to stay in Britain, the Prime Minister should remember that Japan accounts for just 4% of our inward investment. Important though that that 4% undoubtedly is, it is dwarfed by the 49% of inward investment that we receive from the United States. The Government chooses to highlight Japanese investment because it suits their purpose – dominated, as that investment is, by manufacturing. By far the majority of inward investment is, however, dominated by non-manufacturing interests.

Whilst we value Japanese investment, the costs to our other investors of joining the euro – in greater regulation and European government – far exceed the costs of staying out. The cost in terms of our democratic self-governance, moreover, would be incalculable.

**Bill Cash**, August 2000

# European Defence: an American Perspective

*by David Liebler*

THE DEBATE on European integration needs to be seen in the wider context of international security. The long-term effects of European monetary, defence, and foreign policy integration will have a significant impact on both Anglo-American relations and America's future role in the continent. The United Kingdom will have to face difficult decisions about its future on the world stage and its place in Europe. From America's perspective, these difficult decisions for the UK include, amongst other things, its view of the European Union's call for an International Criminal Court (ICC), as well as the EU's generally hostile stance toward the nascent National Missile Defence system (NMD). I shall argue that the EU must be persuaded to drop both of these positions if America is to continue to play an active role in world security, and that the UK must lead this persuasion.

Having assumed the EU Presidency in July, France is busy crafting the long-term agenda for Europe as a world power. As France's Minister for Europe, Pierre Moscovici, said in his speech in Warsaw in June: "We are saying that together we can build a new superpower, and its name will be Europe." France seems set on re-establishing itself as a world power. It can only achieve this by harnessing the combined talents of other major European states. Germany has disqualified itself from such aspirations, and the Italians, perhaps owing to domestic divisions, do not seem interested in such matters. Only the UK and France possess the memory and the will to act on the world stage. France, however, appears to be promoting an agenda designed to alienate the US from European and especially UK affairs.

Russian President, and former KGB officer, Vladimir Putin is a learned student of Soviet era foreign policy. Russia's violent solution to the affairs of Chechnya reminded the world that the vocabulary of violence can still be the most articulate. When in June he visited Chancellor Gerhard Schröder, Putin also reminded the world that we have not stepped out from under the shadow of nuclear terror. Russia is a committed opponent of America's efforts to design and deploy a missile defence shield. Putin knows that Russia could never keep up with US spending on the technology involved, however. Indeed, America's

spending spree on defence in the 1980s was partly responsible for the break-up of the USSR.

One of the old Soviet techniques in foreign policy was to use fear of nuclear war as a wedge to divide America from Europe. Putin resurrected this old Soviet policy while in Germany by warning that if America is defended by a missile shield, the Europeans will be left out in the cold. The same arguments were used by Soviet premiers to remind Europe that it would be its lands and populations that would suffer if the US and the USSR ever came to blows. To "defeat the Commies", they said, America was willing to fight to the death – of Europe. Some members of the EU, particularly France, are all too ready to listen to this threat again.

If American history is anything to go by, the NMD system will eventually work and it will eventually be deployed. If there is even the slightest chance that America could be made safer from nuclear attack, then the US Government has a duty and a right to pursue that chance. Extended arguments about the chances of missile defence resulting in a less safe world, because other nations will increase their nuclear arsenals, will fall on deaf ears. There is a legitimate debate to be had about the merits of NMD, but such a debate will not happen if Europe allows Russia and China to use the issue to weaken the Atlantic Alliance and, in particular, Nato.

RECENTLY, the EU has lent it support to the establishment of the ICC. A dozen nations, including France, have now ratified the international treaty on the Court. When the treaty is ratified by 60 nations the Court will begin to operate. The contradiction inherent in the ICC is that the very people its creator nations want to see stand trial before it may actually be made safer under its jurisdiction. America has been shamed and brow-beaten by righteous Europeans and human rights organisations for not endorsing the scheme and for not signing up to it. Many of these very same moralists clamoured for American intervention in Kosovo. Yet by insisting on the ICC, they are now set to make sure that America never intervenes in a war on humanitarian grounds again.

The US, with little help or support from

its European allies, bent over backwards to avoid civilian casualties in Serbia and Kosovo. Moreover, America has a robust, independent, and capable judiciary, civil and military, capable of disciplining its soldiers in times of war and peace. There were real war crimes committed in Kosovo, by both the UCK and the Serbian Army. Advocates of international human rights have had little success in bringing the perpetrators of these crimes to book. They have, however, investigated General Wesley Clark and, in the case of Amnesty International, accused the US of a war crime over the bombing a Serbian Television station in Belgrade – a television station which was broadcasting the kind of rhetoric not heard in Europe since Joseph Goebbels and the Reichsministerium für Propaganda. These experiences have left the American public confused and angry. Worse, they have left the US Military sceptical about the whole question of overseas intervention.

There is no better way to lead America back toward isolationism than to draw moral comparisons between the acts of dictators and murderers and the efforts of American servicemen to prevent suffering and murder. A bill was introduced in Congress recently called the "American Servicemembers' Protection Act". This bill would bar American military men and women from serving overseas unless given immunity from prosecution by the ICC. It is not that America is not interested in a more just and safe world, it is simply that any such court would be used to advance the agendas of nations interested in finding a way to diminish America's freedom of action. Nato might not collapse overnight, but it could die from a thousand cuts as its foremost member becomes less and less willing to support its operations. If America is separated from Europe and the Nato alliance withers, then who will stand up to the war criminals of this world? Well, there is always Eurocorps.

EUROCORPS, like the ICC, began life as a reasonably good idea. Europe embarrassed itself during the Bosnia and Kosovo conflicts due its lack of a unified military force. Individually, with the exception of the UK, the militaries of European states don't amount to much. Together, though, they could be a

formidable fighting force. Both France and Germany have long, and in certain respects distinguished, military traditions. Greater unity between the two could be an asset to Europe and to Nato. There are three dangers in the establishment of Eurocorps that must be avoided, however. These dangers were referred to by Secretary of State Albright as the three 'Ds': duplication, decoupling, and discrimination. In essence, Eurocorps should augment and not compete with extant defence structures. It should not be used, as the French wish, to divide Europe, and especially the UK, from America. Most

importantly, a common Europeandefence force should not discriminate against nations that are part of Nato but not part of the EU.

European integration is not just about the euro. It is quite clear that France wishes to diminish America's influence in Europe and that it is prepared to undermine the Special Relationship to do so. France's tantrum about Echelon, the surveillance system, is just one example of how irksome it finds the Special Relationship. The UK must resist French machinations, however, and continue to play the role that it has long

played: preserving a balance of power in Europe whilst, with its partners in North America and the Commonwealth, remaining engaged on the international scene. Now more than ever the UK must bridge the gap between Europe and America.

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# A Guide to Eurospeak: How we are misled

by Keith Marsden



**R**ECENT EUROPEAN COMMISSION proposals<sup>1</sup> for the reform of EU institutions will confuse many readers. Bureaucratic language obscures its real intentions. European citizens should be given the opportunity to express their views in referendums, national elections and other consultative mechanisms. Before signing on to a new Treaty of Nice, they need to understand EC jargon, read between the lines and study the small print. This guide to eurospeak may be helpful. It contrasts the ordinary meaning of words with the EC's stated or apparent objectives. Caveat emptor (buyer beware)!

**European:** Since the 16th century, this word has usually meant a native or inhabitant of the continent of Europe. Some enthusiasts (called europhiles) now want to give it a political slant – anyone who shares their vision of an ever closer union culminating in a United States of Europe.

**Reform:** The removal of faults or errors, especially of a moral, political or social kind (Oxford Dictionary). Unfortunately, past errors cannot be corrected if they are incorporated in EU directives (or orders from above). These are called 'acquis', or acquired rights, and are considered to be sacrosanct. Most independent observers believe that European progress is hampered

by too much red tape. But to europhiles, reform means tightening the regulatory straitjacket in ways they think will further their own interests, and can cloak as 'modernisation'.

**Freedom:** The power of self-determination; the right of liberty of action (OD). The EC talks a lot about "the four fundamental freedoms of the treaty (free movement of goods, persons, services and capital)". Yet it says that these freedoms can only be fully realised if people give up their right to decide how to live and by whom they are governed. They must bow to the superior wisdom of an unelected and largely unaccountable EC (as witnessed by its failure to curb corruption, fraud and waste<sup>2</sup>), and to a cartel of nations whose experience of liberty has often been much shorter.

**Decisional mode:** The way decisions are taken within the EU. Until now, most major actions have required consensus, that is voluntary agreement by all member states. Some members have become impatient with the limits this places on their power. So the EC has proposed a shift from unanimity to qualified majority voting (QMV) in key areas like taxation and social security.

**QMV:** Decisions made by a majority of member states, roughly weighted by the

relative size of their economies. The EC says that "the scope for unanimity voting must be narrowed for the sake of efficiency". But it doesn't mean efficient use of resources, or management effectiveness. It only complains about delays in pushing through more directives that limit the freedom of European people and governments to make their own choices. Extended QMV will allow coalitions among a few dominant powers and their satellite economies to impose their will on other EU members, and eliminate challenges from alternative policies that have proved to be more effective but don't fit in with their philosophy.

**Competence:** The ability or capacity to do a task (OD). But in eurospeak it refers to the way responsibilities are allocated between the EC bureaucracy and member governments. The EC claims that "the change in the decisional mode will leave unaffected the current distribution of competences as contained in the Treaty. The switchover from unanimity to qualified majority will merely enhance the decision making capacity of the institutions." This is hogwash. It will result in less discretion being left to local institutions, firms and individuals most able to make the right decisions and carry them through. More power will be assigned to centralised



authorities that are remote from citizens' needs and market realities. That is a formula for incompetence, not efficiency.

**Flexibility:** A capacity for ready adaptation (OD). For europhiles, however, flexibility means permitting "enhanced co-operation" among a group of EU countries that wish to set up new institutions or regimes in the pursuit of closer integration. To allow this, they say, other members must give up their national veto – which is the only weapon they have to safeguard their own flexibility in some policy areas.

This is a false dilemma. Although unanimity is currently required for Treaty changes, there is nothing to stop a group of members co-ordinating or harmonising policies through their national legislation, or even joining together in a political union. And within existing procedures, a majority of members can grant opt-outs (exemptions), as they did to Denmark and Britain on the euro. They can also agree among themselves to adhere to a Protocol (rules annexed to the main Treaty) which is not binding on all members. This was done for the so-called 'social chapter' attached to the Maastricht Treaty.

But europhiles want their cake and eat it. They demand the right to do their own thing, but they don't have enough confidence in their policies to co-exist with different approaches that are more attractive to others. They also forget that flexibility requires that policies can be changed when circumstances change.

**Hard core:** No, not the sexual gymnastics (sometimes called the French cultural exception) that Canal Plus would like to beam to all EU households. This term was employed in a recent speech by German foreign minister Joschka Fischer and in a joint article by former French President Valéry Giscard d'Estaing and former German Chancellor Helmut Schmidt. It refers to a powerful federation that would act as one in key areas, such as economics, crime fighting, immigration or the environment, but still preserve the nation state. Conservatives and true liberals shouldn't have any objections, as long as the hard core doesn't trample on their own liberties and traditions.

**Market economy:** An economy subject to and determined by free competition (OD). Article 4 of the current EU Treaty states that the activities of the member states and the

Community shall be "conducted in accordance with the principle of an open market economy with free competition". But now the EU talks incessantly about the Single Market (with capital initial letters), as if it were an accepted and hallowed principle of EU doctrine. In fact this term cannot be found anywhere in the Treaty. It implies a degree of uniformity that was never intended by the signatories (at least some of them).

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## ... they need to understand EC jargon, read between the lines and study the small print

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The essence of competitive markets is variety – in price, quality, design, service, etc. Buyers and sellers should be free to choose the product characteristics and market niches they prefer, and are within their means and capabilities. These depend on economic circumstances and the past evolution of their societies. Governments should also be free to adopt policies that tap their countries' competitive advantages (such as cheaper labour, more abundant capital, lower taxes or higher skills) to the full. The EC proposals would unduly limit these freedoms.

**Harmonisation:** The action or process of bringing into harmony or agreement (OD). In eurospeak, it means the application of uniform laws and policies throughout the EU. The EC is fond of such sweet sounding words which create an aura of contentment and co-operation. The practice belies the image if acceptance is gained by political bribery, or is introduced by subterfuge and misleading statements to an inadequately informed electorate.

There is evidence of the latter strategy in the latest EC proposals. They lull sceptics into a false sense of security by stating that "national provisions concerning taxation and social security reflect the fundamental preferences of national legislators in

economic and social policies. The level of social protection and welfare benefits as well as the ways in which the revenue to finance such benefits is raised through taxation constitute the essence of sovereignty exercised by national parliaments". "In general terms", the EC goes on to argue, "these provisions express national choices concerning the degree of solidarity and support between public bodies and citizens". "Such choices are usually neutral with regard to the European dimension", it says.

All well and good. But the EC then asserts that some "national fiscal and social security provisions cannot be considered neutral with regard to the functioning of the Single Market" because they are "incompatible with Single Market objects" or "give rise to distortions of competition". These terms are defined so loosely that almost any intervention could be justified in the name of the Single Market, and be used to subordinate national preferences and curtail sovereignty still further.

**Incompatible:** Incapable of existing together (OD). The EC doesn't explain why countries with different policies cannot co-exist, or are unable to compete in each other's markets. It simply asserts that "administrative costs and legal insecurity mean that citizens and companies cannot make full use of their rights to move or invest in another Member State". In reality, information about each country's laws affecting foreign products, workers, residents and investors is readily available, often free of charge, from public institutions. Millions of persons have migrated to, and many thousand firms have invested in, other EU countries without much difficulty. If people and businesses from one country wish to establish in another, they should respect and accommodate the laws and traditions of their hosts, not try to impose their own. Diversity shouldn't be confused with discrimination.

It sometimes seems that the demand for uniformity disguises a desire to discourage mobility by making it less attractive. Some French men and women are annoyed that their new Marianne (actress Laetitia Casta) has chosen to live in London, allegedly because of lower taxes. But that's no reason why they should insist on tax harmonisation. There are plenty of Brits who have been lured by the quite different charms of Provence and the Dordogne. Should France

be required to adopt British cuisine to stop the flow?

**Competition:** The action of competing or contending with others; striving for custom between rival traders (OD). The EU Treaty implicitly accepts the free market premise that competition promotes economic efficiency and enhances consumer welfare. In principle, it prohibits decisions or practices by undertakings (enterprises) that prevent, restrict or distort competition. Examples cited include agreements to fix prices or share markets, and abuse of a dominant position.

