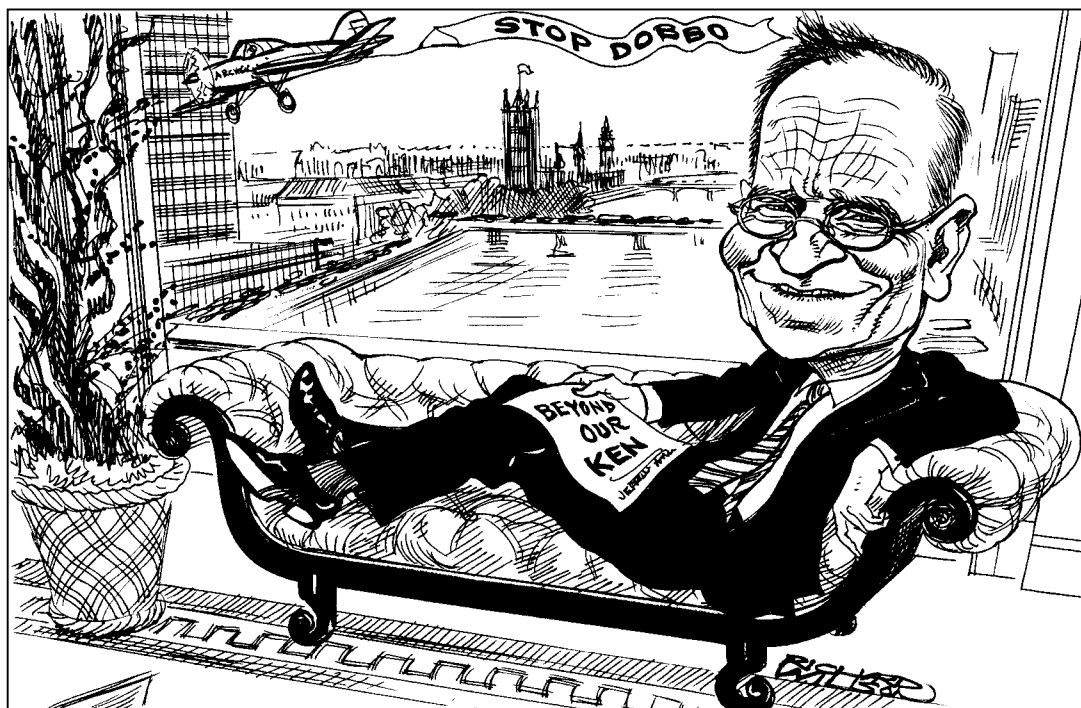


# THE EUROPEAN JOURNAL

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THE JOURNAL OF THE EUROPEAN FOUNDATION



*Lord Archer*

**A Eurorealist Choice for Londoners**

*&*

*Steve Forbes, Frank Dobson, MP,  
and Roger Helmer, MEP*

**ALSO LORD SALISBURY'S VISION OF EUROPE**

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THE EUROPEAN FOUNDATION 61 PALL MALL, LONDON SW1Y 5HZ  
CHAIRMAN: WILLIAM CASH, MP

# THE EUROPEAN JOURNAL

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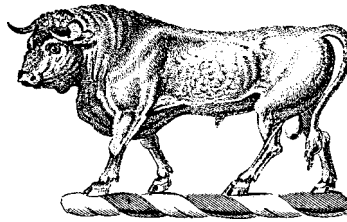
ISSN 1351-6620

For subscription and advertising enquiries, please contact the editorial office.

A subscription form is printed on the inside back cover.

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*Typeset by Nelson & Pollard, Oxford*



## Prince Prodi: Europe's Old Nick

ANYONE TAKEN IN by Britain in Europe's launch should read closely the report released in Brussels last month. If enacted, the report's proposals would transform Romano Prodi from the leader of a glorified secretariat into the fully-fledged President of Europe. By encouraging such autocracy the report's authors, the so-called 'wise men' of Brussels, are severely straining their epithet.

Co-written by Tony Blair's trusted advisor, Lord Simon of Highbury, the report recommends that Prodi be granted the authority to hire, fire, and reshuffle commissioners. Significantly, the Italian Prime Minister's Office once occupied by Prodi is one of the few in Europe not to possess this power. Prodi is determined to correct this deficiency in his new job. Exit *primus inter pares*.

Prodi may have been reading the seminal work of Professors Rose and Suleiman, *Presidents and Prime Ministers*, in which political scientist after political scientist draws attention to the wellspring of any leader's power: his ability to hire and fire ministers. It is the lack of this power that renders the Dutch Prime Minister a mere weathercock; whilst it is his independent use of it that makes the American President head of a unitary executive. To award this supreme power to an un-elected placeman beggars belief, giving the lie to claims that Brussels' integrationist agenda is slowing.

The rationale for Prodi's autocracy may emanate from another influential book on politics; one he is known to admire: Niccolo Machiavelli's *Prince*. Old Nick reminds us that:

*... if everyone can speak the truth to you then you lose respect. So a shrewd prince should adopt a middle way, choosing wise men for his government and allowing only those the freedom to speak the truth to him ... apart from these, the prince should need no one.*

Prince Prodi does not even need national governments. To facilitate his autocracy, Prodi is calling for an extension of qualified majority voting – the scrapping of the national veto. A second proposal is that Prodi be allowed independently to draft EU treaties. We should not worry about this, think euro-philos, as the measure is needed only to streamline

EU policymaking in light of expansion – it is not a prelude to further integration. This argument is pure sophistry. The last occasion on which the Commission President was allowed independently to dictate EU policy was in 1989. The President in question was Jacques Delors. The result was the Delors Report – the blueprint for EMU.

Recommending that the Treaty of Rome be divided into two parts, the report's authors propose that one part be used as an EU constitution: setting out the grand *telos* of the integrationist project. Prince Prodi would thus emulate Kings Romulus and Remus, founding his own version of Rome – if not quite in a day, then in only a few months. Armed with the authority of a new constitution, the power to draft new treaties, and the power of political life and death over his commissioners, what then would stand in Prince Prodi's way?

There is still hope. Even Machiavelli, whom Leo Strauss described as the 'teacher of evil' and 'a friend of tyrants', predicts the eventual collapse of autocracy. Lacking popular mandate, he argued, autocrats fall out of touch with the public mood. Peerless, they receive not candid advice but worthless flattery. These defects, Machiavelli wrote, allow popular forces eventually to defeat autocracy.

Such forces are beginning to rally. They surfaced in the European elections in June, and receive fresh intellectual impetus in the pages of this and every month's *European Journal*. Now more than ever, though, these forces of democracy need boosting: with funds, with letters to the press, and with all the means at our disposal. Without such support we shall fall victim to Prodi's autocracy and, more than that, we shall deserve to.

I am delighted in this issue to include statements by two leading candidates for Mayor of London: Frank Dobson and Jeffrey Archer. The threat of Britain entering EMU casts a shadow over employment in the nation's capital and has far reaching consequences for the City. Consequently, the issue should be central to the mayoral campaign and I therefore welcome the candidates' contributions.

**Bill Cash**, November 1999.

# A Very European Seduction

by Roger Helmer, MEP

At a Bruges Group/European Foundation fringe meeting at the 1999 Conservative Party Conference, I won a warm response for saying that as a new MEP I had not gone native yet. But I can well understand how MEPs are driven to it, how seductive the arguments and peer pressure, how effective the implied threats and sanctions to those who hold out.

Here in Britain, of course, there are also voices calling for a new kind of politics, grown up politics, consensus politics, and for an end to confrontation and the Westminster yah boo approach. Wise leaders should ascend together the heights of Olympus, should take counsel together for the good of ordinary folk, and should come down and implement their plans in harmony. At the forefront of these voices, of course, are those who stand to benefit most from proportional representation.

Like so many big ideas in politics (not least the idea of socialism itself), consensus politics has a strong superficial appeal, and it certainly wins hands down in the opinion polls. Yet like socialism, it is an idea built on sand, an idea that simply does not deliver, and it deserves to be doused in a good dose of common sense.

The ex-Labour Minister Frank Field frequently says things that are wise and counter intuitive. Indeed he was far too wise and counter intuitive to survive for long in a New Labour cabinet. Speaking recently on television, he said, "When politicians agree with each other, voters and taxpayers should start to worry." He was speaking (with the benefit of hindsight) about the way the Child Support Agency legislation was nodded through the Commons with the support of both major parties. But his remark is capable of far wider application. Indeed it is a fine epitaph for the whole idea of consensus politics.

The CSA legislation contained significant shortcomings which, because of a lack of challenging debate, were not identified until too late. Consensus politics are lazy politics. They are lowest common denominator politics. On the other hand, the adversarial style of Westminster, which may seem juvenile and tendentious on television, actually ensures that all the implications of a proposal are teased out and considered in the harsh light of public debate. Those who draft proposals know that they have to

address downsides and counter arguments before they start, or pay a heavy price in the House.

Of course Europe is the capital city of consensus politics. Partly as a result of continental traditions, partly because of the fragmented nature of the European Parliament (EP), consensus rules supreme. There

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is thus enormous pressure to conform. Tolkien in his epic tale *The Lord of the Rings* writes of the wizard Saruman, who had extraordinary powers of persuasion, "It was a delight to hear the voice speaking; all that it said seemed wise and reasonable, and desire awoke in them by swift agreement to seem wise themselves." So it is in the EP. Those who quickly agree with the consensus earn respect and approbation. Those who stand out against it reap suspicion and downright hostility.

Consensus poses a particular problem for Conservatives in the EP. We espouse Margaret Thatcher's legacy, the successful Anglo-Saxon model of low taxes, low regulation, moderate welfare. We face fourteen EU partners who favour the continental or Rhineland model of high tax, high welfare, suffocating levels of regulation, and a corporatist, interventionist ethos that informs their public life. There can be, therefore, for British Tories, no real meeting of minds. The choice for us is either surrender to the consensus or barracking from the margins.

There are few sights more pathetic than federalist Tories, like Sir Leon Brittan, for example, arguing that "we are winning the arguments in Europe", when we can see that

in fact we are accelerating down the road to a corporatist, dirigiste, socialist, federalist, anti-democratic unitary superstate.

We are told that we can succeed in Europe, we can gain influence in the European institutions, by playing the game, working from the inside, making our case, being good Europeans, not giving offence. But the influence we gain is trivial, and the price is that we give up our opposition to integration. In Europe, the price of gaining small concessions is to make large ones. The first rule of European horsetrading is this: I agree to do something bad for my country in exchange for the other guy agreeing to do something bad for his country. As a recent *Telegraph* editorial put it, we are told that we can secure our long term interests by giving up our immediate objectives. Put like that, the folly of the argument is plain for all to see.

A consequence of the European consensus model is that it is OK in the EP to show approval, by clapping or banging the desk, but not OK to express any kind of dissent. Occasionally, pushed beyond endurance by the constant litany of federalism, I have been unable to resist the urge to shout "Rubbish, shame, nonsense!". This has earned me the disapproval of colleagues. Indeed I was advised that my vocal intervention "had made it more difficult to achieve the right wording for an EPP (European People's Party) resolution on the admission of Turkey to the EU".

So there we have it. In order to change the detail of a draft document which will have a vanishingly small impact on the real world, and which is of very little interest to the average East Midlands voter, I am expected to moderate my opposition to European federalism. We amend the small print of European resolutions while Britain sinks in the federalist morass. The old cliché about moving the deck chairs on the Titanic is a bit threadbare, but it seems entirely appropriate.

I have the strong impression that some of my colleagues are so fascinated by the process, so intent on working the system and playing the game, fighting the small print of resolutions, getting the rapporteurships and Committee posts, that they forget the primary reason they are there – which is to break the mould of federalism and ensure the survival of the nation state.

The problems of consensus politics are never clearer than in addressing the elaborate composite resolutions that come before the EP. There was one last week on the Kyoto protocol on global warming. Much of it was unexceptionable, though I felt it dealt with issues that should be national rather than European. But it called for a kerosene tax, which would play badly with some of our key Conservative supporters in the East Midlands, and also for kilometre charges for private cars, which many voters would oppose.

But when I said "I can't vote for this", I was told that it had been drafted by an EPP rapporteur, and that if we lost the vote in Plenary then we would get a socialist version which would be even worse. So we have allowed ourselves to get into a position where we are supposed to support what would be highly objectionable to Conserv-

ative voters, merely to avoid something even more objectionable. (In the end, the Tory group did vote against the measure, but the arguments advanced for not doing so are highly illustrative.)

I had always assumed that the reason why in the past many Conservative MEPs came from the extreme Europhile wing of the Party was because those were the people who offered themselves for the job, and I felt that by coming forward myself I was helping to redress the balance. But recently a senior member of the shadow cabinet gave me another reason, which is the flip-side of the first: "People like you, Roger, will have a miserable time in the EP, because of all the federalist claptrap you will be obliged to listen to." A handful of Euro-realist MEPs like myself cannot hope to win the votes in the EP. Our task is to warn UK politicians in advance of egregious pieces of European

legislation, to warn the British people that their independence is systematically being undermined, and to fight for a Conservative government in Westminster which will be able to stop the rot.

For myself, I am content to lash myself to the mast as Odysseus did of old, and listen to any amount of federalist folly if it helps me to carry a warning back to my countrymen in the UK. But I sometimes wish that, like Odysseus, I could stop the ears of some of the crew with beeswax, so that they could block out the siren songs of integration (or, to mix metaphors, the mystic music of the Rhine-maidens), and thus resist this very European seduction. Instead, they could ply their oars manfully for Britain.

