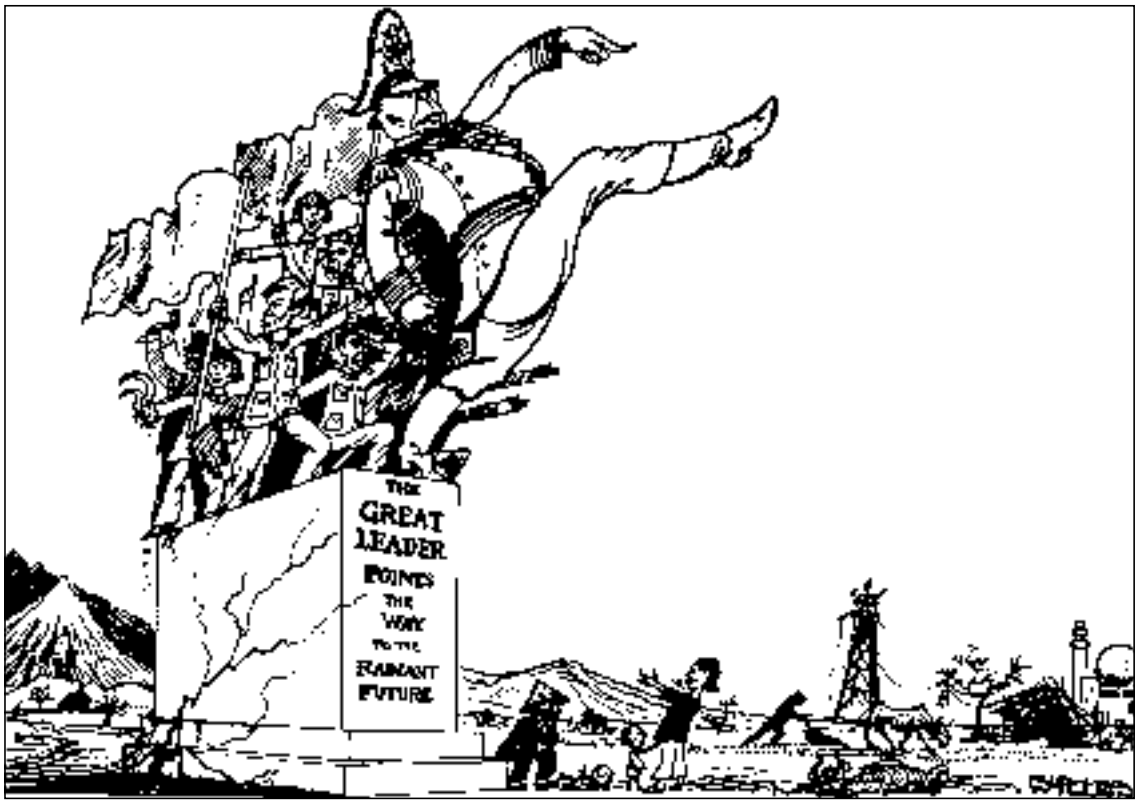
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The Journal of the European Foundation



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&
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Human Rights, Terrorism and Democracy

by Bill Cash, MP



It is no exaggeration to say that there is a crisis in the interaction between human rights and terrorism, which has been brought home to the electorate since the dreadful bombings in London of 7 July and the failed attempts on 21 July.

This, however, was a problem waiting to happen ever since the passing of the Human Rights Act 1998 (HRA), and even before with the European Convention on Human Rights. The European Reform Forum will be taking specific evidence on this issue.

The first and most important principle to confirm, which is good law, is that the British Parliament has the absolute right, and in my view duty, to legislate to protect its citizens as a sovereign nation state, irrespective of HRA. The problem is therefore also one of political and democratic will. There is no doubt that there are those in the Muslim community who, as I said in the recent debate, have no interest in our laws or democracy and indeed one spokesman on television recently said, "*To Hell with British law.*" The problem is compounded by others who challenge the whole basis of our way of life, including democracy and free will and who, for example, attack *"compromisers who have been trying to prove that Islam is compatible with their secular ambitions and Western preferences*" and that such people *"must realise that their education has equipped them to serve the political, social, economic, cultural, administrative and military systems that we must destroy.*" This comes from one of the founding members of the so-called Muslim Parliament of Great Britain. Against this background, we need to ensure that the integrity of our own Westminster Parliament is absolute. It is, however, clear that the Europeanisation of Britain and the invasion of the human rights universalism has deliberately undermined the notion of the sovereign nation state. One effect of this, apart from undermining our domestic democratic system of government, has been to play into the hands of global transnational theocratic claims for a wider allegiance, which also proposes to undermine a nation state on religious grounds. As several programmes on television recently have indicated, there is a body of Islamic Fundamentalists determined on their course of action of terror and fanaticism, although there are others who take a different view. Ultimately, however, all this can and must be dealt with by Parliament as part of the reassertion of British law. On 8 March I tabled a Prevention of Terrorism Bill. In a nutshell, this Bill in relation to terrorism would expressly disapply the Human Rights Act, would insist on *habeas corpus,* a fair trial and due process, but would also return the right to decide issues of national security from the judiciary to the Government and the Home Secretary. I tabled this Bill in response to a New Clause tabled by the Shadow Home Secretary, David Davis, and the Lib Dems to the Government's own Prevention of Terrorism Bill in March this year. This New Clause, had it passed, would have endorsed HRA in respect of control orders. I refused to vote for the New Clause and hence my Bill.

There is a crisis of British democracy which has been compounded by the restrictions imposed on Westminster freely and readily legislating on its own terms because of the European/human rights nostrums by which the United Kingdom has been led into increasing subservience. "*The fault, dear Brutus, lies not in our stars, but in ourselves that we are underlings.*"

Apart from the European Convention itself, which is now adjudicated in the United Kingdom courts, there are at least six other international conventions that have been brought in merely through the Royal Prerogative, i.e. without statute. The Law Lords have stated that even where there is a statute and uncertainty in interpretation, *"the courts will presume that Parliament intended to legislate in conformity with the Convention and not in conflict with it.*" In practise, they have strained to endorse such international obligations and human rights and now the chickens have come home to roost, certainly since the Belmarsh decision, because the human rights legislation is increasingly at odds with national security. The Joint Committee on Human Rights in Parliament stated two years ago that, "*There is an inbuilt danger that mechanisms and structures designed for the protection of human rights will come into conflict with democracy and accountability.*"

So what is to be done? When the Prime Minister suggested that the Human Rights Act might be amended if necessary, a number of senior former judges took exception to his criticism of the Law Lords decision in the Belmarsh case. They were wrong. As I pointed out in the lead letter in *The Times* on 2 August 2005,

"in a democratic society judges themselves are bound by and must apply the rule of law. But which law?

The Human Rights Act 1998 (HRA) at present enables the judiciary, as it did in the Belmarsh decision, effectively to strike down provisions in the Anti-Terrorism Act 2001. Should this be so, particularly if human rights legislation fails to protect the public and national security?

The first human right is the right to life. Human rights legislation is in danger of becoming a vehicle for terrorism and death.

Lord Hoffmann, one of the eight law lords who vehemently upheld the HRA in the Belmarsh case and attacked the anti-terrorism laws, has made it clear in another case that Parliament can amend the HRA itself. We need urgently to amend the HRA 1998, as I stated to the Home Secretary on July 20 in the House of Commons.

Parliament must legislate to protect the nation. Providing that legislation is clear and unambiguous the judiciary have the constitutional obligation to apply the latest Act of Parliament, even if it is inconsistent with the HRA 1998.

The Prime Minister, who clearly disagrees with the Belmarsh case, has the power to amend the HRA and he Conservative Party could support him, as I have urgently requested; but will they?

The protection of the nation lies primarily in Parliament and not in the courts."

There is no doubt whatsoever that Westminster can legislate on its own terms. Lord Hoffman has also, however, in another case (*Rehman*) stated that the events of 11 September 2001 in America led him to the conclusion that, "*This seems to me to underline the need for the judicial arm of government to respect the decisions of Ministers of the Crown on the question of whether support for terrorist activities in a foreign country constitutes a threat to national security.*" He emphasised the special information available to government and the need for decisions to be made "*by persons whom the people have elected and whom they can remove*". There seems to me to be a significant contradiction between what Lord Hoffman said in the Belmarsh case and in the case of Rehman, or at any rate a distinction without a difference insofar as the issue is one of national security and democracy.

It is worth noting that one of the most dedicated and vehement supporters of HRA (for which he boasts he campaigned for 35 years), Lord Lester, stated in a lecture on 25 November 2003, referring to HRA that, "*It was and remains a target of the tabloids which fear that it will result in judicial restraints upon their intrusions on personal privacy and which continue to attack the Act as a charter of rights for criminals, terrorists and bogus asylum seekers and as a license for unelected judges to frustrate the will of the majority and to undermine the effectiveness of necessary state powers. Their attacks are ignorant and ill-informed.*" He lumps the Conservative Party with the media for this purpose. Just reflect on what has happened recently to see who is right.

It will not be enough simply to enter into memorandums of understanding with other countries or indeed merely to derogate from the European Convention using Article 15. Article 15 can be invoked in times of war and public emergency threatening the life of the nation, but there is no right to derogate where, under Articles 2 and 3, the persons concerned might be threatened with loss of life or ill-treatment. Ill-treatment includes torture and (absurdly in the context of fanatical religious terrorists) lesser forms of ill-treatment of the kind such as the smacking of children. The first duty of Parliament is to protect the British people when the balance has to be struck. Human rights law may be based on good intentions and aspirations, but the harsh practicalities must put the prime emphasis on our democratic system of government and the protection of the British people from whatever walk or way of life. At Westminster, we can and must legislate to protect security and liberty, but we cannot when hamstrung by HRA and the ECHR. There are those like Michael Ignatieff, who in his book *Political Ethics in an Age of Terror: the lesser evil,* suggest that, "*it is a condition of our freedom that we cannot compel anyone to believe in the premises of a liberal democracy. Either these premises freely convince others, or they are useless. They cannot be imposed, and we violate everything we stand for if we coerce those who do not believe what we do. In any event, we cannot pre-emptively detain all the discontent in our midst.*" He then urges that we should persuade the terrorists and those that support them. He and others have simply failed to understand that this is not just a matter of competing arguments, but a crisis for freedom itself, when democracy is repudiated. No democracy, no freedom. This crisis is equivalent, and perhaps more, than we were faced with in the 1930s.

It is therefore essential to clearly establish that the human rights/terrorist issue is part of the European problem endorsed by those who would seek, as with the European Constitution, to override the laws of our democratic, sovereign Parliament. We must ensure that our judges give effect to the latest clear and unambiguous enactments passed at Westminster when, as they must, they override HRA and ECHR.

Bill Cash is Conservative MP for Stone and was Shadow Attorney-General 2001-03.

Biofuels are Europe's Next CAP

by Dan Lewis

Many of us are in little doubt that the Common Agricultural Policy was and continues to be a fantastic waste of resources. Security of food supply was the siren call for this programme. Now we have a new one – security of energy supply. Farmers across Europe are waking up to the idea that they can – with huge subsidies – grow crops that can be turned into biofuels; petrol and diesel substitutes like bioethanol and biodiesel, which reduce carbon dioxide emissions. But the costs will be huge and the potential, given Europe's limited agricultural land resources and high cost feedstocks, nothing like enough to achieve security of much more than 10 per cent of Europe's transport fuel.

By this year, the EU had hoped that blended biofuels – conventional diesel and petrol diluted with fuels sourced from organic materials – would account for 2 per cent of all EU automotive fuel consumed. But this figure will probably reach just 1.4 per cent.

Targets beyond that date look even more difficult to achieve. The EU wants biofuels to account for 5.75 per cent of all EU automotive fuels by 2010 and up to 20 per cent by 2020. This policy has two objectives: reducing pollution and increasing security of supply through sourcing those biofuels from Europe. Certainly, greater use of biofuels would reduce air pollution, a tangible benefit. That is because ethanol increases the octane content, which reduces emissions when combined with petrol to create gasohol. Biodiesel does the same again but much more so because diesel gives off much higher particulate and other toxic emissions (although lower CO_2).

The big picture is that transport fuels account for around a quarter of the EU's greenhouse gas (GHG) emissions and demand for diesel and petrol is rising fast. Consumption last year amounted to 270 million tonnes, compared with 180m tonnes in 1985. It is expected to reach 325m tonnes in 2020.

In May 2003, partly in an effort to offset the questionable security of oil imports from the Middle East, the EU introduced a

directive that set up non-binding targets for biofuel penetration in the fuel mix that envisages biofuels consumption rising from 1.4m tonnes in 2001 to 19m in 2010.

In Europe, bio-transport fuels are dominated by biodiesel and bioethanol. Biodiesel is a clean-burning, diesel-like fuel produced from energy crops – typically rapeseed – that produce vegetable oil, tallow or cooking oils. In an unmodified modern diesel engine, it can be blended into mineral diesel at up to 20 per cent (B5 would be a 5 per cent blend and B20 a 20 per cent blend).

Biodiesel will have to make the largest contribution, because diesel has become so popular in the EU, accounting for 60 per cent of the region's transport fuel consumption. However, there are considerable variations from country to country. Germany has easily the highest per capita, both absolute and per capita consumption of biodiesel in the EU because of its favourable tax regime brought in by the Green/SPD coalition government. The country consumed 1.1m tonnes in 2004. It is also the largest consumer of mineral diesel, at 30m tonnes. The UK, at the bottom of the EU league, consumed just 0.3m tonnes of biodiesel in 2004.

The perceived benefits of biodiesel are reduced carbon emissions and – more significantly – reduced particulate pollution. Containing no sulphur or aromatics, biodiesel is far cleaner burning than ordinary diesel.

However, while many consumers are attracted by its green qualities, they are mostly unaware of the true cost of the fuel, which is obscured by the way tax is applied. In the UK, the duty derogation is 20 pence a litre below the rate levied on Ultra Low Sulphur Diesel (ULSD). Yet this has not been sufficient to offset the additional production cost of biodiesel – estimated to be twice that of conventional diesel.

Large-scale production will also be extremely costly in terms of land. It has been estimated that just to meet the 5.75 per cent target, over 9 per cent of the EU's agricultural area will be required. Rapeseed requires almost twice as much land as bioethanol-producing grain to produce the same quantity of fuel.

The cost of biodiesel could be cut considerably if it were produced from crops grown outside Europe. D1 Oils, whose stock on London's Alternative Investment Market has risen substantially this year, says it is developing huge Jatropha tree plantations in Africa, India and even Saudi Arabia, to create low-cost feedstock oil for biodiesel. However from an EU perspective of energy autarchy, this approach will do nothing to improve energy supply security.

Bioethanol is a petroleum additive and substitute that can be blended with gasoline or, as in Brazil, used as a 100 per cent fuel substitute in specially modified engines. An unmodified gasoline engine can run on up to 5 per cent bioethanol. It is an alcohol made from renewable sources such as corn, wheat or sugarcane. Grains are processed with enzymes and biologically fermented; the mash is then distilled to produce a fuel-grade alcohol.

For most of the 20th Century, researchers assumed that many of the sugars contained in biomass were not fermentable. This meant that as much as 25 per cent of the sugars in biomass were out of bounds as far as ethanol production was concerned. In the 1970s and 1980s, microbiologists discovered microbes that could ferment these sugars. Since then, genetic engineering has made further advances.

Globally, bioethanol outstrips the production of biodiesel by 20 to 1. Brazil is the world's biggest producer and consumer. In 2004, the country produced 15m tonnes of bioethanol – 40 per cent of the world total – exporting 2.4m tonnes to India and consuming the rest. The US is the next biggest producer and consumer.

Bioethanol production is large in Brazil mainly because of government incentives aimed at curbing the cost of importing oil. In addition, locally grown sugarcane is a cheap feedstock – half the price of the corn used in the US for the same purpose. With its enormous land resources, Brazilian ethanol could expand enormously as an export, especially if the US Government removed the $0.54 cent per gallon import tariff on Brazilian ethanol.

