Volume 11 Number 5

April/May 2004

£3.00

THE EUROPEAN JOURNAL

The Journal of the European Foundation



Bill Cash, MP, & Bill Jamieson
The Strangulation of Britain

&

Michael McGruddy • Robert Oulds

The European Foundation
www.europeanfoundation.org

62 Brompton Road, London SW3 1BW
Chairman: William Cash, MP

April/May 2004 Volume 11 Number 5

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Editor: Annunziata Rees-Mogg

Publisher: The European Foundation

5th Floor, Silver City House, 62 Brompton Rd, London SW3 1BW

Telephone: 020 7590 9901 Facsimile: 020 7590 9975

E-mail: euro.foundation@e-f.org.uk

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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The Referendum

by Bill Cash, MP

With the announcement by Tony Blair of the referendum, and assuming it goes ahead, it is important that the Conservative Party makes a clear assessment of what its policy will be depending on whether the vote is a 'Yes' or 'No'. I say *"assuming"* because there are those who believe that Blair could override his referendum commitment and ditch the Constitutional Treaty on the grounds that it is more integrationist under the Irish Presidency than ever.

Michael Howard has now made clear that if there is a 'Yes' vote, the Party will abide by this, although if there was blatant misbehaviour by the Government over the conduct of the referendum this would be a reason for qualifying this commitment.

If there is a 'No' vote then the following principles should guide the policy:

There should be no question of seeking to renegotiate the Constitutional Treaty itself. Michael Howard has made it clear that a European Constitution would never be acceptable. This was established last year despite Kenneth Clarke and Michael Heseltine's difference of opinion.

If any one member state votes 'No' then it is possible that they would have a further referendum, as was the case in Denmark and Ireland in recent years. A second referendum in the UK must be ruled out in principle.

However, if any one member state votes 'No' in a referendum then the Treaty fails. The two-year vacuum (as outlined in Article IV-7 section 4 of the draft Consitution) is merely a policy aspiration without legal effect.

However, if there is a 'No' vote, whether in the UK or otherwise, and given the policy so far developed within the Conservative Party on renegotiation, then the positive opportunity can be seized of matching Party policy to the will of the electorate.

This will involve addressing the question of abrogation of Treaties with repeals of the *acquis communautaire* back to at least the Single European Act – probably requiring a completely new Treaty. Indeed, repealing the legal base for many of the directives and regulations which are regarded as unacceptable (such as the Working Time Directive) would be necessary.

According to the jurisprudence of the European Court itself, abrogation of Treaties and repeal of European legislation would be unlawful so long as we remained within the framework of the European Union. The European Court in Costa v ENEL (case 6/64) and other cases has asserted its jurisdictional superiority over domestic courts of the member states and also over their Constitutions. Germany, Italy and Denmark at least have so far defied the European Court's assertion over their Constitutions although there is not much evidence that this has surfaced again in those courts with regard to the proposed European Constitution. However, with regard to the United Kingdom, the undoubted supremacy of Parliament still prevails, as Michael Howard clearly reaffirmed two weeks ago in the context of the repatriation of the Common Fisheries Policy. On the other hand the judges in the United Kingdom following the European Communities Act 1972 properly give effect to European Treaties and laws. Where, following a 'No' vote, there is a political requirement to renegotiate the existing Treaties (having disposed of the Constitutional Treaty) then legislation will be necessary to disapply existing Acts of Parliament and other enactments which flow from the legal base of Treaties which are repudiated and to oblige the UK judiciary to give effect to the latest post-1972 Act legislation providing it is clear and unambiguous. This would be along the lines of my Sovereignty of Parliament Bill. Without this there is the likelihood that some of the judiciary would seek to give effect to the assertions of the European Court and my proposed legislation would require them to give judicial recognition by enactment which at the moment rests on the cases for example of McArthy's v Smith and Thoburn v Sunderland City Council (2002) EWHC 195 ADMIN.

It is important that these matters are addressed now so that a clear analysis is made of what would happen in practice if there were a 'No' vote in the UK. Failure to do this will play into the hands of UKIP, on the one hand, and, on the other, the charge by the Government and Lib Dems that we are intending to pull out of the EU altogether if there is a 'No' vote. The proposed legislation which I have put forward does not involve withdrawal nor even the specific amendment of sections 2 and 3 of the European Communities Act 1972. It merely

Hansard, 21 April 2004

Mr William Cash (Stone) (Con): Will the Prime Minister accept, in relation to his earlier remarks with regard to the nature of the treaty and constitution, that in fact, under the proposed constitution, all the existing treaties will be revoked and reapplied with the existing *acquis communautaire* under the primacy of a new constitution? Will he therefore accept that that, as the House of Lords has already said in a report, is a fundamental change?

The Prime Minister: It is a constitutional treaty, and it is therefore a treaty in the same way that the other treaties are treaties. The hon. Gentleman is right, of course, in saying that many of the provisions in the earlier treaties are bound into this one. That is absolutely right – a significant part of it simply replicates the existing treaty basis. That is the position that I was putting to the right hon. and learned Member for Folkestone and Hythe (Mr Howard). The hon. Gentleman of course has a very clear position on this – he wants to change fundamentally the existing nature of the relationship between Britain and the European Union. That is right is it not? He certainly does not want any constitutional treaty at all.

Mr Cash *indicated assent*

The Prime Minister: The question is whether the right hon. and learned Friend is in the same position. What is interesting about today is that now we are actually debating the detail.

provides for statutory confirmation of the obligation upon judges to uphold the supremacy of Parliament as against the assertions of the European Court. The Leader of the Opposition's commitment to the repeal of at least a quarter of EU legislation points up the necessity of having an enforceable and achievable method of securing such repeal if negotiations to renegotiate unacceptable legislation do not succeed.

A 'No' vote will be a watershed. We have to be prepared for its consequences and not fall between the two stools of being outflanked by UKIP (because our policy is not clear enough against the background of a 'No' vote) and of not being able to rebut the accusation of seeking withdrawal for lack of a credible alternative.

The European Elections

The campaigns for the European elections, which have just begun, will inevitably turn on the big question of the European Constitution and also on the pros and cons of the effect of the European Union on the British economy. All of these issues and problems are detailed in my pamphlet "*The Strangulation of Britain and British Business: Europe in our daily lives*" (see page 4).

Answered by the Prime Minister on Tuesday 4th May
PQ FOR NAMED DAY WRITTEN ANSWER ON TUESDAY 4TH MAY 2004
Unstarred NO 449 N

Mr William Cash: To ask the Prime Minister, if he will veto the legislative instrument proposing the European Evidence Warrant. (170781)

The Prime Minister: No. We shall seek to negotiate effective arrangements in the UK's interests.

The European Evidence Warrant

A glaring example of how damagingly the European integrationist programme is can be seen from the European Evidence Warrant described by the European Scrutiny Committee as *"intolerable"*. Indeed when cross-examining the Minister, Caroline Flint, I called on her to ask the Prime Minister to red-line this warrant and tabled several questions to him to veto the proposals. They would allow a foreign country to require the searching of British homes including those of journalists, politicians and others if, for example, they had had any relationship with a person in the foreign country concerned who was alleged to have committed a list of offences longer than that of the European Arrest Warrant and invariably undefined even though the alleged act was not criminal in the United Kingdom. This is Orwell and Kafka rolled into one. *"Animal Castle is with us now."*

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Bill Cash is Conservative Member of Parliament for Stone and Chairman of the European Foundation.

United, we'll never be defeated

It is thanks to our readers and the force of public opinion that the Prime Minister has granted us a referendum. Together we have brought him to this point – now we must win. In order to achieve a 'No' vote, when, or if, there is a referendum, a great deal of work must be done. Thank you to our readers for their support in reaching this point and helping us to ensure that nation states are not swallowed up into the beast of a Europe with this Constitution.

Welcome to all the new European states which joined on 1 May 2004. The European Foundation is supportive of the widening of the Union; however, having accepted the *acquis communautaire*, we hope that they do not suffer from its restrictions. We would warn these new members against the dangers of the European Constitution, which would not only be detrimental to the British national interest but also to the accession states' interests.

On the following pages the Foundation's pamphlet, *The Strangulation of Britain and British Business*, is reproduced. This scrutinises the impact that European regulation has on our daily lives. Bill Cash and Bill Jamieson have analysed the existing treaties and the proposed Constitution and how it affects the way in which we live.

The Strangulation of Britain and British Business

by Bill Cash, MP, and Bill Jamieson

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Introduction

A recent poll produced the alarming result that only 9 per cent of the British public think that *'Europe'* affects their daily lives. The British Chambers of Commerce recently produced another alarming statistic: that the costs of extra red tape in the UK since 1997 had spiralled to £30 billion.[1] This was accompanied by an article in the *Sunday Times*, which broke down the costs of over-regulation.[2] Of the top ten red tape burdens, every one of the top six was European in origin, with a combined cost of £23 billion – a disproportionately high figure considering that European regulations account for 40 per cent of all regulations affecting British business.[3] EU legislation clearly carries a very high cost to the UK economy.

It will no doubt be argued that negotiators do their best when EU legislation is being formulated. The scale of the problem, however, shows that this is not good enough. In an article in *The Times* in 1986, Bill Cash made the point that under the Single European Act, European legislation would become oppressive unless much more was done to counter it by way of ministerial involvement and extra information to Parliament from business.[4] The oppression is becoming acute. The question now is why there is such a refusal to acknowledge its source. Perhaps it is the fear of accusations of *'europhobia'*, or a belief that the national interest is not worth rocking the boat for. Either way, the conspiracy of silence is itself a significant example of the effect Europe has on our daily lives. Later on, this pamphlet will deal with how the problems caused by EU legislation can be precisely identified and tackled.

Negotiations on a Constitution for Europe, which would constitutionalise the whole EU legislative system, collapsed in December 2003, but the political momentum has been sustained behind the scenes and was recently buoyed by the new Spanish government's stated determination to accelerate the process.[5] The current, Irish Presidency of the EU is keen to re-start talks as soon as possible on the basis of a back-room deal, which could be reached even before the end of the Presidency in June. Resistance to the Constitution must therefore be maintained if we are to avoid taking chances with the most crucial fundamentals of our national democracy.[6]

Meanwhile, the UK remains committed to the EC/EU Treaties up to Nice. The case for their reform is overwhelming – fundamental reform that addresses the realities facing the nation-states of Europe today on a treaty basis; not a new, all-encompassing Constitution that strengthens, reinforces and entrenches existing policy failures.