*Roger Helmer is a Conservative MEP for the East Midlands.*

### ... news in brief

#### Delors welcomes Prodi's plans

While the new "impetus" being given to enlargement is welcomed by certain Conservative circles, who seem not to understand that there is no contradiction between "widening" and "deepening" and that under no circumstances will the powers of the Commission ever be unwound, Romano Prodi's plans have also been welcomed by none other than Jacques Delors. Prodi has included Delors in a restricted group of "wise men" whom he consulted on European developments in the run-up to the beginning of his term as president of the Commission. Prodi has, of course, also chosen as one of his commissars the arch-Delorist, Pascal Lamy, who was Delors' redoubtable *directeur de cabinet*. Delors has therefore told an Italian newspaper how pleased he is with the way things are going under Prodi. He welcomes the extension of negotiations to the new candidate countries because it abandons the old policy of having a "hierarchy" among applicant states. Delors also welcomed the Dehaene-Weizsäcker-Simon paper, published this week, which proposes removing the national veto on treaty changes and allowing new policy areas to be transferred to the EU level by majority vote. [*Corriere della sera*, 17th October 1999]

#### Czechs coalesce – for Europe's sake

The harsh criticism of the Czech Republic voiced by the European Union has caused the two leading politicians there, the prime minister Miklos Zeman and the president of the parliament and leader of the opposition, Václav Klaus, to try to unite into one grand coalition. For the time being, Zeman seems to prefer maintaining intact the agreement between the government and the opposition, under which the latter actually supports the former but does not govern with it. [*Die Welt*, 20th October 1999]

#### Poles luke warm about EU

A poll of Poles has found that only 46% of the population is in favour of the country joining the European Union. In 1998, the figure was 64%. The number of undecided people reached a record 27% while 19% are opposed to EU membership. According to the polling institute, the reasons for this Polish Euroscepticism is fatigue and pessimism about the economic situation in the country after ten years of economic "reforms". [*Die Welt*, 20th October 1999]

#### Unemployment dips in Germany

Although unemployment has fallen in Germany to under 4 million, the Christian Democrat opposition is pointing out that it is still at the same level at which it was when the Social Democrats took power. Indeed there are only 22,000 fewer people out of work in Germany than in September 1998 when the new government assumed office. The recent drop was only the result of the usual autumn upturn, according to the President of the Federal Institute for Employment, Bernard Jagoda. Germany was still waiting for a genuine economic revival, he said. The Christian Democrats naturally used the mediocre unemployment statistics to attack the government for failing to live up to its promise of tackling Germany's chronic joblessness. [*Die Welt*, 6th October 1999]

#### French Socialists reject Third Way

The ruling French Socialist Party has reiterated its fundamental rejection of the policies of the "Third Way" and the so-called "Neue Mitte" in Germany. In a policy paper published on Tuesday, and which is to be presented at the Congress of the Socialist International in Paris in December, it is made clear that the state must retain a "regulatory" function and that "full employment" must be a goal of state action. The market is often "unjust and irrational", says the paper, while increasing globalisation makes regulation more necessary than before. In short, the state must not be emasculated. But Lionel Jospin has agreed, despite his differences with his British and German colleagues, to attend an informal "Third Way" summit in Florence in November. [*Handelsblatt*, 7th October 1999]

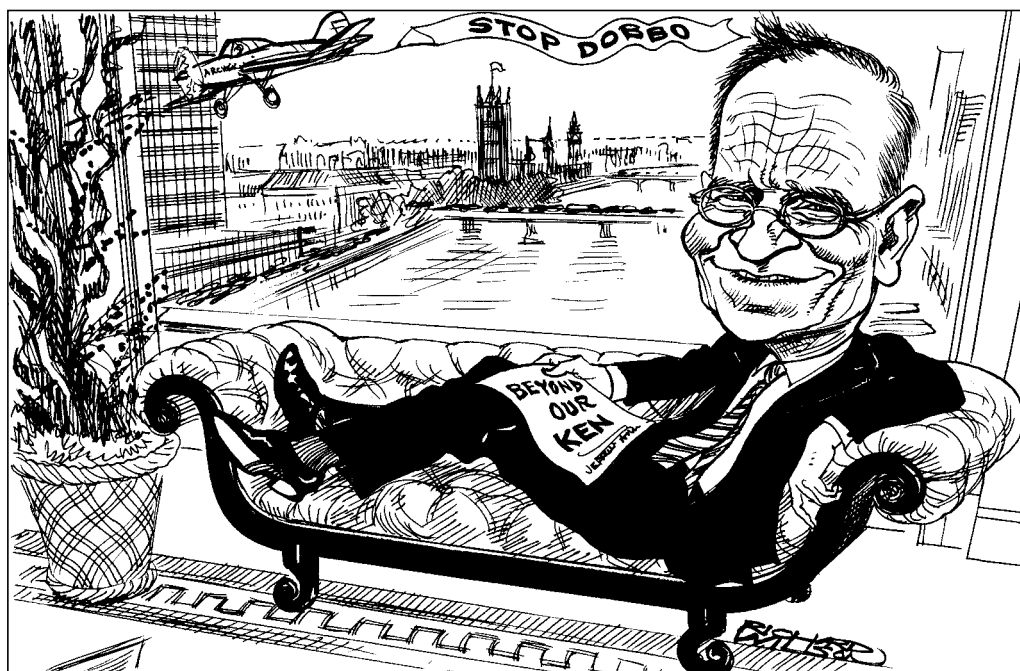
#### Prodi knew nothing of spies

The former Italian prime minister and now president of the European Commission, Romano Prodi, has categorically denied having any knowledge while in office of the espionage allegations contained in the recently Mitrokhin archive. His ignorance has elicited some surprise in Italy because a list of 124 spies in the pay of the KGB in Italy was sent to the Italian government by the British government in 1996 – just when Mr Prodi was Chairman of the Council of Ministers (i.e. prime minister) in Rome. Stranger still, the dossier was passed from Mr Prodi's predecessor, Lamberto Dini, to his successor, Massimo d'Alema and all three prime ministers claim to have had no knowledge of it. [*La Repubblica*, 6th October 1999]



# A Euro-Realist Choice for Londoners

by Lord Archer



SINCE I DECLARED MY INTENTION to be Mayor of London, some people have said to me, “Jeffrey, stay off matters European, it will only bring you trouble – after all, the Mayor will have no influence on such matters.”

It is certainly not my intention to take an ideological position on this. I am not anti-European. I love the nations of Europe, and I want Britain to play a full and active role with them. And while I agree with William Hague’s position – “in Europe, not run by Europe” – I am not intending, as the mayoral candidate, to address the issue in terms of its profound constitutional implications for the nation. But on the practical implications for Londoners, I believe that the mayor should indeed speak out.

Indeed, how could a Mayor of London stay silent about threats to the economic viability of the City? How could he avoid the issue of the way jobs right across the capital would be affected by the imposition of the euro?

I believe that if a mayor is to be a ‘voice for London’, there are two immediate things that he should do for the City:

1. Help expose the myth that the City would be worse off if Britain did not participate in EMU.
2. Oppose the uncompetitive and costly EU plans for tax harmonisation – particularly the EU withholding tax – which

would have a tremendous ill effect on the City of London.

Let me deal with each point in turn. It is a myth to state that the City is in favour of the euro. Whilst inevitably it is supported by the ‘great and the good’, there are many who have proved otherwise.

Take Sir Michael Edwardes – one of the countries leading businessman. In a comprehensive speech to the Bruges group in May 1998, he highlighted the fact that London is the world’s largest trading centre for currency, insurance and bond trading and for international bank lending and equity trading – with the bulk of trading carried out in US dollars.

He said: “Although Britain is the world’s second largest exporter of financial services, the Single Market has had almost no effect on or invisible sector. Europe accounts for just four percent of Britain’s turnover in banking and two percent in life assurance and eight per cent of its foreign exchange dealing. The City can only lose if we join the euro.”

Even Rolf Breuer, head of Deutsche bank and Chairman of the Frankfurt Stock Exchange says that the City will preserve its number one status because of its size, qualified staff and attractive legal and cultural status.

There are other factors, which preserve the City’s advantage. English is the language

of international finance be it New York, London, Hong Kong or Singapore. Over 75% of the world’s international financial contracts are governed by English law.

One irony of course is that London is already the largest centre for trading for the euro, and euro-denominated bonds, derivatives, futures, forwards and almost any other euro financial instrument. Moreover, there are more German banks with offices in London than in Frankfurt. So much for those who say that the City is losing ground to European financial centres.

The crucial issue, which could have grave implications for the City of London, is the EU’s plans to harmonise taxation – a direct consequence of Economic and Monetary Union. The controversial withholding tax in particular – well-documented in previous editions of the *European Journal* – by which the European Commission proposes a 20% withholding tax levied by financial institutions in all member states – must be vigorously opposed.

As George Jones pointed out in a recent article for the *Daily Telegraph*, Eurobond traders believe that a 20% tax would cost around 11,000 jobs and drive overseas investors to other markets in America and Switzerland. It is indeed ironic that those who believe that the City is under threat from the Euro support the withholding tax, which really would effect London jobs.

The British Bankers Association and the International Primary Markets Association (which represents bond underwriters) have both strongly criticised the proposals. Corporate bond issuers are concerned that they will face higher costs, first because of the need to increase return to compensate for the withholding tax and, second because of the lower demand from investors who may go to other markets. Moreover, the regulatory burden on banks and financial institutions will increase substantially. The market thrives, at the moment, on its simplicity of operation.

It should be remembered that London is the global market leader in Eurobond trading, and supports some \$2 trillion of lending through this sector. The EU believes that most institutions will be exempt from the tax anyway (because of existing tax treaties). This belies the fact that exemptions only exist for institutions, not retail investors. Indeed, retail investors,

(representing some 20% of the market) will be driven offshore. Furthermore, the regulatory burden on institutions in obtaining exemptions will drive them to less onerous markets. The largest concern is that the 'capital flight' created by the Directive will seriously damage London's status as a financial capital and lead to large job losses. As Angela Knight wrote in an excellent article for this journal in March 1999:

*"The principle point is this, If the withholding tax is imposed in any way on business, either directly or indirectly... then it is the City that is adversely affected, not anywhere else in Europe. The government has said that it will not cause serious damage to London, but this then begs the question as to what they would consider to be serious."*

As always with this Government, the rhetoric and the reality are quite different. They say that they will oppose the withholding tax; however, Germany has

suggested – following talks with the UK Treasury – that Britain is not 'fundamentally opposed' to the measure and has already predicted a 'compromise'.

No doubt Frank Dobson or Glenda Jackson will say that I am an 'extremist' because I am standing up for London against the euro and unnecessary taxes. Expect scare stories from the Labour establishment about my 'hidden agenda'. I'm not worried – let Labour speak for the European Commission. I'm going to speak for the Square Mile – which accounts for seven per cent of GDP and employs more than one million people – and I will speak for the whole of London, because my first priority must be to help safeguard the jobs, economy and prosperity of the capital.

*Jeffrey Archer is the Conservative Mayoral Candidate. The election will take place on the 4th May 2000.*

### ... news in brief

#### Noose tightens around Chirac's neck

The president of the French Republic, Jacques Chirac, is heavily implicated in a trial which started this week in Paris. The defendant is the wife of the Mayor of Paris, Xavière Tiberi, who is accused of taking a fictitious job in the City Hall, in particular of being paid to write bogus reports. It is also alleged that her husband, the Mayor, personally gave instructions that she be paid in this way. The affair is not just one of simple nepotism, however. It is alleged that it is just one example of a network of fictitious jobs which were attributed during the mayorship of Jacques Chirac and his successor. They are said to have milked the City Hall as a source of income for RPR party officials. [*Le Monde*, 21st October 1999] In a separate development, magistrates have also lodged a request to interrogate the president of the Republic for allegedly rigging electoral lists in Paris.

#### To privatise or to centralise?

European airlines are expressing increasing frustration at the air traffic control system in Europe. Delays to air travel in Europe have reached record levels – thanks in part to the war against Yugoslavia – and now 25% of flights in Europe are delayed by more than 30 minutes. The airlines are saying that they want a single unified European air traffic control system, a project which is, not surprisingly, supported by the European Commission. In the words of the Spanish transport commissar, "There is only one blue sky above Europe", from which she concludes that air traffic control should be harmonised under her aegis. But the airlines themselves also recommend the partial or complete privatisation of the air traffic control system. [*Le Monde*, 17th – 18th October 1999]

#### Anglo-Swedish group loses Chilean bid

Chile has decided not to buy 20 fighter aircraft manufactured by Saab and British Aerospace and instead to choose between the American F-16 and the French Mirage 2000-5 Mk 2. The decision, which was taken by the outgoing Chilean president, Eduardo Frei, is probably in protest against Britain's continuing detention of the former President of Chile, Senator Augusto Pinochet. [*Le Monde*, 17th – 18th October 1999]

#### More violence in Mitrovica

There have been renewed clashes between Albanians and Serbs in the northern Kosovo town of Mitrovica. French Kfor troops protected the Serb side of the city from sustained attack by stone-throwing Albanians who insist they want to "return to their homes" or "visit the university" in the northern sector of the town. Several gendarmes were lightly wounded as well as tens of protesters. The head of the KLA, Hashim Thaci, once again attacked the French Kfor troops, accusing them of being responsible for the situation in the city. [*Le Monde*, 17th – 18th October 1999]

#### Serbs protect themselves

Following the brutal murder by Albanians of a UN official of Bulgarian origin because he appeared to speak Serb, the few remaining Serbs in the province have created a Serb Protection Force in response to the "conversion" of the KLA into a "Kosovo Protection Force". In a separate development, a group based in Montenegro has claimed that it attempted to murder the Serb opposition politician, Vuk Draškovic, whose bodyguards and brother-in-law were killed two weeks ago in a car accident which Draškovic said at the time was deliberate. [*Le Monde*, 20th October 1999; *Glas Crnogoraca*, 19th October 1999]

#### Violence in Belarus

Clashes between demonstrators and the police in Belarus have been widely reported, with the usual spin about how the country is a dictatorship and how the opposition is suppressed. As usual, however, reading between the lines allows a different picture to emerge. Thus it can be gleaned from Associated Press reports that it was the demonstrators who initiated the violence by throwing stones, and from the German press that now fewer than 53 police were injured in the ensuing street battle. The vehemence of the opposition in Belarus comes from the fact that it has never accepted its electoral defeat in 1996, when by an overwhelming majority the Belarusian people voted to keep the country's president, Alexander Lukashenko, in power until 2001. The head of the presidential administration in Belarus has accused the West of planning and financing the demonstrations. [*Frankfurter Allgemeine Zeitung*, 19th October 1999; *Associated Press*, 17th October 1999]

# London and Europe

*by Frank Dobson, MP*

LONDON is Europe's leading world city. We are the most populous, the wealthiest and the most diverse capital in the European Union, and our financial, manufacturing and services industries make a vital contribution to the economy of Europe. The Mayor and Assembly to be elected next May will not only be a major city and national figure – he or she will be a significant figure across Europe.

We already know that the other nations of Europe look to London as a leader. The annual survey of 500 top business leaders conducted by Healey and Baker has regularly put London at the top of its list as the city of choice, beating Frankfurt by 58% to 35% this year. Nearly half of our visitors from overseas come from Europe, and the number is growing. Between 1991 and 1997, the sharpest rise in the number of visitors to London came from Belgium (up more than 100%), France and Germany, both up by more than half.

We are inextricably linked to the people of Europe. Many of London's culturally distinct communities have their origins in Europe – the Italians, the Spanish, the Germans for example have been settling here and adding to our rich mix for centuries. In return we have traded in Europe for most of the past two millennia. Today, virtually every major European bank and most businesses is represented here. Our local authorities receive millions in revenue grants from Europe, and the Authority itself will benefit from huge amounts of regeneration funds from the EU. London has benefited from its relationship with Europe, and a central theme of my Mayoralty will be to ensure that we continue to reap those benefits and that we increase them.