However, in Europe, as with biodiesel, land and feedstock costs are high. According to the European Commission, to produce 13m tonnes of bioethanol requires 5.1m hectares for grain and 0.6m hectares for sugar beet.

Producing bioethanol from sugar beet costs more than twice as much as producing it from sugarcane in Brazil and nearly 40 per cent more than from US corn. In addition, measured in megajoules (MJ) per litre, the energy density of ethanol is quite inferior to petrol. Ethanol only has 19.59 MJ/l whereas petrol has 50 per cent more than ethanol at 29.1 MJ/l. From a practical viewpoint, what this means is that to travel the same distance, a 100 per cent ethanol fuelled vehicle will need a 50 per cent bigger fuel tank than a petrol one. So even if bioethanol cost the same per litre as petrol, a driver will have to buy 50 per cent more in volume at the pump to make the same journey.

Nevertheless, there are optimists who believe that bioethanol has a great future and this is dependent on oil prices remaining high. The chief executive of Abengoa, a Spanish company with a bio-energy division, says bioethanol in Europe becomes competitive when the cost of a barrel of crude oil reaches $70, while, in America cheaper corn feedstocks mean it is competitive at $45–50 per barrel. Some would argue that Brazil has already saved large sums by not importing oil when the price is over $30 per barrel.

There is another way. Instead, the EU could try to reach the same policy goals by making good use of foreign technology and imported bio-feedstocks. For example, encourage investment in off-the-shelf hybrid electric technology – vehicles that run on a combination of 2 engines (an internal combustion engine and an electric motor). Fresh from the success in the USA of its Prius model, the Toyota Motor Company is now licensing out the technology to third party automobile manufacturers, an area still quite foreign to European manufacturers. This technology has far greater potential to deliver reduced emissions and cleaner air at a much lower cost to the public purse than vast EU subsidised programmes for homegrown biofuels. The hybrid engine numbers are impressive, too: up to 60 miles per gallon and virtually no CO_2 or particulate emissions during city driving under 30 mph. Of most interest, though, to the EU taxpayer is that Toyota has done this without a government subsidy and consumers are keen to buy them. Greater use of hybrid technology in the EU could be complemented by a level playing field in biofuels. This would make possible the importing of much cheaper sugarcane based ethanol from Brazil, the cheapest biofuel in the world.

But as long as farmers continue to be a powerful lobby in the corridors of Brussels, biofuels are shaping up to be the Common Agricultural Policy, Mark 2. And we will all be less financially secure for it.

Dan Lewis is Director of Environmental Affairs for the Stockholm Network.

North Korea: Five Days in the Workers' Paradise

by Roger Helmer, MEP



North Korea has been making the news recently. On 10 July, we heard that North Korea had agreed to return to the six-party talks on its nuclear programme, after a year's absence. And a few days later, South Korea offered to supply two million kilowatts annually to their neighbour if it gives up its nuclear ambitions.

With impeccable timing, I was actually in Pyongyang, North Korea, with an EU Parliament delegation, when these developments occurred. We had eleven MEPs and four staff members on the delegation, and when news of North Korea's return to the talks came through, someone suggested we should declare a victory and go home. In fact US Secretary of State, Condoleezza Rice, in the region at the same time, seems to have played a rather larger part than we did.

We had flown to Beijing on 8 July, where we met with EU diplomats and dined in the Great Hall of the People with the Vice President of the Foreign Affairs Committee of the People's Assembly and his colleagues. In the EU meeting, a range of views emerged about China's role on the sensitive negotiations with the North Korean regime. At one end of the scale was the view that China had done a commendable job in seeking to resolve North Korea's nuclear standoff. It had put on the line its reputation as an emerging superpower, with its commitment to peace and stability in the region. Certainly China is very concerned at the prospect of millions of starving refugees flooding across the Yalu River if North Korea were to go into meltdown.

But China is also keen to avoid seeing US forces on its border, and it may well have a vested interest in maintaining the status quo. On this analysis, it could well be happy to treat their neighbour as a sort of arm's-length *agent provocateur*, to keep the US off-balance. It could even be seen as colluding with the North Koreans in keeping the on-off talks going indefinitely.

I incline to the latter view. North Korea is enormously dependent on both food and energy (and a measure of diplomatic protection) from China. It seems to me that if China seriously chose to apply pressure, North Korea would fall into line. Against that view, it is argued that given the obstinate and truculent stance of the country's regime, Pyongyang might use such threats as an excuse to dig in further.

Certainly North Korea has been very successful in diverting attention from the nuclear programme itself, to the six party talks – so much so that many commentators rejoiced at the return to talks as a *"breakthrough"*, when it may be no more that a delaying tactic. We need results and action, not just interminable negotiation.

The dinner with our Chinese colleagues took place in an enormous room, decorated with vast semi-reliefs in wood and marble. Each must have been fully twelve feet tall by twenty wide. Overhead were massive chandeliers and myriad of other lights. But in terms of communication, the lavish event set the tone for the week. It was long on conventional courtesies and compliments, short on substance.

In particular, one of my colleagues asked a direct question on the existence of North Korea's claimed nuclear weapons. Did the Chinese believe that North Korea really had these bombs, or not? The enigmatic response amounted to, *"China is committed to peace and stability in the region."* Which means more or less: *"Either we don't know, or we're not saying."*

Next day we took an Air Koryo (NK) scheduled flight to Pyongyang, and ran straight into North Korea's wall of propaganda. The routine flight announcements were interspersed with praise for the Great Leader and criticism of the US

imperialists. *The Pyongyang Times*, a cheaply printed 8-page English language newspaper, was thick with paranoid ranting against the US.

The first two pages were devoted to a joint statement from the Workers' Party and the Central Military Commission, which I read through in a spirit of enquiry. It consisted of an interminable series of short exhortations, in a style curiously reminiscent of church liturgy or of the Psalms. One verse is enough as an example: *"Let us resolutely frustrate the US imperialists' heinous schemes to stamp out our socialist system, and achieve the final victory in the showdown with the US!"*

A few subsequent headlines give the flavour. *"Homage paid to Kim Il Sung." "Kim Il Sung's memoirs in Romania." "Kim Il Sung's idea and cause are immortal." "US evacuation drill an attempt at pre-emptive strike."* These predictable headlines were interspersed with others of a more environmental character: *"Arboretum gets denser,"* and *"More animals found in Lake Chon."*

On arrival in Pyongyang, our hosts greeted us warmly, lined us up for a group photo, and confiscated our mobile phones. These were not returned until we left five days later. Quite why they took them is a mystery, as there seems to be no GSM cover in North Korea in the first place.

The next day, Sunday, 10 June, we set off in a chartered Antonov, an aircraft of great age and uncertain provenance, to the northern airport of Samjiyon, and then by bus to Mount Paekdu, an enormous volcanic mountain with a vast crater lake, on the northern border of the country, close to China. This mountain is beloved by Koreans and a place of pilgrimage for the North Korean regime. Sadly, the weather at the summit was raining and misty, and we caught only glimpses of the lake.

The roads we took were in appalling condition, and the ride was bone crunching. I found myself wondering why I had ever voted against the EU's Vibration Directive! After an hour and a half on the road, a colleague pointed out that we had seen not a single powered vehicle coming the other way – fortunate, perhaps, as the road provided few opportunities for passing.

On the way back we visited the two wooden huts where *"the three Generals"* (including the Great Leader) had planned their resistance to the Japanese, and we were informed (with straight faces) that it was here in these huts that the Great Leader's son, Dear Leader Kim Jong-Il, had been born. Of course everyone knows he was born in Russia, but hey, if the Queen of England can have an official birthday, surely the Dear Leader can have an official birth*place?*

Close to the airport we visited the Samjiyon monument. A vast, paved rectangle as big as a football-pitch was surrounded by 20-foot high statues of peasants and soldiers in heroic poses. Behind those on the right was a double-size figure in white stone, with a flowing robe forming a backdrop to the smaller bronze figures. And dominating all in the centre, an enormous statue of the Great Leader, fully a hundred feet high, gazing wisely into the distance. As we watched, a coach load of soldiers and workers arrived in a bus. They stood respectfully while a young lady in army uniform, arm outstretched, made a rousing address, and then several went forward, heads bowed, and laid small bouquets at the Great Leader's feet.

They say there are 30,000 statues of the Great Leader in North Korea. Often they are surrounded by neatly manicured lawns and shrubs – about the only well-kept areas on public view. One such site in Hamhung, our next stop after Samjiyon, particularly struck me. The burnished statue of the Great Leader looked out across the road from his perfectly manicured lawn, proud and confident. On the other side of the road was a vast, derelict industrial site: roofs fallen in; girders stark against the sky; blackened areas suggesting fire damage. The contrast between the pride of the statue and the industrial dereliction was dramatic. I was reminded of the savage irony of Shelley's sonnet *Ozymandias*: *"Look on my works, ye mighty, and despair."*

The heroic statuary theme was everywhere. Every street corner and factory seemed to have a huge stone tablet with the words of the Great Leader inscribed, or an obelisk. On the way in to Pyongyang from the airport, we passed under the North Korea's *Arc de Triomphe* – bigger than the one in Paris. We also passed the so-called Cholima statue, of a winged horse leaping skywards, raised on a mighty stone plinth. Two figures ride the horse: a man, erect, arm stretched skyward holding an open book; and cowering behind him, a woman, incongruously clutching a sheaf of grain. Apparently the statue was supposed to commemorate one of North Korea's regular productivity drives. It seems it never occurred to them that the winged horse, like the country's productivity, is a mythical beast.

I was struck by the under-utilisation of almost everything in North Korea. Broad communist boulevards were almost devoid of traffic. Traffic lights were not operating (perhaps because of power cuts). Instead, petite uniformed girls, batons in hand, signalled and pirouetted in the middle of road junctions with military precision, a happy marriage of parade ground and ballet school, directing what little traffic came by.

Hotel occupancy seemed derisory, both in the forty-five storey Koryo hotel in Pyongyang (where I exited the lift on the 21st floor in total darkness and had difficulty finding either a light-switch, or my room), and in the guesthouse in Hamhung (where I found the bath in my room filled with water – only after I had emptied it did I realise that this was for flushing the toilet when mains water was off).

A bank of twenty computers at the Grand People's Study House (a splendid building housing a sort of cross between a library and a college) stood idle in the middle of the day. At a factory in Hamhung (the Honourable Soldiers' Plastic Daily Necessities Factory), a few desultory workers were cleaning static machinery with oily rags, while others were assembling a few plastic garments. Many workstations were empty. We were told apologetically that, *"many workers were on holiday."*

Still, there was no escape from the propaganda and the relentless, paranoid attacks on the US. The Hamhung factory sported a vast mural showing heroic soldiers in attack mode – plus a huge stone tablet celebrating the Great Leader's visit years before. Billboards showed Americans crushed underfoot. Even the postage stamps are aggressive. I have brought back several, including one showing an North Korean soldier bayoneting an American (see my web-site at www.rogerhelmer.com).

Yet these are the people who demand *"respect"* from the USA. They need to learn that respect has to be earned – and also that it is a two-way street.

North Korea's economy is in dire straights. For twenty years it has been in decline. Substantial investment from the Communist bloc after the Korean War built extensive heavy industry, and in the sixties, North Korea was somewhat ahead of the South Korea in *per capita* GDP. Now the North's is 6 per cent of the South in *per capita* terms, less than 3 per cent in absolute terms. Factories have ground to a halt with the absence of markets, inputs, skills or maintenance.

North Korea's infrastructure is falling apart. The roads are desperate. The national power grid, effective twenty years ago, has declined to 'regional islands' of electricity distribution (a problem for the power supplies promised by the South). Although new work is being done on gravity-fed irrigation systems, the distribution system for potable water is in a bad way. Both power and water supplies are intermittent.

Agriculture is another disaster area. The country can only produce around three quarters of the grain it needs. The other million tons is made up, if at all, by donors. The World Food Programme (WPF) plans to provide 500,000 tons this year, although funding is not confirmed.

Meantime repeated production campaigns, efforts at double and triple cropping, and excessive use of fertilisers (also provided by donors) has lead to soil exhaustion and declining yields. Attempts to cultivate marginal land on hillsides have lead to erosion. North Korea is living, almost literally, from hand-to-mouth and any downturn could lead to famine. And with North Korea's crumbling infrastructure, it is estimated that a third of the food the country manages to produce for itself is lost in storage and distribution.

This is not new. There was a disastrous famine in the late nineties, resulting from natural disasters. Credible estimates suggest that as many as three million people – one in eight of the population – may have died either of starvation, or of diseases related to malnutrition. The WFP report for 2004 shows that 37 per cent of children under six suffered from malnutrition and stunting – a slight improvement, as a result of WFP programmes, on 2002, but still disastrous in human and economic terms. On some measures, malnutrition amongst mothers (a key factor in child development) had worsened. I noticed that air hostesses on Korean Air (South Korea) were on average several inches taller than those on the North Korean airline.

Twenty years ago, North Korean agriculture was substantially mechanised. Now, we see few tractors. Most agriculture is done by hand, as it was 1,000 years ago. With few trucks, many goods are transported on handcarts, on bicycles, or on the backs of workers. We saw few draught animals and no horses. There is a danger of a substantial transfer of population from towns to the countryside, not as a matter of policy, but merely for subsistence as industrial jobs dry up.

The biggest employer is the army, estimated at 1.2 million. In relative terms, North Korea has the biggest army in the world, and the heaviest military spend as a percentage of GDP. Yet the army is heavily employed in building, infrastructure projects, and as needed, in agriculture. In a sense, it is a militarised government work force.

The human rights record here is one of the worst in the world. Citizens are totally cut off from the outside world. Radios and TVs are pre-tuned to government channels, with severe penalties for unlicensed sets, or for tampering with tuning.

The media are totally controlled by the state and primarily contain propaganda, not news. (The famine in the late nineties was never mentioned in the North Korean media). Any dissent from the party line is harshly treated, with offenders (and often their families) seized in the night and taken to forced-labour camps. Although several of these camps have been closed (reportedly because of food shortages), credible estimates suggest up to 200,000 could still be detained, without due process or appeal.

While information is hard to confirm, we saw reports from several reputable human rights organisations including Amnesty International and Human Rights Watch. These were based on extensive interviews with hundreds of escapees, and were depressingly consistent. Treatment in the camps is execrable, with arbitrary and extensive torture at the whim of the guards, punishment by confinement in cells no bigger than a washing machine, chronic malnutrition and overwork, and occasional summary execution.

The North Korean regime is based on a lie. Even the name of the country is a lie. They call it the Democratic People's Republic of Korea (DPRK). But it is clearly not democratic. It is arguably the least democratic country in the world. The term 'People's Republic' is tautological. My dictionary defines a Republic as a state where ultimate power resides with the people. In North Korea, the people have no power at all. They even lack the knowledge of the world that would enable them to exercise power if they had it. Not so much a republic, more a feudal despotism. And of course North Korea is not Korea. It is half the land area, a third of the population and 3 per cent of the economy.

But the biggest lie is the quasi-religious ideology of "*Juche*", or self-reliance. North Korea is dependent on donor nations for a quarter of its food, much of its energy, and for huge help with infrastructure, health and other projects from a range of NGOs and charities. It is perhaps the least independent country in the world. It is a beggar at the door of richer nations.

In Pyongyang we had a meeting with the North Korean Vice-Minister at the Ministry of Foreign Trade, Mr Kim Yong Jae. He blamed his country's dire economic performance on external factors – the collapse in 1989 of the 'socialist economies' in Europe, the US embargo, natural disasters. I asked him whether he should not (in the spirit of *Juche*) ask whether there were also internal causes, and I pointed out that down the years command economies have comprehensively failed to perform as well as market economies.

He replied that his country was entitled to determine its own political and economic system. Indeed it is. But donor countries will ask how long they are expected to continue subsidising self-inflicted failure and poverty.

What is North Korea's game plan as it re-enters the six-party talks? It seems to me that either they intend to spin out the talks indefinitely, using nuclear blackmail to help donor countries overcome their compassion fatigue. Or else they realise that the game is up, and are prepared to abandon their nuclear programmes, but want the maximum concessions in return. Which of these ideas is correct will determine the failure or success of the talks.