European politicians regularly pay lip-service to the need to create conditions friendly to small and medium-sized businesses as the engine of future growth in Europe, but the European Commission's recent action plan for enterprise has already been dismissed as *"a damp squib…lacking in focus and actual recommendations"*.[7]

The central problem is the absence of political will to tackle over-regulation. At his *"Advancing Enterprise"* Conference on 26th January, Gordon Brown, with the finance ministers of Ireland, Luxembourg and the Netherlands, announced a plan for each EU Member State to draw up a list of European legislation that should be amended or abolished. Like so many previous announcements on cutting red tape, this sounded bold, but on examination, the Joint Initiative for Regulatory Reform is a weak document. The measures it proposes consist of generating more work for committees, extending review clauses in European regulations, beefing up EU competition policy and speeding up the 'simplification' of EU regulations through consolidation and codification: processes which entail further European integration.

Here is the phrase which covers the *'red-tape hate list'*:



"Member states could be asked to provide examples of legislation that their companies experience as particularly burdensome in order to allow the Commission to consider these issues in its simplification programme."[8]

In other words, the consultation, which may not go ahead at all, will be passed through a filter of government spin, then proceed before the Commission on the basis of the lowest common denominator, only touching areas where there is political agreement, with the focus on specific regulations and directives in those areas which *may* then be consolidated and codified, but not radically reformed. Whatever else this initiative may be, it is not a panacea for British business.

Nowhere in the joint initiative is the principle of amendment[9] or repeal of regulations suggested. This is because serious reform of any aspect of the *acquis communautaire*, the body of EU law, is unacceptable to the EU – the ten countries joining the Union on 1st May have been obliged to implement the *acquis* in its entirety, while Valery Giscard d'Estaing's draft Constitution outlined a clause whereby the entire *acquis* would be deemed to have been adopted (retrospectively) under the Constitution.[10] Whilst, under current arrangements, it remains within the power of the UK to repeal or amend aspects of the *acquis*, it is unlikely that this power would survive the Constitution without a clause in any European Constitutional Bill expressly reaffirming the sovereignty of Parliament.

For decades, all political parties have ducked this issue, allowing problems to accumulate. Successive governments have relied on inadequate negotiations rather than admit that the system isn't working in Britain's national interest. There has been a host of de-regulation committees, but none has ever worked. There is, however, a simple solution: to set up an independent De-regulation Commission, with statutory powers of investigation, that would carry out a legislative audit of the statute book, encompassing both domestic and EU-based legislation in relation to each government department, and make recommendations for simplifying reform based on amendment and repeal. The Commission would call on lawyers and senior civil servants in each department to justify existing legislation, maintain constant liason with business representatives and the Public Accounts Committee, and report to ministers on the basis of a statutory timetable.

In the European Commission's recent report on implementation of the Lisbon Agenda for economic reform, *Delivering Lisbon* (in which the Commission makes clear that it still expects the Constitution to have been adopted by the 2005 Spring European Council[11]), Member States are heavily criticised for failing to implement domestic reforms, but no suggestion is made of the need for reform of the *acquis*. The underlying reason for this is that the *acquis* locks in deals brokered on the basis of perceived national interests, irrespective of how they affect the UK and other Member States today. This is why the facility to use Parliament's sovereign power to amend or repeal EC legislation is essential to our continuing national interest – as a negotiating tool and, in the last resort, as a practical option. With the progressive loss of the veto in negotiations, it is essential that we retain and acknowledge the powers that we can still rely on.

This pamphlet addresses the extent of the influence of EU legislation, showing how it affects the daily lives of the British people and British business. This analysis is in two parts: the large but unseen hand of the Union in the way we are governed and the failure of its economic policies. The final chapter deals with the dangers of the proposed Constitution, partly by reference to the European Foundation pamphlet of October 2003 by Bill Cash,[12] with updates, and examines realistic ways in which the current problems could successfully be addressed.

CHAPTER I
The Unseen Hand

Polls suggest that only a very small proportion of British people think that Europe has an impact on their daily lives.[13] Yet the proportion of UK legislation derived from European legislation was set to grow from current levels of around 60% to about 80% even before the appearance of the draft European Constitution, which will add fuel to the fire.[14] The *"exclusive competences"* proposed for the Union by the draft Constitution are nothing new – there are already areas of policy in which the UK Parliament and the devolved bodies are forbidden from legislating under the Treaties, and many more in which the EU (and in particular the European Commission, the unelected body that initiates European legislation) has an increasingly powerful influence. The current, Labour government unnecessarily exacerbated this trend by reversing the previous, Conservative government's policy of declining to commit the UK to the EU's Social Chapter.[15]

The government's general approach to European legislation has been to embrace rather than resist it, often dovetailing it with its own 'social market' policies. 'New Labour' sound-bites such as *"the knowledge economy"* and *"social inclusion"* have been culled from the EU's social market lexicon and the EU's political methods are reflected in New Labour's power strategy: creating a stream of soothing rhetoric about modernisation, enterprise and fairness whilst pursuing an outdated, unsustainable and (to the UK) fundamentally alien *"social market"* model of society, and quietly, constantly extending governmental power at citizens' expense. The pursuit of the *"social market economy"* is built into the European Treaties and the draft European Constitution – making it a legal requirement for all EU countries to deliver an unworkable economy that will produce high unemployment and low growth for years to come.

Impact on Daily Lives

The bullet points below show some areas in which the daily lives of British people are adversely affected by EU policies and legislation:

- **EU Budget** Even with our rebate, UK taxpayers made a net contribution of 11.5 billion euros in 1998-2000[16] – and the rebate is now under threat.
- **Tax** The European Court is increasingly interfering with national tax laws – its rulings on corporate taxation have cost the UK Treasury an estimated £10 billion so far.[17]
- **Monetary Union** Interest rates in eurozone states have been taken over by the European Central Bank – they are no longer right for individual countries and the impact has damaged UK exports to our biggest overseas market.
- **Industrial Subsidies** Selective but huge. The EC authorised over 7.7 billion euros in state aid to the French and German coal industry in 2001-2002,[18] hampering the UK coal industry's ability to compete.
- **Regionalisation** Part of the Europeanisation of government, this unwanted extra tier already costs UK taxpayers the equivalent of 1p on income tax.[19]
- **Health** European Court of Justice rulings such as the case of Kohll are moving decisions about the funding of healthcare from national control to the European Commission.[20]
- **Foreign Policy and Defence** Despite the rhetoric against the USA, EU spending was around just 60% of the US defence budget[21] – even before the US increased it following 9/11.
- **International Relations** The UK's global trade position is negotiated by the EU as a whole.
- **International Development** EU funding is misallocated – only 44% went to poor countries in 2001.[22]
- **Agricultural Policy** Benefits only big farmers and costs each UK household an extra £20 per week on average.[23]
- **Fisheries Policy** The UK fishing fleet used to land 80% of fish in EEC waters when the UK joined - now it has the right to land only 25%.
- **Railways Policy** Compelled the separation of railway infrastructure from services during privatisation.

Impact on Business – the Burden of Red Tape

The advance of the *acquis communautaire* is not only stealthy, but opaque – so it is not generally appreciated that most legislation now introduced is European in origin and that much of it is having a damaging impact on business.

On 7th March 2004, *The Sunday Times* published a report by David Smith on the burden of bureaucracy under Labour.[24] It concluded that *"far from making life easier for entrepreneurs, [Gordon] Brown has been strangling enterprise."* The report set out the top ten red tape burdens under the present government, based on figures provided by the British Chambers of Commerce on the accumulated cost of those burdens by July 2004.[25] Although unremarked in the article, the top six all have a European origin:

- **Working Time Regulations 1999** These regulate working time and create new employees' rights. They have been expensive for certain sectors to implement, have closed off the principal means of boosting the incomes of young people and are contrary to the EU's supposed goal of flexible labour markets. Their extension to junior doctors later this year is expected to trigger a staffing crisis in the NHS. They are based on the EU's Working Time Directive[26] and also incorporate the Young Workers Directive.[27] The UK's voluntary opt-out from the maximum 48-hour working week is due to be reviewed by the European Commission in November 2004, and is widely expected to be declared illegal under EU law. Cost: £11.1 billion.
- **The Data Protection Act 1998** Based on the Data Protection Directive.[28] Businesses and employees are subject to fines for breaching the rules on data protection. Teething difficulties were exacerbated by conflicts between the draft Data Protection Code, designed to assist businesses in complying with the Act and the DTI's *"surveillance rules"*, which came into effect in the same month as the draft Code was issued. Cost: £4.6 billion.
- **Vehicle Excise Duty (Reduced Pollution) (Amendment) Regulations 2000** EU Member States have been subject to a Directive *"approximating"* their laws relating to measures to be taken against air pollution from vehicle emissions, since 1970.[29] This Directive has been *"amended"* (consolidated) many times: in 1987, 1993, 1994, 1998 and 2002. The British Chambers of Commerce cite EU Pollution Directive 98/69/EC as being responsible for the 2000 regulations. Cost: £4.3 billion.
- **Control of Asbestos at Work Regulations 2002** New regulations covering repair, dismantling and inspection were introduced in December 2002. About 500,000 business premises in Britain contain asbestos. The EU regulatory framework for preventing exposure to asbestos at work had last been tightened in 1997.[30] Cost: £1.4 billion.
- **Disability Discrimination (Providers of Services) (Adjustments of Premises) Regulations 2001** Followed a European Council Resolution[31] on equal opportunities for people with disabilities. Cost: £1 billion.
- **The Employment Act 2002** Provides for 26 weeks of paid maternity leave, increased maternity payments and two weeks of paid paternity leave for new fathers. These measures were a direct response to a European Council Resolution on the balanced participation of women and men in family and working life.[32] The Act also implemented the Fixed-Term Work Directive[33] in a way which the Institute of Directors thinks is liable to cause further discrimination against fixed-term contract employees, rather than ensure their equal treatment, as intended.[34] Cost: £565 million.

CHAPTER II
Economic Policy Failure

The economic governance that was designed to pave the way for full political union in the EU is failing. A country's being locked into a low growth, high unemployment, supranational system of economic management is a dangerous state of affairs that is bound to lead to increasing social unrest. The Irish EU Presidency's focus on the Lisbon Agenda, the ambitious aim of which is to make the EU's economy *"the most competitive knowledge economy in the world by 2010"*, will be fruitless as long as the EU remains committed to a sclerotic *"social market economy"* that is systemically incompatible with competitiveness in the 21st Century.

The Lisbon Agenda (full title: *"The EU Social Policy Agenda agreed in Lisbon in March 2000"*) is itself an example of EU social policy spun as tough reform to spur economic growth.[35] When it was approved for the next five years at the Nice Summit of December 2000, the following priority areas had been identified:

- More and better jobs: including gender equality and a better Work-Life Balance.
- Change, balancing flexibility and security: including worker consultation.
- Combating poverty and social exclusion.
- Modernising social protection: social protection systems *"must underpin the transformation to the knowledge economy"*.
- Promoting gender equality.
- Social policy in the international arena.[36]

The four presidencies' joint initiative announced by Gordon Brown on 26th January[37] is just the latest EU intergovernmental exercise in making empty gestures to the business community. The European Small Business Alliance's website has this to say about the EU's claims to be advancing entrepreneurial society:

"Although SMEs (Small and Medium-Sized Enteprises [sic]) are largely recognised as the backbone of the European economy, their expectations for less red tape and a fair and incentiving [sic] fiscal treatment have consistently being [sic] neglected in Europe.