If elected as Mayor of London I will work hard with our MEPs to ensure that London sustains its leading place in the European Union. But I will also put a high priority on working alongside my fellow European Mayors to widen the interaction between the peoples of Europe's great cities. One way will be to encourage exchanges – not just amongst school children and students, but amongst the elderly, between local government workers, and professionals and artists. Another will be to link our city governments electronically; once in office, I will seek to work with colleagues in Europe

to create a network that will allow us to exchange information online.

London has a great future in Europe and as Mayor I would put the highest priority on ensuring that that exciting future is made a reality. But in addition to the opportunities we know that there are important challenges confronting us. Make no mistake. I believe that Britain should resist the growing pressure from right-wing extremists to withdraw from the European Union. Any success for the dishonest campaign being run, supposedly to save the pound, but really to take us out of Europe, would be disaster for London. It would throw our financial services into chaos, decimate our tourist industry and destroy any prospect of reviving our manufacturing industry. And it would mean the loss of London's position as the leading capital of choice for London.

I believe that the anti-Europeans are unlikely to succeed. And there is a common sense reason why they shouldn't. Unless we are involved in Europe we cannot be at the table to combat some of the threats which face our nation and our city from the actions of the EU.

The most serious threat is the so-called withholding tax on savings which could threaten up to 10,000 jobs in London. The idea being debated in Brussels is that deposits in London would be subject to a tax. This would without doubt lead to an unfair disadvantage for London which is currently the favoured destination for savings. For the past eighteen months, the Chancellor, supported by the City Corporation has been running a vigorous campaign against the withholding tax. If elected Mayor, I will add my personal support and the weight of my administration to that campaign.

A further concern, which is less widely talked about is the possible imposition of VAT on sales of works of art. This has been put forward as a simple act of harmonisation. However, this does not take account of the reality – that London's art market is a major asset to the EU itself. No other city in the EU can compete with or replace London. The fact is that raising the cost of transactions in London will not mean redistribution of the art business within Europe – it will mean a loss of business to non-EU locations, principally American and Swiss cities. The art market supports

jobs, and it brings many tourists to London. The critical mass of dealerships in central London is a crucial part of London's cultural and economic life. I will oppose any steps to weaken that sector in London.

At present there are many who refuse to see our relationship with Europe through any other prism than that of the decision over monetary union. There is no doubt that we will, when the referendum comes have to take a decision about whether we join EMU or not. But at present London does not need to take that decision. The only important question for us is whether our markets are in a position to trade the euro effectively – and all the evidence suggests that for the moment, our traders and banks are adapting with their customary ingenuity.

I believe that it is essential that if and when we do eventually join EMU the timing must be right – and the interests of London will be at the top of the agenda in that referendum. The huge earning power of the Square Mile should not be jeopardised either by joining too soon or by leaving a positive decision too late. That is why I will want to work closely with the leaders of the City Corporation to monitor the progress of the euro. In partnership with London's business leaders I will, just as Gordon Brown has defined sensible criteria for the UK's entry to EMU, be seeking to define the right circumstances for London to support joining EMU. Few decisions will be more important to the future of London.

But whatever the future in the financial markets I have no doubt that London will continue to fulfil its historic place as the leading city in Europe. We have much to gain from contact. And I believe that we can contribute a great deal to the development of our continent in the next century. As Mayor I will be actively involved in shaping the future of the cities of our continent. I know that Londoners will not want us to stand aside from Europe but to lead it. I intend to do so.

*Frank Dobson is Labour MP for Holborn and St Pancras. He is presently seeking the nomination to be Labour's Mayoral Candidate.*



# Lord Salisbury's Vision of Europe

by Andrew Roberts

AT THE 1996 Conservative Party Conference, the then Foreign Secretary, Malcolm Rifkind, cited the 3rd Marquess of Salisbury as a europhile, quoting from a speech the Victorian Tory Prime Minister had made in Caernarvon in 1888. Having by then been working on a biography of Lord Salisbury for three years, I pricked up my ears. Was the Great Marquess, whom I had always thought put British and Imperial interests first and second at all times, really been a closet federalist? It was obvious that Rifkind – whose true europhiliac credentials we are only now fully appreciating – was attempting to co-opt Salisbury posthumously to the European cause. So I think it is worthwhile to examine Salisbury's stance on Europe, and in the process, I hope, to recapture him for euroscepticism. It was in an atmosphere of great Anglo-French suspicion and dangerous war scares that Salisbury made his important speech at Caernarvon, which reaffirmed his faith in the ability of the diplomatic Concert of Europe so to arrange matters that peace could be preserved. Salisbury pursued British interests diligently, and occasionally ruthlessly, but he never lost sight of the fact that with a voluntary standing army which was as small as her trade and investments and strategic commitments were huge, European peace was a primary British interest in itself. "There is all the difference in the world between good-natured, good-humoured effort to keep well with your neighbours", he therefore told the Welsh contingent of the National Union of Conservative and Constitutional Associations, "and that spirit of haughty and sullen isolation which has been dignified with the name of non-intervention. We are part of the community of Europe, and we must do our duty as such."

Salisbury had long asserted, as he had written in an essay on Poland in the *Quarterly Review* a quarter of a century earlier, that "in a carefully balanced structure like the European system of nations, each State has a vested right in the complete and real independence of its neighbour." Never a Little Englander, Jingoist or isolationist, Salisbury believed in the Concert of Europe deciding issues of peace or war together but also independently, as his hero Castlereagh had achieved at Vienna in 1815 and as he

himself had successfully managed at the Congress of Berlin in 1878.

Salisbury believed in national prejudices and stereotypes. Men were manifestly not "beings of the same passions" from country to country, he argued. In the *Saturday Review* he had written about "how hard it is to press religious liberty upon the Scotch", of how necessary strong government was to the French, and how in Germany "it will probably be always necessary to sacrifice a

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good deal of practical utility to logical symmetry". His conclusion was that "in the face of such profound differences it is impossible that any universal maxims for the construction of constitutions can be safely framed".

Although he never attempted to federate European foreign policy – preferring to use the Anglo-Austro-Italian Triple Entente to balance France and Russia, and always working against a Dreikaiserbund or other grouping which might threaten British interests in the Near East, Salisbury included a rare Utopian passage in his Caernarvon speech which has regularly been misconstrued by commentators and politicians. "The federated action of Europe", he said, "is our sole hope of escaping from the constant terror of war, which weighs down the spirits and darkens the prospect of every nation in this part of the world. The federation of Europe is the only hope we have." As recently as 1997, the Europhile barrister and banker Lord Alexander has cited these words in his book *The Voice of the People* in order to show that Salisbury was a progenitor of the 'founding fathers' of Europe, such as Jean Monnet and Robert Schumann.

So it is worthwhile therefore to look at the rest of the speech in context, and to quote

another part of the same speech, in which Salisbury depicted other European countries as "envying our Empire, occupying our markets, encroaching upon our sphere, and whose efforts, unless we are wide awake and united and enterprising, will end in diminishing still further our means of supporting our vast industrial population".

This was hardly the language of a man who expected the federated action of Europe to mean anything more than occasional summits such as those of Vienna, Paris or Berlin, held between independent and competing states to preserve the general peace between them, thereby also preserving their hegemony over the rest of the world (except America.)

In time even Salisbury's belief in the Concert of Europe, which in 1895 he described as "not a rapid machine" and later as "too ponderous a machine for daily use", started to fade. "Our first duty is towards the people of this country", he declared in his Guildhall speech that year, "to maintain their interests and their rights; our second is to all humanity." In Salisbury's diplomacy, unlike in Gladstone's, the first greatly outweighed the second.

One does not need to know much about Salisbury's distinctive brand of political philosophy – "Toryism for the clever man", as Dr Paul Smith described it – to appreciate how utterly horrified he would have been about the prospect of a British Government attempting to persuade the people to support European economic and monetary union. How his gorge would have risen at it; how his most caustic and brilliant witticisms would have been deployed in ridiculing it. For his words to be wrenched out of their original context by politicians and polemicists and sent into battle for a cause he would have despised is, I suppose, the fate of the pronouncements of many great men. (Winston Churchill's pronouncements on Europe are also constantly being misquoted by Europhiles, for example). But such intellectual legerdemain is no reason why we Eurosceptics should lose the Great Marquess of Salisbury from our pantheon of British heroes.

*Andrew Roberts's biography of Lord Salisbury, 'Salisbury: Victorian Titan', was published by Weidenfeld & Nicolson in September.*

Advertisement

# Future Shocks for EMU

*Tony Lodge analyses the IMF's recent World Economic Outlook report*

THE THIRD AND FINAL PHASE OF European Economic and Monetary Union (EMU) was successfully launched on January 1, 1999, when the exchange rates of 11 participating countries were irrevocably locked, the European Central Bank (ECB) assumed responsibility for executing a unionwide monetary policy and the euro was adopted as the common currency. Over a three-and-a-half-year transition period, the euro will gradually replace national currencies, with the transformation scheduled to be complete by July 1, 2002, when the euro becomes the only legal tender for participating EMU countries. In a recent IMF Working Paper, *Real Wage Rigidities, Fiscal Policies and the Stability of EMU in the Transition Process*, Norbert Berthold, Rainer Fehn and Eric Thode, participants in the IMF Research Department's Visiting Scholar programme, suggest that political considerations dominated the design and launch of EMU. They argue that the failure to take economic considerations into sufficient account could have serious consequences for the stability of EMU, particularly during the unsettled transition period.

An inherent problem with EMU from its inception, the authors note, is that although it is a monetary union and its members constitute a currency area, it does not fit easily into the standard definition of an optimum currency area. A well functioning monetary union is characterised by one or more of the following features: low incidence of asymmetric shocks, a highly mobile labour force, flexible real wages and a system of fiscal federalism. Even with these features in place, there is no guarantee of permanent stability. This is probably the principal reason, the authors observe, that monetary unions not accompanied by political unification always remain somewhat unstable.

## Asymmetric shocks

The 11 participating EMU countries have widely varying production structures, so sector specific shocks are bound to affect each country differently. This is not at all surprising, the authors note, considering that the prospective boundaries of EMU stretch from the Mediterranean to the Arctic Circle. Furthermore, given that the capacity to adjust to adverse shocks also

differs considerably among countries, even symmetric shocks can be expected to exert asymmetric effects on member countries. Given the current economic and structural diversity of prospective member countries, asymmetric shocks are still bound to occur from time to time. The transition phase, in which asymmetric shocks pose the greatest threat to the stability of EMU, will therefore be particularly fragile.

In principle, four channels are available through which countries can adjust to adverse shocks without raising unemployment: labour mobility, real-wage flexibility, monetary policy and fiscal policy. The first of these, the authors note, is not an option for Europe; inter-country mobility is already low and deeply entrenched cultural and language barriers will likely keep it so.

## Real-wage flexibility

Real-wage flexibility, because it relies on market forces, seems to be the most desirable alternative to labour mobility. However, even though persistent unemployment has been an issue in Europe since the late 1980s, resistance to labour market reforms has been strong, and little progress has been made in reducing real-wage rigidities. The authors demonstrate that with current high levels of real-wage rigidities in Europe – coupled with the entrenched resistance to reform – real wages cannot be relied upon to absorb adverse shocks. It is therefore safe to assume that the current rigidity of European labour markets will persist during the transition phase.

## Accommodative demand policies

In the absence of real-wage flexibility and high labour mobility, the pressure to use accommodative demand policies in the face of negative shocks is particularly marked. In a review of the experience of representative European countries from 1970 to 1995, the authors find that all countries surveyed used demand policies to some extent to counter the negative employment effects of adverse shocks. Monetary policy was the chief instrument until the 1980s and 1990s, when concerns about high and volatile inflation prompted a switch to fiscal policy.

In countries with high real-wage rigidity, the pressure to adopt a discretionary accommodative fiscal policy is particularly

strong. Rigid real wages are an important cause of high unemployment, which needs to be financed. Moreover, an expansionary fiscal policy helps keep unemployment down, at least in the short run. But both channels lead to higher fiscal deficits and, during periods of very high unemployment, higher government debt.

Recourse to accommodative fiscal policy by EMU members may, however, be circumscribed by the Stability and Growth Pact. Signatories to the pact, which was adopted in July 1997, have committed themselves to attaining medium term budgetary balance and to keeping the general government deficit below 3 per cent of GDP. It has been argued that these restrictions on fiscal policy are necessary to prevent excessive levels of government debt from undermining monetary stability in EMU. Without such constraints, countries with high levels of government debt and unsustainable fiscal deficits could pressure the ECB to adopt a more lenient monetary policy, which would very likely trigger higher inflation.

## Instability in transition

Currency risk between EMU participants presumably disappeared forever on January 1, 1999. This assumption, as embodied in the Maastricht Treaty, implies that none of the initial EMU members will withdraw and EMU will not only persevere but grow in time. However, because the issue of dealing with asymmetric shocks and the tensions between fiscally conservative and fiscally profligate members has not been adequately addressed, countries may regard the transition phase as a testing period and decide to abandon the system if the costs of staying are too high.

For EMU members, monetary policy is no longer available as a policy instrument for adjusting to idiosyncratic shocks. Thus, the pressure to use expansionary fiscal policy will be greater than in the past, but the Stability and Growth Pact theoretically limits the use of expansionary fiscal policy at the national level. The authors question whether the pact will actually be able to restrain fiscal deficits, particularly since loopholes make it possible for countries to misbehave fiscally without being penalised. Large asymmetric shocks, which could well occur during the transition phase, could put

the stability of EMU under severe strain, while conflicts between fiscally conservative and fiscally profligate EMU participants are bound to arise if the Stability and Growth Pact is not enforced. If, however, the pact is successful in limiting the use of national fiscal policy, rising unemployment in some countries could strengthen calls for a system of fiscal federalism to accompany the euro, even though such a system would impose a disproportionate burden on fiscally prudent members.

The experience of other monetary unions supports the suggestion that some form of fiscal federalism will evolve in the medium to long run, the authors observe, but such an elaborate system takes a long time to develop and would certainly not be available to EMU members during the transition period. Both fiscally conservative and fiscally profligate countries will then have to decide either to stay in EMU and accept the associated costs, which could include unsustainably high rates of unemployment, or to drop out.