My colleague, Labour MEP Glyn Ford, hopes that North Korea may eventually adopt the Chinese or Vietnamese model, allowing substantial market reforms while maintaining the stability of the regime. I don't believe this is possible. The regime is too extreme, too controlling, to allow the necessary loosening without collapse. So they face a Catch-22. If they liberalise the economy, the regime will fail. If not, the economy will implode. They can sustain the regime, or sustain the economy, but not both. But if the economy implodes, the regime will fail anyway.

So either way, the Dear Leader is toast. The problem for the rest of the world will be picking up the pieces.

Roger Helmer is a Member of the European Parliament for the East Midlands and a member of the European Foundation's UK Advisory Board.

The Constitution is Dead, Long Live The Constitution

by Struan Stevenson, MEP

The cry on the lips of all full-blooded federalists in the European Parliament is "*long live the Constitution*". They cannot accept that it is dead, despite resounding 'No' votes from France and the Netherlands, two large, founding members of the European Community. On the contrary, the Europhiles grasp at the 'Yes' vote from tiny Luxembourg as a sign that there is still some life in the constitutional corpse. Now there are calls for the French and the Dutch to be forced to vote again, until they come up with the right result! Of course, the federalists argue, first there must be a pause for reflection. Europe must not rush into any more dangerous referendums, in case countries like Poland or, perish the thought, the UK, vote 'No'. They intend to put this pause to good use. Propaganda will be accelerated. Vast sums will be spent on promoting cuddly messages about the EU. The 500 million citizens of Europe will be lulled into a false sense of security.

Meanwhile the real agenda is being prepared. The European Commission has 600 new directives in the pipeline. More red tape. More bureaucracy. The federalists won't give up until the Constitution is in place and the financial perspective has been agreed. This is the budget, which will cover the £74 billion annual running costs of the enlarged EU until 2013. Tony Blair is currently chairing the UK's presidency of Europe for the next six months and has refused to agree to the budget unless massive reforms to the CAP are agreed. The Common Agricultural Policy swallows 44 per cent of the EU's entire annual budget, despite accounting for only 4 per cent of European jobs and around 2 per cent of GNP. France is strongly opposed to any CAP reforms because French farmers get a staggering 25 per cent of the entire CAP, or around £8 billion a year.

No one expects the budget impasse to be resolved during Tony Blair's EU presidency. However, on 1 January 2006, Austria takes over the EU's rotating chair and the Austrian Chancellor, Wolfgang Schüssel, has a cunning plan up his sleeve.

He wants Brussels to levy an EU tax. "*We need a fundamental reform that provides the EU with its own source of cash,*" he claims. So now the truth is out. The Constitution will strip us of the last vestiges of parliamentary sovereignty. Europe will have its own monetary system, central bank, European army, foreign embassies, President, Foreign Minister and Constitution. It will have become the United States of Europe. And, if the Austrian Chancellor gets his way, we will all have to pay a Euro tax as well.

The Constitution is well and truly dead. Long live the Constitution!

Struan Stevenson is a Conservative member of the European Parliament for Scotland. He is Vice-President of the ruling EPP-ED Group in the European Parliament.

European Tax Innovations

by Ivo Strejcek, MEP

When Margaret Thatcher once described European bureacrats, she transformed the famous quote *"I think therefore I am"* into "*I think therefore I do*." In the same spirit, Mr Kovacs, a Commissioner for taxation and customs, has presented an upgraded package of the Commission's tax proposals wrapped up in a new wording. Unfortunately for him, the problem still remains the same: grappling for more competencies at the expense of national parliaments and limiting space for less burdened free trade. Even justification of all EC attempts to harmonise taxes has hardly been changed: everything is in the name of a more competitive Europe, more jobs, fulfilling Lisbon criteria, building up of the internal market. But in reality?

Using the term *"ready to go"*, Mr Kovacs mentions the disputable proposal for a Common Consolidated Corporate Tax Base (CCCTB). He did not already have any particular need to defend the prosposal to harmonise the corporate tax base. With respect to a particularly remarkable need to *"avoid the risk of excessive fiscal competitivness among Member States,"* he encourages the harmonisation of the corporate tax base, which in turn will allegedly *"make enterprising elswhere in the EU more transparent, easier and simpler."*

I could dispute over *"efficiency"* of a common corporate tax base for real company costs or about the declared reduction of tax evasions. I would similarly not accept the idea that the EU has a right to set up direct taxes for its members. There is no right to do this, even in the case of *"finishing the internal market"*. What else might be hidden behind such a vague sentence? Setting up parameters for other types of taxation? Crucial criteria of social or pension systems?

The Commission´s proposal to enhance (unspecified) tax incentives for the research and development sector sounds harmless. It stresses Lisbon goals – a special mantra of current European political correctness. Unfortunately, however, I am not *"surfing on the same optimistic wave"*. I am almost sure that such a step will most likely lead to making the whole tax system more complicated and less transparent. Undoubtedly, it will ultimately make the scale for tax *"optimalisation"* even wider.

In my opinion the absolute crux of Kovacs's *"new innovative proposals"* must become his so-called *"voluntary contribution paid by each traveller at flight departure"*. Our no-tax-based contribution to specific European policies. Looking for non-standard extra funding is driven by an evident ever-deeper discrepancy between EU budget assets and costs. Nobody dares talk about a common European tax (aside from the Austrian Chancellor) and that is why ideas to put a tax of 1 cent on each litre of kerosine are not yet viable. Mr Kovacs knows that a *"contribution paid voluntarily"* can not be called a tax or even a quasi-tax and thus nobody can blame him for imposing a further tax burden on tax payers. And as for possible consequences on the air industry or customers? Oh, come on, who cares!

"All quiet and nothing changed on the Brussels front." Would they not be better examining the European budget and thoroughly inspecting where current financial benefits flow instead of meditating about innovative ways of taxation? Or, even better, letting people make a decision over their money by themselves.

Ivo Strejcek is an EPP-ED member of the European Parliament for the Czech Republic. His website is www.istrejcek.cz

The EU and Terrorism

by Robert Broadhurst

Following the atrocity of 7 July and subsequent malevolence in London, tackling terrorism was always going to shoot to the top of the domestic and European political agenda. As Islamist terrorism seems to be a truly transnational phenomenon, it might be seen as more appropriate for the EU to take action on this issue than, say, demanding the hyper-regulation of health supplements. Leaving aside normative questions of whether the EU should be involving itself in these matters, it definitely has been doing so, and certainly not only just since the events of this year.

The EU's involvement began with the 1992 Maastricht Treaty, which created European government. The most fundamental change Maastricht brought was to establish the three-pillared European Union, under which the EEC, renamed the EC, was the First Pillar. The Second Pillar was the newly created Common Foreign and Security Policy, and the Third Pillar was Co-operation in Justice and Home Affairs. Article K1 TEU set out the specific areas where co-operation under the Third Pillar could occur. Tackling terrorism was explicitly stated, although at the end of a long list of other fields of "*common interest*" such as asylum and immigration, international fraud and organised crime.

The Third Pillar was broadly intergovernmental in structure and process, although the Commission ensured it was "*fully associated*" with all the work that took place. At the top of the Pillar's organisation was the Council of Ministers for Justice and Home Affairs. Article K6 TEU provided the basis for legal instruments that could be issued under the Third Pillar, if there was unanimity within the Council. These were of three types: joint positions, joint actions and conventions. A joint position set out the EU's approach to a particular question, and joint actions were performed when EU-wide action was considered necessary to tackle an issue. By conventions the Treaty meant the creation of an international convention like those common in international law, to be signed by the Member States as they saw fit. This latter means of law-making is usually slow, and the problem with the other two kinds of legal instruments, from the perspective of those wanting an active EU in this area, was that there was actually dispute amongst Member States as to whether they were legally binding.

This situation was more or less resolved to the satisfaction of the integrationists in 1997, with the signing of the Treaty of Amsterdam. Although signed by a newly elected Blair, the Major Government (with David Davis as Minister for Europe and Malcom Rifkind as Secretary of State for Foreign Affairs) had played a large part in negotiating the Treaty. Amsterdam expanded Co-operation in Justice and Home Affairs to a more wide-ranging aim of establishing an Area of Freedom, Security and Justice. The Commission gained the right of legislative initiative in relation to all Third Pillar activities. Article 29 TEU replaced Article K1 TEU, and since being amended by the 2001 Treaty of Nice, contains a stronger commitment to "*preventing and combating*" terrorism, as well as other undesirable activities. The means listed for doing this are: closer co-operation between national police and customs authorities, both directly and through Europol; closer co-operation between national judicial authorities, including through Eurojust; and approximation of Member State rules on criminal matters. Amsterdam also replaced Article K6 TEU with Article 34 TEU. In doing so it abolished joint positions and joint actions as the main legal instruments to be issued under the Third Pillar, replacing them with decisions and framework decisions. To avoid any dispute, the Treaty explicitly states that these decisions are legally binding, although it also precludes them from having direct effect within the legal systems of Member States. Unanimity is still required within the Council to enact such instruments.

So what has the EU done with its new ambition and power? Maastricht had talked about setting up a European Police Office, and a convention doing just that was signed in 1995. The convention established Europol, which began its operations in 1999. Mirroring Article 29 TEU, one of the tasks of the police agency is to prevent and combat terrorism. The general means by which Europol is supposed to fulfil its objectives are listed as: facilitating the exchange of information between Member States; obtaining, collating and analysing information and intelligence; notifying the competent authorities in Member States of information pertinent to them and which they may find useful in criminal investigations; aiding investigations in Member States; and maintaining a computerised database of the information collected. Europol has been highly controversial from its inception. The fact its officers were granted criminal immunity covering everything they did on duty did not reassure those who saw it as evidence of a nascent European police state.

Aside from these concerns, indications that Europol has substantially contributed to preventing and combating terrorism are rather hard to find. Looking at its 2004 Annual Report, its predominant counter-terrorism activity seems to be compiling reports on threats posed by terrorists, largely based on intelligence gained from Member State authorities, although it does also claim to have gathered its own intelligence. Apparently, Europol supported 14 live investigations in 14 Member States in 2004, at the request of those states. Aims for growth in its activities seem to focus on developing the use of Joint Investigation Teams, whereby different national authorities are brought together under Europol's auspices for specific projects.

In June 1998, the Council of Ministers for Justice and Home Affairs enacted Joint Action 98/428/JHA (joint actions were still the legal instruments being used as Amsterdam did not take effect until 1999). This law established the European Judicial Network (EJN) in criminal matters. This was to help tackle organised crime, which in EU parlance includes terrorism. The EJN is composed of several judicial contact points in each Member State and in the Commission, who meet periodically. The job of a Member State contact is to pass information on to other Member State contacts about the rules of their judicial system, to share information that might be useful in a case occurring in another Member State, and to ensure courts within their own country are aware of the co-operation taking place and to assist them with it.

This might seem fairly benign in itself, but it was on the organisational basis of the EJN that the European Arrest Warrant (EAW) was established in June 2002, by Council

Framework Decision 2002/584/JHA. The EAW is designed to radically reduce the procedural barriers to extradition between Member States. It is extremely controversial, one of the main objections being to Article 2(2) of the Framework Decision, which says verification of the "*double criminality*" of the alleged offence is not to be undertaken by the court considering whether to extradite, as long as the offence is within one of the broad types of activity listed. Terrorism is one of those listed amongst a great deal of other things including such ambiguous offences as "*racism and xenophobia*". Article 2(2) means that it is no barrier to extradition that the offence the person is to be extradited for is not an offence in the country he or she is arrested.

In its short time the EAW has had a chequered history. On 18 July 2005 Germany's Federal Constitutional Court ruled that the EAW violated the German Constitution, which prohibits the extradition of German citizens. This was after Mamoun Darkazanli, who has dual German–Syrian nationality, was arrested in Germany under an EAW issued by Spain, as he is accused of helping to fund the 9/11 aeroplane hijackers. A Commission spokesman insisted that it was not the EAW itself the Court was invalidating, but the German implementing law. In other instances the EAW seems to have been of more use in helping bring terrorists and their supporters to justice. On 19 March 2005 Moutaz Almallah Dabas was arrested in the UK on an EAW issued by Spain; he is suspected of playing a part in the bomb attacks that took place in Madrid on 11 March 2004, which killed 191 people. As the German case highlighted, the EAW requires implementing legislation to be effective in national legal systems, and was implemented in the UK by the Extradition Act 2003. However, several Member States dragged their feet in its implementation, and Italy only gave it domestic effect in July 2005. This meant it was effective just in time for the arrest of Hussain Osman, who London's Metropolitan Police believe was the would-be bomber of a Tube train running from Shepherd's Bush station on 21 July 2005. It is thought he absconded from the UK on 26 July to travel to Italy, where he had lived when he was younger. He was arrested in Italy on 29 July under an EAW issued by the UK, and on 17 August the Italian court hearing his case approved his extradition. He intends, however, to appeal to the Italian Supreme Court. A Commission report in February 2005 said the EAW had been used in the extradition of 104 people since its introduction (by no means all in connection with terrorism), and that the average time taken before extradition had been reduced from nine months to 45 days.

In February 2002, the JHA Council of Ministers issued Decision 2002/187/JHA. This set up Eurojust, a body based in The Hague, like Europol. Eurojust is organised around a core college of prosecutors, judges and other legal experts seconded from the Member States. It is the lawyers' equivalent of Europol, and is supposed to work in a complementary manner to the EJN. It aims to give legal advice to investigators, prosecutors and judges in cases with cross-border aspects, deal with requests for information between Member State legal systems, and even encourage national authorities to open an investigation. Currently, however, Eurojust has no authority to carry out investigations or prosecutions itself – though the calls for an EU Public Prosecutor (as proposed by the European Constitution) show that the integrationists have this in mind. Eurojust's 2004 Annual Report says that a total of 381 cases were officially referred to the body in that year, and that the number of terrorism cases doubled from 2003. Article 3 of the December 2002 Council Decision 2003/48/JHA obliges national authorities that obtain information regarding listed terrorists to pass it on to both Eurojust and Europol. However, the substantive impact of Eurojust in bringing terrorists to account is not clear. The most apparent contribution the organisation made in 2004 was to hold a "*strategic meeting*" on the subject of terrorism, attended by members of its College and various national representatives.

After the Madrid bombings, the European Council deemed it necessary to appoint a new EU Counter-Terrorism Co-ordinator. Mr Gijs de Vries, a Dutchman and former MEP, reports to the Council on his work co-ordinating the EU's plans to counter terrorism and his attempts to get Member States to implement all the relevant EU provisions. He does not, however, have his own budget, agents or the right to propose legislation.

As well as these institutional innovations, laws have been passed which aim to tackle terrorism on several levels. These include the Money Laundering Directive of December 2001 (2001/97/EC), issued under the First Pillar's business regulation provisions. There had been a 1991 Directive on money laundering that specifically targeted the illegal drugs trade; the 2001 law extended that remit to all organised crime, including terrorism. The main requirements of the updated Directive are that all suspicious transactions must be reported to national authorities tasked with monitoring such illegal activity. The responsibility to report lies not only on financial institutions, but also on a wide range of other professionals who may be targeted by criminals for laundering purposes, such as managers of gambling outlets, legal professionals and estate agents.

December 2001, moreover, saw an initiative from the EU's Second Pillar, the Common Foreign and Security Policy. The kind of legal instrument in question was a common position, typically adopted by a unanimous Council of Ministers for External Relations. Under Article 15 TEU, Member States must ensure their national policies conform to common positions. Common Position 2001/931/CFSP provides for the freezing of assets both of those involved in terrorist acts and terrorist organisations themselves. Terrorist acts are defined as intentional acts which may seriously damage a country or international organisation by intimidating a population, exerting undue compulsion of various types, or by destabilising or destroying its fundamental political, constitutional, economic or social structures. An annex to the Common Position definitively lists both the individuals and organisations covered, and is updated fairly regularly by the Council. On the list are many Islamist groups, as well as ETA, IRA splinter organisations (though not the Provisional IRA itself) and some Loyalist groups, amongst others.