"Whereas the EU has launched a wide debate on entrepreneurship in Europe this year, there is not a single EU decision-makers [sic] who can clearly explain what have been the results (10 concrete changes) of the past 15 years of SME Policy at EU level …

"The level of regulatory and fiscal burdens continues to raise [sic], affecting entrepreneurs and their motivation to do more business. Without any concrete changes, innovative European entrepreneurs will continue to start their business outside [the] EU, would-be entrepreneurs will never start, older entrepreneurs will not find anyone to transfer their business [to] and maintain jobs and activities."[38]

The EU's economic policy, like its other policies, such as subsidiarity – which has never been implemented, is full of fine words masking the reality of diverging national interests. At the Franco-German-British summit on 18th February 2004, President Chirac suggested a loosening of competition policy to permit the emergence of *"industrial champions"* (a phrase that disappeared from UK political discourse in

the 1970s) whilst the UK government stressed the need for market liberalisation. *The Independent* remarked that the meeting *"illustrated the different emphasis in the type of economic reform pioneered by France and Britain"*.[39] One measure concerning economic reform that was agreed on at the summit, the creation of a Brussels super-commissioner to oversee it, was, *The Times* remarked, *"barely plausible. The Commission cannot even manage its own budget with competence, let alone Europe's economic future."*[40]

In a recent pamphlet,[41] Bill Jamieson suggested that the poor overall economic performance of the EU is due in large part to the interplay of two factors: the EU's commitment to a high level of government integration and regulation, and the European federal model, with no clear lines of responsibility between tiers of government, causing constitutional logjam. This process has been classically exposed through the German government's difficulties in implementing its *"Agenda 2010"* programme for economic reform, and threatens to become writ large in a European Constitution.

The EU's recent economic record has been disastrous. Growth has been consistently poor and unemployment high, reflecting among other things productivity under-performance, a low rate of business investment and poor rates of business formation. Meanwhile, the 3 per cent deficit spending limit – an artificial rule made in pursuit of unworkable political and social objectives, as Bill Cash pointed out in Parliament during the Maastricht unemployment debate – has acted as a strait-jacket on public spending (and on the amount of public spending that Member States can admit to: some has been taken off the books, in Enron-style accounting ploys).

Eurozone figures speak for themselves. The German economy, the EU's largest, was in recession in 2003. German unemployment on the ILO measure remains stuck at 9.3 per cent. In France it is running at 9.5 per cent. (The comparable figure for the UK is 4.9 per cent.) Without radical economic and fiscal reform, the eurozone will stagnate further; according to HSBC's forecasts, annual growth will be 1.6 per cent in 2006-09, 1.3 per cent in 2010-19 and just 0.8 per cent in 2020-2029.

Economic and Monetary Union

The euro has not been a success. From its launch in 1999, its exchange rate fell, only to rise to dangerously high levels by January 2004 as it see-sawed against the falling dollar. What has effectively happened is a reversal of the EEC's dollar-pegging policies of the 1970s: as the only major rival reserve currency to the US dollar, the euro effectively counter-balances it on the markets. The response of eurozone politicians to the euro's recent highs has been to try to *"talk it down"*; some have suggested new currency controls. The European Central Bank has refused to act by cutting the eurozone's interest rate because its statutory aim is to try (in vain) to keep eurozone inflation below two per cent. There is an overall lack of strategy, foresight and control.

A major aspect of the euro is the *"one-size-fits-all"* interest rate set by the European Central Bank for every country in the eurozone. This has created dynamics of *"asymmetric shock"* within the zone, worsening the plight of contracting economies such as that of Germany, which would benefit from a loosening of monetary policy, whilst stoking up inflation in expanding economies such as that of Ireland, which would benefit from monetary tightening.

Furthermore, the ECB's monetary policy has not worked for the eurozone as a whole, having failed to provide effective monetary stimulus during the recent global economic downturn.

The ECB's task of keeping eurozone inflation below two per cent is easier if the budgetary policies of eurozone countries are kept tight. This is the purpose of the Growth and Stability Pact, which stipulates that national budget deficits should be kept below 3 per cent of gross national product. Yet the European Commission is currently taking the Council of EU Finance Ministers to the European Court of Justice for disapplying this rule when faced with the prospect of fining France and Germany for being in breach of it for several consecutive years. Other eurozone countries, notably the Netherlands and Portugal, have endured considerable hardship reigning in their spending to comply with the rule. The breaking of the Pact in the national interest of two big (and closely allied) countries exposed a dangerous lack of moral unity in the EU. Whatever the past achievements of the European project, it has not ended *Realpolitik* in Europe.

In addition, the euro has failed to deliver on even its more modest ambitions. Price transparency has been only partially achieved, with eurozone consumers complaining of retail mark-ups at the currency changeover, and significant price discrepancies remaining between eurozone countries. Also, transaction costs within the eurozone have not disappeared, as they were expected to.

The UK is signed up to Economic and Monetary Union under Maastricht – our opt-out relates only to joining the final stage, in which the pound sterling would be replaced with the euro. The fiscal policies of New Labour, whilst more flexible than those of many eurozone countries, have been designed to keep the UK within the stipulations of EMU, including the Stability and Growth Pact and its 3 per cent deficit spending limit. Whilst public spending must be subject to fiscal discipline, individual nations should be free to set their own criteria for achieving this, based on the national economy and domestic social and political circumstances. (It is worth noting that, despite the creeping Enronisation of government, *"the outlook for the public finances [in the UK, based on official figures] remains bleak"*.[42])

It is too early to observe the renewed relative economic decline of Britain that will inevitably result from the squandering of Labour's inheritance of a low-tax, low-regulation economy, thriving enterprise culture and flexible labour market, as the effects have yet to bite. Several things are certain, however: the UK is heading for higher taxes and lower spending, with the Chancellor's *"Golden Rule"* having to be statistically re-defined due to the Maastricht Criteria; UK exports have already been hit by the economic doldrums of the eurozone (our largest export market); and our economy would suffer much further from the loss of control over monetary and fiscal policy entailed by joining the euro.[43]

CHAPTER III

The Constitution for Europe: Greater Dangers Ahead

The stream of regulations and directives from the EU is constant. Under our present constitutional relationship with the EU, however, the UK Parliament retains the power to repeal or amend any legislation, including measures implementing EU law. This fundamental power would be crucially compromised, however, by the enactment of the draft Constitution for Europe.[44] As things stand, a change of government could result in legislative action to stem or modify the tide of EU law. Under the Constitution, the lapdog role that New Labour has adopted for the British government in relation to the EU would be impossible to change without the UK leaving the EU altogether. It goes without saying that a referendum on the European Constitution is essential; even after ratification in the UK, if that happens.

In looking for the likely effect of the European Constitution on the Constitution of the UK, a natural starting place is written Constitutions adopted in other common law jurisdictions. In Gairey v Attorney-General of Grenada,[45] the judicial Board of the Privy Council decided that the Caribbean island of Grenada, by its Constitution, had established a new supreme law.[46] The provisions of the Constitution therefore had primacy over historic common law doctrines restricting the liability of the Crown and a particular clause in the Constitution could therefore be interpreted as giving the court a broad power to give effective relief for any contraventions of protected constitutional rights even, where necessary, by creating a new remedy. Giving judgement for the Board, Lord Bingham said:

"The Constitution has primacy … over all other laws which, so far as inconsistent with its provisions, must yield to it. To read down its provisions so that they accord with pre-existing rules or principles is to subvert its purpose. Historic common law doctrines restricting the liability of the Crown … cannot stand in the way of effective protection of fundamental rights guaranteed by the Constitution." [47]

In an earlier case, Hinds v The Queen,[48] the Privy Council noted that the written Constitutions which it interpreted had all been negotiated and drafted by people nurtured in English common law and familiar with the doctrine of the separation of powers, and that all conformed to *"the Westminster model"*. The European Constitution would be a very different animal, drafted by civil lawyers, based on the European Treaties, and to be interpreted in line with European Court of Justice jurisprudence, with its integrationist agenda. Its impact on the British Constitution and legal system is potentially far greater, therefore, than the (considerable) impact on former colonies of their Westminster-style Constitutions.

Even without the fundamental, constitutional power-shift implied by Article I-10 codifying the primacy of European law, which would prevent the repeal or amendment in the UK of European law-based legislation, the draft Constitution would be bad news for the British economy. There are two chief reasons for this: the Constitution would bind the UK more tightly to the failing project of Economic and Monetary Union and the obsolete European social market model; and the Constitution incorporates, as Part II, the Charter of Fundamental Rights, a document with Constitutional force which would be better described as a socialist wish-list.

European Economic Governance: Tightening the Noose

The draft Constitution contains a number of measures strengthening the procedures of Economic and Monetary Union. It proposes easier censure of Member States for failing to comply with EU economic policy and government deficit guidelines, by making such censure subject to the new 'double majority' system of qualified majority voting,[49] and removes the veto for adopting economic measures to apply to Member States.[50] It also confers on the Council of Ministers a mandate to lay down fresh, detailed rules and definitions for the application of the Protocol on the excessive deficit procedure.[51]

The British government, which was complicit in disapplying the Growth and Stability Pact in relation to France and Germany, has (along with Sweden) opposed the re-draft of Article III-88(1) of the draft European Constitution on the adoption of measures for the eurozone to refer to economic policy co-ordination and excessive deficits.[52] This is because both governments know that they will not be able to win a referendum on joining the euro under the current, discredited, EMU framework; yet they will not admit that the framework is fundamentally flawed. There is general acceptance that the Growth and Stability Pact must be reformed,[53] but is hard to see how Member States will agree on how to reform it, since their national economies have increasingly diverging priorities due to asymmetric shock.[54] The European Court of Justice has now been charged with providing the answer to this deeply political issue – in a trial in which there can be no winner.

The Charter of Fundamental Rights: An ECJ Judge's Power Fantasy

One of the government's most glaring capitulations on Europe is the incorporation of the Charter of Fundamental Rights into the draft Constitution. Shortly after the Charter was agreed in 2000, Keith Vaz, MP, then Minister for Europe, said that it would have *"no more legal significance than a copy of the Beano or the Sun."* He was trying to allay concerns that the Charter's original status as a political declaration would be augmented to that of a legally binding document, justiciable by the European Court of Justice. Yet, at the Convention on the Future of Europe, it was incorporated as an integral part of the Constitution. The CBI has spelt out some of the concerns of British business relating to the Charter:

"… there is a real risk that incorporation of the Charter would result in the transfer of legislative competence to the European Court

of Justice on matters which are, and should remain, the responsibility of national governments. For example, Member States specifically excluded issues such as the right to strike from the European Treaty, because the differing systems of industrial relations that exist across Europe mean that it is more appropriate for these issues to be decided at national level. However, these issues are included within the Charter and therefore incorporation could tend towards responsibility on these issues developing within the EU. The business community is particularly concerned that this is a radical change being introduced through the back door – as a side effect of incorporation of the Charter rather than through discussions between democratically elected Governments.