In applying competition rules, the EC has sometimes been over-zealous in acting against alleged private monopolies. For instance, it blocked the merger of Volvo and Scania truck manufacturing operations, even though their combined share of the EU market is only 33%, and customers would have benefited from economies of scale. On the other hand, governments have been allowed to maintain public monopolies by invoking article 86.2. This exempts "operation of services of general economic interest" from competition rules that might "obstruct the performance, in law or fact, of the particular tasks assigned to them".

**Policy-imposed distortions:** Market distortions resulting from government interventions. The Treaty is also weak in tackling these distortions. Article 87 says that any aid granted by a member state in any form whatsoever which distorts competition by favouring certain undertakings, or the production of certain goods, shall be incompatible with the common market. But it then goes on to list so many exemptions that it becomes virtually toothless. Recorded subsidies to EU enterprises now amount to more than \$200 billion annually, and disguised subsidies in the form of active labour market programmes (training, etc.) and public funded R&D may double the total.

Government intervention is a major cause of distortions of product and factor (labour and capital) markets. But such distortions are not recognised in the Treaty or EC actions, because regulation is the main instrument adopted to achieve other goals. For example, regulations aimed at ensuring job security may increase the rate of unemployment, while the provision of certain social benefits and the taxation of labour incomes lower labour force participation rates. In turn, the demand for

labour is affected by legislation on minimum wages and working hours, and by social security schemes. Apart from their effect on employment, these regulations influence the efficiency of resource allocation and economic growth. Taxes finance public services, but introduce wedges between the demand price and the supply price of particular factors, and therefore create distortions. And they affect the responsiveness of the supply of factors – labour and entrepreneurship as well as savings – to the after-tax rate of return.

A distinction should be made between the expressed aim of laws and regulations, and the purposes they serve in practice. The EC doesn't admit any conflicts or trade-offs. In some cases, it seems to have been "captured" by particular groups rather than defending the interests of the public at large.

**Regulatory capture:** This concept refers to regulation to protect incumbent producers or other well organised interest groups. The starting point for this view of regulation is the observation that firms and workers in many industries may actually seek regulation for their own benefit, since it may limit entry into the industry and may help incumbent firms enjoy higher prices for their output, and their workers have more secure, better paid jobs. The insights underlying this concept apply not only to regulation in the strict sense of the term, but to any government or EU policy that seeks to affect the behaviour of the private sector, or even the policies of other countries.

This seems to be reflected in the EC's policies concerning the Eastern European candidate countries. Its proposals draw attention to the wide differences in per capita incomes (average ratios of 1:3) between central and Eastern European candidates and present EU members. It states that different levels of development will influence "national legislators' choices concerning the level of social protection and the corresponding level of revenue generation through fiscal policies". "Policy choices against such different backgrounds", the EC warns, "may interfere with the overall objective of promoting a harmonious and balanced development of economic activities as well as sustainable growth and a high degree of convergence of economic performance. Thus, it will be important to ensure that co-ordinated responses at Community level remain possible, in order to address any distortions of competition in the Single Market."

Behind this almost impenetrable jargon, the EC seems to be suggesting that candidate countries should be obliged to adopt the same social security, labour and tax policies as richer members. These policies cannot be afforded by poorer countries. They would blunt their competitiveness, slow their economic growth, retard improvements in social fields and hamper convergence. But for EC regulators, the perceived need to protect the interests of current EU members appears to be paramount. Note, however, that the regulators may not even be aware of their capture. They could be pursuing goals laid down in the Treaty with the means at their disposal.

All this is not to deny that some rules of the game are necessary to promote competitive markets and free trade – which benefit most people through faster income growth, and provide resources for better safety nets and adjustment programmes. But the trade and competition rules freely negotiated by WTO members are generally adequate. The EC shouldn't be allowed to bias them in favour of the rich and the powerful. And Europeans should retain the freedom to decide how they want to be governed, and to reject or overturn policies and regulations that don't serve their best interests.

1 EC COM (2000) 114 final. Brussels, 14.3.2000

2 See Paul van Buitenen, *Blowing the Whistle, One man's fight against fraud in the European Commission*, (London, Politico's Publishing, 2000); and numerous reports of the European Court of Auditors.

*Keith Marsden is an economic consultant based in Geneva. He is a regular contributor to the Wall Street Journal, Europe and a member of the EF International Advisory Board.*



# Company Tax and the Museum of Democracy

by Christopher Arkell

EACH YEAR the Confederation Fiscale Européenne (CFE), the umbrella body for taxation advisers in the EU, holds a conference attended by tax professionals and representatives from revenue departments including the UK's Inland Revenue. The European Commission also send official delegates and observers, since the CFE is an 'official' EU body – authorised by the EC to discuss with it taxation matters in the EU.

This year the topic for discussion was 'company taxation barriers in the single market – obstacles to cross-border activities of European businesses'. The bias in favour of EU company tax harmonisation is obvious in the very title. Most business in the UK for example, (89%), is done domestically. Differences in the company taxation systems in Greece or Portugal do not affect the local Printpoint or greengrocer. Nor is it generally agreed that differences in company taxation present obstacles to cross-border activities. If this were true, the trade between the UK and the USA would be minimal, since the USA company taxation and accountancy rules vary widely from those in the UK – more widely in some respects than the UK and continental countries such as The Netherlands.

Paul Morton, tax manager at Shell UK and a UK representative on the CFE Fiscal Committee, gave what he called "an industry view of the problems". A precis of his address can be found in *Tax Adviser*, June 2000, pp. 18–20 (from which all quotations are taken).

His overall argument was that international companies (such as Shell) wanted a single tax base in the EU in order to reduce administrative complexity. "The need to negotiate independent direct tax liabilities with fiscal authorities in each country and to register for indirect taxes in each country is a very real burden." The sheer inconvenience of dealing with multiple jurisdictions frustrated businesses and their advisers, and was costly.

International companies should also be allowed to group their profits and losses across the EU (something which *ICI v Colmer*, C-264/96 [1998] STC 874, has forced the UK's Inland Revenue to acknowledge in the Finance Bill 2000). Operations in different countries should

be carried out through branches of the main company, in order to avoid the need to incorporate according to the local jurisdiction's company regulations. And all transfers of dividends, royalties, interest payments and assets should be free of all taxes including stamp duties if made by one branch of a business to another.

As stated by Morton, these are the chief demands that pan-EU businesses are making on the Commission. Morton also quoted from the 1998 OECD report on Revenue Statistics which noted that "over the last two decades, the share of corporate income tax [e.g. corporation tax] in the mix of total taxes has remained around 8%, down from 9% in the 1960s... The overall strong recovery of company profits after the mid-1980s in most OECD countries is not, as yet, fully reflected in buoyant revenue from corporate income tax, suggesting that effective average tax rates have fallen over time." It is this argument which is animating the Commission's well-known and publicly stated policy of moving the tax burden from Labour to 'Mobile Capital', that is – from employees to companies.

THE Paris-based OECD has consistently echoed Commission tax policy, not just on taxation of 'Mobile Capital' but also on 'harmful tax competition'. It is also now well-known that the Commission's attack on supposed 'harmful tax competition' is part and parcel of its efforts to harmonise company taxation across the EU Member States, and to absorb company taxation policy into the *acquis communautaire*. Interestingly, Morton stood out against this policy, even though he had given so much ammunition in his wish-list to the Commission's harmonisers.

"A healthy degree of competition between European countries has secured a general reduction in the overall burden of taxation on corporate profits which the business community can only welcome... I have little appetite for a pan-European system of direct taxation. It seems much more appropriate that each country should have the freedom to create its own direct tax regime having regard to its competitive position in attracting capital and to local circumstances."

Yet his demands for action were all directed at the Commission, and were for

new EU directives and enforcement of existing directives on mergers, parent/subsidiary relations, dividend payments etc. Before 1972, say, the Mortons of the tax world would have lobbied Westminster (broadly, Parliament and the Treasury) for changes in corporate tax administration. Much lobbying continues to be done there – witness the intense pressure put on Gordon Brown to abandon or modify extensively his proposals for the taxation of dividend-mixing in this year's Budget. But EU-favoured bodies such as the CFE are increasingly seen by international businesses as the mechanisms through which influence is brought to bear on the legislative and administrative frameworks in which they operate.

Their hopes of influence are largely illusory. The EC, with its corporatist satellites such as CFE, acts as a planet drawing Morton and his colleagues into its orbit, from which they will be incapable of breaking free. His "little appetite for a direct system of pan-European direct taxation" is dismissable as a personal view. His appeal to the Commission to issue directives shows where he believes the substantial power resides – and that is no longer with the Member States.

As in company tax, so in other spheres of life – the shape of the emerging EU State is becoming clear. It will comprise a web of special-interest, corporatist bodies whose members are selected for their pro-EC/EU outlooks (however unconsciously expressed). Each body will act as a consulting 'focus group' to its appropriate Commission Department. The Commission will take account of the views that the body expresses, but may over-ride them if it wishes. It will then issue directives or regulations which the Member States will put into practice in their regions.

And democracy; Parliament? Hmm – look up under 'Museum of ...'

*Christopher Arkell is Editor of London Miscellany and an accountant specialising in tax.*

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## European Foundation Research Unit Briefing

### Survey data

Eurobarometer, the European Union polling organisation, reports in its latest survey that 49% of respondents support their country's membership of the EU. 14% of the 16,000 respondents were opposed to membership, whilst 28% thought membership neither good nor bad.

The headline finding of 49% is down from 51% at the end of 1999. Confidence in the European Commission remains the same at 45%, 30% expressing mistrust of the institution. Confidence in the Commission was strongest in Ireland, at 61%. In the United Kingdom, by contrast, just 25% of respondents expressed confidence – the same percentage as indicated their support for EU membership. 22% of UK respondents were in favour of adopting the euro.

For the first time, Eurobarometer also asked respondents their views on a 'European constitution', of which 70% were in favour. The respondents most in favour of a European constitution were the Dutch, at 88%. UK respondents were least in favour at 48%.

On all but two questions, concerning common defence and enlargement, UK respondents were the most sceptical in their responses. Irish and Italian respondents were the least sceptical. Austrians reported

the biggest rise in scepticism since the last Eurobarometer survey, bringing the number of Austrian respondents describing membership as "a good thing" down to 33%.

The survey is the 53rd in a twice-yearly series conducted by Eurobarometer since 1973. The survey can be read on-line at <http://europa.eu.int/comm/dg10/epo/>.

The chart from page 3 of the report is reproduced opposite.

### Murder rates

Following riots by England supporters at the Euro2000 tournament, there has been much talk of England as a 'violent society'. The ultimate act of violence, murder, remains rarer in England than in most other parts of Europe, however.

In the years 1994 to 1998 there were 3,648 murders in England and Wales, compared with 5,837 amongst a similar size population in France. Per 100,000 people, murder rates in Europe in 1998 were as follows: England and Wales, 1.43; Belgium, 2.14; Czech Republic, 3.04; Finland, 2.19; France, 1.64; Greece, 1.93; Hungary 2.85; Italy, 1.60; Netherlands, 1.57; Poland, 1.96; Portugal, 1.52; Russia, 20.20; Spain, 2.61; and Sweden, 2.11.

Using murder as a metric, then, England can not be classified a violent society. The murder rate in England and Wales compares even more favourably with those in the United States, at 6.26; Russia, at 20.20; and South Africa, at 57.52.

### EU preparedness

In one of the only comprehensive analyses of its kind, the Slovak Ministry of Foreign Affairs has compiled a 29-point index of the preparedness of European Union candidate countries. The best-prepared country according to the index is Cyprus, which received a score of 16 out of 29. The least

well-prepared applicant state is Bulgaria, which received 4.

The scores for the remaining countries were: Cyprus, 16; Estonia, 13; the Czech Republic, 13; Slovenia, 12; Poland, 11; Hungary, 11; Slovakia, 6; Lithuania, 5; Latvia, 5; Romania, 5; and Bulgaria, 4.

### Equal Treatment Directive

The Government is set to sign the United Kingdom up to the European Union Equal Treatment Directive. According to Professor Paul Beaumont of the University of Aberdeen, the Directive "represents a considerable threat to religious liberty ... [which] will make it difficult or impossible for a Christian medical practice to hire only Christian doctors, for a Jewish hospital to hire only Jews, for a Muslim society to only appoint heterosexuals to office, and so on."

In an open letter to every Member of Parliament, the Professor went on: "The Labour Party ensures that all its electoral candidates are members of the Labour Party. Freedom of association means nothing unless political groups can employ people who support their party. Under the Directive such freedoms will not be available to religious groups."