In June 2002 came the Framework Decision on Combating Terrorism (2002/475/JHA), enacted by the Council of Ministers for Justice and Home Affairs. This law is intended to ensure "*effective, proportionate and dissuasive*" criminal penalties for terrorist activity are in place across the EU. Under Article 5 of the Framework Decision, all terrorist offences are to be punishable by custodial sentences; for directing a terrorist group, the maximum penalty has to be at least 15 years in prison, and for participating in such a group, 8 years. The law also obliges Member States to define firmly where and whom they will exercise jurisdiction in relation to terrorist acts, and to co-operate if there are

potential conflicts of jurisdiction. Additionally, Member States must take all possible measures to provide appropriate support for the victims of terrorism.

On the 16 and 17 June 2005 the European Council met in Brussels. One result was that the Heads of State and Government set the EU counter-terrorism priorities for the latter half of the year. They included: strengthening information exchange between police and judicial authorities; developing a European Evidence Warrant; looking at measures to retain data on telecommunications traffic; drafting a strategy to combat radicalisation and terrorist recruitment; pursuing peer review between Member States regarding anti-terrorist arrangements; strengthening measures on freezing of terrorist funds and developing measures to prevent the financial abuse of charitable organisations by terrorist groups; developing civil protection capabilities, particularly medical resources for dealing with bioterrorism; and assisting third states in their counter-terrorism activities.

This checklist strikes the reader as one of considerable ambition and scope. It is also salient that many of the conclusions of the 13 July 2005 meeting of the JHA Council of Ministers, held in response to the London bombings, were actually little more than repetitions of what the European Council had said a month earlier. Still, the 13 July meeting did produce additional commitments from the ministers gathered, and was a little more precise about the issues the European Council had prioritised, although many details await finalisation. There will be a Framework Decision on the retention of telecommunications data by October 2005, which will probably require telephone and Internet companies to store information transfers for a year after they are sent. This is despite objections that such storage will be overly expensive, a disproportionate invasion of personal privacy, and of little practical use as the volume of information would prove overwhelming if targeted searches were attempted. In addition, the Council said that by September 2005 there will be a Decision on the exchange of information concerning terrorist offences, as well as a Third Money Laundering Directive.

Other measures will be enacted by December 2005. One of the most controversial listed is a Framework Decision on the European Evidence Warrant (EEW), which has already been through stages of drafting. The European Scrutiny Committee at Westminster has issued a damning report on the latest version of the proposal, which will basically allow authorities in a Member State where a crime has allegedly been committed to order the collection of evidence in another Member State. As with the EAW, the concept of dual criminality is abolished if the EEW pertains to one of the broad types of activity listed, which are similar to those contained in the EAW Framework Decision, or if the warrant does not require private premises to be searched. The situation could therefore arise where a British citizen's home is forcibly searched on the say-so of a foreign authority, in relation to an activity that is not even criminal in the UK. The draft EEW Framework Decision also enables the issuing authority to stipulate, to an extent, how the warrant is executed. To add to these concerns, there is not yet adequate clarity on which authorities will be able to issue an EEW, with the possibility still open that not only will courts be able to order such evidence collection, but police forces as well.

On top of the EEW, by the end of the year the Council wants a Regulation on wire transfers, which will almost certainly mean money sent by wire will have to be accompanied by proof of the sender's identity. A Code of Conduct to prevent the abuse of charities by terrorists will be drawn up, as well as an EU Strategy to prevent radicalisation and terrorist recruitment. There will be strengthening of common standards for aviation security and a push to get maritime and port security agreements fully implemented. Member States will agree to common standards for the security and issuance of ID cards – a commitment provoking consternation in the UK, where ID cards are not yet a reality and the Government faces determined opposition to its attempts to introduce them. Measures desired by the Council but without firm deadlines for completion include greater information exchange between national authorities, Europol and Eurojust; improved information sharing on lost and/or stolen explosives; and working to get agreement on the UN Comprehensive Convention against Terrorism.

This article has by no means been an exhaustive account of all the EU is doing to counter terrorism; rather it has sought to focus on some of the key developments in this area. The EU's capacity for legislating is infamous, and the dreadful events in the UK will spur it on, with some trying to use the terrorist threat to mute those who would object to further EU involvement. If anything, the UK Presidency will act as a force for greater EU action, as the integrationist sympathies of the Blair Government combine with its zeal in fighting terrorism, usually regardless of ancient British liberties. But criticism of these developments needs to be accompanied by alternatives for tackling today's international terrorism, for it is clearly a pressing problem. Alternatives that facilitate co-operation between states whilst preserving their national sovereignty would be possible, such as a purely international treaty setting objectives for signatories in combating terrorism and leaving decisions as to how to achieve these ends up to the party states. What is sure in all this is that a keen eye on proceedings is going to be vital for those wary of both Blair and the EU.

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… news in brief

Russia attacks ABC for Basayev interview

The Russian government has made a strong formal protest at the broadcast by the American TV channel, ABC, of an interview with Shamil Basayev, the mastermind of both the Nord-Ost theatre siege and the Beslan school massacre. The American chargé d'affaires in Moscow, Daniel Russel, was summoned to the Foreign Ministry in Moscow to hear the government's protest. A spokesman for the Foreign Ministry said that it was entirely inappropriate to give a platform to a terrorist with blood on his hands. The interview had been recorded at the end of June by a Russian journalist in Chechnya. The Russian government has been hunting Basayev for years and has put a $10 million reward on his head. In the interview, Basayev said that he would stick to his course and that tragedies like that at Beslan would be repeated for as long as the *"genocide"* against the Chechen people continued. The Russian President, Vladimir Putin, has repeatedly accused the West of double standards in calling for a political solution to the Chechen question: Basayev, he says, is linked to Al Qaida. [*Handelsblatt*, 29th July 2005]

European Reform Forum

First Plenary Session

Oral Evidence on Democracy and Accountability in the European Union Since 1945

Thursday, 14 July 2005

Committee Room 10, House of Commons, Westminster

The European Reform Forum has been established by a cross-section of senior parliamentarians, economists, businessmen and commentators and is chaired by the former Home Secretary, the Rt Hon. the Lord Waddington, GCVO, DL, QC. It has been created to conduct an evidence-based inquiry in public into the operation of the existing EU Treaties. It will do this in the manner of a parliamentary select committee, cross-examining witnesses from (amongst others) politicians, businessmen, economists, lawyers, historians, academics and administrators from all sides of the debate in the UK, in Europe and internationally. The remit of the ERF's inquiry can be summarised as examining the case for maintaining the existing EU Treaties, and to test the Prime Minister Tony Blair's assertion that it is possible to promote competitiveness in the UK and Europe while also supporting the EU 'social model' and not renegotiating the Treaties. A full report and conclusions will be issued before the close of the UK Presidency of the EU in December this year. The Forum is seeking the submission of papers and evidence from all interested bodies and individuals. Please call 020 7706 9291 or email erf@e-f.org.uk for more information or to submit a paper.

The Plenary Session commenced at 11:00 am.

Rt Hon. Lord Waddington, GCVO, DL, QC (Chairman) (Former Home Secretary)[1]: Good morning, ladies and gentlemen. This is our first Plenary Session. We have received a big response from people from all sides of the debate who are willing to give evidence. We hope to hear four witnesses today on the theme 'Democracy and Accountability in the European Union'. We shall, of course, break at 12 noon for the two minutes' silence.

We are fortunate to have Frederick Forsyth with us today. I welcome him and thank him so much for being here. It is entirely up to you, Mr Forsyth, but I suggest that you make a short opening statement, after which I shall ask members of the team to put questions to you.

Frederick Forsyth, CBE (Witness)[2]: In essence, I take the view that democracy is but a word. It is an over-used word, a misused word, a word that applies, for example, to the People's Democratic Republic of Korea – which is North, not South – the Democratic Republic of the Congo, which is a charnel house, and my own bailiwick, the German Democratic Republic, which is a Soviet satellite. In other words, if democracy is to be anything more than a debauched word in our language – and, indeed, in almost every other language on the planet – there are certain criteria that must be fulfilled. Certain preconditions have to be met and, if they are not met, we are just using an empty and meaningless word.

First, in the paper that I have submitted, I have divided our requirements into five. There is an attitude between governors and the governed. If the governors were treating the governed with an element of respect and if the governed were treating their governors with an element of trust, we would have a healthy society. In my view, Europe is heading down the reverse direction, with mutual antagonism, thinly veiled dislike and from the street towards the palace there is deep distrust and the conviction that those who govern are mendacious and tricky.

My second requirement is that of aim. What is the aim of democratic, good government? It is the maximisation of the security, prosperity, freedom and contentment of the people – neither more nor less. Such matters are diminishing within the apparently about-to-be-born nation state called the Republic of Europe. Those things are not increasing as the years go by.

For democratic government to truly exist, those within it must be elected by fair election, universal adult suffrage. There must be equal funding between competing parties, a level playing field and the election must be supervised rule by all parties. During the period of government, there must be constant scrutiny. There is talk of opposition and accountability, but neither will be volunteered. That is too much to ask. Those in opposition really wish their doings to be gone over, so scrutiny is vital. Scrutiny comes from opposition and consensus politics cannot lead eventually to a functioning democratic state. It can lead only to what I call a carve-up.

The last requirement is the sanction of removal from office. Short of impeachment, the ultimate sanction in office is the removal from office and that, too, must be a democratic process carried out in a free and fair manner so that those dissatisfied with

the performance of those who rule over them may require them to depart. In each of these – democratic election, constant scrutiny and required departure for those who fail, and fail badly – the generic word 'Brussels', meaning not the capital of the Belgians, but the governmental construct that has been erected for 47 years, is failing in all areas.

Rt Hon. Lord Waddington: Thank you very much indeed. It would be appropriate for Lord Weatherill to ask the first question, having been one of our most important guardians in parliamentary democracy as a former Speaker.

Rt Hon. Lord Weatherill, DL (Former Speaker of the House of Commons): Frederick Forsyth answered a set of questions in his statement. I am concerned with sovereignty. I was dubious about that in 1973, but Ted Heath then said that, if we do not join Europe, we would be about as important in years to come as Portugal. Was that true or false?

Frederick Forsyth: I think that the noble Lord misunderstands the meaning of power. In a non-war situation, real power comes only from two sources: political power, which essentially is influence, and economic power. Political power will derive from two sources. If a country were immensely prosperous and wealthy, it would have influence. It matters not whether a country is in the European Union, the European free trade area, the North American free trade area or the Association of South East Asian Nations; if it is economically powerful, it will have influence that no one could take away.

As for the military aspect, if a country has a formidable armed force at its disposal, it will have influence. That power will become the influence that it can then use in debate in conclave with others throughout the world.

However, let us suppose that a country were economically weak and failing and five or six million of its people were out of work. If its economy were diminishing each year, its growth was a negative factor and its armed forces could not knock the skin off a rice pudding, it could be in every league or club that it wished to be in, it would still be not only Portugal, but the Algarve.

Rt Hon. Lord Weatherill: You are saying that Ted Heath was right in 1973, but not now.

Frederick Forsyth: No. Ted Heath was wrong then because he presumed that, although we were then the sick man of Europe economically – a title that we received in this country – there would never be any improvement and amelioration was beyond us. In a sense, we were finished. He took the view that this country was finished. We know now that it is not a finished country. It was not then a finished country; it was a country with considerable problems, which over the 1980s brought great pain and suffering to many people, nevertheless that was assuaged and nearly abolished. He underestimated the power of our armed forces and the respect that they generate in various parts of the world.

As one who travels the world, I have heard many times about the respect that is given to our armed forces by the armed forces of other countries, as well as by politicians in other countries. I think that Ted Heath underestimated his own country and felt that anything less than absorption in what he thought would be the future would leave us looking, as he said, like Portugal. In fact, he was entirely wrong. It is the entity based on the capital city of Brussels that is now the sick man of Europe. We are the Olympic champions of Europe, as we have just proved.

Ruth Lea (Director of the Centre for Policy Studies): I wish to continue with the theme of sovereignty and how it should be allocated between the European Union, on the one hand, and the Member States, on the other. I ask you to indulge in a little blue skies thinking. I have a feeling where your answer will come from, nevertheless I shall be delighted to hear it from your own lips.

What should be the allocation of powers or sovereignty – however you want to describe it – between the Member States and the European Union and its institutions? Do you consider that there is a case for looking forward and saying that some countries might want to go for further integration into a centralised European Union, while other countries might validly say, "*We don't want that sort of relationship with Europe. We want to retain or repatriate more powers back to the Member States*"?

Frederick Forsyth: Again, I refer to the concept of democracy and accountability. As Ruth Lea put the question in terms of sovereignty, I am in favour of the creation, not of a supreme court – as our present government wish – but of a constitutional court. I wrote a paper on the subject once and suggested that of, say, 15 Law Lords, five should be drawn by lot for a constitutional court, which would have the task – and one task only – of considering petitions. Petitions would come on one basis and one basis only. Is the measure presently before the House a constitution-changing measure or not? If it is not, it is bread-and-butter politics and it goes through in the usual manner. If it is, it would need a higher level of scrutiny, as indeed would a change in the American Constitution. It would need two-thirds of each House to agree it before it became law.

If we had such a procedure, it would be impossible for a youthful and ruthless Prime Minister with a large majority in the House to use that majority to drive a coach-and-horses through the finest Constitution in Europe. Had it not been possible to do that, I do not believe that those competences that have given away – I mean 'given away', because there has been no quid pro quo – would never have been given away because the people might have said, "*No, we are not giving our competences away. We will control our economics; we will control our fisheries and we will not permit anyone to tell us how our laws should be administered in this country. We have courts and judges for that purpose and we do not need to bow to a rather motley amalgam of gentlemen in red cloaks in Luxembourg.*" Had we had that chance, we would have made that choice. We did not have that chance, simply because the parliamentary system as it presently operates gives to any Prime Minister with a commanding majority the right virtually to destroy the country.

Ruth Lea: I get the impression that you are saying that, by choice, you would like to see the United Kingdom, in particular – and some other countries in the European Union – have a great deal more control over its powers than it does now.

Frederick Forsyth: If we have a situation in which each and every member of the Union – 25 of them – can cherry pick what it wants to abide by and what it does not want to abide by, we should be honest with our people and say that we are going back to what we thought we joined, which was a free trade area. I am not against a free trade area. The United Kingdom Independence Party also has no trouble with a free trade area. However, that is not what we are now involved in, so if we are ever to exercise the free will of the British people, we must assist them to be permitted to express themselves.

We have just been denied a chance of voting. I think that the vote would have been 80 per cent to 20 per cent against in respect of the Constitution. I think that we would have voted 70 per cent to 30 per cent against the abolition of the pound. We will probably never have a chance to vote. I want us to be given a chance to vote for root-and-branch reform of the European Union, as it is presently constituted, or at least our relationship with it. If the other 24 nations in Europe wish to dance on a head of a pin, I am a tolerant fellow.

Ruth Lea: It is live and let live.

Frederick Forsyth: We should be given as a people – the British people – a choice. We have not been given that choice for 35 years and we were duped when apparently we were given it in 1975.

Ruth Lea: So it is live and let live.

Frederick Forsyth: It is live and let live across the Channel. In our case, I want to see substantial repatriation of national competences to national government. If the Irish would like that, fine let them say so. If the French do not want it, let them say so. People should be entitled to say so. We have reached a point in respect of bifurcation and we cannot go much down the present road without reaching a collision point.

Rt Hon. Lord Waddington: As Chairman, I wish to exercise my privilege. What do you have in mind in respect of root-and-branch reform? Where would you start? When you said that democracy implies scrutiny, you seemed to be raising the whole question whether we can have proper scrutiny if we have an absolutely appalling volume coming out of the Commission. An enormous amount of stuff – good and bad – comes out of the Commission because it is the sole initiator of legislation. Only the Commission can initiate legislation to repeal legislation. Well, if that were not a recipe for an endless stream of useless legislation, I cannot think of one. What sort of root-and-branch reform do you have in mind? Would you start with the Constitution of the Commission, which pretends to be the government of Europe, without having a democratic mandate?