Although currency risk within EMU is technically eliminated by the establishment of the euro as legal tender, the authors caution that an economic risk remains. In economics “nothing is forever”, and history has demonstrated that there is no such thing as irrevocably fixed exchange rates. This is true not only for fixed exchange rate systems but also for monetary unions. Whether a country decides to stay in a monetary union or to leave depends on a cost-benefit analysis. The Maastricht Treaty has no provision for countries wishing to leave EMU, but a sovereign country can hardly be forced to stay in EMU against its will. A country wishing to withdraw unilaterally and reintroduce its national currency cannot reasonably be prevented from doing so. Such a pullout is more likely to happen during the transition phase, according to the authors, because it is much cheaper to reintroduce a national currency that is still in circulation as the only legal tender than to recreate a national currency from scratch.

## Conclusion

When EMU officially came into existence, economic considerations based on concerns about fiscal policy in several member countries and the lack of labour market flexibility throughout Europe were brushed aside. The three-and-a-half-year transition period between the irrevocable locking of participants' exchange rates and the replacement of national currencies with the euro as the only legal tender is therefore a crucial time for EMU, the authors observe. Large asymmetric shocks could pose a serious challenge to the union's viability. Without real wage flexibility and an appropriate mechanism for dealing with asymmetric negative shocks – either at the country level or EMU-wide – speculative attacks against currencies in economic distress could cause the country concerned to leave the system if the costs of staying inside EMU become too large to bear.

*Tony Lodge is Editor of the European Journal*

## POLL DATA

# EMU as Unpopular as Unilateral Nuclear Disarmament

*by Dr Julian Lewis, MP*

IN THE MAY/JUNE 1999 EDITION of the *European Journal*, I set out the results of my first two ICM polls on public attitudes to Economic and Monetary Union (“Two-to-One Against the Euro”). Both polls had asked the same, straightforward question: *Do you think that Britain should replace the pound with the single European currency?*

In October 1998, the results had been 32 per cent ‘Yes’ and 56 per cent ‘No’. In March 1999, the results had been exactly 30 per cent ‘Yes’ and 60 per cent ‘No’. Now the gap is even greater: at the end of September 1999, the results were 27 per cent ‘Yes’ and a massive 64 per cent ‘No’.

These results are virtually the same as those in favour of, and against, unilateral nuclear disarmament during the great debates about defence in the 1980s. Unilateralism was an albatross around the neck of Labour then, and Conservative strategists are beginning to realise that EMU is likely to be the same at the end of the 1990s.

As pointed out in my previous article, many polls on EMU change their wording, thus rendering comparisons specious. My consistently worded ICM polls, however, truly show a decline of five percentage points in the ‘Yes’ vote and an increase of no fewer than eight percentage points in the ‘No’ vote.

**Unilateralism was an albatross around the neck of Labour then, and Conservative strategists are beginning to realise that EMU is likely to be the same at the end of the 1990s**

Only 14 per cent of Conservative voters were in favour of the single currency, whilst 80 per cent wished to retain sterling. This is closely comparable to the opinion of paid-up Conservative Party members who

massively endorsed William Hague's policy in an internal party ballot in 1998.

For Liberal Democrat voters, the figures were ‘Yes’ 29 per cent and ‘No’ 67 per cent, whilst Labour voters opposed replacing the pound with the single currency by 52 per cent to 36 per cent.

Women oppose EMU by 65 per cent to 23 per cent, men do so by 63 per cent to 31 per cent. There is higher support for EMU (31 per cent) in the 25–34 age group than in any other. Thus only 26 per cent in both the 18–24 and the 35–64 age groups support the euro, whilst a mere 21 per cent do so amongst those aged 65 and over.

Despite all the government's intentions to thwart the Neill recommendations for a fair referendum, these figures are so favourable to the anti-EMU cause that Blair will be reckless indeed if he ever allows such a referendum to take place.

*Julian Lewis is Conservative MP for New Forest East.*

## Low Interest Rates and Currency Stability: the empty promises of EMU

*John Tate investigates the two most touted advantages of EMU, and finds them wanting.*

EUROPHILES POINT consistently to lower interest rates as among the supposed advantages of EMU. Yet the recent bottoming-out of the UK and European interest rate cycles shows just how erroneous is their case.

By the actions of the Bank of England's Monetary Policy Committee, UK interest rates bottomed-out at 5%. In euroland, the downward cycle halted at 2.5%. The discrepancy here is a natural one, born of the different requirements of different economies. With this level of variance, lowering UK interest rates simply by joining EMU would be a reckless move, causing us to pay a high price for what would be an artificially low rate.

Advocates of EMU claim that such interest rate variance is not a natural phenomenon, but the result of long term economic mismanagement. The standard advice of the IMF and others to those unhappy with their interest rate is to tighten fiscal policy. Yet it is barely credible that the UK, which already has the tightest fiscal policy in Europe, should heed such advice. More likely, advocates of EMU must accept the (for them) unpalatable fact that the UK's interest rate equilibrium is, as it is for unemployment, incongruent with that of euroland.

Were the UK to enter EMU and suffer a common interest rate, certain ameliorating factors could, theoretically, ease our exposure. Many such factors are, though, largely absent from euroland, such as the mobility of labour or (as yet) colossal fiscal transfers on the federal level. Even wage flexibility, which may compensate for a lack of labour mobility, has been comprehensively undermined by the minimum wage, the Social Chapter, and the Working Time Directive.

Conceding these facts, europhiles may weigh them against another supposed advantage of EMU: total currency stability against euroland. The price the UK would pay for such stability is rarely pointed out, however. In particular, the pound would lose much of the stability it normally enjoys against the dollar, the currency of our most popular outward investment location.

Statistics that take proper account of our invisible exports show that the UK does the majority of its trade with non-EU states, and a still greater majority with non-euro members (this contrasts with the euroland average for non-EU trading of just 13%). Given that many more of the world's currencies track the dollar than the euro – something which shows no sign of changing – the UK has almost as much to gain by maintaining stability against the former currency as it does by adopting the latter.

Moreover, stability against the dollar has the considerable advantage of not requiring the surrender of our monetary policy. If euroland states were really our natural and principal markets, why then would the pound not achieve stability against the euro naturally, much as it now does against the dollar? The truth is that many of the UK's most important markets lay far and wide beyond EU borders, access to which requires global trade arrangements rather than parochial European protectionism.

Of course, this analysis does not apply to most extant EMU members. For France, the benefit of currency stability against its uniquely important trading partner, Germany, is perhaps worth the price that it has had to pay in national self-determination. In economic terms, it makes about as much sense for Luxembourg to have its own currency as it would for the Isle of White. Yet, for the reasons shown, the UK is a quite different case. Consequently, euro enthusiasts' promises of 'cheaper mortgages' and currency stability are, if sincere, misguided. Where they are employed as pragmatic half-truths, however, such claims are profoundly irresponsible.

## ECB WATCH

GORDON BROWN, we are told, is becoming more sceptical about the euro. If his aim of full employment is more than grandiloquence, *The Economist's* Survey of the World Economy should add to his scepticism – confirming, as it does, the ECB's commitment to ignoring chronic unemployment in the eurozone.

The Survey undermines the ECB's argument that lower interest rates are incapable of boosting jobs and output. Drawing upon the economists Milton Friedman and Edmund Phelps, the Survey shows that whilst this view maybe correct in general terms, it is not true of an economy operating below its full output potential and in which unemployment is above its 'natural' rate. In this situation, lower interest rates maybe a safe option: boosting output without pushing up inflation.

Monthly ECB reports counter this argument by claiming euroland's 10% unemployment to be natural and structural, rather than the result of poor economic management. Here too, however, the ECB is undermined by a reputable source of economic analysis: the International Monetary Fund. The IMF estimates euroland's output to be 2% below its potential, thus holding unemployment above its natural rate. As growth rates recover, the ECB looks set to again raise interest rates. The Survey's conclusion? "[I]t is far too soon [for a rate rise]: the [euro] area still has a significant output gap that will continue to hold down inflation."

Despite output and employment rates languishing below their potential, the ECB must instead concentrate on the birth of the euro: pursuing a super-cautious economic policy in the interests of its stable infancy. Thus the structural problems of euroland's economy, instead of being addressed prior to EMU, have in fact been delayed by it.

The ECB's sizeable contribution to the EU's democratic deficit is also underlined in the Survey, with the bank described as "the most independent central bank in the world, even more insulated from political pressures than the Bundesbank." Those who judge such radical independence essential to fiscal prudence should look to the United States Federal Reserve: combining accountability to the President and Congress with an apolitical economic policy, whilst at the same time encouraging growth and employment. The ECB embodies the opposite: a lack of accountability, with little thought to encouraging employment.



## Never Say Never

*The effect that continued uncertainty over the pound, combined with rising employment regulation may have upon inward investment*

SAT IN PLUSH, LEATHER SEATS around a one-time chunk of Brazil, the Megacorp board discuss their latest investment location: UK plc. Cost-benefit analyses are presented. Talk is of a still flexible labour market, yet growing regulation; tax breaks, yet burdensome planning requirements. Members conclude that, on balance, the UK scores over continental Europe – until a plucky executive asks: “but will they join the euro?”

“I think”, proffers another, “that the UK’s is a ‘wait and see’ policy.” “No, no”, rebuts the Chair, “it’s ‘negotiate and decide’.” Another interjects: “I had heard it was ‘not in the next Parliament’, or is that the opposition?”

The problem with all of these positions is, of course, their equivocation – that they are all versions of the same thing: ‘maybe’. Yet ‘maybe’, like ‘40% corporation tax’, are words potential investors do not want to hear, especially those investors with pan-European pay-rolls, European supply networks, or vending services. Mr Blair may feign solemn commitment to EMU, yet in private he is known to remain equivocal and above all pragmatic. Mr Hague, meanwhile, continues to rule out membership for an essentially arbitrary period of time.

There are, of course, those who would prefer even equivocation to an outright ‘no’. Sir Ken Jackson and John Monks, for example, persuaded the TUC conference to support early adoption of the euro despite the declared opinion of 66% of their members. Jackson and Monks advance that most familiar of tropes: that retaining the pound would hit inward investment – as if their own proposals for profit-smothering employment regulation would not. I offer just one illustration of how absurd is their argument.

A senior manager at Procter & Gamble recently informed me that the majority of their European operation was to relocate to the heart of Europe – to a place where they could enjoy economic stability and a business friendly environment. They chose to relocate, not to euroland, but to Switzerland. The fact that Switzerland has no firm plan to join the EU, let alone to adopt the euro, were almost insignificant, he said, set aside another criterion: tax.

An attractive tax environment is, of course, only one (if major) element of the inward investment equation. France, for example, could have any tax environment it wished, though until its government lifts nationalistic restrictions, foreigners will never be able to run major French banks.

Yet on the list of considerations accompanying major investment, a country’s currency is unlikely, *ceteris parabus*, to be deemed significant. One thing that may render a currency highly significant is if its future is uncertain. By creating uncertainty over the pound’s future, advocates of EMU are themselves contributing to the very problem they claim the euro will solve. Were these advocates genuinely interested in inward investment, they would not generate such damaging uncertainty in the first place.

When will Mr Blair and Mr Hague truly come off the fence? Not, perhaps, until the Megacorps of this world begin voting with their feet. Whilst there is little sign of exodus at present (far from it), our leaders should not be complacent. If the Government continues to regulate away our competitive advantage, doubts over the currency may well prove enough to deter foreign investment.

## Market Reform in France: one step forward, two steps back

EMPLOYMENT REGULATION continues to burgeon in France with Lionel Jospin, the country’s Socialist Prime Minister, announcing a plan to penalise profitable companies who layoff workers. Under the plan, Jospin vowed to halt ‘excessive recourse to precarious temporary jobs’ and ‘abusive economic redundancies’ by denying state grants to offending companies.

The plan pleased members of France’s Communist Party, who have since 1997 been in coalition with the French Socialists but who, until now, have bemoaned the Government’s halting programme of economic reform. Jospin’s move will put further strain on attempts by Blair and Schröder to liberalise European labour markets, making clear that France is pursuing a quite different course.

The long-running merger between France’s three largest banks, meanwhile, has finally come to an ignominious end. The Banque Nationale de Paris, the largest of the three banks, had its hopes of creating Europe’s largest bank dashed by regulators. Yet the whole incident contains a sobering lesson, as the fact that France’s Finance Minister was unhappy with the recent banking fiasco points only to the failure of his own policy. His Ministry’s nationalistic running of the economy goes a long way to explain why the Fraser Institute’s league table of ‘economic liberty’ ranked France in just 30th place.<sup>†</sup>

Since France began on its fitful privatisation programme, successive Finance Ministers have maintained the ban upon foreign ownership of ‘strategic companies’: a category including the larger French banks. The policy runs directly counter to the goal of economic specialisation within the EU, and follows that old French desire to incubate ‘national champion’ companies as opposed to more viable, international ones. In barring foreign ownership, France has succeeded only in cutting off a taproot of greater economic competition and foreign investment – forcing banks to pursue incestuous domestic mergers based upon nationality rather than efficiency.

<sup>†</sup> Britain was in 3rd place behind Hong Kong and Singapore. The United States was in 8th place.

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# The US Presidency in the 21st Century: Opportunities and Obstacles

*An address to the Eccles Centre for American Studies, by Steve Forbes  
at the British Library, London, October 13, 1999*

**S**TRENGTHENING THE ALLIANCE between the United States and Great Britain and expanding the economic and political co-operation between our two countries must be a top priority of the next American President.

Simply put: If Great Britain is strong, secure, and sovereign, America benefits. But if Great Britain is weakened economically or militarily then American interests suffer. Likewise, if the US is strong, secure and sovereign in the 21st century, Great Britain and the rest of the world will benefit enormously. But if the US is weakened or withdraws from the world stage, then Great Britain and the rest of the world are in serious trouble. It's just that simple...

... One of the most important international opportunities facing the next American President is to dramatically expand free trade and economic growth around the world.

Why? Because the expansion of free markets and free trade is essential to the prosperity of your country and mine.

It empowers consumers and businesses with immensely greater freedom, choices and opportunities

It creates jobs and wealth for working families. Every time my country increases our exports by \$1 billion, we create 20,000 good, high-paying jobs. Wages go up. Unemployment goes down. Working families, small businesses and high-tech entrepreneurs are better off.

Now is not the time to give in to the forces of socialism and stagnation. Now is not the time to sacrifice our moral and economic strength on the altar of misguided global institutions.

Now is not the time to follow. Now is the time to lead.

So tonight, I announce that if I am elected the first American President of the 21st century, I will invite the people of Great Britain and the Republic of Ireland to join the United States in a North Atlantic Free Trade Agreement. Because the barrier that lies before us is not the Atlantic Ocean. It's big government. It's an ocean of taxes, tariffs and fees that prevents working families and consumers from enjoying the full benefits of economic freedom.