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### ... news in brief

#### Euro bank note printer breaks down

For unexplained reasons, the private printing company in Munich which is producing the 100 euro notes suffered a breakdown earlier this week. In the worst case scenario, the breakdown could cost 6 months' work and DM 65 million. A defect in the security strip of the 100 euro notes was detected after the majority of 325 million such notes had been produced. Officials from the European Central Bank are at pains to say that none of this will affect the timely physical introduction of the euro bank notes in 2002, but even the French, whose capacity for organising such things are legendary, are beginning to get a little panicky that the physically massive change-over operation can be conducted without glitches in the early months of 2002. [*Frankfurter Allgemeine Zeitung*, 11th July 2000]

#### EU allows special privileges for Lufthansa

The Brussels commission has quietly dropped proceedings against Germany and against the German national airline, Lufthansa, which would have required the company to allow a majority of its stock to be owned by foreigners. By doing this, the Commission has quietly accepted the company's rule forbidding foreign ownership – a rule which naturally contravenes the EU's most basic laws on the free flow of capital. Brussels is also said to be prepared to drop any proceedings against a similar 'Golden Share' held by the Dutch government in KLM. On the other hand, it is opening investigations into Golden Shares in the Dutch telecom and postal companies. According to German newspaper reports from Brussels sources, German national interests simply prevailed over EU law. [*Handelsblatt*, 11th July 2000]

## EUROBAROMETER Spring 2000

	Membership good thing <sup>1</sup>	Benefit from membership <sup>2</sup>	Trust in the European Commission <sup>3</sup>	Support to the euro <sup>4</sup>	Support to a common Foreign policy <sup>5</sup>	Support to a common Defence/ Security policy <sup>6</sup>	Enlargement priority <sup>7</sup>	European Constitution <sup>8</sup>
B	62 <b>(+8)</b>	60 <b>(+10)</b>	57 (+4)	76 (-1)	72 (=)	<b>85</b> (+1)	28 (+2)	75
DK	53 (-1)	65 (+1)	42 (+3)	40 (-2)	53 <b>(-6)</b>	53 (-2)	<b>57</b> (-1)	59
D	41 (-6)	37 (=)	34 (+1)	50 (-5)	69 (-2)	76 (=)	<b>20</b> (+1)	68
GR	61 (+2)	75 (+5)	50 (+1)	69 (-1)	73 (-2)	76 (-3)	53 (-1)	82
E	67 (+3)	66 (+5)	56 (+2)	75 <b>(+3)</b>	66 (+3)	76 <b>(+4)</b>	31 <b>(+4)</b>	74
F	49 (+1)	49 (+3)	54 (+4)	67 <b>(+3)</b>	70 <b>(+4)</b>	82 <b>(+4)</b>	21 (+2)	75
IRL	<b>75</b> (-7)	<b>86</b> (-2)	<b>61</b> (+1)	63 <b>(-15)</b>	61 (=)	56 (-1)	42 <b>(-7)</b>	53
I	60 (=)	51 (+1)	58 (-5)	<b>81</b> (-4)	<b>77</b> (+2)	<b>85</b> (+2)	30 (-5)	84
L	<b>75</b> (-6)	69 (-3)	57 <b>(+5)</b>	76 (-3)	68 (-3)	79 (-1)	25 (-1)	71
NL	73 (+2)	65 (=)	53 <b>(+5)</b>	67 (-8)	74 (-3)	83 (-2)	32 (-3)	<b>88</b>
A	33 <b>(-9)</b>	34 <b>(-11)</b>	40 <b>(-6)</b>	48 (-10)	63 (-3)	61 (-4)	23 (-1)	65
P	64 (-4)	71 (-6)	57 (-5)	64 (-1)	58 (+1)	66 (-2)	25 (-4)	63
FIN	40 (-4)	42 (+2)	48 (+1)	49 (+2)	53 (+3)	46 (=)	21 (-2)	66
S	34 (-3)	26 (-3)	34 (-4)	38 (-5)	50 (-3)	<b>45</b> <b>(-7)</b>	48 (=)	72
UK	<b>25</b> (-4)	<b>25</b> (-4)	<b>24</b> (=)	<b>22</b> (-3)	<b>40</b> (-1)	49 <b>(-7)</b>	26 (-3)	<b>47</b>
EU	49 (-2)	47 (+1)	45 (=)	58 (-2)	64 (=)	73 (=)	27 (-1)	70

(questions not asked previously)

- 1 Generally speaking, do you think that (our country's) membership of the European Union is...? (a good thing/a bad thing/neither good nor bad) [A good thing]
- 2 Taking everything into consideration, would you say that (our country) has on balance benefited or not from being a member of the European Union? [Benefited]
- 3 And for each of [the following European institutions], please tell me if you tend to trust it or tend not to trust it? - The European Commission [Tend to trust]
- 4 What is your opinion on each of the following statements? Please tell me for each proposal, whether you are for it or against it. "There has to be one single currency, the euro, replacing the (national currency) and all other national currencies of the member states of the European Union." [For]

- 5 What is your opinion on each of the following statements? Please tell me for each proposal, whether you are for it or against it. "The member states of the European Union should have one common foreign policy towards countries outside the European Union." [For]
- 6 What is your opinion on each of the following statements? Please tell me for each proposal, whether you are for it or against it. "The European Union member states should have a common defence and security policy." [For]
- 7 I am going to read out a list of actions that the European Union could undertake. For each one, please tell me, if in your opinion, it should be a priority or not? - "Welcoming new member countries" [Priority]
- 8 Do you think that the European Union should or should not have a constitution, that is a core document which brings together the various current Treaties? [Should]

# It's Time for Honesty

by Laurence Robertson, MP

IN 1975, the then Labour government held a referendum on the UK's continued membership of the EEC, as it was then known, or the 'Common Market', as it was also described on the ballot papers.

People were asked if they wanted the UK to continue as members of this 'trading club' and were given grave warnings of what fate would befall them if the country left. The use of the words 'Common Market' on the ballot paper was significant, because politicians of the day wanted to pretend that all the EEC was about was trade, and that trade with the European Economic Community was essential if we were to retain British jobs.

Of course, the better informed and the more politically astute recognised that there was more to it than this. They recognised that the issue wasn't just about trade but about economic, monetary and political ambitions as well. They also realised that free trade in itself is relatively unimportant – it is fair trade that really matters. They saw that if a supra-national organisation is to supervise the creation of fair trade, it needs to have power to interfere not only in each individual country's tariffs policy but also in its taxation regime, employment laws, competition policy and subsidies policy. In other words, if an organisation boasts free and fair trade that organisation also has political muscle.

Others were just opposed to our continued membership because of a distrust, or even a hatred, of foreigners, because of their experiences in the war or because they were jingoistic or even xenophobic. To me, these arguments are spurious and unacceptable, but people in every country hold these views, to a greater or lesser extent.

Whatever their reasons for doing so, there was no doubt that many people were opposed to our joining the EEC in the first place, to our continued membership at the time and to our subsequent membership thereafter. So why did the British people vote to remain members, when basically they didn't want to?

There were two basic reasons.

First, most of the politicians whom people respected were saying that we should remain as members, including Margaret Thatcher, Edward Heath, Harold Wilson and Jeremy Thorpe. Also, many of the politicians whom people did not respect,

were saying that we should come out, including Tony Benn and Dennis Skinner.

Secondly, people were frightened by the possibility of losing their jobs, and of the UK becoming isolated, if we didn't remain members of this 'trading club', and the arguments propounded by the 'Yes' camp played on this fear. The government of the time used its resources to allay the fears of those people who obviously wanted to prevent the UK from becoming isolated by staying outside the EEC but were fearful of international and supranational organisations, and who were not too impressed by what they had seen of the EEC to date and its pretensions.

In order to attempt to persuade people to vote 'Yes' to continued membership, Prime Minister Harold Wilson published a booklet, *Britain's New Deal in Europe*, and circulated it to every household. This booklet contained two very important and persuasive statements, as follows.

On page nine, the booklet claimed that if ever the British Minister wanted to veto a proposal coming from Brussels, he could do so and that would be the end of the matter – we would not, under those circumstances, be required to accept that particular proposal.

On page twelve, the booklet said that the threat of economic and monetary union – "which would have cost British jobs" – had been removed.

Of course, these promises have been proved to be worthless as the European Union, as it has now become, has assumed more and more powers without the British people even having been given a say over this transfer of power from them to the faceless bureaucrats in Brussels. In rapid succession, the Single European Act, the Maastricht Treaty and the Amsterdam Treaty have moved western Europe further towards political union.

We do, of course, already have Qualified Majority Voting in many areas, which renders useless the assurance that the British Minister would always have a veto over proposals coming from Brussels. And EMU is not only on the agenda but is now a reality, and the UK, under a Labour government, is poised to join.

And, as we stand before the Nice intergovernmental conference, proposals for further Qualified Majority Voting and

moves towards a federal political union are on the agenda, thus betraying the very promises which the British people were given at the only point at which they have ever been asked their opinion on our membership of this western European club.

One danger is that, nowadays, anyone who believes that the UK should govern itself is referred to as an extremist. For my part, I am no nationalist or xenophobe. I made my maiden speech in the House of Commons speaking against Scottish devolution, because I believe that as one united, democratic kingdom our lives are enriched and our prospects greater.

I try to buy British goods in order to support British workers, but I am bound to accept that French wine, Italian clothes and German engineering are very difficult to beat. I support the building of the Channel Tunnel, want to see the UK co-operate with its continental neighbours on many aspects, such as the environment, trade, security and in so many other areas. But I do not want the UK to be broken down and be subsumed into a federal Europe of regions.

I support a referendum on whether or not we should accept what is agreed at Nice, just as I believe that a referendum should be essential before any government proposes to cede any more of our sovereignty or to abolish our currency and take part in Economic and Monetary Union.

But what I really want above all else is an open and honest debate about our membership of the European Union; I want politicians in this country to stop telling lies about where the EU is heading; and I want a full referendum on our continued membership of what is a very different club to the one which people thought they were assenting to remain members of in 1975.

I oppose our partaking in EU federalism for two basic reasons. First, the economic performance of the EU to date is poor. About 10% of the EU workforce are unemployed, compared to about 4% in the USA, Japan and Switzerland. The Common Agricultural Policy, at its worst, spent over half the entire EEC budget on storing and destroying food surpluses, when many in the world were starving. And the growth in the EU is sluggish compared to many other growth areas of the world.

Secondly, I believe that the sovereign democratic nation state has been a success



story, whereas the artificially created nations such as the Soviet Union and Yugoslavia have been spectacular, and bloody, failures. The constitutional argument against further EU integration, and against EMU, is therefore compelling. It is my belief that if the British people are tired of a certain government, they should have the right to kick that government out of office, lock, stock and barrel. Within a federal Europe, this would not be possible, and this remains, therefore, the most important reason why we should play no part in such a structure.

Of course, the constitutional arguments and the economic arguments come together in the end, in that it is unlikely that a democratic, historic nation state such as ours could ever prosper economically if unable to decide on its own economic policies. So it isn't a choice between sovereignty and economic well-being – it's a choice between whether we want sovereignty *and* economic well-being, or if we want neither.

There are those who say we will lose jobs if we are outside the EU. So how come non-EU members such as Norway and Switzerland send a higher proportion of their exports to the EU than we do?

And there are those who say that the creation of the EU has secured the peace in Europe for fifty-five years. Although discussions and trade certainly do lead to peace, NATO, the strength of the individual nation states and the development of a civilising democracy in those nation states have been the primary reasons for the avoidance of war in western Europe for so long. Taking away the sovereign democracy of any of the nation states would make war more, not less, likely.

And there are those who say that the EU is not about political union. This is a dishonest argument, made by people who either don't understand the EU and the treaties which propel it, or who try to disguise their real intentions. For many, it is the love that dare not speak its name.

Politicians on the continent are not so reticent. Only recently, the German Foreign Minister, Joschka Fischer, said "Let us be clear – the eleven countries in the euro have already given up part of their sovereignty. They have transferred it to the EU."

He went on to say, crucially: "*Adopting the Euro was a step towards a certain objective. We try to avoid the word federation, but how else can it be described? It is a democratic federation. We have a federation already.*"

It is time that British politicians spoke with the same honesty. And it is time the British people had their say on whether they want to be members of this "federation" or not.

*Laurence Robertson is Conservative Member of Parliament for Tewkesbury*

## We Cannot Go On Like This

*by Patrick Nicholls, MP*

IF YOU WANT TO KEEP A SECRET, as the old political joke has it, say it on the floor of the House of Commons. On June 8th last, Francis Maude offered an alternative: say it at the Humboldt University in Berlin.

This is a speech that deserves the closest possible analysis. If the time comes, as it surely must, that the Conservative Party states straightforwardly and without equivocation that we must withdraw from the EU if we cannot restore the supremacy of our law over EU law, it will be seen that that process started on June 8th.

Yet even the *Daily Telegraph* merely saw Mr Maude's speech as a worthy, if slightly muddled, contribution and it would not be too unfair to say that, apart from that, the speech went largely unnoticed.

Journalists are immensely busy people. They, like politicians, will skim across the surface of things and a surface skimming of Mr Maude's speech might suggest that it does not merit too much textual analysis. Some of it was simply wrong, some of it bordered on the absurd. The first three paragraphs of it were the usual twaddle about how all the good things about life in the democratic West have been bequeathed to us by the EU. The terms in which this was

done would be wholly approved by Clarke, Heseltine *et al.*

And of course that was precisely why those remarks were there. This speech was swarmed over by the Shadow Cabinet and, given what Mr Maude was about to get away with, no small wonder!

Mr Maude apparently bordered on the absurd when he said in this remarkably long speech, which must have taken nearly an hour to deliver, that he was announcing no shift in the position of the Conservative Party, not so much as a 'nuance' of change. Yet if there were to be no change, why make the speech at all? Mr Maude is far too canny an operator to waste his time on preparing a speech of this length, simply to announce nothing new and be ignored as a result.

In fact this speech was the direct consequence of the notorious Moses Room speech which sealed the fate of the late John Major, who made a keynote speech about the EU which, after a few ritual 'boo' noises, signed up to the whole integrationist agenda.

Again superficially, Mr Maude might be seen to be making the same mistake that Thatcher, Major and now Blair have made through the years, which is to tell the

Europeans that they are perverting the original ideal of the EU and that the British way is better. Language like that placates Clarke and Co. because it enables them to seem aggressive in the UK while assuring their allies in Europe that the integrationist agenda sails on unimpeded.

It is of course at best a complete misreading of the Treaty of Rome and at worst a deliberate fraud on the British people. The ever closer union leading to a State of Europe is not a *distortion* of the Treaty of Rome, it is the whole *purpose* of it, as even the most cursory reading of the Treaty will show. Telling the Europeans that they are perverters of the ideal and that they must bend the knee to a more British way is doomed to failure and has poisoned our relations with the EU ever since Edward Heath misled his Party by insisting that federalism was not on the agenda.

Yet after the usual nonsense about the EU "having reached the fork in the road", Mr Maude comes clean. "For years we have tried to persuade ourselves that Europe is coming our way, that federalism has reached its high water mark. I profoundly wish it were so. But it isn't. Nor should we take any satisfaction in endlessly railing against



those who seek it. There is nothing dishonourable or evil in such a desire. It is simply a desire that very few in Britain share."

No other Conservative Cabinet or Shadow Cabinet member has ever said that. Until June 8th, it would have been unthinkable.

So if the EU will not change and what is on offer is unacceptable, where do we go from there? In a cunning phrase, Mr Maude talks about a "network Europe", having, of course, just admitted that that is not what our partners actually want, but believing rightly that it would suit us. What does that mean? If 'network Europe' means anything at all, it means a liberal, democratic country having friendly and co-operative relations with other countries including the emerging State of Europe.

Given that our participation in the EU is incompatible with network status, what are we going to do about it? To put it another way, if we are to be 'in Europe, but not run by the European Union', how do we actually achieve it?