The CBI is also concerned that as the Charter combines inalienable civil rights with more qualified social rights, incorporation would undermine many existing directives which have been carefully negotiated between democratically elected governments. For instance, the Charter's article on non-discrimination prohibits unfair treatment without allowing for the widely recognised principle (an integral part of current EU law) that 'indirect' discrimination is sometimes justifiable on objective grounds. This could lead to EU and domestic discrimination law being challenged.

More broadly, incorporating the Charter into the Treaty would also effectively transfer jurisdiction over core fundamental rights from the Human Rights Court at Strasbourg and national courts to the ECJ. This raises the possibility of conflicting judgements, which would create legal uncertainty, and also threatens the body of experience the European Court of Human Rights has built up in balancing pan-European rights with the individual needs of Member States." [55]

The UK government insists that the impact of the Charter would be minimal due to the insertion of *"horizontal articles"* into the text. *The Economist* thinks this confidence is unjustified:

"…the British, Irish and others like to think they have safeguarded their position in two ways. First, the charter makes clear that its provisions apply only to European law, not to domestic law. But since European law is constantly widening its scope, and since social laws are made by majority vote, this still leaves a chink in the armour. So the British, backed by the Irish and Dutch, have worked in a change to the charter's preamble. This says that the European Court must pay 'due regard' to an interpretive text, underlining that the charter creates no new rights. However, many lawyers doubt that a reference as weak as that will have any impact on the court." [56]

The 'New Labour' Government and the European Treaties

Under the 'reserve' rule of Parliament, UK government ministers may not make a decision in the EU Council of Ministers on a matter on which the European Scrutiny Committee of the House of Commons has demanded a debate, until the debate has taken place. The present government has frequently declined to hold debates, and even when a debate is held, the government will reverse any vote rejecting an EU measure. It is an example of the contempt with which it treats Parliament – a bad and dangerous thing in itself, but particularly so regarding treaties like the European Treaties, which are made under prerogative powers and can be changed or abrogated by Parliament.

In a debate on 16th September last year, the Foreign Secretary, Jack Straw, suggested that treaties have primacy over national laws.[57] Through a series of written questions, Bill Cash eventually ascertained that the government did not consider the UK to be a *"monist"* state, as Straw had implied. The process was somewhat tortuous (see Appendix I) and illustrates the government's ignorance of the British state. As a cure for their constitutional illiteracy, members of the government could do worse than to read the section of the European Commission's ABC of Community Law on legal primacy, which points out the difficulty that arises from the (self-proclaimed) supremacy of European law – and the result it is intended to achieve:

"… a conflict between Community law and national law can be settled only if one gives way to the other. Community legislation contains no express provision on the question. None of the Community treaties contains a provision stating, for example, that Community law overrides, or is subordinate to, national law. Nevertheless, the only way of settling conflicts between Community law and national law is to grant Community law primacy and allow it to supersede all national provisions that diverge from a Community rule [otherwise] the construction of a united Europe on which so many hopes rest would never be achieved.

"No such problem exists as regards the relationship between international law and national law. Given that international law does not become part of a country's own legal order until it is absorbed by means of an act of incorporation or transposition, the issue of primacy is decided on the basis of national law alone." [58]

The reason why European law claims primacy over national law in all Member States whereas international law does not is that European law, unlike international law, is designed to achieve political union. But as long as the European Union is treaty-based, the Member States remain masters of the Treaties and the primacy of European law rests on their political will. Once the Treaties are replaced by a Constitution, however, the supremacy of European law will be constitutionally guaranteed. This is why a UK government should never agree to an irrevocable treaty such as a treaty establishing a European Constitution, to which the British Constitution would be subordinate. It is inimical in principle to serving the national interest - not just now, but forever.

Rather than a Bill enacting a European Constitution, that threatens to overturn the sovereignty of Parliament in favour of the supremacy of European law, a Bill should be introduced that reaffirms the sovereignty of Parliament by spelling out the current law on the fundamentals of the British Constitution. As Appendix I shows, the government acknowledges the legal position, but only reluctantly and after some evasiveness. If it were set out in an Act of Parliament along the lines of the Bill set out in Appendix II, which Bill Cash has introduced into Parliament, the existing power of the UK Parliament to amend or repeal European legislation would be given statutory force and the potential of Article I-10 of the draft European Constitution to extinguish that power would become clearer.

The Future of Europe Debate

The Convention on the Future of Europe, which produced the draft European Constitution, was an egregious exercise in political fixing disguised as transparent, democratic decision-making.[59] The fixing has been continuing behind the scenes since the collapse of negotiations in December, with the focus on striking a back-room deal that will enable the adoption of a Constitution on the basis of the Convention draft.[60] What is really needed is not some shabby fix, but a reevaluation of the European project, drawing on the realities of global trade and on other regional organisations as to how a large and expanding group of nations can best co-operate in the era of globalisation. As shown below, there is a fast-developing variety:

- Arguably the most important trading agreement is the World Trade Organisation (WTO) Agreement (formerly GATT). This global body is based on a number of free trading principles, the most important of which is the relationship between its industrialised members of non-discrimination between goods produced domestically and goods produced by other members (known as "*Most Favoured Nation*" status, or MFN). As its name suggests, the WTO is principally a trade body: its remit does not extend to politics and every one of its decisions is ratified by the national Parliament (or equivalent body) of each member.

- The North American Free Trade Agreement of 1992 (NAFTA) was designed to create a free trade area by 2009, with the elimination of all trade and investment restrictions between its members, and a Development Bank to fund projects and soften the social impact of opening up markets. There are also side agreements on labour and the environment. In a detailed and balanced review of its first ten years, *The Economist* concluded that NAFTA had clearly been an economic success, having stimulated trade and investment for all its members.[61]

- Mercosur, created by several South American countries in 1991, was designed as a customs union with a common external tariff (CET) as well as a free trade area, involving legislative harmonisation and economic co-ordination, like the EU. This substantially political union has been significantly less successful than NAFTA. Trade between Mercosur nations decreased from 1998 and in 2001, Argentina sought to suspend the customs union and CET to counter its economic depression, leading to significant concessions by the other members. Chile is an associate member, enjoying free trade but opting out of membership of the customs union, and has also negotiated independent free trade agreements with NAFTA members. In an effort to add fresh impetus to Mercosur, in June 2003 Argentina and Brazil made a commitment to create a Mercosur parliament.

- The Association of Southeast Asian Nations (ASEAN), begun in 1967, is the largest agreement in that region. In 1992, it launched the ASEAN Free Trade Area (AFTA). AFTA does not include a customs union, and its members continue to deal individually at WTO meetings. ASEAN has political as well as economic purposes, but these are pursued through declarations and (ordinary) treaties rather than supra-national government.

- The European Economic Area (EEA) came into effect in 1994. Its members include all the Member States of the EU. Members that are not also EU members, such as Norway, join the single market but are not obliged to implement the common external tariff. The European Free Trade Area (EFTA) was established in 1960 in response to the foundation of the EEC in 1957. It is based on free trade, without a single market or CET. Switzerland is a member of EFTA, but not the EEA or EU.

Globalisation is the most significant trend in the 21st Century world economy, and the aim of regional groupings should be to maximise its advantages. The EEC was formed during an era when the terms of trade increasingly favoured the concept of a single European market. Its political nature was a response to the devastation of World War Two, with Franco–German rivalry being blamed, and it was a focus for Western democracy's effort to demonstrate unity in the face of the Soviet threat. Globalisation and the end of the Soviet era should have prompted a re-evaluation of what the '*European Project*' was for; what its aims should be and what form it should take. '*The New Europe*' should be more than rhetoric. Unfortunately, however, the ideas and the grand plan of the project's founders have been treated as holy writ, while vested interests have become heavily intertwined with the development of the whole artifice. Meanwhile, the EEC's past successes have emboldened representatives of the project to seek geopolitical power.

The EU is a dangerously outdated model in its current form, and would be set in stone once the last, great stage of the plan for European integration, a Constitution for Europe, was put in place. As Bill Jamieson has said:

"*The pressure for European integration and in particular monetary and political union, flows from a belief in the entity of Europe as a bloc to challenge and contain the hegemony of the US and to meet the challenge of Asia. This bloc-ist view is also seen as the only means to protect the centralised and highly politicised dispensary of state welfare and 'social solidarity'. This is the cosmology that has dominated the thinking of the constitution's leading author Valery Giscard d'Estaing and the officials and advisors who contributed to the drafting.*"[62]

The bloc-ist world view has been rendered largely redundant by the process of globalisation, and the failure of Europe's policy-makers to accept this has been the principal cause of the continent's recent economic underperformance and relative decline. Fantasies of geopolitical equality with the US are vain in the light of economic, demographic and local, political realities on the ground. Initiatives like the Lisbon Agenda are presented in the language of globalisation, but beneath the surface, they are based on the old, bloc-ist thinking. The high-tax, high-regulation, market interventionist system of governance must be radically reformed if Europe is to flourish in the 21st Century. The European Constitution would enshrine it, with disastrous consequences for Britain and Europe.

What we can do

If the European Union continues to fail to recognise the need for its radical reform, but persists in its present course towards ever greater integration within a failing economic framework, the case for remedial measures at national level will become increasingly urgent in the face of dangerous circumstances. Fortunately, Parliament (in the absence of a European Constitution) remains sovereign, even, ultimately, in respect of European law.

In his article in *The Times* in 1986,[63] Bill Cash said that more information needed to be provided to Parliament much earlier. Trade associations could be more active in reporting their concerns regarding draft European legislation to the European Scrutiny Committee of the House of Commons, which can demand a debate on the floor of the House under the *'reserve'* rule.[64] This could supplement existing lobbying activities. Many UK trade associations are currently reluctant to point out the damage being caused by existing European legislation, concerned that criticism will be misinterpreted as *'europhobia'* and thinking that nothing can be done to change the legislation. Something can, however, and should be done, and they have the potential to assist in the process.

At present, government Regulatory Impact Assessments of domestic legislation (RIAs) are conducted, but these do not break down in detail the causes of burdens on people's daily lives and on business. A more active system of legislative analysis geared towards reform could be established to monitor the impact of legislation in detail and recommend changes on the basis of a legislative audit.[65] Such a system would create a stream of recommendations to ministers to improve the laws that bind the British people and raise the cost-effectiveness of the national economy.