Frederick Forsyth: That is true. That was the way in which it was devised. That was the way – certainly back in 1972 – when the then Prime Minister, Mr Edward Heath, agreed to concede all the powers that were necessary. I do not think that he revealed to us quite what he was conceding. I do not believe that that happened in 1975 either.

I draw my inspiration from Alexander the Great. People may remember that he was confronted by a knot so complex that it could not be undone. It had defeated centuries of sages and monarchs, so he asked for a sword and, in one cut, he swept through the whole damn thing and then walked away. We do not have such a person in office in this country, but we need our Alexander. I think that the Gordian knot is, in fact, the Common Agricultural Policy. If you decide not to proceed to fund the Common Agricultural Policy, within six months the entire European Union will go back to first principles and must renegotiate with you and, indeed, with itself.

Roger Brooke (Former Chairman of the Audit Commission): I am curious. We have often felt in the United Kingdom that we have the strongest, most vigorous and articulate Eurorealist group in the European Union. You travel a lot throughout the European Union. Many of us are surprised at the result of the referendum in France and even more surprised at the Netherlands. It shows that there is a more widespread dislike of what Europe has become than we might have thought, from listening to the ruling classes and the media. Do you think that that is right or do you think that there is growing worry about the way in which the European Union is going among the educated people of Europe?

Frederick Forsyth: In the street, there is pure bigotry. There are uneducated minds, but that is not the point. If we want democracy, we cannot say, *"I don't think you are bright enough, dear boy. Me and Charlie were at Oxford together, so we are fit to vote."* If we were going down that road, we would be into oligarchy.

As for the two votes – the *"Non"* from France and the *"Nee"* from the Netherlands – it was said that the French, for example, were voting against the Anglo–Saxon economic model or the entry of Turkey. The Dutch were supposed to be voting against Muslim fundamentalism in their society. There were indeed different reasons why the two populations voted how they voted. However, there was a common leitmotif: both of them were deeply disenchanted with the Brussels-based government.

It can be said, *"Oh, well, there has been only two votes."* It is interesting that only Spain voted *"Si"* in a referendum. The other 10 have all been in-house, which means that the issue has been presented only to Members of Parliaments who were chosen by closed lists and therefore have already been through the fire of complete obedience and orthodoxy. That was before they were elected. They would not have been given a winnable seat unless they were, what the Germans used to call *Partei linien treu*, which means party line true. It is one of those ghastly German words that goes on forever. If a person were party line true in most countries in Western Europe, he would probably get a winnable constituency, but if the person were not party line true, he would not.

If a referendum were held in Germany, people would be stunned. Even the obedient Germans are sick and tired of how they are being treated. Such matters are dealt with in the vox pop, public opinion polls. The most famous poll – it has nothing to do with me – is FORSY, which says that 60 per cent of Germans want their Deutschmark back. By contrast, 0 per cent of the MPs want the deutschemark back. Something has gone wrong somewhere, and they know it. It is called a democracy gap and it is becoming wider and wider.

The Hon. Bernard Jenkin, MP (Shadow Minister for Energy and former Shadow Defence Secretary): What should be the role of national parliaments? Should the ultimate sovereignty lie with the nation states or with the EU, or where?

Frederick Forsyth: I have never wavered. The day of the nation state is not done. I therefore disagree fundamentally with the post-modernist deconstructionists in Brussels that the day of the nation state has passed, that there is no need for it and that we now need regional groupings. That is nonsense. The nation state is the home and guarantor of parliamentary democracy. It has not reached the stage where we wish to participate in pan-European presidential or parliamentary elections.

The state has a place. Within its own borders, it must be supreme. Elected people have the right to govern the people in all material matters to their benefit, within the borders. Outside the borders, of course there will be foreign policy, treaties, alliances, collaborations and co-operations and there may even be quarrels. Inside the borders, parliament – if elected properly – should be supreme and the courts should be the supreme jurisprudential authority within the nation state. That has been given away without our consent.

Bernard Jenkin, MP: Even people who regard themselves as Eurosceptic say that matters such as environmental pollution and global trade know no national boundaries and therefore need to be dealt with on a supranational basis.

Frederick Forsyth: It is a matter of volition or coercion. It is sometimes said that we cannot co-operate with people unless we are forced to. That is rubbish. I remember the new nations, Britain and France, got together and built Concorde – one of the greatest engineering miracles of the age. Other nations got together and built the Airbus. Others got together and built Tornadoes and Jaguars. In other words, international co-operation on a four, five or six-nation mutual basis is not only perfectly normal, it is desirable, and we have rarely been found wanting.

Why do we need coercion? Why do we need to be forced? Why do we need to be told, "*You will co-operate. You will do this*"? If anyone said to us, "*Please don't create acid rain because it is destroying our forests in Sweden*", we would say, "*You are absolutely right. Of course, we will do everything that we can to stop acid rain.*" We do not need to be flogged.

Sir Oliver Wright, GCMG, GCVO, DSC (Former Ambassador to the United States of America and Germany): I wish to clarify one point. I agree with you entirely about the motivation for our joining the Community. When it happened there was despair about our poor economic performance. It is not quite true, however, that, when the matter was put to the referendum, the British people thought that they were voting only for a Common Market. They may have thought that, but the referendum asked them to approve the results of the renegotiation and, alas, that included the Common Agricultural Policy, and sneaked through at the last moment was a Common Fisheries Policy.

To go back to basics, we must find a way to return to a common market. What do we do about the Common Agricultural Policy and the Common Fisheries Policy, both of which have been disastrous for Britain, but for which our people voted in the referendum?

Frederick Forsyth: With due respect to yourself, Sir Oliver, and your enormous erudition and experience, I wish to say that the fisheries policy was Stalinist. It was negotiated or conceded by Mr Heath with a 15-year retard. Mr William Waldegrave, who was then Agriculture Secretary, went to negotiate, as he thought, but he was given a *fait accompli*. It was signed 15 years ago and it becomes operative next January. He came back ashen. I do not think that Mr Harold Wilson negotiated the agricultural policy. That was in the original. I recall Sir Con O'Neill –

Sir Oliver Wright: He just renegotiated what Ted Heath had negotiated: swallow the lot and swallow it now.

Frederick Forsyth: I think that that was Sir Con O'Neill's report of what he was told by Heath – "*Swallow the lot and swallow it now.*" I have another anecdote: Couve de Murville went to Georges Pompidou, who was then the first post-Gaullean President, and said, "*How do you want Britain?*" The reply was, "*Je la veux neu*" – I want her naked – and that is how he got us. We have been naked ever since.

The crux of the European Union is the Common Agricultural Policy, and that could not have been excluded from Mr Wilson's negotiations with Couve de Murville. In fact, it was very much part and parcel of it. It thought that the so-called renegotiations by Mr Wilson were a bit of a fig leaf. They involved, for example, tinned Australian rabbit. A major concession was accorded to us in that form, but I do not think that he really changed the basic structure that we conceded in 1972.

The Lord Rees-Mogg (Former Editor of *The Times*): I agree with that, having been there. I wish to go back to root-and-branch reform. There seem to be several ways in which to achieve that. One would be a new constitution; another would be a renegotiation of the existing Treaties; a third would be a free trade area either in the whole of Europe or in those parts of Europe that only want it back and the fourth way in which to achieve it would be a dissolution of the present European system. Which of those four ways comes nearer to the approach that you consider desirable?

Frederick Forsyth: The fourth approach. However, such an objective would not happen spontaneously, whatever Mr Blair says about his six-month presidency, the budget and so on. There are too many vested interests to stop the juggernaut rolling. The only way in which to knock it off the road is what could be called the nuclear option. One of the nation states must take action that is so traumatic that the others will be forced to go back to first principles and ask, "*What are we here for? What are we doing here?*" I do not believe that, of the five possible nations, Britain would consider doing that. France and Germany would not do it. By nuclear option, I mean the repudiation of the Common Agricultural Policy. That is the crux.

It is ludicrous, given that nearly 500 million people are in the Union today, presumably pursuing some 500 professions, that 40 per cent of the entire budget goes to 4 per cent of people who practise one profession. Why not engineering? Why not nuclear research? Why not a whole range of different professions? The answer is because the CAP was written at France's dictation in the mid-1950s for a specific purpose: to ensure that that grossly inefficient voting force in France should be permanently subsidised, but not by the French taxpayer. That is what it amounts to this day; £700 billion of other people's money goes to keep them quiet so they do not storm the vestibule of Mr Chirac or his successor at the Elysée.

If such a situation were contested by a major power, it would collapse. If it collapsed, the Union would not so much collapse, but would have to go back to first principles and discuss again what are we doing here. What are we going for? What is our aim? What do we wish to achieve? How will we achieve that? If the bulk of the people in Europe decide that the way in which things are happening is not where we want to go, there will be no question of fast lanes, short lanes, little lanes and slow lanes. If you are travelling on a motorway in the wrong direction, you will have an accident.

Rt Hon. Lord Weatherill: I refer to practical politics. How do we get out of this? When I was Mr Speaker, Nigel Spearing said to me, "*Mr Speaker, you must stop Maastricht. You must tell the Prime Minister that we are signing away our freedoms.*" I explained that I could not do so, but I arranged for him to see the Prime Minister and Margaret Thatcher said that she would not allow it to happen. The truth is that we have signed the Treaty. How do we get out of a treaty? Can that be done by a parliamentary decision, or would it be better to push for a referendum?

Frederick Forsyth: There are three ways in which to take such action. We can unilaterally decide to cease funding; we can unilaterally repeal the Treaty of Accession to the Treaty of Rome; or we can tell the rest of our partners that, in exactly 12 months, we

will offer our people a referendum on continued membership and we will be unable to recommend unless, by that time, there is root-and-branch reform on the table along certain lines – and we give them the lines. Each of those three choices will take the sort of courage that is normally rewarded by the Victoria Cross. I hope to see such potential in our present government.

Rt Hon. Lord Waddington: I must keep to the timetable. We are very grateful to you, Mr Forsyth, for having come along this morning and for giving us your views on this important subject. Thank you very much.

Lord Wallace, we are very grateful to you for coming along this morning. We have had a gratifying response to our requests for witnesses to come forward. You will be as pleased as we are that we have people with every sort of view on such issues. We are most anxious to hear your views. If you wish, you can make a short opening statement after which we shall put some questions to you and then develop the argument that way.

Professor The Lord Wallace of Saltaire (Witness)[3]: I shall summarise my short note, which concerns a broad and long-term problem.

The original European Communities were designed in a different period of democracy and accountability. In the 1940s and 1950s in all countries, including our own, officials, such as Lord Plowden and other characters, were regarded with deep respect as servants of the state. Democracy was a matter of mass parties that voted as a matter of class identification, at least expecting to hold the government to account. We talked about officials as technocrats. We talk about the same people today as bureaucrats, which means something very different.

The original European Communities were designed as technical bodies to be run by those dignified and respected experts on behalf of the peoples of Europe who, of course, would not understand the details. It was assumed and hoped that the enlightened self-interests that those people would represent would produce results that would lead to what people used to call 'a permissive consensus' – passive acceptance of what they had done.

That was fine for that period. But we are now at a time when mass parties have disappeared and with them have gone mass politics. The popular mood in most democratic countries is deep suspicion of all elites. The European Union catches that, as does the United Nations. Let us consider attitudes to Washington in the United States. In recent years, each successful candidate for the presidency has run with the idea that officials in Washington are betraying popular trust. So we have a common problem.

In the 1940s, 1950s and 1960s, there were autonomous national economies and countries traded with each other. At the time, a small number of people moved across national borders. We have now gone through a communications revolution and an economic transformation, and we now live in what can be called a globalised world. That has led to a demand for a much higher degree of international regulation and entirely new developments such as police co-operation, intelligence co-operation and co-operation in respect of border controls across boundaries. That happens not only in Europe, although the European Union is the most intensive such development, but across the Atlantic and on a global level.

So we have a demand for more remote governance, regulation above the level of the nation state, in a situation in which, by and large, the public want politics to be even more local than they did two generations ago. They mistrust national governments, especially when those governments are negotiating matters, as they see it, behind closed doors with international organisations. The European Union is in real difficulty, but that applies to all international organisations. We are discussing one of the most difficult issues for democracy, because there are pressures in different directions.

The European Union and its member governments recognised the problem from the middle-1970s onwards and have tried to bridge the gap in what they call the democracy deficit – the agreement on the direct election of the European Parliament, for example.

The original European Consultative Assembly had not been thought of as very important. It tried to bridge the gap between ordinary citizens and Europe by producing symbols, by giving people who were resident in other countries the right to vote in local elections, and by pushing the agenda of making people more secure by having common border controls and police co-operation. That, of course, appeals most to people who have houses in other countries and have careers that work across national boundaries, who are the minority of successful people. Such an approach does not appeal to the majority of those who live their lives within a country, a region or a city. So these measures do not bridged the gap.

I hope that the Forum will investigate whether we can do more through national parliaments. So far, the evidence is not good. At the time of the Maastricht Treaty and the European Union on the French initiative, there was an assize of members of national parliaments who met in Rome. I have talked to one or two people who took part in that and they regarded it has having been quite disastrous.

Bill Cash, MP (Former Shadow Attorney General and Shadow Secretary of State for Constitutional Affairs): I was there!

Professor The Lord Wallace: I have attended several meetings of COSAC, the Conference of National Scrutiny Committees of National Parliaments, and I must say that one eats extremely well, but the quality of the discussions is not up to the quality of the meals. We may have forgotten, but if a person is elected to a national parliament, the voters do not really want that person to spend time attending international conferences. The local radio station or newspaper will start to attack that person if he or she is seen to be spending too much time in Brussels, Lausanne or wherever. There are all sorts of inhibitions about national parliaments becoming more engaged.

Some useful things can be done. For example, the Council Secretariat has begun to invite the Chairs of national Foreign Affairs Committees and national Defence Committees to briefings. Bringing together members of Committees that deal with specific subjects at national parliaments may be a helpful way forward, but we should not kid ourselves that there is an easy answer to linking national parliaments more into international regulation because, as I hope the Members of Parliament who are present today would agree, voters want them to talk about the local hospitals and schools, not about the European Services Directive or regulation.

Rt Hon. Lord Waddington: Yes, but in Europe, they try to do too much, which makes everything so much more difficult. How can we have proper scrutiny, if the volume of legislation is so enormously great? Perhaps we are over-complicating matters. If we could just cut down the scale

of the operation, many of the problems that you have identified would begin to melt away, would they not? If subsidiarity became a reality, so that the Union dealt only with important matters that everyone recognises as having a supranational flavour, we would get somewhere, would we not?

Professor The Lord Wallace: Yes, we would. I regret that the European Convention did not go far enough into the whole subsidiarity issue and did not open the box that it was supposed to open, which was marked 'returning some competences from the Union back to national governments'.

An extremely good test that was not used was to discover which things in the developed federation of the United States are left to state level or below – in which case it is clearly idiotic to suggest that they should be regulated in Brussels. Members of the Forum may remember the attempted regulation on harmonising the level of alcohol in the blood stream before a person's driving licence was withdrawn. For all I know, South Carolina and North Carolina might have different views on that, so I do not see why Belgium and Luxembourg should not have different views on it either.

I agree with Lord Waddington that we need a different agenda. Whether or not we will find it easier to explain to the public that Europe really needs a shared police database and a common budget with more spent on foreign policy and defence – a more logical basis for arguing, "*These are things that we cannot do on our own*" – and whether we will still discover that there are pockets of resistance to that, we ought to try.

Martin Howe, QC (European lawyer and author): You have raised an interesting thesis of the pull between a demand for more regulation at supranational – indeed, global – level on one hand and the democratic desire to have more local control, and the tension between those things.

Certain matters are regulated at global level, and that happens by consensus. The World Trade Organisation and the general agreement on tariffs and trade rounds, and so on, have achieved effectively global free-trading rules by a process of consensus and negotiation. The European Union is different to this global process, because it does not operate by consensus but by majority voting over most of its areas of control, and has a system of law that penetrates inside the Member States. In that respect it differs from other, more global, systems of regulation. Can we square the circle or resolve the tension in democracy while we have a system of majority voting and penetrative law, or is that incompatible with a solution in the dilemma that you have identified?