And that is why as President of the United States, I will build a great bridge of economic freedom that spans the Atlantic Ocean a bridge that links London with Los Angeles ... Dublin with Detroit ... Edinburgh with Pittsburgh ... a toll-free bridge that brings new benefits to both sides of the Atlantic. Lower taxes and higher wages fewer gatekeepers and faster growth ... less government and more freedom for farmers and families and a new generation of savers and investors.

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## I will invite the people of Great Britain and the Republic of Ireland to join the United States in a North Atlantic Free Trade Agreement

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Together, let us tear down the barriers that divide us and build a bridge to unite us.

Let us work together to create a dazzling new century of hope, growth and opportunity for every American, British and Irish citizen, bar none.

Let us remove every barrier that stands in the way of working people to pursue their dreams, raise their families, protect their children, surf the Net, save for the future and participate in the prosperity of this exciting new Age of Opportunity.

I am not a politician. I am a businessman. And as the head of the world's foremost business magazine, it is my sincere belief that the American-British-Irish approach of free markets and free trade is the wave of the future and the model for the new millennium.

And I believe that it is time to show the world that the Reagan-Thatcher-Forbes model offers true economic liberation for those who languish in poverty and economic stagnation – be they in Russia, Asia, Africa, Latin America, the Middle East, and even on the continent of Europe.

Where others impose limits, let us pursue growth.

Where others define boundaries, let us blaze new trails.

Where others empower big government bureaucracies, let us empower workers and families.

Where some speak of a 'Third Way', let us pursue the right way free markets, free elections, free trade – because these are the tools of a free people.

The European Union wants to 'harmonize' economic policy throughout the entire region. That means trying to force sovereign people such as yourselves to accept higher taxes, more regulations, more bureaucracy, top-down social policy, and the end of the British pound, one of the great and enduring currencies in the history of man.

But what model is this? It imposes policies that punish venture capital, risk-taking and entrepreneurship ... crushingly-high tax rates ... zero innovation ... pitifully poor growth rates ... structural unemployment averaging 10–12% ... massive social welfare bureaucracies ... debt, discouragement and despair. This is no model for the 21st century.

Let me be clear: The euro and the 'Third Way' theory of socialism and statism that comes with it could doom the prosperity of your country and your neighbors in Ireland. And I submit to you that such a prospect is not in your interest, or in ours.

So I ask you to consider my proposal for a North Atlantic Free Trade Agreement in the spirit of friendship and co-operation and mutual respect in which it is offered.

Come with us, and together let us offer the world a model of authentic freedom and prosperity for a new millennium!

*Steve Forbes is an Independent US Presidential Candidate.*

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# Blueprint for a Referendum

*by Dr Lee Rotherham*

THE CAMPAIGN TO SAVE THE POUND IS riven with discord. Not the discord of dissent, but that of a myriad of voices which, while singing from essentially the same hymn sheet, do not always do so in unison.

This is something we have all known for some time. In many ways it is something to be treasured. Our strength lies in our diversity. In the fact that people from so widely different backgrounds, interests and beliefs can come together and share a platform to challenge the EU hydra.

But we are now approaching that moment in time where we must start to coalesce more closely. Not to form an amorphous mass called the Sterling Campaign – that would at this stage be damaging to the component parts. Rather, to work together at forming some framework that at the required time could speedily turn into a single, efficient movement, where everyone can play their fullest part, and which would qualify for official recognition in the wake of the Neill recommendations.

This is no mean task. We are talking about creating a model in circumstances which have defeated such attempts in the past. Yet it absolutely has to be done. Without such an achievement, there will be no clear counter to the pro-EMU brigade, who have the net advantage of being comparatively few in number, and forming a fairly homogenous block of the usual suspects. Our arguments, however, are far wider, and cover the concerns of a huge variety of walks of life, rather than a narrow set of lobby tycoons and Federasts. We need to form a structure that can tap into each of these groups, can mobilise and convince all shades of the political spectrum.

The logical starting point would be to adapt an existing organisation. Sadly, it seems at the present time unlikely that any one body would be capable of attracting universal support. What follows, therefore, is a model for discussion, rejection, modification and debate.

We begin with a handful of basic principles. First, the co-ordinating council must be as small as possible, certainly no bigger than, for instance, the Cabinet. Ideally, it should be no bigger than can sit round a kitchen table, but this is a huge campaign we are planning here and not a birthday celebration. All manner of media, campaigners and parties need to be brought

in to develop a widespread strategy that encompasses the whole nation. We cannot achieve that with an empty headquarters.

The second principle is the one of co-ordination. Prior to any campaign proper beginning, we all have to appreciate that life goes on, party politics makes life interesting and tempers will be raised from time to time. So the initial purpose of this body should be to co-ordinate activities and to share information, not to run a campaign with an iron fist. Naturally, self-discipline must flow with the launch of the referendum campaign itself, and campaigners ought to fully and positively engage with their colleagues before then.

And so on to the model. Our order of battle envisages a three-tiered structure: the Council itself, specialised support groups and secretariat staff. This is laid out in the wire diagram that follows. Each of the people sitting in a Council chair is himself the chair of a support group which encompasses the relevant activists and campaign groups which fall into a particular category.

At the head of the table sits the Chairman. Ideally, he must be a public figure who appeals to the widest possible cross section of the community as being eloquent, famous and respected: for instance, a Frederick Forsyth. If he is a political figure, it may prove necessary to provide a co-chair from a different political persuasion, such as a Michael Portillo/Frank Field double act. On no account must he restrict the appeal of the message.

Around him are a dozen chairs. Twelve was good enough for the disciples and for Charlemagne, for jury service and the dirty dozen. One for each star on the EU flag...

Each occupant would represent a lobby or constituency to the Council, and would be responsible for liaising both up and down the chair of command, as it were. He would pass on ideas and advice on what was and was not feasible, and keep everyone informed about developments. He would oversee the tasking of his group on a particular activity. Naturally, he must be an acceptable colleague to work with, but also ideally both well connected and a familiar public face.

Chair One would seat a representative from media. His job would be to co-ordinate, however vaguely, the activities of TV, radio and written media work by

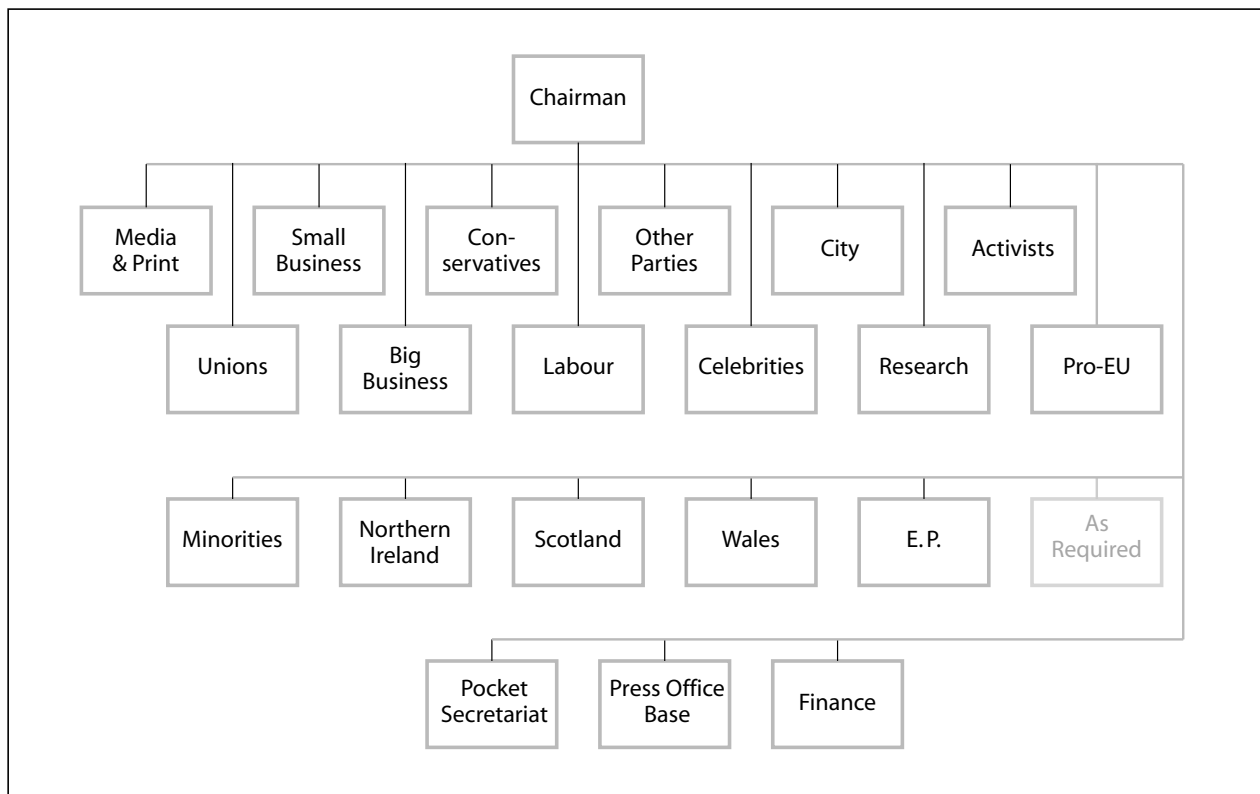
friendlies. Such work, needless to say, is vitally important in any referendum. He would have a key role in liaising with the embryonic press office for the Council (see below), and would clearly be critical in putting together any focused campaign theme that might be decided upon at a given time. Clearly, many broadcasters, for instance, have to live according to the codes of practice on political neutrality. However, this does not apply to a Conrad Black or a Martin Bell.

Chair Two would be reserved for the Unions. Their considerable influence will be greatly called upon by the pro-euro side during the debate, and we would do well to lend the pro-Pound ones every support and encouragement available.

Chair Three would host the representative from small business, of which the leading organisations are already heavily engaged in the campaign. Chair Four would co-ordinate the voice of big business. They too will be extremely active, countering the propaganda by the CBI and certain multinationals, and alongside the unions will need to convince the country that scare stories about job losses and factory closures are nonsense. They would also evidently have a considerable input into fundraising.

Chair Five would fall to the representative of the Conservatives. Given the endorsement of the campaign by the leadership, this would probably be held by an official representative, who would undoubtedly be able to call on the assistance in his support group of a number of backbench activists and campaign groups such as CAFE and CWF, perhaps through an expanded parliamentary Amsterdam Group. This would be in contrast to Chair Six for the Labour Party, which would be occupied by a Lord Shore or Austin Mitchell type, with the backing of those bold enough to oppose official party policy. Chair Seven would encompass the other parties, though this may engender some conflict in representation. Nevertheless, given the role of regional parties in the regional groups explained below, this fear may prove to be over-egged. Clearly, some expansion could be permitted as required.

The Eighth Chair returns us to the quintessential need for the campaign to strike a popular chord. It would seat a celebrity, whose task would be to win over



as many famous names as possible to the cause and have them seated on platforms around the country or appearing on screen. Sex appeal wins votes. Famous faces also make TV political broadcasts more watchable, memorable and likely to be discussed down the pub.

Chair Nine would be for a representative from the City, which will be subject to an attempt to spook it by the Government. It will need a group of local notables to gainsay any fears of Frankfurt strangling their jobs if we stay out of EMU.

Chair Ten would seat someone with not a lot to say, but a lot to take away. It would host the research mediator, representing publishers, authors and think tanks. Prior to any referendum campaign being launched, it could act as a medium for information and planning on finding the statistics to win any battle. Clearly, this *Journal* and the European Foundation would have a major input into this field, as would such outstanding organisations as the Bruges Group. Ultimately, as the referendum itself kicks in, such research would change in nature and timescale and become subsumed elsewhere, freeing up a chair for a representative from another main political party.

Chair Eleven would be another critical position, as it would represent the foot-soldiers. It would co-ordinate the campaign for the troops on the ground, and for the smaller, more localised campaigning

groups. The logical candidate would be that the AMA take up this role, and that other interested bodies join (temporarily or permanently) that organisation in order to play a part in the whole. Natural, neo-nasties would continue to be banned.

Finally, Chair Twelve would be for another crucial group – the EU-friendly. Lord Owen has a head start in this area as a focal point for those whose contributions would prove that this debate is not about leaving the EU, but about keeping our democracy. Career diplomats, civil servants, central bankers and others who have something to contribute while wishing to preserve something of their neutrality can fit in neatly here.

On the next level lie the operational groups dealing with specific areas of campaigning, where particular contacts and knowledge of the ground are required. These could feed in to the Council as a whole, and would cover the precise campaigning requirements needed in Northern Ireland, Scotland and Wales. Local political parties and associations would come up with messages more in tune with the local mood: subsidiarity at work. Another important working group could be formed to show that the Pound is for the whole of Britain, by taking the message out to ethnic minorities.

On a different plane would be the European Parliament subgroup, which would be

tasked to feed the Council with material from the international league of Eurosceptics. I refer the reader to my article for the *Journal* back in September '98 on the future role of networking by MEPs out there in Brussels, and undoubtedly both their funds and their shovels would prove invaluable.

Finally, the support staff. This body need only be a tiny entity until the campaign got off the ground – just enough to handle initial enquiries, after which it could absorb the hardbitten professionals from all the campaigning groups as the referendum got going.

In other circumstances this document would have a big red stamp on it marking it as Confidential. I am not so presumptuous as to consider this a perfect framework, nor to fail to see that this 'orbat' will need to be modified hugely, indeed simplified, before it could ever become acceptable at large. But despite the vast advances we have made over the past three years in Eurosceptic co-operation, we remain divided among ourselves, and need to challenge our ways of thinking and acting.

The time to do so is now, before the referendum; in other words, before it is too late.

*Dr Lee Rotherham works at the Palace of Westminster and the European Parliament.*



# Incorporating an Anathema: The unwarranted rôle of rights and the European Convention in UK law.

by John Tate

WRITERS SUCH AS RONALD DWORKIN and Lord Hailsham have long called for 'A Bill of Rights for Britain' – the paean title of Dworkin's work upon the subject. Yet the 'higher law' convention to which bills of rights belong is, as I shall show, profoundly incongruent with Britain's constitutional tradition. In 1951, the Government overlooked this fact to implement a bill of rights at the cost of our legal independence: subjecting Britain to the European Convention on Human Rights. Churchill's signing of the Convention was tempered, though, by his Government's insistence that the UK be allowed to opt-out of the facility allowing petition by individuals – thereby reducing severely the Convention's potential to disrupt UK law. In 1966, this opt-out was, like others to come, dropped.