Recommendations concerning European law would be formulated into proposals for European Council meetings, or sent to the European Commission for its consideration. Political efforts towards achieving acceptance of the recommendations at EU level should be proportionate to the benefits that would accrue from their adoption. Where European law was not involved, a fast-track amendment procedure could be adopted to implement recommendations without clogging up the Parliamentary timetable.

Where efforts at EU level concerning a recommendation on a matter of particular importance failed, the government would need to consider biting the European bullet. This means using the sovereignty of Parliament, where necessary, to enact legislation expressly conflicting with European law. This would be effective if such legislation contained a general clause enabling European provisions to be amended or repealed by way of statutory instrument subject to affirmative procedure and a clause stating that it was to take effect notwithstanding the provisions of the European Communities Act 1972.[66] In addition, the 1972 Act could itself be amended to facilitate the easier passage of legislation that conflicted with European law.

As well as the ensuing benefits to the UK, such action would bring home to the European Union the limits of its authority and act as a spur to reform now long overdue. It could not shatter the moral unity of the EU, as that has already been exposed as a sham by the suspension of the Growth and Stability Pact in the case of France and Germany. It would be a more honest way of refusing to accept measures than an administrative failure to implement them. Furthermore, the UK would not be expelled from the EU for its actions because there is no mechanism for doing so and even if there was, our strategic and trading alliance is too valuable to be sacrificed. In addition, our membership is of too much benefit to other EU members through our net budget contribution and trade deficit with them.

It has been argued for many years that Europe is *'going in our direction'* but the evidence continues to suggest otherwise. Legislative acts as described above are possible with political will, and would constitute a bold re-assertion of democracy for Britain and, ultimately, for Europe. If they were to generate unsustainable political tensions within the EU, then the Treaties should be renegotiated. This might be difficult, but in those circumstances absolutely necessary – what is at stake is our entire social, economic and political life.

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44 Article I-10 of the draft codifies the principle of the primacy of European law, thus effectively extinguishing the power of Parliament to legislate contrary to EU law, unless the principle of Parliamentary sovereignty and the UK courts' recognition of it is reaffirmed in any European Constitution Act which may be passed.

45 [2001] UKPC 30

46 Cf. Article I-10 of the draft Constitution for Europe

47 Paragraph 19(2)

48 [1977] AC 195

49 Arts III-71, currently EC Art 99; and III-76, currently EC Art 104

50 Art III-72, currently EC Art 100

51 Art III-76(13)

52 Under Arts III-71, currently EC Art 99; and III-76, currently EC Art 104

53 According to the CBI; "This is critical if the architecture of Europe's economic governance is not to become a barrier to, rather than a supporter of, growth and prosperity" - *Delivering a more Competitive Europe: The CBI's View of the Convention on the Future of Europe*

54 EU finance ministers have said that they do not want even to discuss reforming the Pact during 2004, *FT.com*, 1st February 2004

55 *Delivering a more Competitive Europe: The CBI's View of the Convention on the Future of Europe*

56 *The Economist*, 19th June 2003. Before the introduction of the *"horizontal articles"* Richard Plender, QC, had made clear to the European Scrutiny Committee that the ECJ would give full effect to the Charter of Fundamental Rights.

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61 *Ten Years of NAFTA: Free Trade on Trial*, 30th December 2003

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65 See the De-regulation Commission in the *Introduction* above

66 See Appendix II

APPENDIX I
Written Questions and Answers

Mr. Cash: To ask the Secretary of State for Foreign and Commonwealth Affairs pursuant to his statement of 16 September, *Official Report*, column 794, when it became Government policy that all international treaties take primacy over national law; and on what evidence he bases the statement that under the draft constitutional treaty for the first time provision is made whereby Parliament can legislate to repudiate a treaty. [131821]

Mr. MacShane: It is an established principle of international law that a state may not plead its national law to escape its international law obligations, including its treaty obligations. As a matter of UK constitutional law, international treaties have effect in UK national law to the extent that they have been implemented in national law.

Article I-59 of the draft EU Constitutional Treaty states that any member state may decide to withdraw from the Union in accordance with its own constitutional requirements. The Government believe it is highly unlikely that any member state would wish to withdraw, but sees a case for stating the political and legal reality of what would happen in such exceptional circumstances.

16th October 2003

Mr. Cash: To ask the Prime Minister pursuant to his Answer of 14 October 2003 to the honourable Member for Aldridge-Brownhills (Mr. Shepherd), *Official Report*, column 60W, on international treaties, on what evidential basis he relied in his statement that a State may not plead its national law to escape its international law obligations, including its treaty obligations. [132934]

The Prime Minister: The principle referred to in the answer of 14 October 2003, *Official Report*, column 60W, is well established. The Permanent Court of Arbitration, the Permanent Court of International Justice and the International Court of Justice have produced a consistent jurisprudence upholding this principle.

20th October 2003

Mr. Cash: To ask the Secretary of State for Foreign and Commonwealth Affairs on what occasions since 1973 the UK has asserted its national law as against its obligations under the European treaties. [132935]

Mr. MacShane: The jurisprudence of the European Court of Justice since the case of Costa v. ENEL (case 6/64) has clearly established the principle that no provision of national law may be invoked to override Community law. In Costa v. ENEL the Court ruled that: "the law stemming from the Treaty … [cannot] be overridden by domestic legal provisions… The transfer by the states from their domestic legal systems to the Community legal system of the rights and obligations arising under the Treaty carries with it a permanent limitation of their sovereign rights against which a subsequent unilateral act incompatible with the concept of the Community cannot prevail."

21st October 2003

Mr. Cash: To ask the Secretary of State for Foreign and Commonwealth Affairs pursuant to his answer of 20 October 2003, reference 132935, what discussions he has had with EU institutions in the relationship of sections 2 and 3 of the European Communities Act 1972 and the jurisprudence to which he refers of the European Court of Justice since the case of Costa v. ENEL; and what assessment he has made of the judgements of the United Kingdom courts in (a) Macartheys Ltd. v. Smith and (b) Thorburn [sic] v. Sunderland City Council in relation to the principle that no provision of national law may be invoked to override Community law. [135482]

Mr. MacShane [holding answer 3 November 2003]: The UK has given effect to its obligations under the EU treaties through the European Communities Act 1972. Costa v ENEL set out the clear principle that its obligations under the treaties cannot be overridden by domestic legal provisions.

In Thorburn v. Sunderland City Council [sic], Lord Justice Laws said as part of his judgement:

"All the specific rights and obligations which EU law creates are by the 1972 Act incorporated into our domestic law and rank supreme…"

The ultimate guarantee of parliamentary sovereignty lies in the power of Parliament to repeal all or any of the Acts which give effect to the EU treaties in this country. As Lord Denning made clear in the case of Macartheys Ltd. v. Smith, it is within Parliament's power to legislate contrary to the UK's treaty obligations. The result of so doing, however, would be to put the UK in breach of its treaty obligations.

5th November 2003

Mr. Cash: To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will make a statement on the implications for the United Kingdom (a) Parliament and (b) Courts of the Declaration at Annex 2 of the proposals agreed in Naples on the primacy of European Union law as set out in Article I-10(1) of the draft European Constitution. [142612]

Mr. MacShane: The proposed Declaration provides confirmation that the provisions of Article I-10(1) reflect existing European Court of Justice case law. If agreed it would state the common intention and understanding of all the participating States that Article I-10(1) has this meaning and should be interpreted accordingly.

8th December 2003

Mr. Cash: To ask the Secretary of State for Foreign and Commonwealth Affairs, what discussions he plans to have with the foreign ministers of (a) Denmark, (b) Germany and (c) Italy regarding the declaration in the draft proposals agreed in Naples, relating to the primacy, under Article 110 [sic] of the draft European Constitution, of the Constitution over their respective constitutions. [142429]

Mr. MacShane: The Presidency has proposed a 'Declaration for incorporation in the final Act with regard to article I-10(1)'. It states that, 'The Conference notes that the provisions of Article I-10(1) reflect existing Court of Justice case law.' The proposal has not been agreed, but will be discussed at the European Council on 12-13 December, in which the Foreign Minister of all the States mentioned will participate.

8th December 2003

Mr. Cash: To ask the Secretary of State for Foreign and Commonwealth Affairs, if he will place in the Library a copy of the text referred to in the Declaration of the President of the EU as a negotiating acquis; and whether it is regarded by the Government as a negotiating acquis not open to further discussion. [145498]

Mr. MacShane: We have placed copies of all the documents produced by the Presidency during the IGC in the Library of the Houses. These include a compromise text tabled for the Naples Conclave on 28/29 November 2003 and a further text tabled in the week preceding the European Council. Yet another compromise text, promised for the second day of the European Council, was not in the event tabled, though the President of the European Council, Mr. Berlusconi, drew on it when summing up at the end of the meeting.

Until the negotiations are completed, all aspects are potentially open to further discussion. But the Italian Presidency went through the normal negotiating process of successive refinements and approximations of a text, in the search for consensus, and we would expect the next Presidency to want to draw upon this work.

5th January 2000

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Sovereignty of Parliament (European Communities) Bill

A

B I L L

To Provide that Community treaties, Community instruments and Community obligations shall only be binding in legal proceedings in the United Kingdom insofar as they do not conflict with a subsequent, expressly inconsistent enactment of the Parliament of the United Kingdom.

Presented by Mr William Cash

Ordered, by The House of Commons,
to be Printed, 22*nd March* 2004.

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LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx net

Bill XX (xxxxxx) 53/3

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B I L L

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Provide that Community treaties, Community instruments and Community obligations shall only be binding in legal proceedings in the United Kingdom insofar as they do not conflict with a subsequent, expressly inconsistent enactment of the Parliament of the United Kingdom.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 European Union Treaties and the United Kingdom Parliament

(1) Community treaties, Community instruments and Community obligations shall be binding in legal proceedings in the United Kingdom only insofar as they do not conflict with an enactment to which subsection (2) applies.

(2) This subsection applies to any enactment which includes the words: "The provisions of this enactment shall take effect notwithstanding the provisions of the European Communities Act 1972.".

(3) In this section—

"Community instrument" has the same meaning as in Part 2 of Schedule 1 to the European Communities Act 1972;

"Community obligation" has the same meaning as in Part 2 of Schedule 1 to the European Communities Act 1972;

"Community treaties" has the same meaning as in section 1(2) of the European Communities Act 1972;

"enactment" means any Act passed by the Parliament of the United Kingdom or any statutory instrument made under such an Act.

2 Short title

This Act may be cited as the Sovereignty of Parliament (European Communities) Act 2004.