Professor The Lord Wallace: I am not sure that I accept that the decision-making process within the WTO is superior to that within the European Union. Pretty odd things go on in the WTO, even though its dispute procedure is supposed to have the backing of international law.

We have to be aware of what we see happening in the United States at the present moment, which is a groundswell of revolt against international law as such and the idea that international law could, under any circumstances, override domestic law. Actually, international law, including WTO dispute settlement procedures, is intended to override domestic law; in this sense the European Union is not totally different from some other forms of regulation – it is just more immediate and goes into greater details.

The revolt within the United States against the UN and international law as such is driven by the view that says, "*We expect others to obey the rules, but we are different.*" This is part of the problem that we all face. If the public is asked what they want at international level, they will say that they want the right to travel freely themselves but have other people stopped at national frontiers. That is roughly the same as the other dilemma with which we are all familiar: all voters want better public services, but want their taxes to be cut. These are incompatible demands, but it is difficult to explain why you cannot have one without the other.

Bill Cash, MP: A great welcome to you, Professor Wallace.

I am interested in question No. 4: what limits, if any, would you impose on EU competencies legislation in the Court of Justice? You have just mentioned the relationship between international law and public choice in the constituency of a Member State, by implication. An interesting development on the food supplements directive has happened in the past 48 hours. We know that there is a million-name petition, which probably represents an even greater number of people and we know that the political parties in the House of Commons are all deeply concerned about it in varying degrees. The Prime Minister said on 26 May that he was against it. I suspect that he was advised that if the Advocate-General gave a ruling he would be on safe ground. In fact, it has turned out that the opposite is the case.

You may or may not be familiar with the Sovereignty of Parliament (European Communities) Bill, something I produced a year ago, in which I said that it was essential that we did not pass legislation – notwithstanding the European Communities Act 1972 – and then, under doctrines that are still applicable, find that it would be obligatory upon our judges to give effect to the latest inconsistent law.

Alan Dashwood, among others, giving evidence to the European Scrutiny Committee, endorsed the principle that that was good law. The reason why I am now saying that there is such an immediate problem is that I introduced a Bill yesterday, which is on the Order Paper today, that will prescribe matters in relation to the Food Supplements Directive, notwithstanding the provisions of the 1972 Act. By doing so I present the House of Commons with a question, which I should like you to answer from the House of Lords. Do you agree that we should be able to disallow and disapply European law and the ruling of the Court of Justice, for example, in that instance, and do you agree that that can or should be done in general?

Professor The Lord Wallace: I used to say, when I was involved in transatlantic conferences 30 years ago and Americans would dismiss the relevance of the European Community, that EC law in the middle 1960s ran as effectively throughout the European Community as federal law did in Alabama and Mississippi. Federal law was not applied in full in a number of states within your and my lifetime. We all lived in ambiguous circumstances.

On the Food Supplements Directive, I encourage you to look at the subsidiarity issue. Clearly, part of the structural problem with the European Union is that we have a Commission that believes in micro-regulation and has a nostalgia for a small core European community in which micro-regulation can be conducted. That does not fit the European Union of 25 Member States with very diverse national practices and differences. However, on something like food supplements, or whatever, that you want to be sold throughout the EU, you want a labelling scheme that is acceptable throughout the EU and some assurance on

safety, which also carries throughout the EU. That is the same problem as the one within the United States with the Interstate Commerce Clause, which was originally a small item in the Constitution and grew because as people got involved in much larger interstate commerce there were knock-on effects. That is one of the central problems for the EU in the single market: we want incompatible things from it; we want to buy safe toys; and we want to buy food without health dangers. However, we do not want to be entirely stifled by regulations from the centre, and that is a very difficult trade-off.

Bill Cash, MP: But we can legislate ourselves here in the UK to achieve those objectives, can't we?

Professor The Lord Wallace: Not if you want to have an open single market; if you have that you must have a degree of common rules. That is part of the contradiction with which we are stuck.

Geoffrey Van Orden, MBE, MEP (Vice-Chairman of Foreign Affairs Committee of the European Parliament): I want to get back to the broader theme of democracy, particularly the relationship between civil servants and elected politicians and how we might express democratic representation.

I am struck by the fact that people like Monnet were essentially technocrats and their vision of the European project was one that would be technocratically driven. I think that many of those people were slightly contentious about the democratic process and what they saw as its failures. They also built a Commission, which was a gold-plated technocratic institution.

I am also struck by the observations made by the late Hugo Young, although I drew conclusions from his work that are entirely opposite to the ones that he drew himself. He paid tribute to the work of officials in driving forward the European project. So often it almost stalled because of Ministers, or whatever, yet officials were always driving the process forward.

What is your view on that relationship? Do you think that it has been an official-driven project that has continuity and, therefore, that the effort to introduce democratic aspects are inevitably going to meet with failure, or be overcome by other means?

Professor The Lord Wallace: Certainly, Monnet was not a great fan of parliaments. He was deeply scarred by having watched the French National Assembly, which he strongly felt was a collection of people all defending their separate constituency interests, and he thought that someone was needed to look after the national – the state – interest. He had a very strong sense of the value of the *Fonctionnaire* and he carried that on to the European level.

I am a strong believer in the need to reform the Commission. We have the problem that the ethos of some sections of the Commission – I could name names, but will not – believe that they see the interests of Europe much more clearly than everyone else and think that it is their job to regulate Europe. The whole idea that there was a single European social model, for example, is part of that. There is not a single European social model; there are lots of different diverse things. However, there are those in the Commission who think that there is and that they need to impose it.

One has to say, however, that efforts, such as strengthening the European Parliament to bring in democracy at that level, have not been immensely successful. From my own observations I can say, although some people in my party in the European Parliament would be deeply upset with me, that the European Parliament is not part of the solution.

Geoffrey Van Orden, MEP *indicated assent.*

Professor The Lord Wallace: It has not built deep roots in national democratic life and has become very much a part of the Brussels elite and the Brussels institutions. That is part of the problem that you as a European parliamentarian also need to address. I do not know the answer to that. I wish more people in the European Parliament were actively concerned about how we build bridges between European parliamentarians and national parliaments, and between national parties and local democracy, because that is part of how we could try to narrow this gap.

Geoffrey Van Orden, MEP: My proposition is that in spite of whatever efforts any parliamentarians might make, there is an inevitable momentum to the project that is driven not just by the Commission; national civil servants are complicit to some extent and the whole thing is taken forward with a weight of its own.

This week many Ministers arrived in Brussels and they will sign up to all sorts of things that were just put on the table in front of them, which were essentially the preparations of officials, either from the Commission or national bureaucracies.

Professor The Lord Wallace: That is the way all government works at all levels. The tensions between chief executives of local councils and council leaders are much the same. Chief executives think that they could run local councils much better if only the councillors would not get in the way. It is the job of elected politicians and Ministers to say *"Stop"* when they think they are going in the wrong direction, or at least to set the agenda. The Council of Ministers and the European Council do set the agenda. I do not think that we have had enough open debate on what we mean by subsidiarity, what powers should be returned from the centre to national government in a much larger and more diverse European community than we have, and what the real priorities are.

Although I do not belong to his party, I thought that our Prime Minister's speech to the European Parliament was not a bad shot at talking about what different agenda we should be moving to.

Rt Hon. David Heathcoat-Amory, MP (Former Minister for Europe and the United Kingdom Representative on the Convention on the Future of Europe): You have mentioned subsidiarity several times, Lord Wallace, and have conceded that it has not been dealt with very well in the European Convention. The subsidiarity principle has been entrenched in Treaty law since 1992, but is has not acted as a check on the gradual accumulation of powers by the European institutions, which are the arbiters, and they will always find reasons and means to act at a European level.

How do you think that we can create a better countervailing check against this centralisation tendency? May I make one suggestion and lead you? Perhaps we should put national parliaments in the driving seat and allow centralised action only when it is agreed by them that action is more appropriate at European level, so that the essential check would be made at national, rather than European, level.

Professor The Lord Wallace: I supported a stronger version of the yellow card/red card proposal and I am sorry that it has not emerged from the Convention as part of the Constitutional Treaty. However, for that to be effective, national parliaments, including this one, will have to take their scrutiny role more seriously than they have in the past.

Members of the House of Commons know all the reasons why the European Scrutiny Committee, so far, has not been one of the most prestigious or powerful Committees in the House of Commons. Again, that is part of what you should be discussing. The party links across Europe are also fora in which national politicians should be discussing what we want Europe to do and not to do, and building coalitions that way.

The last time that I was in Brussels, I spent some time talking to people from different countries in the European People's Party, who see themselves at least as much as part of the Brussels scene as links between the national scene and national parties and Europe. Stronger collaboration among people within the same party family across the European is part of the way to raise the level of debate.

Rt Hon. Lord Waddington: May I just remind people about the clock? We must be prepared for the two-minute silence. Could you just put a quick question, Bernard Jenkin?

Bernard Jenkin, MP: Forgive me for being short and abrupt, but you seem to have talked yourself into something of a *cul de sac*. On one hand, the Monnet-style functionalism, which is official-driven, seems to have lost its legitimacy – the regulation of minute details like vitamins has no legitimacy and is bringing the whole exercise into disrepute – but then you say that we should be doing defence and foreign policy. However, if the European Union cannot get consent on the tiny, incidental things, how can it possibly have authority on a basis of qualified majority voting and enforced co-operation and co-ordination on the big things? Surely, you have talked yourself into a system of national democratic co-operation, rather than the supranational model that we have at the moment.

Professor The Lord Wallace: If you think that national co-operation is sufficient in dealing with global terrorism rather than more effectively integrated common databases in respect of anti-terrorism, that is fine. However, that is not the only problem; that is the gap that we are facing. I do not have an answer to that; I just raise it.

Rt Hon. Lord Waddington: Thank you very much indeed for coming. I hope that you do not feel that we have tied you down to too short a period. We have got a lot out of half an hour and we are extremely grateful to you.

It is 12 o'clock, we will all stand.

Plenary Session suspended for the national two-minute silence.

Rt Hon. Lord Waddington: Thank you again, Professor The Lord Wallace.

Lord Howell of Guildford, you probably know that we invited a lot of people to appear as witnesses and we are gratified by the response. We have heard from people with all sorts of different views on this important issue and we are most anxious to hear from you. Will it be convenient to make a short opening statement, after which people put questions?

Rt Hon. Lord Howell of Guildford (Witness)[4]**:** I shall certainly do that. If my short statement is not short enough, please interrupt me and tell me to shut up!

I make a preliminary observation that this is the most important matter that I have ever been engaged in well over 40 years in politics and in five political careers, some of which were of more dubious worth than others. The stakes are enormous and the need for clarity and a right way forward is immense, and the penalties for getting it wrong are vast.

To take up one of the last questions I heard on entering the room, my whole view is built on the prospect that the governance of Europe must be anchored in national parliaments.

I shall make another slightly incidental remark. I read in the papers that my own party – which I have been in and out of, but mostly in and connected closely with for the past 40 years – has not really thought about these matters and is saying, "*Why don't we just say this and that?*" That is quite untrue. For many years – certainly the past five or six – there has been immensely detailed work on how Europe might be moved in a better direction. I find my filing cabinets full of carefully worked out, detailed and broader points, on how to change the direction of Europe. Of course, the only thing that is lacking is the confidence and will of the British political establishment to take up these views and start negotiating with the kind of zest that we sometimes see from the Quai d'Orsay, for example. The work is there – a lot of it has been done – but it is just a question of upgrading it and carrying it forward with proper vigour and vim.

I want to say briefly – and hopefully on theme on which you are concentrating – that, if we are talking about that large word 'democracy' and the European Parliament, there is an easy case to be made about the absence of democracy from the European Union and a much more defined case. I suspect that you have heard from many witnesses that the easy case is that the European Parliament is distant, remote, has a slim popular mandate, is largely unaccountable for its decisions, and so on. Yet, of course, it has real powers to make regulations and pass laws that affect us all.

More generally, but still sticking to the easy case, it is perfectly obvious that it is too big. The European demos, as we know, does not exist; in fact, not only does it not exist, it is being actively rejected by the modern world. The whole spirit of the dotcom age and the network age is to move away from these lump concepts of the demos of this block, or this or that region. The block mentality is completely out of date and belongs to the last century. The thread of intimacy between people and everyday life and this remote institution – the European Parliament – does not exist. The thread does not reach that point.

There are many additional points to be made about how people come to be elected, the sorts of things that they debate, the fact that people do not elect a government themselves and that the European Parliament spends money, but does not raise taxation. You have probably heard all those points. However, my summary of the easy case is that the idea of trying to impose 'democratic' structures on Europe at a supranational level belongs to and derives from outdated principles of hierarchy and centralism that are no longer relevant in the network age. That applies not only to the domestic policies of the nation states of Europe, but equally strongly to the foreign policies and postures that the European Union tends to take up, which are discussed in the European Parliament.

I have another theme that I will not wear you down with today, which is that the entire slant of British foreign policy that we work through our European partners, which has dominated Foreign Office thinking for 25 or 30 years, is wrong. It is not the European partners who will look after and promote our interests in the changing world. I love America, but I am not blindly pro-American. I think that some of the rhetoric from Washington is ghastly, but we need a dialogue with the great American Republic – a really good one – and there needs to be listening on both sides between candid, honest friends.

The European Union is not regarded in Washington as a candid and honest friend; it is regarded as rather hostile and no dialogue takes place, with the result that even if we want to place a restraining hand, as a friend, on Washington policy, as I do in some cases, we get no voice or opportunity to do so because our European partners have no impact. We are with the wrong partners. Please ask me later who I think the right partners are: America's best friends who can speak as good friends candidly and sometimes critically, but constructively.

That is a broader observation about democracy and the European Parliament – it does not really satisfy any of the criteria. Perhaps we should get to the deeper observations in conversation. I shall sum up.

Armartya Sen, whom I see from time to time, wrote in the *Financial Times* the other day that democracy is, *"the opportunity of participatory reasoning and public decision making – as 'government by discussion'."*

I think that he was addressing the issue of whether you can impose something called democracy, whatever that may be, on the Arab paternalist states. Of course, even by that definition, the EU goes the other way round – there is very little of that kind of public decision making and participatory reasoning – but we need to look deeper still. Votes, elections and political parties are only part of the much larger story of democracy. The institutions do not work unless democracy has a spirit as well. If there is an obvious spirit of restraint – universal restraint – in dealing with views and imposing a degree of self-policing and self-regulation, not just by majorities and minorities in the political parish, but by all public and professional organisations, the democratic spirit can live, otherwise the institutions are completely empty. People may label that 'constitutional democracy', which is a very different thing from the bogus democracies that scatter the globe, and that can only occur in nation states.

The proposition that there is a higher democracy – or even a higher democratic deficit to be filled so that there would be a higher democracy – is unsound. There is no such thing. This is an illusion, a chimera. Efforts directed at saying, *"Oh, it is all right, we will give the European Parliament a lot more power and that will solve the democratic deficit"* is travelling down the wrong track.

I think that I have said enough in general to stimulate one or two thoughts; I hope that I have. But there are all sorts of things to discuss about the Constitution, now capsized and, I hope, sunk and the powers of the European Court of Justice, on which considerable, detailed work has been done in the House of Lords, demonstrating how dangerous the higher legal order, which the Constitution promised, would be and what power it would place in the judge's hands. Then there is the central issue of the primacy of EU law, on which many of you are ten times more expert than I. That is a start.

Rt Hon. Lord Waddington: Would not it be a blow to democracy to take away from the Commission the sole right to initiate legislation? If that were to happen, the blizzard of regulations would almost certainly abate to some degree, and unless that blizzard is abated to some degree, there is no hope ever of having proper parliamentary scrutiny of what goes on in the EU, because too much goes on. Would not that be one thing for which we should aim, to increase democracy?