The current Labour Government have gone further: incorporating the Convention into UK law. The justification for this move – that the Convention may now be implemented by British as opposed to European judges – rests upon the questionable assumption that Britain had need of a bill of rights in the first place, let alone the flawed European Convention. It is this assumption I seek here to refute, arguing for withdrawal from both the Convention and, more fundamentally, from rights-based conceptions of civil liberty in general. My subject is rendered more pertinent by the nascent Fundamental Charter on Human Rights discussed last month in Tampere; a charter that the Government is very likely to endorse.

## The Problem

The convention of residual freedoms holds that one is free to act in any way not contrary to an act of Parliament. An example of this freedom is set out by K.D. Ewing, who points out that "although there is no guarantee of the right to form and join political parties, there are [or were at the time of Ewing's writing] precious few restrictions upon what political parties may do." Other examples of residual freedoms and their contraction include:

- the presumption of innocence (undermined by Jack Straw's plan to force suspects to account for the lawful acquisition of their property, even when they face no charge);

- the 'right' of silence (threatened by the looming introduction of identity cards);
- privilege against self-incrimination (undermined by the Criminal Justice Act); and
- freedom of contract and assembly (also checked by the Criminal Justice Act).

Problems arise in that, as government functions have grown, residual freedoms have shrunk. What was once a respectable legal construct has become, in part at least, an anachronism. The House of Lords initially resisted this development. Recognising the Race Relations Act of 1968 to impinge upon one's 'freedom to discriminate', for example, the Lords' ratification of the Act was lack-lustre. The House of Commons has had fewer compunctions than 'the other place' concerning the convention. The freedom to form, join, and to run political parties, for instance, was checked by limiting their authority to expel members; by impending legislation to regulate donations; and by banning one leader from speaking in the broadcast media. Governments have come to manipulate the very absence of legislation by acting in an unchecked manner in highly contentious areas. In *Malone v. Metropolitan Police Commissioner* (1979) the High Court ruled that the Government "could intercept communications unless specifically legally prevented from doing so." Due to the Criminal Justice Act, little of the residual freedom of assembly is now left. Conor Gearty speaks to this problem when he observes that, like many freedoms, the freedom of assembly is "trapped by its complacent classification as a residual liberty, and without legislation or positive common law rules to act as its defender, it is being slowly squeezed into extinction."

## The Wrong Solution

The contraction of residual freedoms added to pressure for the introduction of explicit, binding freedoms, to be protected by and set out within a bill of rights such as the European Convention. Fundamental freedoms would, advocates of the Convention held, be better protected in this way – no longer subject to the whim of a given parliamentary majority. Writers such as Dworkin, Hailsham, and Marshall have all

called for a bill of rights for Britain and, in the case of Marshall, for the incorporation of the European Convention. The reification of their advice came in 1997 when the Labour Government finally incorporated the Convention into UK law. With that step began the thoroughgoing juridification of the administrative process: removing what are fundamentally political issues from the political domain and shifting to unaccountable, unelected, and (for most practical purposes) unremovable members of the judiciary vital areas of decision making "as they embark upon the happy and fruitful exercise of interpreting woolly principles and even woollier exceptions." (Griffith) The supposed rights now granted us under the Convention are the mere statements of political conflict in the guise of their resolution. Witness Article Ten, which reads:

*1. Everyone has the freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without reference by public authority and regardless of frontiers. This Article shall not prevent states from requiring the licensing of broadcasting.*

Quite unequivocal so far; yet the Article proceeds to state that:

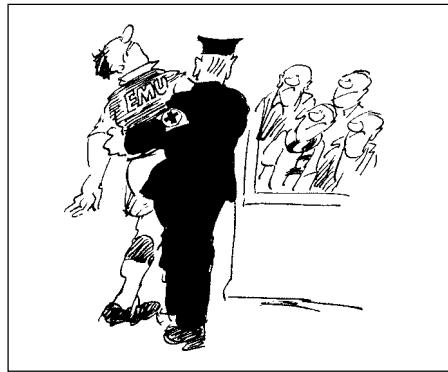
*2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national sovereignty, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

To call what is the mere statement of political conflict a 'right' is to corrupt the term. What we commonly refer to as 'rights' are, as the wording of Article Ten illustrates, themselves sites of myriad cross-pressures and conflicting principles. The management of these cross-pressures, moreover, is

an inescapably political activity, and thus deserving of open and democratic discussion rather than the reductive consideration of judges. To turn what in Britain is afforded by a combination of common law, act of Parliament, and the convention of residual freedoms into a list of rights is a bogus exercise, for it is a denial of the fact that all law derives its ultimate legitimacy from politics. To turn our attention to rectifying deficiencies in our democratic practice would, therefore, be a more valuable exercise in safeguarding civil liberties than the creation of a bill of rights or a codified constitution. Essentially, where those such as the present Government, Charter '88, Dworkin, and Hailsham are misguided is that they seek a society run by laws or principles rather than by men. As Griffiths observes in *The Political Constitution*, their projects represent "an unattainable ideal. Written constitutions do not achieve it. Nor do bills of rights or any other devices. They merely pass political decisions out of the hands of politicians and into the hands of judges or other persons. To require a supreme court to make these decisions does not make those decisions any less political."

Given that the fate of a parliamentary majority rests with the potentially volatile and corruptible views of the electorate, one can understand why binding rights have been called for – rights that, barring exceptional circumstances, could not be interfered with by the Government. For whilst the stability afforded by geography and natural resources, amongst other things, have contrived to furnish Britain with a set of singularly durable political institutions, their ability to protect civil liberties and foster a 'culture of liberty' may prove all too vestigial in the face of crisis. Other nations have (re)codified their constitutions and drawn up bills of rights in the aftermath of upheaval, so why should Britain await such upheaval in order to do likewise?

This argument does not bear scrutiny. Given that Britain has not experienced violent upheaval since the 1700s, or outright invasion since 1066, there seems little point in attempting to learn lessons that have yet to be taught. Enacting constitutional reform to combat abuses of civil liberties seems equally unwarranted given that Britain's record in this area is better than most.



(Indeed, why else would dissident groups from around the world flock to headquarter themselves in London?) A perceived erosion of residual freedoms by government legislation requires the verdict of an active and involved electorate, and not that of the unelected, judicial interpreters of a static constitution. The reactionary maxim 'if it ain't broke don't fix it' might seem – and often is – a simplistic basis upon which to view the British constitution, yet it has its root in sound reasoning. As A.A. Milne points out in his article 'Should We Have a Bill of Rights?': "given that the potential dangers in human life are infinite, it is logically impossible for us to guard against them all. The path of wisdom is to concentrate our efforts on dealing with those which are not merely potential but which are becoming actual. It is then not enough for the advocate [of a bill of rights] to show that rights are logically at risk. But this is all that he is able to do."

All of the above is not to say that where rights are championed within a bill or codified constitution it may not serve one of

a number of admirable designs, such as the attempt to expedite the creation of a 'culture of liberty' in a top-down fashion, *à la* many third world states; to foster a set of political norms and a wider 'civil religion' around which a disparate immigrant population may rally, *à la* United States; or to herald the re-birth of a nation and the legitimacy of a new state following defeat in war or a crisis in government, *à la* Germany and France, respectively. Such conditions do not apply in Britain, however, where stable democratic institutions, based upon a genuine culture of liberty, have helped create and preserve civil liberties just as effectively as have done legal remedies elsewhere. To augment the defence of the considerable freedoms enjoyed by Britons with blunt legal measures is an unwarranted intrusion upon British constitutional tradition. By making use of the European Convention or any 'Fundamental Charter', the exercise has had the added defect of further integrating us into a body of European law fundamentally alien to our own. (Indeed, the British lawyers who drafted the Convention did so without thought of it applying to Britain.)

### The Choice

Crucially, by incorporating the European Convention and by flirting with the Fundamental Charter, the Government have elevated human rights law above the realm of politics. Thus they have abrogated the principle of parliamentary sovereignty. In this as in so many areas of its constitutional reform, the Government must come off the fence to declare that Britain is possessed of either a sovereign Parliament and the convention of residual freedoms, or that we have – as in practice we do have – a form of higher law, interpretation of which occurs beyond our democratic process and, ultimately, beyond our shores.

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

### ... news in brief

#### Germany tells Britain how to run the army

There was much publicity about the proposal to forbid the recruitment of under 18 year olds into the army. But the news reports in Britain preferred to gloss over the source of this pressure. It came from the German government and in particular from the Foreign Minister, Joschka Fischer. Speaking at a conference organised in Berlin on the subject and hosted by the German Foreign Ministry, he called for an international rule to be introduced forbidding the use of under 18s in the army. [*Frankfurter Allgemeine Zeitung*, 19th October 1999]

#### Prodi: I knew nothing

Like his successor and predecessor as prime minister of Italy, Romano Prodi has denied having had any knowledge of the list of more than 200 spies whose names were recently revealed to the Italian parliament and in the Italian press. The latter is now somewhat sceptical that Mr Prodi was in the dark about which public figures in Italy worked for the KGB because a list of the spies was communicated to the Italian government by the British government in 1996. If Messrs. D'Alema, Dini and Prodi are to be believed, it has just been sitting around in an unopened file until now. [*Il Giornale*, 6th October 1999]



Money sloshes around the global economy like water in a barrel. There is never a state of perfect equilibrium and sometimes the slops are large and lumpy. Central bank intervention is rather like putting baffles in the barrel. They can interrupt the flow but never prevent the water ultimately finding its own level. We could soon be entering one of the sloshier stages.

For most of this decade, the barrel has been tilted in favour of the US dollar. In last month's Eurowatch we talked about the strength of the yen and how capital was flowing out of dollars and euros and back into yen. This month the emphasis is more on dollar weakness rather than yen strength. The dollar is weakening because the rest of the world is entering new growth stage. Japan is pulling out of its long recession. The Far Eastern economies, which suffered a huge deflationary shock in 1997, are getting back on their feet. Euro-zone economies are showing signs of growth, particularly now that the costs of German reunification have been largely absorbed. Oil and commodity prices are rising, helping Australia, Canada and some emerging countries.

The US has a large and growing current account deficit, now a record high of 4% of GDP, which has been funded so far by international savings flowing into US financial assets. As these savings are withdrawn, there is a danger that a collapse in US stock prices will result and a consequent dollar crisis may develop. Alan Greenspan of the US Federal Reserve has prepared the markets for a fall in stock market prices, which most analysts agree are now highly overvalued, and warned that interest rates will have to rise to prevent inflationary pressures. During his tenure as Chairman of the Fed, he has kept astute control over US growth and is clearly trying to take a slow approach now to reining in the economy.

For the euro the consequences could be favourable. Some economists are predicting a period of growth for the Euro-zone as structural changes become apparent. In particular, there is an attempt to contain budget deficits to below the 3% limit set by the terms of the Maastricht Treaty. There is increasing competition between firms across the Euro-zone area as they try to increase market share. Mergers, acquisitions and privatisation of national

monopolies have increased and resulted in restructuring, bringing lower consumer prices and more flexible labour costs.

Europe and the US have experienced contra-cyclical business cycles. The US is now in the late stages of its business cycle while Europe is in the early stages of recovery. The effective exchange rates of the main European economies are now similar to their levels in mid 1997, so this is encouraging for trade.

The UK's business cycle has been similar to that of the US. We too now have overvalued share prices and growing inflationary pressures. Sterling tends to track a middle path between the dollar and the euro. Recently it has been strong against both currencies as the UK's healthy economy, liquid and buoyant stock market and relatively high interest rates have attracted some of the savings flowing out of dollars. The froth will probably come off sterling and it will settle back down to its usual level against the dollar of around \$1.60. The euro may well then rise a little against the pound and the dollar but weaken against a still strengthening yen.

Of course, any improvement in the euro will be used by the pro-euro campaigners that it is working. For the core Euro-zone economies, it does have certain advantages. It keeps Italy's budget deficit in check (almost), for example; and their economies move in tandem anyway. For Britain, with our business cycle moving completely oppositely, it would be disastrous. The distortions wrought within our economy would be far greater than the disruption caused by being in the ERM. An excellent argument against Britain's entry into the single currency is provided by the Report of the Commission on the Pound Sterling, chaired by Sir John Nott and published in July. Everyone should read it and it can be downloaded from the Internet at [www.connect.co.uk/nott\\_commission](http://www.connect.co.uk/nott_commission).

I would like to end with a quote by John Nott from his speech given at the recent Conservative Conference. "The euro will be kept on life support by politicians long after it is brain dead economically. If you disbelieve me, just look at the Common Agricultural Policy"

Lynette Swift

### ... news in brief

#### Estonians dislike being bossed around by West

The patience of certain Eastern European countries with the arrogance of the European Union and other Western institutions is becoming patent. The Estonian Foreign Minister has given vent to his irritation at the double standards and hypocrisy the West adopts towards countries in the region. He is angry that every aspect of legislation (not to mention the economy) in his country is subject to the approval of the Organisation for Security and Cooperation in Europe, especially on things like inter-ethnic relationships, whereas there has never been a report from Estonia about racist attacks or homes for asylum seekers being burned down, as there have been regularly in Germany and in other bossy EU states. Why should there not be an OSCE mission to France or Germany, he asks? What would the OSCE have done if someone like Jörg Haider had come second in the Estonian elections as he did recently in Austria? He expressed particular irritation that the European Commission has once again criticised Estonia for its new language law which, Brussels, alleges, it too hard on the Russian

population. The OSCE was quick to reply, as it always is when criticised. It said that, as a matter of principle, it never comments on election results (which is completely untrue) and that Haider's party was a party of the centre which was pluralistic, committed to freedom and to the market economy. [*Frankfurter Allgemeine Zeitung*, 19th October 1999]

#### Tudjman says Croatia will never return to Balkans

The President of Croatia, Franjo Tudjman, has said that he rejected any attempts to push Croatia back into "a Balkan space". Instead, he wanted to lead his country into further integration in Europe. The remark seemed to be addressed to the EU's Stability Pact for South-Eastern Europe, of which Croatia is a member. But Tudjman may know that the EU plans to oust him from power in the forthcoming elections, according to what one internal EU document called "political normalisation on the Slovak model". Tudjman said that the parliamentary elections would probably take place before Christmas. He also called for Bosnia to be divided into three parts, instead of the present two, with the Muslims enjoying their own sector. [*Frankfurter Allgemeine Zeitung*, 19th October 1999]

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# Beware the 'Patriotic Alliance' that Peddles a Lie

by Lord Stoddart of Swindon

THE BRITAIN IN EUROPE ORGANISATION, finally launched on 14th October after a number of shambolical false starts, is dedicated to perpetuating the lie that the EU is good for Britain. They have even proclaimed themselves as a 'patriotic alliance'. I was amazed to see the Prime Minister sharing a platform with the very Tory politicians whose European policies brought disaster to our economy and who were so decisively rejected by the British people in 1997.