APPENDIX III

Impact on Daily Lives

How the draft European Constitution would affect you

The Constitution says …	Its direct impact on you
Article 1(1) "Reflecting the will of the citizens and States of Europe to build a common future, this Constitution establishes the European Union…"	No referendum equals no will of citizens – you are ignored.
Article 2 "The Union is founded on … respect for … democracy…"	Undemocratic – EU more remote.
Article 3(1) "The Union's aim is to promote peace, its values and the well-being of its peoples."	Consider Iraq. Member States have different values. Since 1945, peace has come from NATO, not the EU.
Article 3(3) "The Union shall work for the sustainable development of Europe based on balanced growth, a social market economy … and with a high level of protection and improvement of the quality of the environment."	A "social market economy" equals low growth and high unemployment.
Article 9(3) "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the intended action cannot be achieved by Member States … but can rather … be better achieved at Union level.	The EU calls the tune and subsidiarity has never worked.
Article 10 "1. The Constitution, and law adopted by the Union's Institutions… shall have primacy over the law of the Member States. 2. Member States shall take all appropriate measures … to ensure fulfilment of the obligations flowing from the Constitution or resulting from the Union Institutions' acts."	The Union will be Master. General election manifestos and freedom and choice of voters will be overridden.
Article 11(3) "The Union shall have competence to … coordinate the economic and employment policies of the Member States."	French and German unemployment and low growth come from economic and employment coordination. Blair cannot meet challenges on health, education, pensions, transport and public services – stability and growth pact a dead letter.
Article 11(4) "The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy."	Foreign policy and defence govern our relations with the world and NATO – all undermined. NATO guarantees our independence – the European Constitution would end it.
Article 12(1) "The Union shall have exclusive competence … in the following areas: … common commercial policy, customs union, the conservation of marine biological resources under the common fisheries policy."	Control over commercial policy, customs union and fisheries policy will be locked into the Union.
Article 12(2) "The Union shall have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union, is necessary to enable it to exercise its internal competence, or affects an internal Union act."	Together with legal personality, the Union would take away most treaty making powers, and foreign policy undermined.
Article 13(2) "Shared competence applies in the following principal areas: internal market, area of freedom, security and justice, agriculture … transport … energy, social policy … economic, social and territorial cohesion, environment, consumer protection, common safety concerns in public health…"	In the internal market, justice and home affairs, agriculture, transport, energy, social policy, environment policy and consumer protection etc. etc., national governments would only be able to do what the EU decided not to. Energy policy, including guaranteeing "security of energy supplies" to the EU would be a new power. Vast range of activity handed over.

The Constitution says …	Its direct impact on you
Article 16(2) "The areas for supporting, coordinating or complimentary action shall be, at European level: industry…health, education, vocational training, youth and sport, culture, civil protection."	The EU would interfere by directing policy over British industry, health, education, sport and culture and civil protection (terrorist measures).
Article 17(1) "If action by the Union should prove necessary … to attain one of the objectives set by the Constitution, and the Constitution has not provided the necessary powers, the Council of Ministers … shall take the appropriate measures."	EU will do whatever it wants to achieve its aims, with common action.
Article 31(1) "The European Parliament, the Council of Ministers and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions."	The Committee of the Regions, with regional assemblies, will undermine your local government in counties, towns and parishes. The Economic and Social Committee will undermine national trade unions.
Article 43(1) "… Enhanced cooperation shall aim to further the objectives of the Union…and reinforce its integration process. Such cooperation shall be open to all Member States … at any time"	Inner core will drive other Member States to deeper integration in red line areas including defence, tax etc..
Article 46(2) "The Union Institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society."	The Union will primarily listen to multinational trade associations, at the expense of small business.
Article 52 "1. All items of Union revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the budget… 2. The revenue and expenditure shown in the budget shall be in balance."	The EU budget has not been signed off for many years. "A massive enterprise of looting" from it. Much spending is not on the balance sheet.
Article 53(1) "The Union shall provide itself with the means necessary to attain its objectives and carry through its policies."	This will lead to European tax by the back door.
Article II-11(1) "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."	The right is not absolute – must be balanced by duties and responsibilities.
Article II-12(2) "Political parties at Union level contribute to expressing the political will of the citizens of the Union."	European political parties moving to state funding – marginalising national political parties.
Article II-18 "The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention…"	Common asylum policy goes beyond Geneva Convention, leading to a huge increase in asylum applications - the British government would be powerless.
Article II-23 "… The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex."	This underwrites political correctness in employment.
Article II-28 "Workers and employers, or their respective organisations … have the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action."	The right to strike would reverse British labour reforms that have made us competitive. This right never accepted before by any Labour government. The Charter of Fundamental Rights would also forcibly restrict working hours.
Article III-171(1) "… European laws … shall establish measures to: (a) establish rules and procedures to ensure the recognition throughout the Union of all forms of judgements…"	This would prevent any judgement from the courts or authorities of another EU Member State from being challenged in the UK courts – with grave consequences for individuals, business and our legal system.

The Constitution says …	Its direct impact on you
Article III-172(1) "European framework laws may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with cross-border dimensions…"	The EU will define certain criminal offences – and set minimum sentences for those found guilty of them, overriding our criminal laws and sentencing policies.
Article III-175(1) "In order to combat serious crime having a cross-border dimension, as well as crimes affecting the interests of the Union, a European Law … may establish a European Public Prosecutor's Office."	Proposals for a European Public Prosecutor have been condemned by the House of Commons Scrutiny Committee as threatening an "engine of oppression".
Article III-194(1) "… the European Council shall identify the strategic interests and objectives of the Union."	This puts the national interest at risk where we disagree with EU.
Article III-195 "1. … the Union shall define and implement a common foreign and security policy… 2. The Member States shall support the common foreign and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity… They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations. The Council of Ministers and the Union Minister for Foreign Affairs shall ensure that these principles are complied with."	This obligation of loyalty as defined and implemented would subordinate our national interest in matters of foreign policy and defence.
Article III-206(2) "… Member States which are also members of the United Nations Security Council will … defend the positions and the interests of the Union… When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the Union Minister for Foreign Affairs be asked to present the Union's position."	Despite denials by the government, Britain would be on the UN Security Council primarily to represent the EU.
Article III-212(1) "The European Armaments, Research and Military Capabilities Agency … shall have as its task to: (a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States; (b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;"	This bureaucratic gobbledegook means that an EU weapons institute would decide the shape of our armed forces and tailor them to a European army.
The Protocol on the Role of National Parliaments in the European Union states that it aims to "encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on legislative proposals…"	In practice, the national Parliaments, including Westminster, will be made second-class. Nothing will enable them to veto proposals where there is Qualified Majority Voting.
The Constitution will make Qualified Majority Voting the general rule in EU legislation.	Over 60% of new legislation in Britain comes from the EU. The veto has been largely abolished, which is very damaging to our influence and to business.
All agreements between EU Member States that are not in the Constitution will have to be renegotiated.	The British rebate, negotiated by Margaret Thatcher so that the UK didn't pay so much into the EU, will be lost. The British taxpayer will be paying more and getting less.
Repeal of existing treaties and re-application of laws.	New constitutional wording will create confusion. Unless we assert our Parliamentary supremacy and negotiate accordingly, we would not change laws such as the European Arrest Warrant, the Working Time Directive and a host of other laws which are harmful and restrictive to individuals and businesses.

FACTS

1 London's New Party Planner?
On Saturday 24 April the Foreign Office decided to throw a 'New Europe Festival' that included free drinks, food, live jazz, pop music, and even sword dancing to celebrate the cultures of the incoming EU members. Apparently the staffers' decided they needed to stage a party using taxpayer money after weeks of dealing with government headaches and changes in foreign policies.

The Metro 22 April 2004

2 French Voters send a message to Chirac
After trouncing the Socialist party in parliamentary and presidential elections two years ago, Jacques Chirac's party was dealt a major blow on 28 March. Voters have, without a doubt, let the President know they are not happy with the progression of his plan to reform the public sector. About half the French voters cast a ballot for the coalition of the left, led by the Socialists, thus causing the UMP to loose 20 of the 21 mainland regions (and all four distant overseas territories) during the second round of elections to the country's regional councils. If left unanswered, this could be the start of a major problem for both Chirac and the national government.

Economist.com 30 March 2004

3 Cyprus: Thirty-years divided and counting…
To the disappointment of many Turkish Cypriots, only southern Cyprus entered the EU on 1 May. The island will remain divided as the Greek Cypriots rejected the UN plan for reunification. 75.83% of the Greek Cypriots rejected the plan while 64.91% of the Turkish Cypriots accepted it. Future negations, however, are expected to continue.

EUobserver 29 April 2004

4 Howard launches Tory Manifesto
Michael Howard has unveiled the Conservative Party's stance for the June European elections. In line with Blair's U-turn decision regarding a referendum on the EU Constitution, a key Tory demand, Mr Howard said he would like to turn back the tide of regulations. "*Unnecessary, disproportionate and outdated regulations really must be scrapped,*" said Howard. He went on to say that Conservatives did not want to see a Europe that demanded "*the sacrifice of independence as the price of independence*" and that "*We will promote flexibility for business to flourish. We want to get rid of at least 25% of all existing EU regulations…*"

BBC News 29 April 2004

5 Lost in Translation.
On 1 May the European Union added nine new official languages to the existing set of eleven. The twenty languages can generate 190 possible combinations. Finding a staff member that can speak both fluent Greek and Estonian is nearly impossible. To make matters worse, the translation bill for the EU will rise from roughly €550 million to about €800 million after the enlargement. A simple solution already gaining ground is to supplement a widely spoken language (most logically English) as the EU's official working language. But of course the French would have to swallow their pride and go with the tide.

BBC News 8 April 2004

6 British Executives against the EU?
An ICM survey of 1,000 business executives found that 73 percent of business leaders "*believed the EU was 'failing' and that Britain would be more successful if it retained the pound and reclaimed powers from Brussels*". Even the core EU policies, trade and a single market, had strong disapproval ratings: 82 per cent said, "*the Government should handle trade negations*" while only 14 per cent said they should be left to the EU. When asked if the Constitution would be good for their businesses, 59 per cent said 'No' and 23 per cent said they did not know.

The Daily Telegraph 28 April 2004

7 Poland: A Burden to Society?
The Chief Economist at the European Bank for Reconstruction and Development, Willem Buiten, has said that "*Poland will need 40 years to catch up with the EU average.*" Another representative, Vice-President Hanna Gronkiewicz-Waltz, "*expressed concern that the new member states might become too dependent on EU handouts rather than implementing the necessary economic reforms – as was similarly seen after the entry of Spain, Greece, and Portugal.*" However, Poland recently released new economic data that seemed to disagree with the Bank's opinion; Poland's economy grew 6% – beating expectations and the country seems to be curtailing unemployment, which had shrunk slightly to 0.5% (Still the highest rate in the newly enlarged EU).