Rt Hon. Lord Howell: The volume of activity in the central institutions, particularly in the Commission, is at far too high a level. It is curious that it starts by being driven by admirable desires for free markets, level playing fields, equal opportunities and all the rest, but it is carried far too far and becomes an absurd bucket and broom operation to even out and tie up every single aspect of national life in every nation state and harmonise it, which produces the flood that you describe that completely overwhelms national parliaments.

How to stop that? One of the purposes would be to remove the monopoly right of legislative initiation from the Commission. I do not think that that need be done in a vindictive spirit of smashing up all the original institutions of Jean Monnet, but in the modern world that would greatly ease the role of the Commission in trying to be a good civil service for a European Union that should be doing a great deal less and should be less ambitious in many fields, particularly in foreign policy. The idea of a European Union common – let alone single – foreign policy is such an anathema that I should like to see the Commission retreat from it radically, which means, perhaps, retreating even from common trade policy, which is reckoned to be about 70 or 80 per cent of all foreign policy. However, that is another matter.

That is the long answer to your short and apposite question.

Rt Hon. David Heathcoat-Amory, MP: With the failure of the European Constitution, there is a danger that Europe will struggle on with the existing Treaties, amending them slightly. However, the Laeken Declaration identified real problems with the existing Treaties: the lack of democracy, centralisation, bureaucracy and the constant interference. Would you agree that radical surgery is needed on the existing Treaties – the Treaty of Rome, as amended? If we are to create a democracy, it must be by putting national parliaments in charge not only of the subsidiarity test, but in initiating all legislation and agreeing to a European dimension only on an exceptional basis, with the Commission acting as a secretariat.

This is a profound change that may not resonate with the official class in Europe, but do you agree that we need to advance it?

Rt Hon. Lord Howell: Yes, I do. I mentioned earlier that some of us have been working on the detail of this long before the Constitution collapsed and long before Laeken, although Laeken struck some good notes in trying to insist that the system in Europe be brought closer to the citizenry and the people, and so on. Yet, as you will know, Mr Heathcoat-Amory and Bill – frankly, all of us will know – when it got to the Constitution, somehow it mutated and metamorphosed into a great constitutional conference with illusions of Philadelphia and the United States, but forgetting, perhaps, that the US Constitution was formed for a nation of 4 million people and that we were contemplating some 480 or 500 million people. That was a complete disaster and set off on the wrong track, the thing with which you were so deeply and intimately involved – alas, unsuccessfully – despite all your marvellous efforts.

Yes, the existing Treaties have needed changing for a long time and they need some radical change of direction, because this Europe, about which Monnet, Spaak and Schuman dreamed, was designed for purposes that have been fulfilled or are no longer relevant. It was structured in an age before the information revolution, to which I attach enormous political significance, and before the structures of the modern world and the fabric of modern international relations that are curiously much less between governments than between non-governmental and professional and trans-national organisations.

A whole new world of international relations has emerged and the old Treaties,

structures and institutions cannot really deliver and cannot perform. We are seeing that breakdown now. Is there a danger that none of what I have said will be accepted and things will drift on while people hope that the French or the Dutch will have second thoughts? Yes, there is an extreme danger.

I have listened to some distinguished people who do not think very differently from me, but nevertheless say that we must have a good pause for reflection. I am nervous that this pause for reflection will turn out to be a pause for inertia while everything congeals and settles back into the old mould and allows those who were pushing in the wrong directions before to go on pushing. There is a real danger.

If this sounds impatient, I do not apologise. I should have liked us not to be where we are now; I should have liked all the work that some of us tried to do to have penetrated the Foreign Office and government policy four or five years ago, long before Laeken; and I should like British officials, who are vastly able if pointed in the right direction, to be ready and alert to move in with a mass of new ideas and begin changing the whole direction of Europe. These are high hopes, and I am old enough and have been in politics long enough to think that they are highly unlikely to be satisfied. But one keeps trying. Perhaps we will succeed.

Bernard Jenkin, MP: You say that you want to anchor the legitimacy of the European Union in national parliaments. Some who are in favour of integration still argue that ultimately the national parliaments have the whip hand, and I think that you dismissed that. You want to change the direction of the EU with an avalanche of new ideas and new thinking, but will that be enough? If you were Foreign Secretary now and you produced all these new ideas, people would say that you would instantly isolate the United Kingdom and we would be one among 25, with little prospect of support.

Is there any possibility of building a coalition of governments that would support these radical changes, including, for example, the repatriation of trade policy, which I agree with, or will the UK have to do something dramatic and unilateral that would unblock the system, as suggested by a previous witness?

Rt Hon. Lord Howell: No, I am a Europhile. I really love Europe, but I am not Eurocentric. We must concern ourselves with the shape of Europe as a whole and not so much with the British relationship with the old EU establishment. To do that – to get that concern more universally recognised – we must form coalitions that have always potentially been there, not just with governments. As I said earlier, international relations nowadays are not just about governments, but about the whole tapestry of organisations and groupings.

Those bodies may be semi-official, official, or non-official and are driven by market forces, which are outside governments' control. We must operate at all those levels. Is it now possible to do that or are we doomed to a feeling of 25 against one? I think it is highly possible. The accession states' arrival helps it enormously.

Let us start by considering the tiddlers: the wonderful three Baltic states. Their hearts are with us. So, too, are the hearts of the majority of the Czech Republic – and maybe Slovakia. I am not so sure about Hungary. We have seen that a lot of Frenchman may have reached different conclusions about why they did not like the Constitution, but at the root of it was that they had their thoughts about how France should be run and they thought that too much intrusion from elsewhere was threatened. That is the same view that we all have about wishing to have a network Europe instead of a centralised pyramid – a hierarchical Europe. The coalition has always existed, but the capsizing of the Constitution gives us a golden opportunity; a greater opportunity than I have seen for 30 years to move forward with the utmost intellectual vigour and to win a coalition for a more sensible European policy.

Such a policy must be pro-European. It is no use our standing up and saying, "*We don't really like the rest of continental Europe. We will go along with it as much as we have to on policing, passports and so on, but we'd rather not.*" We must be – and sound like – good Europeans and then we will change the direction of Europe. If we sound like grumbling separatists, let alone withdrawalists, we will have no influence at all on Europe and we will probably dish ourselves in the process.

The Lord Rees Mogg: I would like to ask a question about the Constitution that I put to the previous witness. He said that he wanted root-and-branch reform, which in many ways is similar to your massive new ideas. What instrumentation should one have to try to achieve things? Should there be a new attempt at writing a constitution – a new constitution but not the new constitution that has been offered so far? Should there be a renegotiation of the Treaties?

Should we accept as a fallback position the negotiation of a free trade area with or without a more highly integrated European core, if such a thing were negotiable? Should we just accept that the present system has to be allowed to dissolve – so that Europe can, if it wishes, build a new and better system from the rubble?

Rt Hon. The Lord Howell: The word 'constitution' is such a distracting one, particularly for us this side of the channel. A lot of my French friends now accept that to bring it into the debate was a disastrous mistake – although in a way it might not have been because it has led to the whole thing hitting a brick wall. Perhaps if it had not been called a constitution, a lot more might have been slipped through. However, that it too complicated a point for me. I can see Mr Cash nodding vigorously about something.

Bill Cash, MP: You mentioned primacy.

Rt Hon. The Lord Howell: No new constitution. A new treaty, yes. My approach is obviously a step-by-step one and I hope that it is a matter of practicality. We must establish what the European region really needs in this day and age when the centre of economic gravity, as Lord Rees Mogg would say, is graphically moving eastwards. All sorts of new challenges are being addressed to our Europe. Europe is full of the most fabulous lifestyles, values, attitudes and histories, and the kindness and goodness that are necessary for world stability. It is all under attack.

We have to find out what this enlarged Europe really needs. We must also decide what size it is – where it stops. If our Turkish friends are coming, will Ukraine and Belarus be next, and then Georgia, Azerbaijan and so on? All of that must be decided. On the basis of clear decisions, we must form a new treaty about how it should all be run – what the rules are. We do not have to call it a constitution; we can use 'rules'. I do not understand this concept of a free trade area that people talk about. If one examines the nature of modern trade, it is not free. A lot of it is governed by trade between affiliates. Half of all international trade is said to be between affiliates and subordinates of single companies.

People might think I am being over the top here, but I do not even understand the issue of tariffs. I ask myself how is it that the Japanese and the Americans, with a few arguments here and there, sweep into the European market facing the tariffs. What is the great advantage for those of us said to be inside the tariff barrier? People might come back to me to say, *"Motor cars, quotas and so on."* There is something in that, but it is not half as massive and great as people make out.

An area of common, intimate and intense co-operation at a number of levels in the European region, with some institutions, although much less ambitious ones than we have today. We have already talked about a modified Commission. There should be a different European Parliament. I do not like this directly elected one. People secretly go round everywhere saying, *"It is a grave mistake. What a pity,"* but in public they never say that. Possibly, there should be some different procedures and formulations for the Council of Ministers, which should probably be a much more public body. That is one of the few things with which I agree in the new Constitution. We must work towards the new treaty. First, we must dig the garden up. We must turn over the soil and show that we can produce a better garden than the one they are all toiling at the moment.

Geoffrey Van Orden, MEP: You describe yourself as a Europhile, Lord Howell. You are enthusiastic about Europe, but I am not clear about something. You mentioned Europe and the European Union, but are you thinking about some other concept of Europe? I shall elaborate. Would you see any particular dangers for the United Kingdom if some of the major countries in Europe were to decide to go ahead with a more integrated core and the United Kingdom were to be part of some other sort of assemblage that was not part of that core?

Rt Hon. The Lord Howell: My love of Europe relates to something much more than the European Union can offer. A union has a role to play. They have tried to be very ambitious and that is wrecking even the good objectives of the European Union. I am talking about a love of a broader Europe than is at present embraced by the European Union, although, who knows, it may come to be like that. Do I worry about other countries moving? I cannot even get your word 'ahead' down my throat; if they moved, it would probably be backwards.

Forcing people together in the hope that they will somehow bind together is a backward move. If the governments of some of our continental neighbours – against the wishes of the people – wanted to force themselves into an even deeper political integration, that would take them back to the 20th Century, or even before. It would not be moving ahead, but back. It would certainly be moving back economically. People sometimes talk about the outer rim of Europe – the *périphérique*. When it is not jammed, using the *périphéique* is the quicker way to get round Paris than going through the centre.

The core is the slower bit. The outer nations of the European Union today are the dynamos. Our friends in central Europe – the accession states – are the real dynamos. They have shown what can be done amazingly. They started from far behind and they are going to be far ahead of the big stagnant area – the sort of black hole – which sadly Germany and possibly France are threatening to become. I feel very sad about that. As a student, Ludwig Erhard was my ideal and my hero. I used to go to interview him for the *Daily Telegraph* frequently. I thought that the German social market economy, as I understood it, was the real goal for the British people. We were then living under a sort of consensual corporatist socialist state. None of that has turned out. Things have gone the other way. West Germany has been sunk by the eager unifying with East Germany on the wrong terms. There were understandable, but disastrous errors. Now Germany is not a model to follow. If it wants to get together and not be a model to follow, that is its decision.

Rt Hon. The Lord Waddington: I am most grateful to you, Lord Howell. We have had a most productive session, although it has been short. I hope that you do not feel that you have been too constrained so far as time is concerned. We are more than satisfied, and very grateful. Thank you very much indeed.

I welcome you, Mr Grant. Thank you very much for coming along. The others have made a short opening statement and I have then invited colleagues to put questions. Would that suit you?

Charles Grant (Witness)[5]: That would be fine. I apologise for the fact that I was not able to be here for the rest of this morning's evidence; I would love to have heard it. I am glad that it will all be transcribed.

As some of you know, I generally regard myself as pro-European. I think that European integration is desirable in many respects, although I would not have the EU doing all the things it does today in the way that it does them. Nevertheless, it was interesting that when Geoffrey Van Orden and some of his colleagues from the European Parliament Foreign Affairs Committee recently visited our think tank and I described what I thought was the way forward for Europe, it turned out that most of the Conservatives on the Committee agreed, at least in some ways. We are in an interesting time. Those of us who come at the European issue from different angles and perspectives can agree on some things. My basic view is that we now need much more variable geometry.

My reason for saying that is because I passionately believe in EU enlargement, which is the best thing that the EU has ever done. It has spread democracy, stability, security and prosperity across most of the continent. I want that to continue. The truth is that now it is not likely to continue. Whatever people think about the merits of the Constitution Treaty that is one consequence of its defeat. Deepening and widening have always gone together. Political elites in much of continental Europe never really liked the British enthusiasm for widening, but they accepted it with some reluctance because deepening took place at the same time. We have had 20 years of deepening in one Treaty after another and 20 years of widening at the same time.

Now that the deepening has stopped – we would probably all agree that there are not going to be any more major Nice, Maastricht, or Amsterdam Treaties for the foreseeable future – the widening has also stopped. That is partly because the political elites think that if there is widening without deepening, we end up with the so-called British vision of a Thatcherite free trade area with weak political institutions and partly because public opinion does not see why it should be supported and nobody has bothered to explain to the public the benefits of enlargements. That is my background.

The way forward has to be variable geometry – in two respects. First, if the core countries want to have little enhanced co-operations in particular areas, such as harmonising tax bases, or having a European public prosecutor or stricter fiscal rules for the euro, let them. Good luck to them. It

may or may not work, but why not? If they feel good about having political integration role, let them do it. Secondly, some of the countries that are due to join the European Union could possibly be given membership minus, as opposed to full membership. We recently had a seminar in Berlin with Turkish people on Turkish accession. Many of the Turks present said, "*We don't actually want to be in the CAP. If we were in the CAP, it would prevent our agriculture from restructuring; it would fossilise it. We need people off the land, so we don't want to be in the CAP.*"

Therefore, possibly Turkey should not join the CAP. I think that that possibility is more or less recognised in the Commission's previous avis on Turkey. Maybe it should not have free movement of labour until its per capita GDP is, for example, 70 per cent of the EU average. Maybe Turkey would never want to join some aspects of the Schengen arrangements.

I will give a second example. I was recently talking to the excellent Georgian Foreign Minister, Salome Zurabashvili, who is also a French diplomat. She said, *"Of course we cannot join the EU. Our economy would not be able to stand it. We would not want your 80,000 pages of* acquis communautaire. *However, we do want to be involved in your foreign policy, because we are frightened of Russia. Please let us join your foreign policy.*" From that I draw the following conclusion: we could think about offering some countries membership, but not with the whole works.

The core countries could go ahead and have deeper union in certain areas, if they want. In that way, enlargement is made less frightening to the people who are now against it: political elites and public opinion in France, Germany and elsewhere. If we can get people to understand that they can move forward in smaller groups and have their political union, they would become less frightened of enlargement because they would know enlargement cannot weaken and dilute their political ambitions. That is more or less how I view things.

Roger Brooke: Does what you have just said mean that you think that the existing members should be allowed to review how much of the Treaties they should have and how much they should opt out of? If they do not like the fisheries policy or the cultural policy, just as the new states only have to accept parts, should existing members be able to opt out? What sort of organisational structure could ever be put in place to enable that to happen?

Charles Grant: That is a very interesting question. My own view is no, because if every Member States were allowed to choose from a menu of options, the institutional complexity would be quite horrific. Most countries should be part of most policies because, for example in terms of the common trade policy, a single market and an EU foreign policy do not work if three or four members can have a different policy. The bits that I am talking about opting out of are the optional extras: the euro; the Schengen agreement; defence, because Denmark is not taking part in the new defence policy; and agriculture should be one, but we will take some time to get there.

I have contemplated the new idea for would-be members and I would not turn back to existing members and say to the Spanish, *"Do you want to opt out of the common trade policy?"* Things would get too complicated if we were to do that. The obvious riposte would be that what I am proposing would make things pretty complicated. Indeed, I have just bounced my thesis off some noble Lords who were eminent former EU ambassadors – British ambassadors to the EU – and they were horrified by what I said. They thought it was horribly complex and wondered about the democratic accountability. It would be difficult to go further than what I have already said.