To call this a patriotic alliance is the biggest lie of all! How can abandoning your currency, undermining your laws and handing over huge swathes of vital policy including foreign affairs, defence, monetary and fiscal policy – to be decided by an undemocratic, unelected polyglot cabal sitting in Brussels – ever be considered patriotic?

The whole edifice of British membership of the EU is based on a pack of lies. In 1972, the country was told that it was joining a common market and we were told the same at the 1975 referendum. We were also told that the terms had been renegotiated – all lies. All the subsequent treaties have been forced through Parliament on the basis that they would not affect Britain's sovereignty – another huge lie.

The euro-federalists have known from the outset that the end game was a single European state or, as the Germans refer to it, a 'country called Europe'. Those who tried to point out the real agenda were labelled as left wing extremists. Despite consistently being proven right in our concerns, we are still called extremists. Only now we are labelled as right wing extremists!

Let's take a closer look at the leading members and supporters of Britain in Europe's patriotic alliance. Its most

prominent member is the Prime Minister, who wrapped himself in the Union Jack and called himself a British patriot at election time but has since been totally committed to the Brussels agenda for breaking Britain up. John Major put Britain into the ERM

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with disastrous consequences, removed the party whip from eight Conservative MPs who voted against the Maastricht Treaty and led his party to its most humiliating defeat this century.

Kenneth Clarke recommended the Maastricht Treaty, then admitted that he hadn't read it. His democratic credentials include describing an 82% vote in favour of William Hague's policy on the EU as "indecisive". Lord Hurd is the man who signed the Maastricht Treaty when he was Foreign Secretary and then said, "Now that I have signed it, perhaps I had better read it." Chris Patten is the former Governor of Hong Kong, who wept when it was handed over to the Chinese but revels in seeing Britain handed over to the EU. This is the man who wants the RUC disbanded, its oath

of allegiance to the Queen dropped and the union flag removed from police stations – a real 'patriot'! Lord Marshall, Chairman of BA, is the patriot who removed the Union Jack symbol from the tailplanes of BA aircraft, until Lady Thatcher came along with her handkerchief. Under his Chairmanship, BA profits have plummeted and its share price has halved.

What has this European paradise they are trying so hard to sell us done so far? It has almost destroyed our farming industry through the Common Agricultural Policy and the beef ban, which the French are still refusing to lift. Three quarters of our abattoirs have closed down. It has taken over control of British territorial waters, given 66 per cent of our fish stocks to other countries and badly damaged our fishing industry. In trade, a small surplus with Europe in 1972 has been turned into a huge deficit – £142 billion (all trade), £5.5 billion last year alone. Regulations – it has given us an endless stream, which are hitting small and medium sized businesses very badly. Finally, what about the budget? Our membership fees to the EU are currently running at £9.5 billion per annum, enough to rebuild the health service and give pensioners a huge increase, instead of a miserly 73p.

Let us be clear about one thing: patriotism is about self-government and it has nothing whatsoever to do with this unholy alliance, which is dedicated to the treasonous cause of handing over Britain's government to the undemocratic institutions of the EU.

*David Stoddart is Chairman of the Campaign for an Independent Britain.*

## ... news in brief

### Russia attacks refugee convoy

Perhaps in imitation of Nato's attacks on Yugoslavia, Russian tanks have attacked a refugee convoy of people fleeing the fighting in Chechnya. 28 people have been killed, mainly women and children. There are tens of thousands of refugees from the war zone now massing on the Georgian border and elsewhere in the Caucasus. But whereas in Kosovo the KLA was a noble liberation army, the Chechen rebels are 'Muslim fundamentalists' in Western and Russian eyes and therefore deserve to be exterminated along with their womenfolk and children. [*Süddeutsche Zeitung*, 7th October 1999]

### Germany calling

The Croatian government has sold a 35% stake in the Croatian national telephone system, Hrvatske Telekomunikacije. The Germans bid over \$200 million more than their Swedish and Norwegian competitors. The Croatian Finance Minister has said that the sale will enable the Croatian state budget to be balanced for this year and for the next. In other words, Croatia depends on the Germans to survive. The German financial daily, *Handelsblatt*, comments, "The privatisation of HT is the first sale of a state company to a strategic investor and it is intended to be a model for future privatisations of state enterprises." [*Handelsblatt*, 5th October 1999]



# BOOK REVIEW

## Insulting The Public? The British Press and the EU

by Peter J. Anderson and Anthony Weymouth, Longman, £16.99, pp. 230, 1999

*Reviewed by Allister Heath*

THERE have been many mystifying treatments of the eurosceptical case in the past but this book is much more than a mere variation on a well-rehearsed theme. Readers should steel themselves for an expeditious dismissal of euroscepticism as a sectarian rejection of “popery and the anti-Christ”, a notion that would surprise Catholic eurosceptics such as Bill Cash, Charles Moore and John Laughland. However, this is only one of many fascinating insights Andersen and Weymouth provide into the alleged psychology of the eurosceptic. Opponents of Economic and Monetary Union are victims of their “socio-economic-historical-cultural perspective” (whatever that means) and are “Whig-imperialists”. Apparently obsessed with the past, sceptics perceive the European Union as a health hazard because “just as Europe was historically the origin of plague and disease, it still constitutes a health threat”. One cannot help but conclude that these authors have caught europhilia, the continental disease that riddles europhiles.

The book is marketed as “essential reading for courses in Media and Communication Studies, European Studies and European Politics” but the authors preach at kindergarten level. “War, especially in the nuclear age, is potentially the biggest killer of all.” Indeed. With one breath they dismiss out of hand the argument that democracies never go to war. With the next, they make the implicit claim that several European countries are just waiting to go to war with each other, making it “unwise to presume that a long period of peace ... will last indefinitely”. Then they attempt to whip up support for a Single European Army on the grounds that “for the Jewish people, one hell has been quite enough ... a lesson that much of the British press has yet to learn”.

Insulting the reader? Ironically, this is probably the only thing that *Insulting the*

*Public?* achieves, which is unfortunate because a scholarly book on British newspaper coverage of the European Union is certainly needed. It should be based on a rigorous quantitative analysis of press coverage, it could illustrate how different

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issues have been covered over the years and the commentary would draw upon economics and politics. However *this* book is a wasted opportunity. Its argument is almost solely anecdotal and entirely lacks even the most basic statistical analysis. The authors review a large number of apparently arbitrarily selected cuttings and then provide what they claim is a detailed commentary. Articles that are not entirely supportive of the European State are almost always fiercely criticised while those promoting further moves towards euro centralisation are generally lauded as balanced and informative. The authors seem to display a worrying streak of authoritarianism when the *Sun*’s description of Italian politics as corrupt is labelled “inadmissible”. Do the authors really

believe that they have the right to state what should or should not be allowed into newspapers? British dailies are branded as “outrageously shallow”, “distorting”, “lavatorial” and even on numerous occasions “nationalist” or “xenophobic”. This is typical of Anderson and Weymouth’s whole approach. Opponents of a single European state are portrayed as Little Englanders rather than as internationalists who wish to look beyond the European Union. Not only are sceptic journalists wrong but they are also caricatured as being morally inferior. They dismiss eurosceptics as “emotive” and claim to “favour a more open-minded discourse on the issues relating to integration” but they themselves use highly charged language and employ the rhetorical tricks they criticise.

Their contribution to the European debate is akin to shouting “xenophobe” a few times and questioning the motives of their opponents. They challenge eurosceptics “to name any European calling for intervention in our educational system”. Well, according to a report published by the European Commission in January 1998, “Socrates, Leonardo da Vinci and Youth for Europe [the EU’s principle educational schemes] offer ways and means of funding projects designed to promote the euro among young people.” The European Union clearly sees its contribution to schooling as a tool of propaganda, rather than a means for learning.

Conspiracy theorists who have tired of the CIA’s assassination of JFK, Jr., will love this book. Its main theme is very Galbraithian: the hapless masses are being manipulated by nasty press barons. Newspapers are thoroughly unprincipled (unlike the saints at the BBC) because “there can be few more partisan and biased newspapers in Europe than certain titles of the current British press”. How would the authors

describe the situation in France, where the newspapers are uniformly committed to a federal Europe? Anderson and Weymouth are faced with a chicken and egg situation which their paternalist worldview cannot understand. What comes first: a eurosceptic media or a eurosceptic population? In reality the British print media has the widest and most diverse coverage of European issues. This is because in a competitive market readers get what they want, and most people in the United Kingdom have a healthy distrust of the European Union. However, it is unsurprising that the authors do not understand the newspaper market, because they do not understand economics.

They wish to avoid “baffling readers not very familiar with economic theory” and so rely on a mixture of pop Keynesianism and psycho-babble to applaud the Social Chapter and to blame the British for favouring an allegedly “low wage” economy. They claim Britain’s ERM induced recession was in fact primarily caused by domestic factors, and maintain that increased social welfare spending and health and safety regulations would eventually boost employment.

The authors’ poor understanding of the internal dynamics of British politics is embarrassingly displayed time and time again when they show themselves as little

more than puzzled outside observers. For example, Bill Jamieson is accused of aligning himself with the CBI because in 1993 he agreed with one of their statements, which is tantamount to saying that Muslims are Christians because they recognise Jesus as a prophet. In summary, *Insulting the Public?* is a stunning own goal. Better informed europhiles will not thank the authors while eurosceptics will find the book almost too good to be true.

*Allister Heath is a graduate student at the University of Oxford.*

## POLL DATA

### Small Businesses Oppose the Euro

*Six in ten small firms do not want the UK to join the single currency, according to a recent survey published by the Federation of Small Businesses (FSB). However, two thirds of respondents do not want the Government to rule out membership of the single currency completely.*

THE SURVEY SHOWS that 58.8% of small firms oppose outright the possibility of joining the euro at any time or cautiously oppose the idea of future membership of the single currency.

Almost one third of respondents (30.5%) want to rule out the possibility of joining the single currency at any time, with 69.5 not ruling out the possibility of joining.

Over 28% want the UK to work with the objective of not joining the euro without ruling it out completely.

The survey of 11,328 small business owners was carried out by Electoral Ballot Reform Services (ERBS).

A total of 18.3% of respondents wish to either join the single currency as soon as possible or work with the objective of joining in the future.

A further fifth are undecided as to the benefits of the single currency – the survey showing 20.3% of respondents wanting to continue to investigate the possibility of joining, without a definite commitment.

Businesses that import or export within the EU are more favourable to joining the single currency – 32.8% of those who imported or exported within the EU want to join as soon as possible or work to join in the future. Conversely, of those who neither import nor export within the EU, only 14.4% hold the same view. However, in each case, those inclined against joining the single currency outnumber those favourable towards it.

Similarly, fledgling businesses are more in favour than established firms. While 25.8% of owners of businesses up to five years old

want euro membership, only 112.9% or firms of 20 years standing or more are in favour.

Northern Ireland is the only region survey from which the proportion not wanting to join the single currency is outweighed by the proportion in favour. 44.6% of firms in Northern Ireland want to join as soon as possible or work to join in the future, with 31.1% totally or cautiously opposed to membership.

In Scotland, 25.4% of respondents are in favour of joining as soon as possible or in the future, with the corresponding statistic in Wales being 17.7% of respondents. 44.9% of Scottish respondents are totally or cautiously opposed to membership, while in Wales the corresponding percentage is 56.4% of respondents.

#### ... news in brief

##### New integration project commences in Europe

Publicity in the British press about the Tampere summit has concentrated on practical issues like a common approach to asylum policy. Always more perceptive about EU realities than the British, however, the continentals have emphasised that the summit took an important step towards the creation of a common legal space in Europe. The German Chancellor, for instance, said that Tampere had taken an important step in a new “great EU integration project”. Although Jacques Chirac, the French president, insisted that the asylum policy adopted be “common” instead of the “single” which the Commission had originally proposed, the meeting did move towards harmonising

European legal structures. Indeed, a common legal space is to be created by 2004. Judicial practices are to be harmonised and be brought under an institution enjoying the Orwellian name “Eurojust”. [*Handelsblatt*, 18th October 1999] As one leading German paper comments, “The European Union goes into the next millennium with ambitious plans.” These ambitious plans included the new federalist agenda published by “three wise men”, Richard von Weizsäcker, the former president of Germany, Jean-Luc Dehaene, the former prime minister of Belgium, and Lord Simon, the former Labour minister. In it, they propose the abolition of majority voting for all questions including for treaty changes allowing Europe to take over new areas of policy. [*Frankfurter Allgemeine Zeitung*, 19th October 1999]

# Common Sense for the CBI

*Extracts of a speech to the CBI on 2nd November 1999 by the Rt Hon. William Hague, MP*

**W**E CAN CUT TAX and reduce regulation to give ourselves prosperity tomorrow.

The European Union has a very important role in generating that prosperity, provided it does not turn itself into a protectionist, centralised political monolith.

I want Britain to be an leading member of a European Union which makes the Single Market a reality, a European Union that reaches out across the Continent, a European Union which champions global free trade and works in alliance with NAFTA, a European Union in which nations engage in healthy competition for the lowest taxes and lightest regulation, and in which Britain is in Europe but not run by Europe.

This is my vision of the modern nation state and the modern European Union.

Big government and great centralised supra-national power structures do not protect their citizens from the cold winds of globalisation, they expose them to their full force. My vision of the Dynamic economy represents quite a contrast with the approach of the current Government and the Mammoth model. Different visions lead to very different policies.

Take the regulation of business. According to your CBI survey this autumn, four out of five British businesses believe that red tape has increased over the past year, and over half believe it is having a negative impact on their ability to compete.

At precisely the moment when British businesses should be making the most of the competitive advantage we built up in this country during the 1980s and 1990s, you find yourselves struggling under the burden of new working time regulations, minimum wage regulations, working family tax credits, statutory trade union recognition, and costly changes to unfair dismissal laws. Equally, corrosive is the move to turn companies into the state's unpaid benefit offices, paying out family credits or collecting student loans.

I believe the common sense approach, the Dynamic approach, is not to adopt the employment laws of countries with the worse employment record in the developed world, but rather to make Britain a more attractive location for business and employment by cutting the red tape burden.

For businesses, excessive regulation has the same effect as excessive taxes. So the

next Conservative Government will require every government department to cut its red tape by giving them regulatory budgets, just like their existing spending budgets.

Cutting and regulation is one way we will widen Britain's competitive advantage; cutting taxes is the other way.

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**B**ITAIN'S SUCCESS at attracting more investment from outside Europe than all the eurozone countries put together is in part a testament to the work of British Governments in the 1980s and 1990s in turning us from a high tax economy to a relatively low tax one.

Once again, the Government is squandering that legacy. The Chancellor may have cut the rate of Corporation Tax; but at the same, he has hugely increased the overall tax burden on businesses.