To avoid having to admit that every Conservative leader from Heath onwards, with the exception of William Hague, has turned his or her face away from the real nature of the EU agenda, Mr Maude invents the concept of 'Treaty creep' and solves it in one short, devastating sentence, buried away on page 16. "The next Conservative government will amend our domestic legislation to guarantee the supremacy of Parliament over certain areas of policy." It is

said that in an off the record briefing to Conservative MPs before he delivered his speech, Mr Maude readily conceded that the legislation he had in mind was the 1972 Act and the amendments to be made would be the ones necessary to restore the position to what the country thought it was when we first entered the Community.

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### If we simply amend our domestic legislation unilaterally, in a way which is inconsistent with membership of the EU, we will have *de facto* withdrawn

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It is an awesome performance by a master of political craft with the foresight to see that we cannot go on like this, but that fig leaves of respectability have to be provided to Sir George Young, amongst others, for them to go along with such a seismic shift in policy.

There is, however, a tiny problem. Most people do not read the *European Journal*. Indeed, most people do not read political speeches. UKIP, a misguided but profoundly patriotic collection of people with good cause, until William Hague's accession, to believe the worst of the Tories on Europe, are not going to strike tents and rejoin the

Conservative Party on the basis of such infinitely coded subtleties.

What is to be done? Well, clearly the Rubicon has been breached. We have admitted that we cannot go on like this, and that the fault lies not with the Europeans in pursuing their agenda, but with us for not denying what was happening. If we simply amend our domestic legislation unilaterally, in a way which is inconsistent with membership of the EU, we will have *de facto* withdrawn.

Do what?

Exactly.

What we need in the coming months are speeches worded in ways which are accessible to those who, while passionately concerned about the fate of their country, are not into textual analysis. We need to make the case that renegotiation, far from being doomed to fail, has never even been attempted. We have to have the courage to admit to the EU that 'there is nothing dishonourable or evil' in what they are about, but that it is not right for us. If we could bring ourselves to do that, we could put behind us, and forever, the rancour that has bedevilled our relationship with the EU since the very beginning.

In short, the case has been accepted. It now needs to be made to the ears of a nation that is clamouring to hear it.

*Patrick Nicholls is Conservative MP for Teignbridge. He was Shadow Fisheries spokesperson 1997–1999.*

### ... news in brief

#### Ciampi chimes in

The president of Italy, Carlo Azeglio Ciampi, has said that Europe needs a constitution in order to be truly united. The constitution, he said during a ceremony at an Italian university where he was awarded an honorary doctorate, should fix the competencies of the European government and guarantee certain fundamental rights to European citizens. Ciampi said that the debate between France and Germany on the future of Europe was acquiring the characteristics of a "constituent debate". Ciampi announced his desire, together with the German president Johannes Rau, to sketch out "a European constitutional architecture" for Europe. "It is no longer a matter of 'if' but 'when'", said the Italian president. In particular, he called for a strengthening of the "economic government" uniting the 11 EMU members. [*Corriere della sera*, 7th July 2000]

#### Georgia admitted to World Trade Organisation

If any proof was required that the World Trade Organisation is a political ramp instead of neutral forum for the promotion of free trade, the recent admission of Georgia to the organisation provides it. Georgia is an economic desert – unless you are a drug dealer. There is little electricity in the main cities and no central heating in most flats. The whole land

provides an aspect of the most utter devastation. Even the government itself admits that the economy is in collapse. There is torture and TB in its prisons, while political protesters are regularly beaten and sometimes killed. The incumbent president, Edward Shevardnadze, always wins the 'elections'. And yet because Georgia is the West's key pawn in the Caucasus, it was admitted to the WTO on 14th June. [*Agence France Presse*, 15th July 2000]

#### Balkan highway gets under way

Perhaps the most economically ambitious project ever planned in South-East Europe, the Adriatic–Ionian highway, is getting under way, according to diplomatic sources. The idea is to build a 1,157 km long motorway from Trieste to Igumenice in Greece, along the Slovenian, Croatian, Bosnian, Montenegrin and Albanian coastlines. An American firm and a European consortium are interested. Experts from the European Investment Bank have visited Zagreb: this is the shadowy EU institution which gives soft loans to favoured companies for various large projects. Work may begin by 2003, and the project is expected to be worth billions of dollars. The idea is an old one: it was initially suggested by the EU when Tito was still alive as a way of linking Greece more effectively with other EU members. [*Nacional*, Zagreb, 6th July 2000]

# Efficiency vs Democracy: the European dilemma

by André Monteyne

A FEW YEARS AGO I happened to pick up at a bric a brac fair a booklet with the intriguing title *Anticipations* by the 'scientific socialist' futurologue H.G. Wells.<sup>1</sup> It was written in 1900 at the occasion I suppose of the birth of the new century and purported to make a prognosis of the world in 1950. I was especially interested by the chapter on "The conflict of languages". According to the author, the core of what is now the EU ("... the super city of the future from Bordeaux to Kiel and Prague") would be French speaking; "Italian may flourish in the city of the Po valley, but only with French beside it. Spanish and Russian are mighty languages, but without a reading public how can they prevail, and what prospect of a reading public has either? They are, I believe, already judged." The author also gives many reasons why German stands not a chance against French, and why English cannot compete either because of lack of a scientific literature up to the standards of French. Anyway, there could prevail in his opinion only one language in the "European super city of the future".

*I presented this little anecdote to show 1) That prognostications, even if they are scientific, are hazardous, and 2) That already one hundred years ago, publicists were well aware of the dilemma created by language problems in multi ethnic entities.*

THE EUROPEAN UNION (EU) has no constitution, but its law system is already extensive. This is *inter alia* the case as regards language.

The actual EU counts up to fifteen members and uses eleven official languages. Each member State is in accordance with the basic law entitled to have its official language adopted as an official language of the EU. This created no problems as long as what was not yet an Union but only an economic community, had only six members, i.e. France, Germany, Italy and the three Benelux countries; the documents relating to the creation of the very first European institution, the European Coal and Steel Community (1951), the Treaty of Rome (1958) and all ensuing official documents were published in the national languages of the founding states, i.e. in French, German, Italian and Dutch. Today, the number of member states has grown,

and as a consequence, the number of languages. In addition to the above mentioned four languages, now also English, Danish, Greek, Spanish, Portuguese, Swedish and Finnish are official EU languages and used as such. (Mercifully, Luxemburg, which in the meantime has made its local tongue a national language, did not ask to have it adopted as an official EU language, nor did Ireland insist to have Irish used as an EU language.) As a consequence, all official documents are by law published in eleven languages.

But not only did the number of official languages grow, the EU has also grown into a full fledged social-economic and financial union, slowly developing into a political behemoth stretching into domains as far as social rights, justice, security, military co-operation, etcetera.

This creates an enormous *technical communications problem*, internally, as well as externally. There are now already more than 1.900 translators working in the translation services of the European Commission in a huge building aptly nicknamed 'the tower of Babel'; this is 10% of the overall staff of the European Commission. Add to that the probably vast number of linguists and interpreters participating in all sorts of activities relating to official and non-official EU transactions; the paper mountains needed to publish all kinds of documents in all eleven languages: minutes of sessions, directives (European by-laws, I am sorry to say, can be lengthy stuff indeed – in all, the EU has more than 10,000 pages of regulations), as well as implementing documents, and one can imagine the circuitous bureaucratic procedures and the time lost because of translation. Another problem is that as the language of each official document is valid in its own right, it has to be accepted as proof in court. But as is well known by lawyers, according to the principle '*traduttore, traditore*' even the most carefully translated documents will contain variations of interpretation, which means that this is stuff for enormous jurisdictional debates and for accordingly long delays in implementing the said rules.

This situation is so serious that it now already hampers the normal working of the EU. It will certainly grow worse as the EU becomes even more centralised. Some influential voices such as that of former

Commission president *Jacques Delors* claim that any further enlargement should be preceded by what they call the "deepening" of the European Union, in order to prevent it from "dissolving into a mere free trade association". The very important monetary Union, which will probably go in full gear next year, may be considered a result of this way of thinking. Until last month, this view which is shared by German and French political élite was not openly propagated by top-politicians of these countries in order not to scare off British and Scandinavians who fear an (anti-democratic) 'European Superstate'. However, recently the German Foreign Affairs minister Herr *Joschka Fisher*, let the cat out of the bag by strongly coming out in favour of a real Federal European State, with a constitution, a parliament and a government. His straw in the wind was widely acclaimed by amongst others, the European Commission President, *Signor Romano Prodi*; it will certainly be spoken about at the EU-conference at Nice, at the end of the year, where France, which is presiding the EU the second half of this year, hopes to have a new treaty signed. It is doubtful if this project is realistic in the near future – it meets with fierce opposition in the Northern countries – but the tendency is certainly under way; it will amplify Brussels bureaucracy and, as a consequence of European official multilingualism, will mightily inflate EU-translation services.

## Enlargement of EU adds more languages

It will however grow into a really big problem when the EU will have been enlarged to the countries of Central and Eastern Europe, as well as to two Mediterranean ones. In a first movement six countries were selected for accession: Poland, Hungary, the Czech Republic, Slovenia, Estonia, as well as Cyprus. Last year a further six countries were added: the two other Baltic states, Slovakia, Romania and Bulgaria, as well as Malta. In a later stage, the political change in Croatia after president *Tudjman's* death, will probably allow that country too to enter into negotiations, as well as other Balkan states. In a far future it is not excluded that a few other countries at the rim of Europe such as Georgia or Armenia might join, as well as – but that is a big question mark – Turkey. This means that some time after

2010, the EU will have grown to at least 21, and possibly, to 30 member states. National feeling in these new countries being – not unreasonably – rather strong, it is not to be expected that they will abandon their right to have their national language being adopted as an official EU-language (with the exception perhaps of Malta). This will increase the number of official languages, from the actual 11 to at least 16, and probably more.

It is estimated that the simple fact of bringing the number of official languages up to only sixteen will increase language permutations to the dazzling high number of ca. 460, in which case the EU would slowly but inexorably grind to an halt.

The European Commission is well aware of the danger. In February of this year it set up a conference in Brussels, headed 'Languages in the EU, Democracy and Enlargement' (the cover of the invitation being appropriately illustrated with a reproduction of the Flemish painter Pieter Bruegel's 'Tower of Babel' – ca. 1563), included a select number of personalities amongst them former Belgian prime minister J.L. Dehaene, MEP's, top staff of the European translation services as well as specialists in artificial languages. A great number of solutions were suggested, none of which however was fully satisfactory. It was demonstrated that thanks to new technologies in the domains of written and oral translation many *technical* translation problems could be solved – reference was made to automatic translation (such as pioneered by the young Flemish firm Lernout & Hauspie, a world leader in the domains of speech and language technology and applications). But it was also conceded that even in that case a great many questions remained unsolved. Diplomatic language is usually shrouded in ways such as to allow for interpretation; technologic translation cannot cope with such subtleties. The same is true of artificial languages jokingly referred to as 'Europanto'. And besides, the adoption of an artificial language would only lead to the creation of an additional language, which would simply add to a problem which, as I would like to show, is foremost a political, or if you wish so, a psychological problem.<sup>2</sup>

Some speakers proposed the adoption of one single official language as a work language in all European organisations including the European Parliament, national languages being kept for use in the member-states. This is the solution adopted

by a great many former European colonies with many peoples and languages which introduced the language of the former colonial power. However, contrary to EU member states most of these countries are not (yet) real nation states.<sup>3</sup> It is well known for instance that at the Berlin conference of 1885, Central Africa was carved up in an arbitrary way by European powers, without taking into account the delimitations of the territories of the peoples living there. A Dutch MEP proposed English as best candidate to be the single EU-official language. It is certainly true that English is slowly becoming the '*lingua franca*' of Europe, not only in the EU institutions, but in a more general way, in broad sectors of society, especially as regards culture, information, communication, publicity, etc. But this does not mean that it is spoken, or even understood, by the European public in general. Allow me a few recent anecdotes to illustrate this. Since participants to the European television song contest need no longer sing in their own national language, a majority of participants (14 out of 24) at the latest contest chose English. (Belgium and France which chose French ended last and second last). Yet interviews with winning groups showed that they were not always able to speak English. The same problem arises at a much higher level. According to well informed sources the president of the European Commission Signor Prodi has a problem speaking English. This became crudely apparent when he called a meeting without his interpreters to discuss matters of a delicate nature. It appeared that the meeting went to nothing because he and two colleagues could not engage in the discussion which was held in English. Anyway, any suggestion to make English the official EU language meets with fierce opposition, not in the least from French speakers. The introduction of English as a technical language at both Paris Airports brought about a storm about the governments ears. Protesters pointed out that French is already on the defensive against English and that besides, generalisation of the use of that language risks leading to a cultural levelling. Germans, who are growing more assertive, point out that their language is spoken by 90 million EU citizens, English and French trailing well behind.

Other suggestions abound in favour of five languages (French, English, German, Italian and Spanish) or the former with the addition of Dutch,<sup>4</sup> but again this leads to

the risk of arbitrariness. And what when Poland (39 million speakers) will have joined?

### A political problem

The main problem however is that nations speaking different languages have great difficulties to co-exist in multinational states. It is of course a very old discussion. Already John Stuart Mill, who had such an influence on the making of modern parliamentary democracy, wrote in his *Considerations on Representative Government* (1861) that: "*Among a people without fellow feelings, especially if they read and speak different languages, the united public opinion necessary to the working of representative government cannot exist.*" Timothy Gordon Asch, the well known political observer from whom we culled this remark, adds that monetary union cannot work as fluently in the EU as in the United States, because the EU "*lacks some vital components, not least, the common language, culture and shared history in a single state that make (financial) transfers acceptable as a matter of course to citizens and taxpayers.*"<sup>5</sup>

It is even uncertain that democratic States with more than one national language can survive in the long run. History shows that they tend to fall apart into language homogeneous countries. Norway–Denmark 1905, and more recently, Czechia–Slovakia, are cases in point. There are two great exceptions: countries which gradually over the centuries have grown into a very decentralised confederation like Switzerland, and even there French speaking and German speaking cantons are growing apart as industrialisation-induced centralisation increases. The other exception being that the State forcefully imposes one single language, in which case there are two possible variations: either the other national languages are kept for use in the regions or provinces where they are spoken – this was the case in the former Soviet-Union<sup>6</sup> – or the State neglects or even forbids the use of the other languages spoken within its territory. Except for former colonies where as mentioned the government uses for reasons of administrative efficiency the language of the former power, the imposition of a single language in a country where other languages are spoken by large segments of the population, is always the result of force, and only possible in authoritarian states. At first sight, France, which is of course a democratic country,



contradicts this view. Yet, although since even before Richelieu, French language was considered a tool of foreign affairs, it was only forcefully imposed by the absolute monarchs<sup>7</sup> and even more so under *Robespierre's* reign of terror, which wanted to centralise France by eradicating all other languages, not only in France proper, but also in the conquered countries. In Brussels for example, where until 1794 only Dutch (Flemish) was used, French occupying forces went so far as to eliminate Dutch inscriptions on monuments and tombs. In France, two centuries after the revolution, local languages are taught again in schools. But of course the victory of French over the other languages is now more or less complete: local languages like Breton, Basque or Occitan are near extinct, and that is in France also the case of Italian, German, Catalan or Dutch, so that French centralisers can relax. It has to be added that France cannot be considered a real multilingual country since French was since the middle ages the main vernacular in France proper.