EUobserver 23 April 2004

8 No New Flag Despite Enlargement
The famous blue flag with 12 gold stars will remain the same despite the introduction of 10 new members to the European Union on 1 May. By coincidence, many thought that the 12 stars represented the 12 member states during a 7-year period. The EU's website states that: "*The number 12 represents perfection and unity*" and the five-pointed stars, also known as mullets, "*represent the union of the people of Europe. The circle, too, has mystic power and stands for unity in many traditions.*" The flag has been in use since 1955, but was officially adopted as the symbol of the EU on 26 May 1986.

eubusiness.com 29 April 2004

9 Expense Exposé Raises Eyebrows
Austrian MEP Hans-Peter Martin infuriated his fellow MEPs recently when he disclosed that a 'certain few' were taking advantage of the expense system. Martin disclosed that MEPs, including Glenys Kinnock, were regularly turning up to the EU Parliament and signing an attendance sheet, only to leave minutes later – all just to claim their £175-a-day expense allowance. Upon looking into it further, one will be surprised how generous Brussels can be in giving away taxpayer money for such things as 'Housekeeping' and 'Entertainment Budgets'.

Evening Standard 26April 2004

LETTERS TO THE EDITOR

From Mr Norman Sanders
Dear Sir,

When I wrote my article 'The Numbers: the Sands in the Foundations of the EU' I did not expect the European Constitution to arise from what I had supposed was its grave. But if it does get ratified it will be counter-productive. Firstly, creating a formal framework in an attempt to corral the twenty-five can have little practical effect because the numerical energy that the essay describes is entirely informal. Secondly, the very existence and wording of a constitution would itself be an additional sideshow; formal energy would be consumed in repeatedly debating the meaning of the act, to the detriment of the primary issues such as the CAP and the corruption within the Commission. Even the clearly worded American Constitution is a constant subject of debate and interpretation. And thirdly, a constitution would spread cluster bombs throughout the member states as it clashed with the individual domestic constitutions. The irony is that nothing could be better envisaged to divide the disparate members than this attempt to unite them. The informal numbers will ensure that.

Yours faithfully,
Norman Sanders
Ipswich

From Mr Martin Helme
Dear Editor

I wish to draw your attention to the fact that in first topic of Iraq you missed Estonia's military involvement in Iraq (European Intelligence Digest No. 190). Estonia has about the same size of contingent in Iraq as Latvia that is one platoon (32 men). We have also lost one man in casualties by grenade fire a few months ago.

Just to point out. Just this week our parliament, Riigikogu, passed a resolution that allows government to keep the troops there until the end of this year. Latest polls show that 62% of people would wish the troops to be withdrawn from Iraq. About half a year ago about 60% supported the mission.

Best wishes
Martin Helme
Director, UKVE

From Professor Antony Flew
Dear Sir,

Your correspondent Frederick Forsyth insists that Michael Howard has solemnly pledged that, if elected, he will renegotiate the relationship between the UK and the EU. But renegotiation, like negotiation, requires at least two parties. But, since Michael Howard has also categorically dismissed the idea of the UK ever leaving the EU, how does he persuade himself that the EU will, without a threat of withdrawal, be prepared to renegotiate the terms of treaties freely negotiated and signed by mainly, if not entirely, Conservative administrations?

Yours,
Professor Antony Flew

From Mr Steve Dooley
Dear Sir,

The letter from Frederick Forsyth in the March issue surely represents a triumph of hope over experience. On the assumption that Blair will sign up to the EU Constitution without a referendum Mr Howard's policy seems to be to attempt to renegotiate. That is, Mr Howard will manage to reopen negotiations on a contentious treaty just ratified by all of the Member States, and confirmed by at least six of them in referenda, and will achieve unanimous agreement to changes which benefit Britain significantly, and achieve substantial repatriation of powers. Simply to state the proposition is to demonstrate its absurdity.

It is better to observe what governments do in office than to listen to what they say when seeking our vote. Heath – Treaty of Rome; Thatcher – Single European Act; Major – Maastricht Treaty. Mr Howard is not going to get the benefit of the doubt. When Mr Howard makes a manifesto commitment to a referendum on the EU Constitution (post-signature by Blair), and to do whatever is necessary to put the resulting decision of the electorate into effect, then my vote, and all of my available time, money, and whatever talents I have to offer, will be pledged to support the Conservative Party. Until then, they remain firmly with UKIP.

Yours sincerely,
Steve Dooley

From Mr Henry Shaw
Dear Madam,

As an avid reader of the *European Journal* I am in full agreement with the gist of most of the excellent articles and reviews it regularly contains. They are informative and conclusively argued. The majority are critical or downright dismissive of the many aspects of the European Union federal 'project'. However I have yet to read the logical conclusion to this torrent of criticism, which must be to withdraw from the EU monster before it swallows us completely. There cannot be any effective half measures available to us despite the Conservative Party's declared objections to the nascent Constitution and desire to renegotiate the Treaties.

Such a policy is untenable. Furthermore, it will discourage most Conservative and floating voters – or am I missing something?

Straightforward repentance for past errors plus a convincing statement of withdrawal from an organisation which continues remorselessly to damage our country for no significant benefits would guarantee a flood of return voters, probably to win the general election with honest leadership, and give a boost to the prosperity of our country. Also something really worth conserving.

Yours faithfully,
Henry Shaw,
Democracy Movement, Cornwall

From Mr Edmund Hall
Dear Sir,

The proposed European Constitution

Bravo! Congratulations, Foundation and *Journal* – and all who sail in them – on your splendid contribution to causing Anthony Blair's *volte face* on a referendum. Much to be done between now and then.

Best Wishes,
Edmund Hall (a subscriber)
Devon

Thank you - Ed

HELSINKI

A Brief History

by Michael McGruddy



Photo c/o Suomenlinna

On 12 June 1550 King Gustavus Vasa of Sweden ordered all merchants in the towns of Porvoo, Tammisaari, Rauma and Ulvila to relocate to the parish of Helsinge (Swedish Helsingfors) on the mouth of the river Vantaa. The move was designed to create competition and steal trade from the neighbouring town of Tallinn – the Hanseatic city on the opposite shore of the Gulf of Finland (present day Estonia). By 1561, Sweden had effectively conquered the city of Tallinn and Estonia.

In 1640, Queen Christina of Sweden decided that the location of their new port in the rapids at the mouth of the river Vantaa was unfavourable. The decision was made to move the city further south to the outer islands where deeper waters allowed the town to become more competitive for trade in the Baltic Sea. The new location was known as the Vironniemi headland, present day Kruununhaka, near the city centre.

As time went on, Helsinki proved to be moderately successful as a trading port. However, in 1703 Russia established its new capital, St Petersburg, not far from the Finnish border. The 18th century saw the rise in Russian power, which greatly affected the growth and future of Helsinki. In the coming years Helsinki witnessed war, the plague, and widespread hunger. The Russians eventually occupied (and razed) Helsinki during what was known as the Great Hate (Great Northern War) of 1713-21 and yet again in 1742. After the first invasion, Helsinki began to rebuild for the third time.

In 1748, after losing the war, Sweden realised the essential need to fortify Helsinki. The fortress marked the beginning of a turning point in the history of the city and it saw the dawn of prosperity and ever-growing sea trade.

In 1808, Sweden was forced to declare war due to the power politics of both Napoleon and Tsar Alexander I. However, despite being called 'The Gibraltar of the North' by a historian at the time, in May 1808 the fortress and its military surrendered to Russian forces without a fight. This marked the beginning of 110 years of Russian rule.

The Russians had an effect on Helsinki that can still be seen today. Finland was annexed to Russia as an Autonomous Grand Duchy in 1809. After taking the country from the decaying Swedish empire, Alexander I decided that the capital needed to be closer to St Petersburg in order to keep close tabs on Finland's domestic policies. In 1812, Helsinki was declared the capital of Finland.

To reflect the power of Russia and the Tsar, a dramatic new plan was created to rebuild the city after it was virtually destroyed by a fire in 1808. Two men were chosen to spearhead the project: German-born architect Carl Ludwig Engel and local architect Johan Albrecht Ehrenström. It could be said that they, along with the Russians, set in motion the beginning of what would eventually become Helsinki's "Renaissance". The mid-19th century saw Helsinki grow from a small trading town of around 4,000 in 1810 to a populous administrative and university town of 50,000 in 1850.

At the turn of the 20th century, Helsinki was developing into the industrial powerhouse that King Gustavus Vasa had always wanted. It was during this time that that some of Finland's greatest achievements were made, including the building of railways.

The arts were also a major focal point at this period in Helsinki's history. For example Jean Sibelius, who's music was figured prominently, took a place in the hearts of many Finns due to the growing sense of national pride and Finland's drive for autonomy against Russian encroachment.

The First World War caused a considerable amount of unrest in Russia and ultimately led to the Communist Revolution. Seizing on opportunity, Finland declared independence on 6 December 1917. However, the country quickly plunged into a civil war as various parties tried to gain control of the new Republic. As the fighting continued, the Government was forced to leave Helsinki only to return in May of 1918 under the leadership of General C.G.E. Mannerheim. After the General's success, the Government quickly drew up the present-day Constitution and effectively established Finland as an independent republic in 1919.

As the 20th century progressed, Helsinki quickly grew into a world-class capital. Not even the Second World War was enough to stop the fast pace of development. When the War was over, Helsinki experienced an influx in the migration of rural landowners, who moved to the capital. Culturally and socially, Helsinki progressed very much like that of the rest of the world during this time. Another architectural renaissance took place in which Finland's best-known modern architect, Alvar Alto, constructed some of his most famous works, including Finlandia Hall.

Most recently, 1995 saw Finland's entry into the European Union. Today Helsinki is a cultural focal point of the Baltic region. It has won much international praise for its apparent lack of corruption and high level of economic competitiveness. In 2000 Helsinki was chosen as one of the nine European Cities of Culture. It is quickly becoming a major technology centre and is currently the second-fastest growing city in all of Europe. Helsinki can surely expect to enjoy the comforts of its ultramodern infrastructure whilst still moving progressively forward into the 21st century.

Michael McGruddy is currently studying finance at Drexel University in Philadelphia, PA. He works as a research assistant at the European Foundation.

GETTING THERE

By Air: Finnair
Phone +44 (0)870 241 4411
Flights from Heathrow from €110.
*Approx 3 hrs 10 min from London; allow 20-25 min for cab to the city centre.

ACCOMMODATION

Hotel Kamp
Pohjoisesplanadi 29, 00100 Helsinki
Phone +358 (0)9 576 111 / Fax +358 (0)9 576 1122
www.hotelkamp.fi
Hotel Kamp is the first luxury hotel to appear amongst the Nordic countries. Established in 1887, the hotel sets the standards for luxury and prestige. It boasts 179 rooms including deluxe and executive rooms, speciality suites, and the infamous Mannerheim Suite. Prices range from €365 – €1185 for deluxe and executive suites and €2750 for the Mannerheim. This is the place to see and be seen when visiting Helsinki.