These are the now infamous stealth taxes. They include taxes on fuel duties and Stamp Duty, the changes to the administration of Corporation Tax, and the abolition of dividend tax credits on pension funds.

You can see the effect of these stealth taxes in the figures for the overall tax burden. It is set to rise by 2 per cent of GDP under this Government.

If we proceed down the route of European tax harmonisation, the upward creep will become a surge. Professor Tim Congdon has calculated that with present rates, the UK's tax to GDP ratio would have to rise by at least one sixth to bring it in line with the rest of the European Union.

Supporters of the Mammoth Model believe high taxes are necessary if Governments are to fund the expensive welfare systems that will protect their citizens from the new economy. They also believe tax harmonisation is necessary to stop one country trying to outbid the others with lower taxes.

I say they are wrong. I say we should not only stop increasing taxes and stop tax harmonisation; we should go in the other direction and cut taxes.

To give that aspiration real substance, my Party offers this Tax Guarantee: at the end of the next Conservative Government the state will take a smaller share of the nation's income than at the beginning. In other words, we will cut the overall burden of tax on individuals and businesses.

For me it is in part a moral argument. I believe in low taxes because I believe in freedom. I believe people should be as free as possible to spend the money they have worked for.

But there is also an equally important economic argument. In the new economy, businesses will locate in countries with lower taxes. Britain's tax burden as a proportion of GDP may be 8 per cent lower than the Italians or 13 per cent lower than the French, but it is 5 per cent more than the Japanese, 9 per cent more than the Americans, and a full 14 per cent more than the Koreans.

Britain's high tax burden relative to the rest of the world will act like a drag anchor on British businesses in the new economy. If we are to continue to encourage firms to locate in this country, we must cut our economy free from that anchor by implementing the Tax Guarantee.

In this Millennium, nations have competed with each other for the largest armies and greatest empires. In the next Millennium, nations will compete with each other for the lightest regulations, the lowest taxes and the most business. Nations will fight each other not for territory but for business, and their weapons will not be guns but tax rates.

It is no good hoping that regional blocs will safeguard high taxes. These great stumbling animals will be out-manoeuvred and out-competed by the lean, low-tax nation state.

My message to British politicians and businessmen alike is this: Britain must cut taxes to succeed in the new Millennium. We must become tax cutting trail-blazers in the European Union.

*William Hague is Conservative MP for Richmond and Leader of the Conservative Party*

# On the Subversion of Law

by David Radlett

RONALD DWORKIN WROTE WITH GREAT perspicacity that:

*"We live in and by the law. It makes us what we are... We are subjects of law's empire, liegemen to its methods and ideals, bound in spirit while we debate what we must therefore do. (Law's Empire, Fontana, 1986)"*

Quite so, and it has not taken long for the lawyers to begin debating 'what we must therefore do' in the ongoing British beef war.

Readers of the *Journal* ('The ECJ Condemned', May 1998) will be aware that the European Court of Justice have declared that their writ runs into the policing of disputes that hinder trade – even if those disputes concern the actions of private citizens rather than governments. The consequences of that outlandish decision are discussed in "Rule of law v rule of force," an article by Malcolm Jarvis published in *The Times* on 26th October 1999.

Jarvis notes that governmental measures to hinder trade are clearly prohibited by Article 28 of the Treaty of Rome, and indeed they are. This explains the lily-livered response of Her Majesty's Government to the French ban on British beef. He explains how the decision in *Commission (supported by Spain and the UK) -v- France* "The Times" 11th December 1997 makes a government responsible for a hindrance to trade caused by individuals where it does not take effective measures to squash that hindrance. He reports that the House of Lords in *R -v- Chief Constable of Sussex ex parte International Traders Ferry Ltd* [1998] did not apply the reasoning of the ECJ. Instead, they found that the Chief Constable had acted lawfully in deploying his forces to catch criminals rather than concentrating those forces on the protection of free trade in the European Community.

Having made these points, Jarvis continues:

*"Arguably, there is little reason as to why the co-ordinated activities of individuals or groups that prevent or hinder trade between EU states should not, in principle, be contrary to Article 28 of the Treaty."*

It is at this point that Dworkin's observation – "[w]e live in and by the law" – begins to stick in the throat, for there are both reasons of principle and practice as to why

"the co-ordinated activities of individuals or groups" are outside of the Treaty of Rome.

As a matter of principle, adherence to the Treaty of Rome is an obligation of the governments that have subscribed to it, rather than the citizens that they purport to represent. The language of the Treaty itself supports this suggestion, even if the demented ramblings of the Court of Justice from the case of *Van Gend en Loos* [1963] ECR I onwards do not. Article 28 provides a clear example. It states:

*"Quantitative restrictions on imports and all measures having equivalent effect shall, without prejudice to the following provisions, be prohibited between the Member States."*

In Directive 70/50/EEC "measures" are defined as:

*"laws, regulations, administrative provisions, administrative practices and all instruments issuing from a public authority, including recommendations"*

The ECJ itself has defined the phrase "measures having a like effect" as including:

*"all trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade, (Dassonville [1974] ECR 837)."*

There appears to be little scope for implying that Article 28 goes further, by placing obligations upon citizens. This is even more apparent when it is recalled that the Treaty is not shy about referring to "the peoples of Europe," "their peoples" (the Preamble to the Treaty) or "Every person" (Article 17) when it means to address individual rights or obligations. It is therefore reasonable to infer that the absence of such reference in Article 28 precludes its application to individuals or groups.

If this is not enough, then regard should be had to the practical and wise words of Lord Templeman in *Wheeler -v- Leicester City Council* [1985] 2 All ER H/L. He noted that:

*"... the laws of this country are not like the laws of Nazi Germany. A private individual ... cannot be obliged to display zeal in the pursuit of an object sought by a public authority."*

Free trade is clearly an object sought by two types of public authority – the central

institutions of the European Community and the governments of the member states. Two is not better than one in this instance: as an object sought by a public authority, free trade can give rise to no private obligations.

However, the key reason for objecting to Jarvis' attempt to clothe the extension of the Treaty to "the co-ordinated activities of individuals or groups" in the trappings of law is found in the nature of law itself. English law commands our respect – makes us "liegemen to its methods and ideals" – precisely because it does not allow "the State", whether in the form of the national government, supranational institutions or judges of any sort to ride roughshod over basic freedom – the freedom to do whatever is not clearly and precisely prohibited by law.

When what purports to be "law" departs from this fundamental principle it ceases to command respect and certainly does not render us "liegemen to its methods and ideals." This is a matter of inner substance, not subject. When Jarvis writes that:

*"Under a little-known Community regulation, when an obstacle [to free trade arises] EU member states are required to take 'all necessary and proportionate measures' to assure the free movement of goods ... and to inform the Commission of the action which its authorities have taken," he is not calling in aid true law, but rather naked compulsion. We "live in and by the law" because we are part of that law, not separate from it. We are part of it because we choose the supreme law-making body: we elect our Parliament, and that Parliament legitimises the exercise of authority by the government. Sir Winston Churchill described the system of representative democracy in the United Kingdom in the following way:*

*"The public at large having perforce chosen these persons from amongst those who were put before them submits itself in spite of some misgivings and repinings to their judgement. The public are accustomed to obey the decisions of Parliament, and the rulers who rest upon a parliamentary majority are not afraid to use compulsion upon recalcitrants," Sir W. Churchill, Thoughts and Adventures. Odhams, 1949 (first published in 1932).*



It is trite to observe that law made by Parliament outranks law made by judges unless, as with s 3 of the *European Communities Act 1972* and the pseudo-law emanating from the ECJ, Parliament requires to the contrary. Even the rule requiring respect for such nonsense can be changed, so if we do not like the law, we have the opportunity to change it by electing a different Parliament.

No one seriously suggests that similar considerations apply to the "law-giving" processes of the EC. It is now even possible to play 'spot the mandate' with MEPs (since, for example, they appear to be free to foist themselves on individual areas within their 'region' irrespective of the support their party obtained in that area). This makes a mockery of Jarvis' observation that:

*"[I]t ... is better to think twice before replacing the rule of law with the rule of force,"*

for it cannot be too much to hope that the rule of law – meaning an absolute supremacy or predominance of regular law

as opposed to the influence of arbitrary power – depends upon something more than a 'little known Community regulation' or the pronouncements of a politically motivated 'Court of Justice'. In the case of *Duport Steel -v- Sirs* [1980] 1 WLR 142 H/L, Lord Scarman warned of the danger where a court, in an attempt to do justice, "failed to do justice according to law." He explained that:

*"[I]f people and Parliament come to think that the judicial power is to be confined by nothing other than the judge's sense of what is right ... confidence in the judicial system will be replaced by fear of it becoming uncertain or arbitrary in its application. Society will then be ready for Parliament to cut the power of the judges ..."*

THIS IS A WARNING that the ECJ ignores time and time again. As can be seen in the 'Beef War', people (if not Parliament) are expressing a lack of confidence in what passes for a judicial system in the EC, and

are beginning to fear that it has become uncertain and arbitrary in its application. It is therefore dangerous for Jarman to opine that:

*"[W]hatever sympathy the British government may have with the protesters' cause, it has no choice but to act [in accordance with the 'little known regulation']."*

In writing this, he makes clear the extent to which the EC has created a divorce between government and the governed, when it is upon that marriage that the legitimacy of law depends. That the divorce has to take place in the name of 'law' is but a subversion of that label to an end which has ceased to be acceptable. In fact, it amounts to a wholesale subversion of the idea of law itself.

*David Radlett is a Lecturer in Law at Mid Kent College of Higher and Further Education. He is a regular contributor to the Journal.*

### ... news in brief

#### Papon does a runner

Maurice Papon, the veteran Gaullist resistant and former Treasury Minister, sentenced to 10 years' imprisonment for complicity in crimes against humanity last year (for his role as an official in the provincial prefecture in occupied France during the war) has fled into exile. The 89 year old man was appealing against his sentence and French law has a strange provision that a person making such an appeal must constitute himself a prisoner for one night before the appearance in court the next day. Papon has refused to comply and has now fled the country instead. This provision also applied the day before the original trial, which lasted for over 6 months in 1997 and 1998. It leads to the very paradoxical situation that a man must be imprisoned when he is presumed innocent (the day before his trial) but that he is free to go when found guilty (as Papon was in 1998, because after his conviction he immediately lodged an appeal).

In a piquant historical reference, Papon explained his action by implying he was modelling his exile on that of General de Gaulle in London in 1940. In a long letter to a provincial newspaper, Papon said that exile was "the only response in conformity with honour". He witheringly attacked the two decades of politico-judicial machinations and manoeuvres which finally led to his conviction. He attacked his conviction as a declaration of the culpability of France and severely reproached the President Chirac, who himself said that France shared guilt for the Holocaust in 1995. (Some commentators and witnesses at the trial saw this declaration as a concession to Germany and thus as part of France's European policy.) "I did not resist Nazi violence now to go cap in hand and beg for my liberty from a court," wrote Papon. "As a free man, I refuse to bend my head. It is not without a tightening of the heart," he went on, "that at the age of 89 one takes such a grave decision. It is not without disgust that one contemplates at the cowardice of the highest instances in this country [i.e. Chirac] when one has had the honour to serve General de Gaulle." [*Le Monde*, 21st October 1999]

#### Enlargement or delay?

The EU summit at Tampere in Finland announced a radical new approach to enlargement policy. Having allowed Eastern European countries to languish in the (from the EU's point of view) political wilderness for a decade, having refused to give a date for the first admissions, and having systematically sent the three favourite countries to the back of the class when any of them showed signs of becoming too big for its boots, Brussels has now decided to extend invitations to start negotiations to all European states. The EU leaders will also invite Romania, Bulgaria, Lithuania, Latvia and Malta to join the talks but they warned that any enlargement was still "years away". Even the best prepared members are now not expected to be admitted before 2004 or 2005 (the date used to be 2003 at the latest) while the others will have to wait until the following decade. Turkey is also to be given the status of a candidate country, even though the Turkish case proves that countries can be spun along almost indefinitely while they wait in vain in the EU antechamber: Turkey lodged its first application to join the EEC in the early 1960s. The suspicion must therefore be that the new "invitation", which is in reality a piece of meaningless theatre, could in fact be used to delay new admissions even longer. Even now, the argument has been advanced that yet more institutional change is necessary before any new members can be admitted. Yet this is exactly what was said when the EU embarked on the single currency project just as the Berlin Wall was falling: internal reform had priority over enlargement. In the meantime, of course, the agriculture and industry of these countries has been decimated as they conform to European 'norms' and act as dumping-grounds for subsidised EU exports, which destroy the local economy. To add insult to injury, the EU is insisting that those states with independent sources of energy close them down: Lithuania, Slovakia and Bulgaria are all being told that they must close down their nuclear reactors. If they do this, however, they will have to be dependent for their energy on a foreign provider – whoever that might be. [Various news sources including *Bloomberg*, 16th October 1999]



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# THE EUROPEAN FOUNDATION

The *Great College Street Group* was formed in October 1992 in order to oppose the Maastricht Treaty. The group, consisting of academics, businessmen, lawyers and economists, provided comprehensive briefs in the campaign to win the arguments in Parliament and in the country. The European Foundation was created after the

Maastricht debates. Its task has been to mount a vigorous and constructive campaign in the United Kingdom and throughout Europe for the reform of the EC as a community of independent sovereign states. The Foundation continues to establish links with other like-minded institutes across Europe.

## Objectives

The objectives of the Foundation, set out in its constitution, are as follows:

- to provide a forum for the development of ideas and policies for the furtherance of commerce and democracy in Europe;
- to increase co-operation between independent sovereign states in the European Community and the promotion of the widening and enlargement of that Community to include all applicant European nations;
- to resist by all lawful democratic means all and any moves tending towards the coming into being of a European federal or unitary state and for the furtherance and/or maintenance of such end;

## Activities

The Foundation pursues its objectives by:

- organising meetings and conferences in the UK and in mainland Europe;
- publishing newsletters, periodicals and other material and participating in radio and television broadcasts;
- producing policy papers and briefs;
- monitoring EC developments and the evolution of public opinion and its impact on the political process in the main EC countries;
- liaison with like-minded organisations in other EC and EC applicant countries and elsewhere;
- liaison with trade associations and other professional bodies affected by EC action and policy.

## The Foundation

The Foundation addresses itself to the general public and to politicians, journalists, academics, students, economists, lawyers, businessmen, trade associations and the City.

It concerns itself with the following main topics:

- industrial and commercial policy;
- economic and monetary matters;
- foreign policy;
- security and defence;
- environmental issues;
- the Common Agricultural Policy;
- the reform of Community institutions;
- the developing world.

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