Real multilingual countries with one official language are at best muscled democracies, the worst examples being Namibia where the foreign led regime imposed English on a population of which more than 90% speaks Afrikaans, and Turkey where one can be imprisoned for using Kurdish.

But as soon as these States become more democratic, they tend to separate into different countries according to the language spoken.<sup>8</sup> A glaring example is the Soviet Union after its implosion. Belgium is another, although separation process there is much slower. At the prementioned conference the dean of the "*Vrije Universiteit Brussel*" (Free University of Brussels), professor Els Witte, who has written a great many scholarly books on Belgian politics and society, showed that nation building on the basis of language went in Belgium together with democratisation. Belgium was created as a copy of 1830's France, that is, as a liberal, centralised State dominated

by a bourgeois élite that imposed French as sole language, although the majority of the people spoke Flemish versions of Dutch. As more and more people gained voting rights, Dutch language gained ground and the Flemish movement turned into a national movement, claiming self-government. There are now a Flemish (Dutch speaking) and a Walloon (French speaking) parliament, but the separation process is certainly not yet finished. The development in Belgium thus agrees with a school of thought according to which language is an important factor of nation building.

One can thus assume that the imposition of a single (or of a few) language(s) in a multilingual State, is only possible by authoritarian means.

The EU strives towards greater centralisation on the model of the United States of America, which in order to be efficient, excludes the use of more than one (or than a few) language(s). The EU however is an association of mainly nation states and of national States with a long federal tradition. Their peoples will not accept the imposition of a federal language that is foreign to their own, even if national languages are kept for use in the member-states. As pointed out in the beginning, the mere suggestion to limit the number of *work languages* in the EU meets with huge opposition.

### Conclusion

As UNESCO and other international organisations do not cease to point out, language is much more than a mere technical communication means – it is an essential part of culture, it belongs indeed to the personal rights. Now, one of the most typical aspects of Europe is the difference of cultures and thus of languages. The imposition of a single language in a multilingual Europe for the sake of centralisation or efficiency is thus inconsistent with democracy. Large segments of public opinion in Great Britain or Scandinavian countries who fear a European Superstate are not wholly irrational in this regard. A

democratic Europe, with a single language, would be a '*contradictio in terminis*'. It would soon be the object of an dissembling process, such as happened to other multilingual centralising states.

A solution to this dilemma would be to create a much looser Europe than is the case now, somewhat along the lines of Switzerland or of the nearly defunct European Free Trade Association (EFTA), but this of course needs a fundamental rethinking of European construction. And the reversal of an historical process which started more than fifty years ago.

1 H.G.Wells, *Anticipations of the reaction of mechanical and scientific progress upon human life and thought*, Tauchnitz, Leipzig, 1902

2 According to some sources proceeding from the Commission, there is now a suggestion to make Latin the European working language. Latin is certainly suitable as a diplomatic language, but again, its use would be no answer to the political issue.

3 This view seems even to be shared by foremost politicians of the so-called 'third world' like the former president of the republic of San Domingo Juan Bosch (*De Mexico a Kampuchea*, Ed. Alfa & Omega, San Domingo, 1995)

4 The organisers of the Euro 2000 European football competition had to add Dutch to these five languages after Flemish protests

5 *History of the Present*, Penguin Press, 1999, p. 322 and 324.

6 As shown by several speakers at the Puerto Rico conference, the use of national languages besides Russian in the former Soviet Union was only a propaganda stunt. Another speaker pointed out how difficult it was to keep to the use of eleven official languages in South Africa without infringing the law.

7 The French absolute monarchs also imposed French in the regions they conquered, yet until the revolution, the private use of Dutch in Dunkirk, or of German in Strasbourg was tolerated.

8 or in a less important way, the religion, or shared ethnic history (former Yugoslavia, Northern Ireland, Cyprus)

*Note: This is a summary of the paper presented by the author at the 7th International Conference on 'Language and law', held at Puerto Rico, June 1–3 June, 2000*

*André Montegne is former Belgian MP. He is a councillor in Jette in Brussels.*

### ... news in brief

#### EU lifts sanctions on Russia

In keeping with its ethical policy of severing diplomatic ties with Austria, the European Union has voted to lift the mild sanctions it had imposed against Russia over the Chechen war. Some 90 million euros in suspended aid will now be able to flow to Moscow this year, with more planned for the years to 2003. The aid will be paid within the framework of the TACIS programme, one of the most notorious sources of corruption in the EU: it has frequently been alleged that

monies paid through TACIS are simply stolen. A statement issued by the EU foreign ministers, meeting in Brussels this week, seemed to admit that the sanctions had had no effect on Russian policy in Chechnya and said that it was time for the EU and Russia to look forward to deeper co-operation on common values. The statement said that an EU-Russia summit planned for October is to lay the groundwork for the new relationship between the EU and Russia, to whose territorial integrity the EU remains committed. [*Reuters*, 11th July 2000]

# Rehearsing the Euro Myth

by Andrew Lilico

## Resisting the Counter-Offensive

For years, Britain's EMU-philes have been in retreat and disarray. Despite their superior resources and their big-name supporters, the fundamental weakness of their case has counted against them. But over the past couple of months, like a desperate army retreating towards its own borders, they have launched a counter-offensive. For a long time they hoarded precious facts, precious comments from months past, precious memos, and now have been releasing them in a seemingly continuous stream of pro-EMU stories: "The British economy is converging with Euroland and the Chancellor's economic tests will be fulfilled"; "If we don't enter the Euro thousands of firms will go bankrupt and millions of jobs will be lost"; "If we don't enter the Euro, foreign firms will stop investing in Britain."

Opponents of EMU must resist. And, as ever, our biggest weapon will not be the names of those who agree with us, but the basic strength of our case. So let us, briefly, rehearse once more why these EMU myths and scare stories are just that, myths and scare stories and nothing more.

## Convergence

Is the UK converging with Euroland? Is the first and most important of the Chancellors five economic tests about to be fulfilled, to the chagrin of Euro-sceptics who said it wouldn't happen for decades? Answer: No.

To illustrate what this first economic test meant, the table below was included in the

Treasury's report *UK membership of the Single Currency – An assessment of the five economic tests* in October 1997:

"Cyclical convergence", in the Treasury report, was clearly intended to mean that the cycles converged so as to become nearly the *same* cycle. That is the point of publishing correlation coefficients – the question was how closely correlated the cycles were. If the UK and German economies were correlated that would mean that when the UK economy goes up the German economy goes up, and when the UK economy goes down, the German economy goes down. Now actually, as the table shows, the UK economy is slightly *counter-cyclical* with the German economy – i.e. when the German economy goes up the UK economy goes *down*, and *vice versa*. If the economies are in cycle that means that the same monetary policy will be appropriate for both – when interest rates need to be high in the UK they also need to be high in Germany. But if they are not in cycle, then the economies tend to need different monetary policies, and so it is not appropriate for them to be linked in a monetary union. That is why this was a very important economic test.

Now clearly, if economies have different cycles, then sometimes those cycles will cross. A stopped watch will show the correct time twice a day. We could say that, at these times, the stopped watch was 'synchronised' with the correct time. This is rather what the OECD report does. Some time in 2001, as UK interest rates fall and Euroland interest

rates rise, they will be approximately the same. As growth in Euroland picks up after many years of stagnation, and UK growth slows after many years of strong expansion, the output gap will come to be approximately the same. As inflation rises in Euroland because of its weak currency policy and inflation falls in the UK, they will converge. Of course! No knowledgeable Euro-sceptic ever claimed anything else!

Clearly the economic cycles will *converge* to the same point, but that isn't the convergence *in* cycles which is required by the Treasury's test. To meet the Treasury's test (if it really is a test, rather than a political fig-leaf) the cycles would have to be tending to become the same cycle, not tending to move towards the same point in opposite directions. But the cycles are not going to tend to become the same cycle any time soon. The UK and Euroland economies have fundamental structural differences which tend to make them counter-cyclical, not the least of which is that the UK is an oil exporter while Euroland is an oil importer, so shocks like the recent up-and-down roller-coaster of oil prices will have opposite effects on the UK and Euroland economies.

## Bankruptcy and loss of jobs

There is an idea which gets a lot of press that the country is being bankrupted by the strength of the pound and that this would somehow be solved by joining the Euro. First we should note that if we were to join the Euro today then we would be locking in this supposedly 'high' rate of the pound, since the Euroland countries aren't going to agree to us joining them on the back of a competitive devaluation to help our exporters at the expense of their exporters! However, the plain fact of the matter is that the whole idea is nonsense. The UK is in its eighth successive year of economic growth of above 2.0% (the latest current figure is 3.0%) – an achievement unparalleled since the Crimean War, at least. We have about 1.1 million unemployment (3.8%), our lowest rate for quarter of a century. We have inflation at 2.2% and have been consistently within the 1.5%–3.5% band ever since the Bank of England became operationally independent. Manufacturing output (supposedly the worst impacted by this 'high' pound) grew by 2.8% over the past year (i.e. about the same as the rest of the economy)

### Correlation coefficients of US, UK, French and German growth rates

	UK/US	UK/D	US/D	UK/F	D/F	US/F
1970–96	0.66	0.31	0.40	0.46	0.65	0.30
1979–96	0.56	0.01	0.17	0.38	0.49	0.10

### Economic cycles:

	UK/US	UK/D	US/D	UK/F	D/F	US/F
1975–81 (UK)	0.86	0.82	0.78	0.82	0.97	0.86
1981–92 (UK)	0.47	-0.14	0.10	0.48	0.19	0.05
1982–93 (Intl.)	0.52	-0.30	0.11	0.35	0.42	0.06

Source: *UK membership of the Single Currency – An assessment of the five economic tests*

HM Treasury October 1997

and 4.5% over the past two years. Our economy is strong, we have low unemployment, an excellent inflationary position, and little reason to suppose that this situation will change substantially any time soon.

So why all these complaints about the strength of the pound? Well, for a while now the Bank of England has slightly under-shot its inflation target, so with the benefit of hindsight we can say that interest rates have probably been a little higher than was necessary and hence that the pound might have been slightly higher than it should have been. Also, the Euro has been much weaker than expected and has probably suffered from psychological factors depressing its value even further than was optimal. Thus, perhaps, the pound has been slightly stronger than would have been best. However, the pound was relatively strong for some three years and this kept prices low (through import competition) and thus allowed the Bank of England to keep interest rates lower than if the euro, say, had been stronger. So the strong economic performance over the past few years has occurred against a background of certainty that we wouldn't be joining the euro any time soon combined with a relatively strong pound. Thus, since the strength of the pound and our not joining the euro has not damaged us up to now, why on earth should anyone believe that it is going to damage us in the near future?

Actually, of course, the pound has weakened recently, especially against the dollar. Furthermore, presumably at some point the British economy will go into recession. After all, the business cycle has not been abolished. Harvests still fail, wars still happen, the price of oil still goes up and down. So at some point British business will stop doing so well, the pound will become weak relative to the euro, and we will rely on those same manufacturers who complain of doing badly out of the strong pound to do well for us out of the weak pound, and drag us out of recession. That is how it works with a floating currency – exporters do relatively better when everyone else does worse, and *vice versa*.

Having a floating currency and being able to follow our own monetary policy has served the British economy very well since we left the ERM and used monetary policy to meet our own domestic needs. And through all of that time we have not been outside the euro block without it causing large-scale bankruptcy or job losses at all.

### Foreign Investment

Are Japanese firms about to stop investing in the UK? Is foreign investment into the UK about to collapse because we haven't joined the Euro? Would it collapse if at some point in the future we said we weren't going to join the euro?

## ... presumably at some point the British economy will go into recession

First a little context on Japan. Japanese inward investment into the UK totals about £10bn (about 4% of the total), up from £6.6bn in 1998/9. This is certainly a worthwhile amount of investment, and we wouldn't want to lose it. However, even if there were something that we did to lose this 4% we might wonder whether the same thing might not make the other 96% of investment might not expand faster to more-than-compensate. Japanese investment projects have been falling recently, from 58 in 1997/8 to 41 in 1998/9, and Japan was the fifth biggest inward investor in 1998/9 (behind the US – £90bn, Switzerland – £15bn, France – £13bn, and Germany – £10bn). The UK still accounts for about 40% of Japanese investment into Europe, and it seems most likely that Japanese investment has not been affected either way by our non-membership of the euro.

We should also set this against the huge rises in investment from everywhere else. At the last count, foreign investment into the UK totals £252.4bn, up about a quarter over the past year despite our non-membership of the euro and despite the 'strength' of the pound. The total number of new projects in the year to March 2000 was 757, up from 652 over the preceding year and 434 five years ago. Foreign investment into the UK is booming.

In fact, it was almost certainly to forestall the good news on investment that the spate of foreign investment scare stories was launched. We should not take too seriously the claims by businessmen who are withdrawing from the UK that inward investment will dry up if we do not join the euro. Businessmen know about their own

businesses, and the particular condition that affect them. They do not know about other businesses which they do not deal with, and still less about the businesses that will start up tomorrow precisely because of the opportunities presented by our being outside the Euro.

Foreigners invest in Britain because we have flexible, efficient workers, we do not impose enormous taxes, and we do not mire firms in as much bureaucracy as in other parts of the EU. Furthermore, we are inside the EU tariff net, and our Single Market membership will continue to be attractive whether or not we join the euro. The euro is a fundamentally political project, and over time euro-zone countries will converge not only in their economic cycles, but also in their tax rates and their amounts of regulation. Industrialists may not like the high pound, but having a high pound today and a low pound tomorrow is far better than having high taxes and high regulation tomorrow and the next day and forever after that.

Inward investment in the UK will not increase in the long run if we join the euro and thereby make inflation higher, taxes higher, regulation higher, and the economy less stable. Our government cannot afford to be so short-termist, and, notwithstanding the comments of industrialists, the market will not permit industry to be short-termist either. Today's weakness of the euro *cannot* be a good reason to join it.