Lord Hotel
Lönnrotinkatu 29, 00180 Helsinki
Phone +358 (0)9 615 815 / Fax +358 (0)9 680 1315
www.lordhotel.fi
The Lord Hotel offers the best of both worlds – old world charm and modern efficiency. After passing through the castle's massive, romantic doors, guests are welcomed by a spacious, well-lit reception area and world-class restaurant. The hotel currently has 24 single and 22 double rooms along with 2 suites and 2 saunas. Prices range from €90 for a single/double to around €230 for the suites.

Hotel Aurora
Helsinginkatu 50, 00530 Helsinki
Phone +358 (0)9 770 100 / Fax +358 (0)9 7701 0200
www.hotelaurorahelsinki.com
A peaceful, quiet hotel that is relatively close to the city centre. It has undergone renovations in the past few years to achieve the present sophisticated, attractive, and modern look. The hotel consists of 70 rooms with prices starting around €100.

SIGHTS

Kotiharju Sauna
Harjutorinkatu 1, 00500 Helsinki
Phone +358 (0)9 753 1535
First and foremost – No trip to Finland would be complete without experiencing a truly traditional Finnish sauna. Forget the hotel saunas and head to this completely wood-heated public sauna, which is amongst the most famous in Helsinki. Prices are about €6.50 per person and an additional massage can be reserved in advance.

Suomenlinna Maritime Fortress
Suomenlinna, 00190 Helsinki
Phone +358 (0)9 684 1850, (0)9 684 1880
www.suomenlinna.fi
Built by Augustin Ehrensvärd in 1748, Suomenlinna is considered one of the world's largest sea fortresses. It was erected by Sweden (Finland was part of their empire at the time) to protect the eastern frontier from invasion. To get to the fortress, take a ferry from Market Square to the Suomenlinna islands.

Temppeliaukio Church
Lutherinkatu 3, 00100 Helsinki
Phone +358 (0)9 494 698
Quarried directly out of the surrounding natural bedrock, Temppeliaukio Church looks like anything but a church. It's sleek modern design and amazing acoustics (concerts are actually staged here) make it one of Finland's most popular tourist attractions. Admission is free.

GOING OUT

Artic Ice Bar
Yliopistonkatu 5, 00100 Helsinki
Phone: +358 (0)9 278 1855
www.uniq.fi
For a completely unique experience, try UNIQ's Artic Ice Bar. The temperature is a constant –5 °C to prevent the 20 cm thick walls of ice from melting. In the event that you get too cold, the bar lends warming capes and gloves. So bundle up and order a Finland-based vodka drink (The bar's speciality).

Sauna Bar
Eerikinkatu 27, 00180 Helsinki
Phone: +358 (0)9 586 5550
www.saunabar.net
The Sauna Bar takes the traditional Finnish sauna to a whole new level. Most Finns frequent the bar after work to play a few games a pool. From there they relax in one of the two saunas – only to later cool down in the bar/club with a few drinks whilst listening to the DJ spin.

Storyville
Museokatu 8, 00100 Helsinki
Phone +358 9 408 007 / Fax: +358 9 447 950
Storyville is the best-known jazz club in Helsinki. The place is frequently hosting guest musicians from abroad, which makes it a popular nightspot among the locals. There is a less crowded pub upstairs for sitting down and enjoying your drinks while listening to some light, easy jazz.

SHOPPING

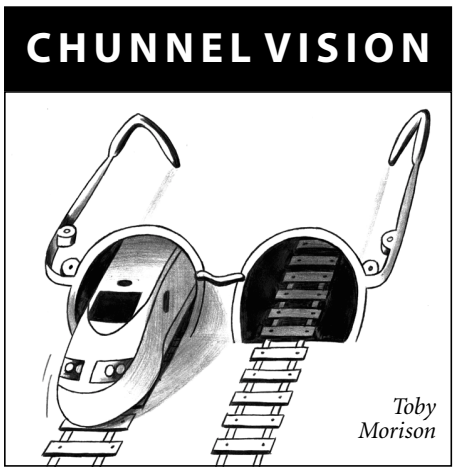
The most popular shopping streets in the city centre are **Mannerheimintie** and **Aleksanterinkatu**. The Nordic region's largest department store, **Stockmann**, is located on the corner of these two streets. Another popular department store, **Sokos**, is located a few hundred meters away. Both of these shops are ideal for a comprehensive selection of high-quality brands and one-stop shopping.

Aleksanterinkatu is the street connecting **Mannerheimintie** with **Senate Square**. Along this stretch, one can find the top Finnish designers as well as small speciality shops and boutiques. One last place of interest is the **Kiseleff Bazaar**. Popular among visitors and the locals alike, handicrafts and souvenirs can be purchased for friends and family before heading home.

EATING

Kappeli
Eteläesplanadi 1, 00130 Helsinki
Phone +358 (0)9 681 2440
www.kappeli.fi
Kappeli consists of four restaurant milieus that are intimate, relaxed, and delicious. The venue is ideal for both those with a full meal in mind and those just wishing to take a quick coffee break after shopping. The menu changes according to seasons and there is a strong emphasis on 'fresh domestic seasonal products'. Reservations for the dining hall are recommended.

Restaurant Lasipalatsi
Mannerheimintie 22-24, 00100 Helsinki
Phone +358 (0)9 612 6700 / Fax +358 (0)9 6126 7070
www.ravintola.lasipalatsi.fi
Built in the 1930's, Lasipalatsi recently underwent a complete renovation and reopened last autumn. The restaurant has stayed true to its original functionalist style. It seats 250 and includes two cabinets and a winter garden that can be rented out privately. It should be noted that Lasipalatsi was voted best HelsinkiMenu restaurant in 2001.



Human Rights, Human Wrongs

by Robert Oulds

The police in Britain have been hamstrung and now it is the turn of our armed forces. Britain's armed forces face an unseen danger. A danger that threatens lives; a danger that threatens the UK's military effectiveness. This danger is the culture of overbearing health and safety rulings and a fear of breaching human 'rights' and facing litigious lawyers.

This has already helped claim one casualty. The fêted then reviled and now renowned again Col. Tim Collins, OBE, is leaving the army partly because political correctness and petty bureaucracy are crippling it.

Partly such an attitude comes from the belief that tough training will not be popular when it comes to recruiting Britain's Generation X-Box. Yet the main menace comes from the European Court of Justice and the Health and Safety Executive. Now before exercises officers must fill out risk assessment forms just as teachers in schools must. This has lead to some aspects of important training being abandoned. Our gallant British soldiers deserve better training and support. We need military effectiveness, not political correctness.

On the one hand the litigation nation is uniting Britain. Doctors. Teachers. Coaches. Ministers. They all share a common fear: being sued on the job. On the other hand the new 'Rights' culture may also open a series of avenues for costly litigation and ambulance chasing lawyers. Bizarrely, European integration is in danger of turning the UK, at least in one way, into the United States of America where Tort laws cost the equivalent of 5% on income tax.

What is more, Charles Clarke, MP, the Education Secretary, has called on a school's union to end its ban on school trips. Tim Collins, MP, the Shadow Education Secretary, has said that money should go into schools not legal bills and criticised sky high insurance costs. Stephen Byers in his 'blame, claim and gain' speech at *The Guardian* New Realities Conference also criticised the compensation culture. He said, *"Compensation payments in schools have reached £200 million a year – the equivalent of the salaries of 8,000 teachers. In the health service payments for medical negligence have risen from £1 million in 1974 to £477 million – enough to pay for 27,000 extra nurses. Potential claims over the next five years will amount to an estimated £4.5 billion."*

Yet none have spoken of the European angle. It is the interfering European Court of Justice, excessive EU inspired health and safety legislation and the Human Rights Act 1998, now elevated to constitutional status, that makes so much of this possible.

Furthermore, the NHS is set to suffer as a result of the EU's extension of the Working Time Directive inspired by its belief that people have the right not to work hard. Have you ever wondered why the symbol of Britain the RouteMaster bus must go and be replaced by the German built fire-hazard the bendy bus? Why is your local library, or your parents or grandparents care home under threat from closure? Why? Because they do not fit in with the EU directive that forced upon the UK the Disability Discrimination Act. EU inspired amendments to the Race Relations Act and the Sexual Discrimination Act will add burdens onto Britain and will allow for a form of positive discrimination in recruitment advertising.

But the main threat is still to come, this emanates from the Charter of Fundamental Rights.

On one hand the Charter only (perhaps pointlessly) enshrines in law rights that have long existed in Britain. On the other it will add new burdens onto small businesses, businesses that may not be able to absorb the costs.

Perhaps many may agree with the principles set out in the Charter of Fundamental Rights. The point is, however, that the guarantor of our rights will be the interventionist and left-leaning European Court of Justice (the ECJ), an organisation that has a track record of interpreting EU laws in a way that leads to the most damage. The ECJ is an organisation that has scant regard for free-market economic principles and is certainly not as pro-business as the British authorities - even Whitehall.

The provisions in the Charter that could cause the most damage to businesses, charities and state services alike are:

Article 23: Equality between men and women: This is interfering, but honorable, however it includes Euro-speak for the ECJ to push for positive discrimination.

Article 27: Workers' rights to information and consultation within the undertaking: This will lead to time consuming negotiations and undermine the ability of managers to run their organisations as they know best.

Article 28: Right of collective bargaining and action: This enshrines the right to strike and will reverse our industrial relations legislation to mid-1980s levels.

Article 30: Protection in the event of unjustified dismissal: This may allow the ECJ to project the European concept of the 'job for life' into Britain. Sounds good, but undermining an organisation's ability to higher and fire will in the long term restrict growth and push up unemployment to continental levels.

Articles 31 & 34: Fair and just working conditions and social security and assistance: This will allow the EU to further limit working hours, extend holidays and provide more maternity and illness leave. Sounds good, if you do not work for one of those small businesses or charities that goes under.

It also forces governments, at the expense of the taxpayer, to continue to provide a welfare state. So no hope of reform, then, for that 1940's monster that has grown out of control.

What is there that can be done to stop this alien culture emanating from the Channel Tunnel, which is sweeping over this land, a culture which damages every aspect of life and risks the lives of soldiers that have enough to contend with from Geoff Hoon? In the first instance we must not sign up to the EU Constitution, but that will not allow us to resolve the other problems that face us. All that is needed is a small amount of political will. Parliament can repeal or amend the European Community Act 1972 so as to make the decisions of the European Court of Justice not binding unless approved by our own House of Lords and make the directives not binding unless approved by our Secretary of State.

Cllr Robert Oulds is the Director of the Bruges Group

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;

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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

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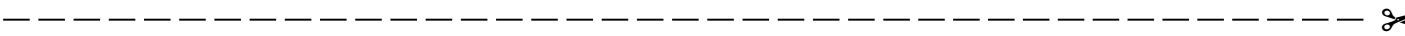
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