### Conclusion

We must not be panicked by EMU myths and scare-stories. We must stick to our case, arguing both its constitutional merits and its economic merits. The EMU-philosophers would love us either to desert the economic case and make it a 'heart versus head' issue, or to argue it on purely economic grounds conceding the constitutional argument. We must do neither, but instead rebut the EMU-philosophers' points as they arise.

Our not joining the euro will *not* lead to us losing jobs or losing inward investment, and we are not even vaguely close to fulfilling the Chancellor's five economic tests.

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# Prove It!

## The Government's Challenge to Us All

by John Tate

THE PRESENT GOVERNMENT is promising the burden of proof requirement in English law in a variety of important respects. Some of these respects constitute European Union measures. Others, such as the Regulation of Investigatory Powers (RIP) Bill and the Football (Disorder) Bill, are domestic measures.

In the past three months, the Government has signed the United Kingdom up to two EU measures which undermine comprehensively the burden of proof requirement: the Race Directive, and the Convention on Mutual Legal Assistance (CMLA). Under the terms of the Race Directive, prosecuting authorities must establish merely the probable guilt of the accused in order to demonstrate that he or she has a case to answer. Thereafter, the accused must attempt to prove his or her innocence. In May, the Government acknowledged and promised to ameliorate this aspect of the Directive. The Europe Minister, Keith Vaz, admitted that "the text [of the Directive] needs to be improved. It is not ready for agreement yet."

Despite Mr Vaz's comment, the Directive was passed unamended by the Council of Ministers in June. The measure had not even been debated on the Floor of the House of Commons, and received scant examination by the European Select Committee. Only two members of the Committee, MPs Bill Cash and Lawrence Robertson, demanded that the Directive be debated on the Floor.

A second EU measure, the CMLA, allows the government of one Member State to intercept and/or monitor communications in another – in certain circumstances without even having to obtain a court order. The Commission describes the CMLA as a means by which organised crime, paedophilia, and terrorism may more easily be investigated. Yet this description is highly selective, for the Convention's ambit is not limited to these classes of crime.

A Member State can, under the CMLA, refuse to accede to a surveillance request if the surveillance in question would compromise its domestic law – providing, of course, that the domestic law in question is itself compliant with EU law. Given that the UK Government have in many areas

relaxed the burden of proof requirement, it is perhaps unlikely that surveillance requests would be refused on evidential grounds. Any such refusal would also be incongruent with the many areas in which EU law itself reduces the burden of proof.

In addition to the Race Directive and the CMLA, the EU is developing a number of other measures that will require alleged wrongdoers to prove their innocence. One such measure is the Gender Directive being formulated by the Commissioner for Social Affairs, Anna Diamantopoulou (Greece). Commissioner Diamantopoulou describes the Directive as requiring that a person accused of "unwelcome physical, verbal, or non-verbal conduct" will "have to prove that he [*sic*] was not guilty."

The historical willingness in continental Europe to weaken or reverse the burden of proof should be seen in the context of legal traditions quite different to our own. Law making in many European states is informed by Jean-Jacques Rousseau's notion that, properly made, the law will "set us free". In France, the state has since the Revolution claimed that its legislation embodies 'the general will'. This view is far from the perception, common in the UK and in the United States, of law as a necessary fetter upon our liberty. In the UK, self-regulation is favoured; private associations are expected to help shoulder the responsibilities of the state; and regulation is often imposed only once a pressing need for it has been identified. In most other European countries, the assumption has been that the state will legislate in any given area unless there is a pressing reason not to. This juxtaposition is of course stylised, yet it captures a genuine, historical difference in the rôle of the state in the UK and continental Europe.

In France, 'the state' has an almost metaphysical quality. Successive French governments have considered the legitimate ambit of the state to extend to regulating the French language as well as, as in Germany and Spain, children's names. When the state suspects a citizen of wrongdoing, the citizen must on many occasions prove their innocence. Moreover, alleged wrongdoers must prove themselves, not to their peers in a jury trial, but more usually to an agent of the state: a judge. Historically, the situation in

the UK has been very different, characterised by A.J.P. Taylor as being, until the First World War, such that:

"... a sensible, law-abiding Englishman could pass through life and hardly notice the existence of the state, beyond the post office and the policeman. He could live where he liked and as he liked. He had no official number or identity card. He could travel abroad or leave his country for ever without official permission. He could exchange his money for any other currency without restriction or limit. Unlike the countries of the European continent, the state did not require its citizens to perform military service. An Englishman could enlist, if he chose, in the regular army, the navy, or the territorials. He could also ignore, if he chose, the demands of national defence." (*English History 1914–1945*, Oxford, p.1)

A.J.P. Taylor's description is no longer accurate. The mass mobilisation, nationalisation, and regulation beginning with the Great War brought with it a far greater rôle for the state. Still there remained, though, many important respects in which the state in the UK remained less intrusive than those of continental Europe. These respects included the concept of the police as a local force of 'citizens in uniform', rather than as the quasi-military, national forces active in many other countries. UK citizens remain free to walk the length of their country without having to carry identification, unlike citizens in the rest of Europe. Political parties in the UK remain, along with those in the United States, the only ones in the world not to receive state funding.

The present government is seeking to expand the rôle of the state in an important respect, however: binding into law the hitherto unusual practice of having to prove one's innocence. At the same time, the court system is being altered so that UK citizens, like those on the continent, have their cases heard more often by a judge alone, rather than by their peers in a jury.

Introduced in July, the Football (Disorder) Bill is one of a host of measures

introduced by the Home Secretary, Jack Straw, that will weaken the burden of proof requirement. If enacted in its present form (at the time of writing, it has yet to be passed by the House of Lords), the Bill would allow port officials to prevent someone from travelling abroad if they merely suspect that he or she is likely to cause trouble. Admittedly, all UK passports are issued subject to the condition that they may be confiscated at any time. Hitherto, however, any such confiscation has been subject to a criminal burden of proof.

A second measure announced in June does not so much weaken as reverse the burden of proof by requiring criminals to prove that they acquired their property lawfully. Part of the Crime Bill, the measure permits the seizure of a criminal's property where the authorities suspect that that property could not have been purchased with his or her declared income.

Another measure that reverses the burden of proof is the Regulation of Investigatory Powers (RIP) Bill. The RIP Bill allows the authorities to confiscate electronic passwords (keys) giving access to computer data. Suspects claiming to have lost or forgotten their passwords are under the Bill required to prove their claim; they must, as the Minister of State at the Home Office, Charles Clarke, put it: "explain what has happened and the court will decide whether, on balance, [they]'re telling the truth." (For an *exposé* of the RIP Bill's civil liberties implications, visit [www.fipr.org/rip/](http://www.fipr.org/rip/).)

As well as weakening and reversing the burden of proof requirement, the Government have also announced their intention to restrict the right to jury trial. Presently, magistrates alone try those accused of low-ranking offences such as speeding. Those tried for middle-ranking offences, such as theft, have the choice of jury trial – a choice that the Home Secretary wishes to place in the hands of the state.

At root, the right to trial by jury is the right to have one's case heard by people more like oneself. The jury represents a democratising influence upon justice, putting the application of the law into the hands of the public. This influence is especially important to a country in which, historically, laws have reflected not abstract ideals or a codified constitution, so much as the canons of reasonableness and common practice. To measure an accused man's actions against high ideals or a codified constitution, a learned judge might well

suffice. To measure a man's actions against reasonableness and common practice, however, requires the judgement of the creators of that reason and practice: the general public.

Of all the liberties mentioned by A.J.P. Taylor, one of the few not yet to have been ended is the citizen's right not to have to identify himself with an official number or

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### ... the Government have also announced their intention to restrict the right to jury trial

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card if he so chooses. Governments have, however, at various times considered introducing compulsory identity cards – indeed, the measure has never been more congruent with a government's law and order policy than it is with that of the present administration. Yet the introduction of compulsory identity cards imposes the ultimate reverse burden of proof: having to account for one's own existence. To prove oneself competent in activities involving certain responsibilities – gaining credit, shooting a gun, driving a car, or accessing private property – a citizen has long required proof of identity. Seldom, though, has he been required by law to account, without charge, for the plain fact of his identity. Whilst the police have long had reserve powers to detain someone until their identity is established, a refusal to proffer one's identity does not, unlike in the rest of Europe, constitute an offence in itself.

Further, having by law to show an identity card undermines one's right of silence, for the card reveals one's name, age, and address to questioning authorities in an instant. In the age of the barcode and the microchip, far more detailed information can now be stored on such cards. Moreover, given the power to demand identity cards, those in authority will (quite naturally) use mental cues and generalisations in determining whom to target. The danger is that these mental cues will lead to the targeting of exactly the same population cohorts as the present stop-and-search procedures; namely, ethnic minorities. Identity cards might therefore fuel further racial tension and resentment.

In essence, the compulsory identity card supports the notion that the first fact about our existence is that we are subject to a particular jurisdiction. Such cards are emblematic of the state's primacy over the individual.

For all of the measures that I have discussed in this article, a core argument in their defence is that they are in many ways very practical. I have already commented on how the the European Commission argued for the CMLA as a means of curbing organised crime, paedophilia, and terrorism. Similarly, the principal argument used by Mr Straw to restrict jury trial was the prospect of saving £120 million per year. Identity cards especially provide very many practical advantages to their issuing authorities.

The practicality argument in itself is insufficient, however. Placing barcodes on people's foreheads may be immensely practical, yet we would rightly deem this an unacceptable breach of our civil liberties. Whilst there is of course a conflict between the two considerations, civil liberty must, *ceteris paribus*, outweigh practicality in a free society. I say 'must' because what is practical should be regarded as room for manoeuvre between our core values, rather than a core value in itself. In recognition of this fact, legal systems throughout the world take pride in elevating the just above the practical – as reflected in the canon that it is better to let ten guilty men go free than it is to punish one innocent man. By weakening and reversing the burden of proof, the Government have reversed these priorities, placing the practical above the just.

An important test of the just society is that it remains just even in adverse circumstances, such that it will, for example, acquit the paedophile the evidence against whom was obtained illegally. By restricting jury trial to obtain a small saving in a rich country, and by weakening and reversing the burden of proof for an unproven benefit, the government has failed this test.

*John Tate is Head of Research at the European Foundation.*

# BOOK REVIEWS

## How to Win the Euro Referendum: Lessons from 1975

by Robert Worcester, The Foreign Policy Centre, 2000, £5.00

Reviewed by Marc Glendening

*How to Win the Euro Referendum: Lessons from 1975* is a sort of political self-help book in two senses of the word. Primarily, it wants Tony Blair to become a better person concerning the single currency, to search for the leader inside himself. Its author, veteran pollster Bob Worcester, believes that, "The central role will be that of the Prime Minister. If he can take the fight to the Eurosceptics and refocus the debate as Wilson did before him, he will take the historic step of leading the British public into a single currency..."

This pamphlet, published by the Foreign Policy Centre, echoes Robin Cook's drive to get the government to come out fighting. With private think tanks like the Centre, no wonder the FCO no longer feels the need to run clandestine IRD type propaganda operations of its own. The Centre's director is Mark Leonard, author of *Network Europe: the case for Europe and Making Europe Popular*. Before his current job, he worked for Demos, a font of good ideas for the broader Third Way project in recent years. Leonard sits on the council of Britain in Europe. You get the picture.

In addition to trying to persuade Tony to emerge from his comfort zone, Bob Worcester is also keen to remind the anti-pound lobby that he is still available and ready to serve. The device he uses to achieve these twin aims is to reminisce about 1975 and to refer in a rather Heathesque way to his own key role as consultant to the 'Yes' campaign. Then, as now, the 'Yeses' had to overturn a hostile majority. Then, as now, the majority was disinterested in Europe and prepared to consider trading some national democracy for the alleged economic advantages of membership. The polls, as Worcester correctly reminds us, show this still to be the case. The sad truth Eurosceptics in denial must confront is that pragmatic calculation, not abstract concerns about sovereignty, will determine the final result.

Then, as now, Worcester believes, the

electorate 'trusted' the leading pro-entry figures and was put off by the 'men with staring eyes'. When an issue confuses voters, they place their trust in politicians they favour. William Hague is not one of them. But then, unlike now, Harold Wilson demonstrated 'leadership', whereas Blair has yet to get butch.

This pamphlet reeks of the smug, sinister elitism that is so characteristic of Third Way politics: The "increasing ability of the spin doctors to mould the shape of the media's news agenda in their own preferred direction" will help deliver victory. Voters can have their perceptions 'managed'. Worcester is very proud of the suggestions he made to Wilson regarding how to influence psychologically the result by the precise wording of the referendum proposition.

Of course, the reason this tract has had to be written in the first place is that No.10's strategy – itself borrowed from '75 – has not delivered. Big business, like a Panzer division, was supposed to cut through an antagonistic, but half-hearted, public opinion with dire warnings about job losses should resistance persist. New Labour's élite killer units would then move in once the polls turned and deliver the *coup de grace*.

That this scenario has not happened is due, in part, to the euro's poor early performance. Also, Business for Sterling has succeeded brilliantly, as Worcester concedes, in preventing the CBI from creating the illusion in the public mind that most employers are pro-EMU. BfS's polls have consistently shown that two thirds of bosses oppose the euro.

It has been this neutralisation of the CBI's campaign that has created the current crisis within New Labour. Gordon Brown doesn't want to risk waking the voters up, and thinks it will be possible to turn the situation around once New Labour win the election. Whereas the Cookites (yes, there are some) are sick to the pit of their stomachs about the possibility that the

government may indefinitely be stuck in the EU equivalent of the Nationwide League after next May. Their fear is that unless a 'Yes' majority can be constructed within a year of re-election, Blair will bottle the issue for the rest of the Parliament for fear of then jeopardising a third term.

Hence Worcester's rather lame solution which is for the government to start convincing us that Britain will be turned into an economic desert unless we go in. His great faith in the capacity of Blair and Co. to deliver victory is strange given that he provides us with a poll that shows that government ministers are by far the *least* trusted category of opinion formers in the eyes of the public. Worcester's obsession with the political class demonstrates an out of date mindset. The vast majority of voters no longer look to politicians for personal salvation.

Another problem with Worcester's thesis is there is a second basic difference between now and '75: Wilson only started demonstrating 'leadership' *after* he had been re-elected in October of the previous year. Blair is caught between contradictory impulses. The imperative of bolstering Labour's standing in the run up to the election requires him to talk up Britain's economic fortunes ... record number of people in work, highest ever foreign inward investment... Every time Blair engages in this type of justifiable boasting, he undermines the attempt to create a climate of mass economic fear that is a necessary condition for building EMU support.

If by some chance Blair does pop round to Politico's to purchase a copy of *How to win the Euro Referendum* he, like most people who read self-help books, is unlikely to do much with the advice: the cost of engaging in root and branch personal change is simply too great. Even if he does get round to chanting into his bathroom mirror "I *must* be a more assertive leader; I *must* trash my government's own economic record in the run up to the next election; I *must* identify my party with a project that commands the support of 30% of the electorate", Gordon Brown and Alastair Campbell will forcibly enter the private suite at No.10 in order to administer some extremely rigorous 'tough love' of their own. Once the PM has come round from a good slapping, all this Cookite nonsense will be knocked out of his head, were he tempted by it in the first place.

The good news, then, for pro-pound democrats is that the government will

continue to be, to quote Ken Follett, 'unmanly' up until the election. The bad news is that once the real war starts, it will rain hellfire with government, Commission, and BBC propaganda. If we are to triumph we need to follow our own self-help mantra: "We *must* relate the case for the pound and

national democracy to the everyday *economic* concerns of most voters; We *must* present a more modern image of ourselves; We *must* portray the EU as a relic of mid 20th Century corporatist thought; We *must* choose a centre-left figure to lead our campaign; We *must* involve non-politicians

as much as possible; We *must* provide an alternative, internationalist vision of the future for Britain..."

*Marc Glendening is Campaign Director of the Democracy Movement. He writes in a personal capacity.*

## The Road to Nice – Flexibility and Enlargement

by The Rt Hon Lord Hurd of Westwell, CH, CBE, PC, Action Centre for Europe

*Reviewed by Jonathan Collett*

DOUGLAS HURD begins to sound like an old gramophone record. The message is the same just the treaty has changed. Presumably he has been propagating the same message through the Treaties of Amsterdam, Maastricht and Rome – perhaps even Utrecht and Westphalia too? If this analysis seems tired that is because so too are his arguments.

His basic premise is that there are only two options for Britain in European negotiations when judging new proposals. The UK can decide that the objective suits us, and if it does then we should push hard to get that objective realised in ways that we can accept. Or the other apparently "less sensible" way is to ask only one question – "does this proposal mean further European integration?" and then to reject it outright regardless of intrinsic merit, if by any twist of argument the answer might conceivably be yes.

Hurd's preference, out of such a ridiculously loaded choice, is of course the first option. He does not outline, however, what the UK should do if the objective does not suit us. Such woolly minded, weasel politics formed the logic behind British foreign policy during the ill-fated Major years with Hurd taking a starring role. Thus we had "game, set and match" in Maastricht – which was much more likely a straight sets defeat for Britain along the lines of the recent Davis Cup defeat by Ecuador. Hurd gloriously proclaimed that Britain was "punching beyond her weight" and operating at "the Heart of Europe". Meanwhile the Franco-German driven ratchet of integration drove on relentlessly.

This is what Hurd seems unable to grasp. He says he has watched the French attitude with "mingled admiration and frustration" over the years and yearns for Britain to take the same approach. He seems incapable of understanding that the Franco-German friendship, through which the EU has

traditionally developed, has set its compass for a federalist destination. Those British politicians, like Hurd, who hope that France and Germany may halt or repudiate European integration are deluding themselves.

Hurd rather grandly declares that the main aim of present British European policy should be to hold the EU to three objectives, enlargement, liberal economic reform and stronger defence. Why he supports enlargement is not made clear. Does he really feel that it will benefit applicant countries or is it his fiendish Machievellian plot to block the deepening of the European Union through the complexities of widening it? If it is the former it is difficult to see how most Central and Eastern European countries would benefit from joining. They simply require access to West European markets not punitive tariff barriers against the rest of the world, high labour costs and bureaucratic regulation. If it is the latter Hurd is still operating in that surreal wish list Europe where the central dynamism behind integration, which has ruthlessly operated for almost fifty years, suddenly turns about face. To turn John Major's phrase on its head this really is "cloud cuckoo land".

Hurd's desire for liberal economic reform within the EU is also the stuff of fantasy. The economic doctrine of a federal Europe will continue to diverge from that of North America to which the British economy after its Thatcherite reinvigoration, now conforms. Britain cannot lead Europe towards free market economics any more that it can lead Europe toward a non-federal loose association of nation states for whom sovereignty is respected.

His final desire for stronger defence of the European Union is frightening. Presumably he sees this as the sacrificial salami slice of sovereignty to be carved off at Nice to follow all those slices previously cut off at previous IGCs. It is illuminating that Hurd

does not advocate a stronger defence through NATO – the real guardian of peace in Europe since 1945 and an inter-governmental institution to boot. Instead he sees this as an area of trade off to allow Britain to gratefully keep other areas of self-government.

To a Conservative of my generation Hurd's outlook is baffling as it would be to a Conservative of any pre-Second World war generation. What happened to senior figures of the Party of the Nation that turned them into such pathetic quislings lacking any confidence in Britains' outlook or self governance that they are forced to seek to trade off parts of vital national self interest in order to keep others? What happened to that Second World War generation that deluded them into seeking substitute Empires to replace the one lost which left such psychological scars?

Hurd is obviously a fundamental decent man and gentleman of the old order. Yet his vision of foreign policy for Britain is rather similar to King Canute's vision of rolling back the tide. Any retention of policy areas under national control is a huge achievement at negotiations where everything is up for grabs. His claim that "the threat of a super-state has receded with the diminished power of the Commission" is risible and reminiscent of the lies told in the 1975 Referendum by the 'Yes' campaign. A future of back-room deals, opt-outs and flexibility is not a vibrant, optimistic one for Britain. Where is the beef Lord Hurd? Why not say what you really want. Is it a self governing Britain with friendly relations with the rest of Europe or a Britain incorporated into a centralised European super-state? Do you really know what you want? Is that the problem?

*Jonathan Collett is Campaign Director of the Bruges Group*



# The Dangers of 'Flexibility'

by Richard Sage

"What has made the European family of nations an improving instead of a stationary portion of mankind? Not any superior excellence in them ... but their remarkable diversity of character and culture. Individuals, classes, nations have been extremely unlike one another: they have struck out a great variety of paths, each leading to something valuable..."

Europe is, in my judgement, wholly indebted to this plurality of paths for its progressive and many sided development."

SO SAID J.S. MILL in an astute observation on the cultural, social and political diversity in Europe. His comments are no less relevant now. Indeed, as the European Union spreads eastward, so the diversity grows. Even amongst the EU's original membership there were pronounced differences between the regions in economic, political and physical terms. As J.S. Mill argued, Europe's essential plurality was its most defining characteristic.

As France begins her presidency of the European Union, and as the Treaty of Nice draws near, the problem of how to deal with diversity is once again rearing its head. In his speech to the Humboldt University in Berlin of May this year, Joschka Fischer posed the question of "[j]ust what would a European Council with thirty heads of state and government be like? Thirty presidencies? How long will council meetings usually last? Days, maybe even weeks? How ... are thirty states supposed to balance interests, take decisions and then actually act? How can one prevent the EU from becoming utterly transparent, compromises from becoming stranger and more incomprehensible, and the citizens' acceptance of the EU from eventually hitting rock bottom?"

These are indeed serious questions. Jacques Delors has denounced enlargement as the "deterioration" of a political project into "a great single market". As the French presidency of the Union begins, Pierre Moscovici, the French Minister for Europe, has had to face the same dilemma. "It's our turn to rediscover the vision of an Empire," he said in May this year. This view was echoed in a comment he made on the size of the Commission a month later: "there should still be twenty – or fewer than twenty – even if there are thirty members because a government needs to be a close knit group." A report commissioned last year by Commission President Romano Prodi, and co-authored by Tony Blair's advisor Lord

Simon, makes a similar point: "there are now clear indications that the Union is no longer working as it should in a union of 15 members. The question arises whether the institutions, as initially conceived, will be able to serve efficiently a Union which may in the future extend to 25, 30 or even more participants."

WHAT ANSWER have the federalists given to these pressing questions? The most common answer is flexibility – an idea rooted in Article 43 of the Amsterdam Treaty. Article 43 makes provision for some countries to integrate more quickly than others, and is thus the kernel of discussions on a 'two-speed' or 'multi-tier Europe' that has assumed a great importance in the European debate. Now France and Germany want to see an extension of this policy, so that integration can proceed yet further for those in the 'fast lane'.

The discussions that preceded the Amsterdam Treaty centred around the idea that an inner core would set the pace of integration. This 'inner core' would be more 'progressive' and could drag other members forward. The debates at Amsterdam were tinged with nostalgia amongst the original members as they came to terms with the fact that their dominance of European affairs was weakened. Flexibility was an attempt to reassert their dominance. Alexander Stubbs has commented on the difficulty of the negotiations on flexibility, since it meant different things to different countries. "There seemed to be," he says, "an unusually high level of confusion and, on occasion, ignorance about the subject being negotiated." This confusion is now reflected in the Conservative attitude towards flexibility. Indeed, the current policy contradicts the Conservative stance in the 1996 IGC which was explicitly opposed to "falling into the trap of a hard core either of countries or of policies". This commitment has apparently been dropped.

FLEXIBILITY has become a buzzword for Tory Party policy on Europe. For some time, Conservative policy has been defined by the "in Europe, not run by Europe" slogan. 'Flexibility' is a misguided attempt to add clarity to this catchphrase. Even some Euro-sceptics within the party see flexibility as the answer to their prayers, believing that this will both generate party unity and allow Britain to be a strong and independent voice in "a Europe of free, democratic, and independent kingdoms and republics, co-operating closely, but flexibly". It may do the former, but it will certainly never achieve the latter of these two aims.

Essentially, countries such as Britain, who would be more likely to opt-out of European policies, will be joining the slow lane to European integration. Anyone who thinks that flexibility is a long-term answer to federalist ambitions is misguided. Opting out of policies and allowing other countries to proceed will not slow down the overall pace of integration. Consider the Schengen agreement. Britain opted out of this policy – therefore ensuring that countries that desired further integration controlled the pace of events. Schengen has now been entrenched in European law – the *acquis communautaire* – so that all applicant countries are now forced to sign up to it. Moreover, the Amsterdam Treaty assumes that Britain herself will eventually join, speaking of 'when' rather than 'if' this happens.

FLEXIBILITY is not Europe 'à la carte': for Europe to truly be an independent Union of free states the obligation to sign up to the entire *acquis communautaire* must be removed. Flexibility (a.k.a. variable geometry, concentric circles, enhanced co-operation, asymmetry) means only, as Chirac said in June this year, that "a certain number of countries will have to get together to show others the way."

By allowing other countries to extend Article 43 Britain is seriously undermining her position abroad. The result of the closer co-operation that an extended Article 43 would allow would be the creation of an inner core of committed countries that would press ahead with a federal Europe at our expense. Countries such as Britain, who remain opposed to a federal Europe, are consequently ignored, only to be dragged along once the federalist rules are set. Flexibility should therefore be seen as a ratchet for further integration, and not as a mechanism for greater diversity or independence.

Those in the Conservative Party who believe that they can take advantage of an extended Article 43 to withdraw from European integration need to look at the circumstances in which it was drawn up. They also need to look at the wording of the Article and the attitude of the Commission and our European neighbours. All the evidence suggests that, as the Treaty on European Union now stands, the only direction of a two-tier Europe is towards more a superstate. A Commission report of July 1999 stated that flexibility was "not for those who want to advance backwards and reduce integration or extract themselves from certain policies. It was conceived for those who want to advance forwards."<sup>1</sup>

A report by the European Commission Forward Studies Unit<sup>2</sup> has formulated "a theory of differentiated integration" to show how initial diversity can evolve into more uniformity. The report argues that "closer co-operation between some member states can be used as an instrument to speed up integration" and therefore that the EU "ought to consider using closer co-operation strategically". The report argues that some policies develop centripetal effects – by what is known as the public goods theory. Such policies, if implemented successfully, generally lead to the participation of countries that initially stayed out. These policies are ones that have high "excludability rates" and high levels of "jointness in consumption". Those with high excludability rates are those that only benefit participating members and make 'free-riding' difficult, and that hence provide a strong incentive to take part. Those policies with a high "jointness in consumption" are those where the benefits to members increase as more join and the costs come down. If a policy fulfils both of these criteria, it is likely to develop sufficient centripetal effects such that those countries

that initially stayed out will eventually sign up. The Commission report suggests that policies should be devised with this in mind, so that those in the slow lane will eventually move into the mainstream. It makes it clear that a two speed Europe is not a "two destinations" Europe: the Commission "should only use closer co-operation to achieve a high level of integration if it is sufficiently confident that eventually most or all member states will participate".

The ideas expressed in the report are no longer mere theory. There are ways in which 'high excludability' and high 'jointness of consumption' are being implemented. In defense policy, for example, the European Armament Agency has been developed – a body that will only really benefit participating members who will find that their costs come down as more states join. This places pressure on countries that initially opt out to finally opt in. Similarly, Common Intelligence Networks are being created in Europe – networks that place pressure on countries to fully participate. The more national intelligence networks that share their information, the more valuable the body becomes. In this way, a common European defense policy is slowly developed, through the guise of closer co-operation and flexibility. The Commission is now proposing an amendment to the Treaty so that in future closer co-operation is allowed in the Common Foreign and Security Policy, something specifically excluded under Amsterdam.

ONE SHOULD NOT UNDERESTIMATE the damage that could be done by accepting flexibility as a valid structure of government. If used 'strategically' it could be a mechanism for further integration through the back door. Article 43 is not watertight: Stubbs argues that it provides "a rather random set of rules" for management of flexibility. Some of the conditions it establishes are already subject to differing interpretations. For example, Article 43 states that closer co-operation should only be used "as a last resort" – an undefined concept that could mean a wide variety of circumstances. Indeed, the only straightforward clause is the so-called 'emergency brake' by which any Member State has a right to request a unanimous decision in the European Council. Currently, this means that Britain can halt the adoption of policies that it opposes, and can reduce the scope of closer co-operation.

However, under a draft of proposals

presented by the Commission,<sup>3</sup> the scope of closer co-operation could be extended enormously. The Commission proposes making two changes to the formal conditions currently laid down in the treaties. First, the Commission wants to reduce the minimum number of states necessary for closer co-operation to go ahead. Currently, a majority of states are required for co-operation to be allowed. The Commission wants this figure to be reduced to a third of the members after enlargement. Secondly, the Commission wants to remove the right of member states to veto closer co-operation proposals. According to the Commission, allowing the veto to continue under an enlarged Union would present "too great an obstacle" for further co-operation. Yet again, such a proposal would undermine the ability of countries to stop policies against their national interest.

Certainly, the Commission's proposals are not good news for those hoping for genuine flexibility. Genuine flexibility cannot be achieved whilst countries are obliged, as at present, to sign up to the *acquis communautaire* lock, stock, and barrel. Further, the Commission sees flexibility under Article 43 as part of "the institutional framework of the Union" and hence all administrative costs incurred as part of this protocol are to be borne by the Community budget – i.e. those not taking part must pay for those who are.

As it stands, the Conservative attitude towards flexibility is naïve. Flexibility, as it currently stands, is unfair to Britain and unfair to other member states. It is also unfair to those countries who wish to join the European Union – countries obliged to sign up to the entire *acquis* and who feel marginalised by the creation of an exclusive, inner core. Poland's Foreign Minister, Bronislaw Geremek, argued that a two-tier Europe dominated by an inner core "is opposite to the way of thinking of candidate states who have just refound their independence and sovereignty". Current member states have also voiced concerns that powerful countries will now find it easier to dominate weaker ones. Spain launched specific objections when Article 43 was being negotiated. Closer co-operation, Spain argued, would tempt some countries to think that the normal treaty procedures and the compromises that they entail were unnecessary. One high-ranking Spanish official even declared that Monnet was being replaced by Metternich – his fears are not unfounded.



In his report, 'Flexibility after Amsterdam', Christian Deubner claimed that another consequence of Article 43 was the creation of "a climate of acceptability" for enhanced co-operation. This, he argued, "modified the premium once placed upon consensus at the beginning of important new EU policy initiatives".<sup>4</sup> In other words, European government

will be in the interests of the few, and not the many.

*Richard Sage reads history at Lincoln College, Oxford.*

1 C. Deubner *Harnessing Differentiation in the EU: Flexibility after Amsterdam*, 1999, p. 62

2 Francesco Milner and Alkuin Kolliker, *European Commission Forward Studies Unit Working Paper, How to make use of Closer Cooperation?*

3 Commission Report: *Adapting the Institutions to Make a Success of Enlargement* January 2000, pp. 33,4

4 C. Deubner, *loc. cit.*, p. 62

## CHUNNEL VISION

### Quo Vadis?

*by Dr Lee Rotherham*

THE CHECHEN REBELS have recruited some strange allies of late. The European Parliament and the Council of Europe have seen orange-robed Buddhist monks circulating flyers to dignitaries in support of the rebel cause.

Perhaps we should not be too surprised at the role of religion in the hallowed sanctum of Brussels democracy. During one celebrated European People's Party meeting, leader Hans-Gert Pöttering apologised for leaving early as he had to meet the Pope; the minutes subsequently recorded British MEPs "Christ" Heaton-Harris and Nirj "Devil" as being present.

That being so, quite apart from the fact that several of the fifties' generation of Founding Fathers of Europe are also on the road to beatification, I can now reveal for the first time to the world at large, and exclusive to this Journal, where the European ideal was formed.

Robert Schuman was on the run. As American forces landed in Africa and the Vichy regime tottered, the Nazis moved in on the Zone Libre in the South of France. Schuman was forced into hiding. He chose Thorez, a somewhat secluded spot, but his timing was less than excellent. On the same day as he arrived, a German tank regiment rolled into town. By chance, he turned to a Strasbourg couple living in exile (the pair, to place them in context, were friends of the subject of my university thesis), who took him to safety in a nearby Trappist monastery, where the Father of Europe was to spend several months in hiding as the Germans tried to hunt him down. It was here that he honed his philosophies, fine-tuned whenever he was smuggled out to a local house to breathe a little more freely,

where he would discuss the future of Europe over dinner. On one occasion he even acted as a witness to a baptism, signing under his own name rather than his pseudonym – a decision that gave him great palpitations, though no official fortunately would check.

All of which proves two things. First, that an esoteric university education can come back to haunt you in later life in all sorts of peculiar ways. And secondly, spending extensive periods of time hanging out with silent monks does weird things to your viewpoint on politics (particularly if you spend all your waking hours in the beer cellar).

But if religion has played such a fundamental part in it all, should we be too surprised if it plays a fundamentalist one too? The Europe debate not only reaches levels of supreme constitutional nature, with language and even court cases dealing with 'treason' and 'betrayal', but it also veers from the secular. Europe's foundation becomes a misty-eyed religion. The single currency, after all, is based on little more than blind faith. Dogma dictates that the heathen and schismatics who denigrate the Ideal are petty and damned, to be pitied if they are not beneath contempt. Torquemadas pursue the unwary sinner.

So let us today sit in judgement ourselves. Every few months some Grand Tribunal assembles in conclave in the letters page of a national newspaper to assess the history of the Project, and to appraise the saintliness or pitchforkivity of the Church Fathers. Let us take this opportunity to explore our own national patron saint of Europe, St Ted.

The Blessed Pater Domi was among the early disciples in the Faith, having been converted in the field like Constantine. As

such he belongs to the generation of the Greats who saw the New Church as the institution to end all wars. Perfectly noble and honourable sentiments, even if we disagree with the prognosis.

St Ted was best known for paddling his coracle around the world, slaying the Panda and conducting an orchestra. Among his many achievements was the miracle of sitting on the foremost bench of the Lord of the LibDems in the Year of our Blair one. Tragically, he was martyred by hand-bagging.

All right, so it's easy to make fun. But there is a fundamental issue involved here. One that sets the most basic tone of the European argument. Did the Man know what he was letting us in for with this EEC malarkey, and did he tell us? Certainly, he claims of late to have been aware of the single currency project from the start, and boldly states it was no secret. The matter is critical. For if the public *were* informed, that has serious implications on the supposed mandate for politicians to pursue closer integration.

Our bible is the White Paper on accession. This sets out the same generalities that have always been with us in the Europe debate: the language deals with the abstracts of security and prosperity. But is it overt about the ultimate destination?

Well, it clearly spells out that the objectives are "the establishment of the foundations of an ever closer union among European peoples, the furtherance of economic and social progress by elimination of the barriers which divide Europe, improvement of the living and working conditions of the barriers which divide Europe, improvement of the living and working

conditions of its peoples.”<sup>1</sup> These are some of the contentious areas today. But the vocabulary is so bland that it could mean anything, particularly in a pre-Thatcherite context. True, ever closer union is there in black and white, but this could always be interpreted – or spun – to mean deeper friendship, more trust, genuine co-operation and less sheep burning. After all, the rest of the White Paper focuses overwhelmingly on the economics of the matter. Clause 18 talks of the integration, not of parliaments, but of economies. The difference with EFTA is marked out as being one of degrees of cohesion in approaching world economic counsels. The EEC, simply put, has the clout to clobber the USA, Japan and China.

Political unity in this context is therefore limited to finding a common position prior to trade rounds. There is, for instance in section 25, reference to a future interest in developing “common policies and common action not only in economic affairs, but also in matters of foreign policy”, but this is set out as a matter for unanimity and common accord in areas where all have shared interests. QMV most certainly does not come into it. The context is no different from a NATO or WEU approach. As the White Paper puts it, the Community was looking at expanding this role, but if the UK were to join we could “influence the process of development”.<sup>2</sup>

Notably, this would also be true of “progress towards economic and monetary union”. St Ted’s memory is quite outstanding. It was mentioned after all, but almost as an aside. Blink and you miss it. This cornerstone of the building of Europe certainly merited no comment.

Will the legal systems of England and Scotland be safe? But of course! “All the essential features of our law will remain, including the safeguards for individual freedom such as trial by jury and habeas corpus and the principle that a man is innocent until proven guilty.”<sup>3</sup> Whoops! That’s one they did get wrong; Corpus Juris would await on the one hand, presumption of guilt in discrimination cases on the other.

So the White Paper hints at trouble ahead, but bends the vision to paint “a wider European Community of free nations, whose joint strength and influence on the world can be so much greater than that of its individual members”<sup>4</sup> – a kind of economic Kellogg-Briand Pact for the post-war world. It is a curious mixture, then. It hints at the potential for great developments, but

stresses that such lie in the future. In black and white is the survival of the nation state – “The Community is no federation of provinces or countries. It constitutes a Community of great and established nations, each with its own personality and traditions. The practical working of the Community accordingly reflects the reality that sovereign Governments are represented round the table.”<sup>5</sup> But by the same token, we also read that “the Six have firmly and repeatedly made clear that they reject the concept that European unity should be limited to the formation of a free trade area.”<sup>6</sup>

And so we move on the arch confuser of them all – “There is no question of any erosion of essential national sovereignty; what is proposed is a sharing and an enlargement of individual national sovereignties in the general interest.” Whichever muppet of a civil servant dreamt that phrase up has a lot to answer for.

In sum, the ‘I told you so’ argument used by federalists does not stand up. It simply cannot be denied that the weight of the document does not repose on constitutional schematics. The heart of the argument as set out in favour of joining is not about future policy, but about the present assessed trade benefits (this is not the place to discuss the promise to “satisfactorily safeguard the interests of British fishermen”, or for that matter the secret correspondence between the British and Norwegian Prime Ministers acknowledging the shabbiness of the negotiated deal). The White Paper is flawed in that it signposts the reader to every compass point imaginable. You can see a federalist agenda. But you can also read that it won’t happen.

So much for cabalism. What about the apocrypha?

St Ted’s speeches are slightly more illuminating, but only if you put them into context. The White Paper came out in July 1971. Talking to his own constituency in September, he admitted that much of the debate had focused on the economics. “This is natural and right, and exactly what we foresaw.”<sup>7</sup> The speech continues that trend. So much for addressing the broader political implications, just as his speech to the Lord Mayor’s Banquet in November talked of a vision of “Britain as a member of a Europe united economically” and enjoying better standards of living.<sup>8</sup>

Our man did on one notable early occasion stick his neck out and come clean. In one speech dating as far back as

September 1971, he stated that Europe had to have “the objective of a common foreign policy”. Moreover, it seemed to him “inevitable that progress towards a common foreign policy will be accompanied by increasing co-operation on defence”, and that progress towards a common foreign policy will be accompanied by increasing co-operation on defence”, and that “the time allowed to us may be shorter than we think”. Moreover, “As a member of the enlarged Community, we in Britain will welcome progress towards economic and monetary union, which will enable Europe to speak with a single, independent and powerful voice.”<sup>9</sup>

How brazenly these words overturn the caution of the White Paper. But why were they never heard in Britain? Because they were said in Zurich, and the press barely picked up on them.

Was this deliberate? Is it a coincidence that when the White Paper was being discussed by the Party, he told the Central Council, “A new way is open to us [to play a global role]. Not by submitting our identity into some new super-state”, and again, “The Community does not work on the basis of a majority of its members overriding the vital interest of a particular country. It has always been understood that this is simply not a feasible way for the Community to operate.”<sup>10</sup> In June, he remarked, “What does this all mean for us? There are some in this country who fear that in going into Europe we shall in some way sacrifice independence and sovereignty even that we shall begin to lose our national identity. These fears I need hardly say are completely unjustified and have been greatly exaggerated.”<sup>11</sup>

This was a very contentious period, when public opinion counted, and the message might have to be tailored for the audience and for the moment. At this time, our subject told a press conference at Lancaster House how he had once held a conversation with Monnet and made it clear that QMV could never override a vital interest.<sup>12</sup> “What is in my mind was that we should drop the argument about whether we are going to have a Federal Europe or a non-Federal Europe.” And again, his TV appearance on 8 July focuses on butter, cheese and beef.

Once Second Reading was out of the way, the cat clipped out of the bag. In a speech delivered on 16 March 1972, Heath referred to a “United Europe”. The full significance was again lost. Small case ‘united’ had signified a mere adjective, but indicated an

alliance. Capitalisation indicated something stronger – a United States of Europe.<sup>13</sup> But as the speech dealt with future policy co-ordination rather than unification, the loss of the intergovernmental façade went unnoticed.

As the ink was drying on the treaty paper, the tempo changed further. The language on the day itself at the Palais d'Egmont talks of the need for further constructions. The day after subsequent ratification, Heath addressed his new colleagues in Paris in different terms: "We are at the point where we can begin to realise the wider opportunities for which this Community was created – the European idea that lay in the minds of its founders. For the Community is not – it must not be – simply a mercantile arrangement designed to profit its individual members. It is much more than that."<sup>14</sup>

And again, "A regional policy is thus an essential feature of the Community's Economic and Monetary Union, and must be financed from the Community's own resources."

So, all told, the very least that can be said is that Heath mismanaged the message. If you redefine the terms to suit your argument, you have to expect the waters to muddy. If you use phrases like, "Sovereignty is a power to be used, not kept locked away in a cupboard."<sup>15</sup>, then confusion is bound to result as your followers start fighting over whether to stay hidden in the federalist closet. If you talk about rich men, needles and camels to one group of people, and a closer integrated afterlife to another, you are asking for trouble.

Should we then be so taken aback that the dervishes are calling for a jihad?

- (1) Section 13
- (2) Section 28
- (3) Section 31
- (4) Section 26
- (5) Section 29
- (6) Section 36. Interestingly, this follows a rejection of the UK joining a putative NAFTA.
- (7) Speech to Bexley Rotary Club, 21/9/71
- (8) Lord Mayor's Banquet, 15/11/71

(9) Zurich speech, on the occasion of the 25th anniversary of Churchill's, 17/9/71

(10) Speech to meeting of Central Council, Central Hall, Westminster, 14/7/71

(11) Speech at Jubilee Conference of Wilton Park, Sussex, 21/6/71

(12) 12/7/71. The federal-confederal argument was revisited in like language in an interview on 24/1/72, which at least shows consistency in the vocabulary even if only now acknowledging the significance.

(13) This may seem like semantics, except that the vocabulary is marked throughout the speeches of the period. For instance, the reference to the "disunited Europe" at the Guildhall on 7 February 1972. United had indicated co-operation rather than single unity of identity. The capitalisation here, at this time, clearly marked a change in portrayed meaning.

(14) Speech at Paris Summit, 19/10/72.

(15) Central Council speech

*Dr Lee Rotherham is Secretary of Conservatives Against a Federal Europe (CAFE).*

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