Bill Cash, MP: As you know, Charles, I have battled against the concept of variable geometry for many years and I know a certain amount about it. It is otherwise known as flexibility. The European Commission described monetary union as the best form of flexibility yet devised. That raises in another shape the point made by Roger Brooke. We can now accept that in terms of low growth and high unemployment in France and Germany, for example, monetary union has been a failure. We could go down the route of variable geometry. You said that you thought that the euro would be an example of something that could be left out of the equation. Where does the looking glass take you?

If the euro could be left out for the purposes of those countries where it is being unsuccessful, where would variable geometry leave you? It would leave you with nothing at all, because currently the project as a whole needs to be revised, which is why we are examining the existing Treaties as a whole. Where would you draw the line? You said that you thought that most countries should be following the same policies. How would you be able to run an institutional arrangement of variable geometry where a country like the United Kingdom was absorbed into the legal framework of the whole but was, as it were, a flywheel on the outer rim. It would be inside the framework, affected by everybody else, and yet not part of it?

Charles Grant: I do not want to digress too much, but I do not regard the euro necessarily as a failure. I have recently been in Finland, Ireland and Spain. People there are doing quite nicely economically. Clearly, some of the core countries in the euro are doing very badly. I think that your question was which bits would everybody have to do and which bits could be optional. I think that I already said that trade policy, the single market, fisheries policy, foreign policy.

It is hard to work out how there can be an effective European Union unless all members are taking part. For me, the optional extras are agriculture, the euro, defence, free movement of labour, and much of the Schengen aquis. On those areas, one could conceive of an EU working quite well without everybody taking part. That is a rough and ready division.

Martin Howe, QC: May I take up the point you have raised a couple of times about external trade policy? Your view is that it is necessary that everyone in the European Union should participate in external trade policy to make it effective. Why should that be so? It is possible to have free market or single market arrangements between countries under which those individual countries are responsible for their own external trade relations. What is special about Europe that makes it impossible for the European Union to function with some countries not participating in the external trade policy?

Charles Grant: It is a matter of what weight we bring to world trade negotiations. Some of my Norwegian friends have complained to me that nobody listens to them in WTO negotiations. Well, because the EU is one of the two big elephants in the room people listen to what it says. Being part of the EU means that a country can get its interest represented by the EU. Whatever the merits of the relative positions of Norway and

Switzerland vis-à-vis the EU, they have a problem in that respect.

There could conceivably be a country not taking part in EU trade policy, but I would have thought that the benefits of pooling weight in trade negotiations is self-evidently beneficial to all the members. One might argue about whether an EU foreign policy – EU diplomatic co-ordination – is a good idea, but it is hard to imagine how any Member State would do better in trade talks without the collected weight that the EU brings.

Rt Hon. David Heathcoat-Amory, MP: Your solution to the democratic deficit seems to be variable geometry – or whatever phrase one uses – but we already have it. Countries opt in and out of the euro, Schengen and aspects of defence, but it has not cured the problem. People still feel that the decision-making is remote and alien, and it is getting worse. That is why they voted no in the referendums. It was an accumulated resentment about the entire project.

You are moving the furniture around, but how will you address the problem unless you re-found it on a different basis? I hope democracy will reside at the national level, otherwise, you will invent wonderful new geometry for Europe, but the public will remain unmoved. It does not matter to them whether the Common Agricultural Policy is or is not temporarily within the EU's remit. They worry about everything else. Where is the solution to the Laeken Declaration malaise, which was so clearly identified in 2001?

Charles Grant: I did not say that the solution to the democratic deficit was variable geometry. That was my possible solution to the problem of enlargement. The democrat deficit involves a different set of issues, although there is, of course, a connection. Part of a solution to the disconnect between citizens and the EU institutions is a much greater role for national parliaments in EU decision making. One of the sad things about losing the Constitution Treaty is that it would have, as you know David, done something, perhaps modestly, in that direction. I hope that we can do something anyway. This is one bit of the dead Treaty that could be cherry picked and implemented anyway.

I guess that a lot of Conservatives would not oppose the provisions that would have forced the Commission to communicate its legislative proposals to national parliaments earlier than happens today and would have allowed those parliaments to have a kind of yellow card procedures by which they could say, *"This measure breaches subsidiarity, please stop."*

I would have liked a red card procedure, not a yellow card procedure, and stronger procedures that are more involved with national parliaments. The trouble with the EU system is that it is in a kind of bubble: it floats in space in a bubble and it does not touch planet Earth very often because EU and national political systems do not communicate very much. That is as much a criticism of the national systems and the EU system, because it is true that the EU system – the MEPs, journalists and the Commission officials – lives in its little cloud cuckoo land and perhaps does not talk to real people in the real world, but equally I find national parliamentarians in Britain and in other countries are astonishingly ignorant of how the EU works. Very few of them take up their free train trip to Brussels and go to learn about what is happening in the EU.

I would like to solve the disconnect problem by bringing together the two systems. They need to bump into each other more often. One way would be to involve national parliaments more, another would be for European Commissioners to come to answer questions in national parliaments. Perhaps the British Commissioner should appear in parliament once a month, for example, to answer questions and to explain what is going on.

One idea that I liked was the so-called congress, which, as a former member of the Convention, I am sure David is an expert on. I think that it was a Giscard plan to bring together national MPs and Euro-MPs in a grand assembly once a year to listen to the work programme of the European Union. It could have had a role in appointing the EU President. I was sad that the British government did not really support that idea. I am in favour of anything that brings together people working in national politics and those working in European politics.

Bill Cash, MP: The assize was a dreadful example. It was a nightmare when it took place.

Sir Oliver Wright: I sit here among a great number of politicians as a former official. I understand their preoccupations. A major flaw in the way Europe organises itself at the moment is that, quite uniquely, the Commission is given the sole power of initiative. In other words, we are handing over to a vast conglomeration of people suffering from a sort of *déformation professionelle* the sole task of initiating the progress of the union.

One may wonder why there is no progress on subsidiarity; it is because none of the many thousands of people who work in Brussels have the slightest interest in putting forward an initiative on it. Their interest has grown over the years – a formidable body of official interest in the Commission – and any change is wholly against it. Without removing from the Commission the sole power of initiative, reform will come to very little.

Charles Grant: I would be against that change for a number of reasons. If the sole power of initiative lies with the Commission, there is less legislation. We would all agree that less legislation is a good thing. Mr Barroso is doing an excellent job in squashing draft proposals from his loony social affairs directorate, for example. We recently saw an example of what happens if we allow Member States the right of initiative with the justice and home affairs provisions of the Amsterdam Treaty until very recently allowing any Member State to propose laws. As a result, too many laws were proposed, and they were uncoordinated and incoherent.

The Commission, by having the sole right of proposal, makes sure that there are not too many proposals and that there is some coherence to them. That does not mean that every proposal is good. If a proposal is bad, national governments can vote it down in the Council of Ministers. The Commission believes, in my view rightly, that the source of its strength is that sole right of initiative, which is the main power that it has. Unlike some people present here, I want a strong Commission. A weak Commission would mean national governments, particularly those of France and Germany, getting away with blue murder when it comes to state aid and other matters.

One of the sad things about the Commission's weakness – it has got weaker and weaker over the past 10 years – is that France, Germany and other large countries are more likely to cheat, bend the rules and keep illegal state aids to their airlines and so on. When the Commission is stronger that does not happen. Therefore, I favour a strong Commission, but a wise one that does not legislate too often. I believe that President Barroso is making serious efforts to cut down the number of proposals

coming out of the Commission. I do not know the figures off the top of my head, but if one studies them, one will see that that is the case.

Rt Hon. The Lord Waddington: How on earth do we get rid of redundant legislation if the sole power of initiative is left with the Commission? The sole power of initiative is not just to initiate legislation but to repeal it as well. Consequently, if the law remains as it is now, no legislation will ever be repealed. That follows just as night follows day.

Charles Grant: You should try to talk to Mr Verheugen, who is the Commissioner now responsible for the single market and economic reform generally. He is compiling a list of outmoded laws that will be repealed. It is a long list, so I am not *au fait* with the latest details, but something is happening.

Bill Cash, MP: On the question of what is outmoded, the wording in the most recent communiqué from the presidency talks about improving legislation. As the Right. Hon. Lord Waddington has said, the real question is, how does one repeal it? As Sir Oliver Wright suggested, that cannot be got from the Commission, which is not interested in the reduction. Mr Verheugen might reduce the volume but will he reduce the impact? The problem is the acquis communautaire as it now stands. The food supplements directive is just one small example of the problem.

Charles Grant: I cannot speak for Mr Verheugen. My understanding is that there will be repeals of directives and less legislation on the book after the process is finished. However, whether it makes less impact is not for me to judge.

Geoffrey Van Orden, MEP: It is nice to see you again, Charles. You are a man who likes to explore new ideas, thinking and ways. Yet, you seem to be prepared to accept the great body, almost the whole acquis, that we have today and just want to tinker at the edges to bring us little efficiencies and things. Leaving aside your point about enlargement, because that is a separate issue, would you not be prepared – here we are, 50 years on – to contemplate looking afresh at how one might co-operate between European nations more effectively to meet the needs of the 21st Century rather than those of the latter part of the 19th or the 20th Century, when things were rather different?

Charles Grant: Maybe I am more conservative than some of you, in that I want to hold on to more of what is there at the moment. Perhaps I am less radical. In my thinking, decades ahead, I would certainly have no CAP. I would probably have social legislation at EU level. I would have more coordination of foreign policy and more co-operation in the fight against crime, terrorism and so on. The EU must respond to real problems in the real world.

The arc of instability that surrounds the European Union from Belarus, through Ukraine, Moldova, the western Balkans, the Middle East and North Africa is a dangerous one. The countries in it – I talked to someone in the Ukrainian government this morning – look to the EU as an organisation that can spread stability to it. They will not all join and they know that, but we need common policies to deal with those countries. We have done so with some success in the Balkans, having started unsuccessfully there. To deal with terrorism, crime and proliferation – the problems around us – we need stronger foreign policies. That, is why several decades ahead, I would hope to see an EU with stronger foreign policies than it has today.

Bernard Jenkin, MP: We will deal with foreign and defence policy on another occasion, and perhaps Charles will come to talk to us again. I submit that the Americans had more to do with our success in the Balkans than any single European country.

I am delighted that you are here, but am rather disappointed about something. We entitled this session 'Democracy and accountability in the European Union since 1945'. Variable geometry seems to remain something of a ratchet – some of us have already stuck in a ratchet – and a little genuflection towards the national parliaments to prompt them to talk a bit more to their European counterparts in the European Parliament.

You mentioned communication between national parliaments and the European Parliament. Communication is not democracy. Democracy is about who controls the law. Do you honestly believe that the European Union is, or can be, a democratic institution, seeing as the lawmaking function, when it occurs, is so far removed from what one might regard as the traditional idea of a democracy with a separation of powers and direct elections to a polity that feels to be a single demos? That word was used earlier this morning. Can it be a democracy, based on the current Treaties?

Charles Grant: That is exactly what my federalist friends say, Bernard. I do not want Europe to be a state or to have a government directly elected or elected by the parliament. I do not want the Commission to become an Executive responsible to the parliament. I do not want the Council of Ministers to become a Senate. The EU should not be a state, partly because it would not be very efficient if too much were centralised and partly because people do not want it. The EU is certainly much more than an intergovernmental organisation, such as the IMF or the United Nations. It is something between those two ideas.

I do not regard the EU as undemocratic, given that decisions are mainly taken by the Council of Ministers – by democratically elected governments. The Commission has some power, but the Commissioners are appointed by democratically elected governments. The European Parliament has some power, but it is directly elected. Therefore, I do not regard the EU as undemocratic. But I would not want it to be democratic in the way that you imply. It there were direct elections for an EU President, that figure would be very powerful. I do not want that much power to go to Brussels. Remember that de Gaulle changed the French Constitution in 1962, the initial Fifth Republic did not have direct elections for President. As soon as de Gaulle introduced them, the big consequence was that he was much more powerful. I would not want the guys in Brussels to have as much power as you imply they should have by your question.

Bernard Jenkin, MP: I, of course, do not want it to be a state either. What you have said is very important. You would be happy for a lot of legislative power to be taken out of the hands of national parliaments and placed in the hands of Ministers, officials and a remote European Parliament, which is not really a democratic institution in the sense that a national democratic institution is. You would be happy with that arrangement. I am not.

Charles Grant: I am happy for lawmaking to be done by directly elected MEPs and by Ministers elected by their national systems. I do not see an alternative. Such a system is possibly not ideal, but I am unsure whether anyone has thought of anything better, except the more federalist model that both you and I would not like.

Rt Hon. David Heathcoat-Amory, MP: It follows from what you said that the EU, if it

is not a federal government, does not need to be fully democratic in the sense that a national government does. Surely, that is what people want of a lawmaking body. You can transfer various decisions backwards and forwards, but you cannot endow it with a democratic spirit, because it lacks a demos. People do not feel a sense of ownership; there is no loyalty or allegiance to it. This is a structural problem, which nothing you have said seems to solve. You are now reduced to saying that it does not really matter. If it does not matter, we will just have a series of no votes in referendums and further crises. Unless we either retrieve powers or make those institutions fully democratic, we have not solved the problem.

Charles Grant: I think you are implying that many people want some sort of federal Europe. Outside Belgium, Germany and a few bits of France and Italy, that is not the case anymore. The EU has changed dramatically with enlargement. Most of the countries in the EU now do not want it to be the federal thing that we have been talking about. They are happier for it to be as it is today: a compromise between certain federal principles, with majority voting in some things but strong intergovernmental principles, with governments being in charge of most of the big decisions most of the time.

That may be a rather messy compromise, but the progress towards federalism, such as it was, stopped long ago and we have a more interesting – perhaps more complicated system – that we are stuck with. I do not see it changing; we will not get more Treaties to change the way it works. We will have to learn to live with the EU the way it is now, within those parameters, and try to find ways to make it better, within the Treaties that we have.

Rt Hon. Lord Waddington: I am afraid that we will have to draw matters to a close.

Thank you very much indeed for coming. I am sure that you will realise from the questions that were asked the interest that you evoked. We were glad to have you and are most grateful for your contribution.

The Plenary Session finished at two minutes past one o'clock.

1 A full list of European Reform Forum Members, including thier biographies, can be found at www.european-reform.org

2 Frederick Forsyth is a best-selling author and commentator and former radio and television journalist. He is perhaps best known for his book *The Day of the Jackal* which was an international bestseller and was later made into a film of the same name. When in his youth, he became one of the youngest pilots in the RAF at the age of 19.

3 Lord Wallace has been a professor of International Relations at the LSE since 1995, before that he was the Walter Hallstein Senior Research Fellow at St. Anthony's College, Oxford. During the 1970s and 80s he fought 5 General Election campaigns for the Liberal Party and co-wrote the party's election manifesto in 1979 and 1997. Elevated to the peerage in 1995, he has served on the Select Committee on the European Communities and was Chairman of the Sub-Committee on Justice and Home Affairs.

4 Lord Howell is a former Secretary of State for Energy (1979-1981) and Transport (1981-1983). Between 1987 and 1997 he was the Chairman of the House of Commons Foreign Affairs Select Committee and is currently the Conservative Spokesman on Foreign Affairs in the House of Lords. Earlier in his career Lord Howell worked closely with both Edward Heath and Margaret Thatcher, and is credited by several authorities as having invented the idea of privatisation in the late 1960s.

5 Charles Grant is the Director of the Centre for European Reform and a former Defence and European Community Editor for *The Economist*. He has written widely on matters involving Europe and has been a trustee of the British Council. In 2004 he was awarded the *Chevalier de l'Ordre National du Mérite* by the French Ambassador to London.

Referendum Review

by Ross Cowling

Due to the death of the European Constitution at the hands of the French and Dutch electorate, there have been few developments regarding the ratification process. However, some committed Eurosceptics and Europhiles alike are still working away at setting the issue to rest one way or another.

Luxembourg

A lawyer in Luxembourg has filed a lawsuit demanding the annulment of the July referendum result on the European Constitution. Roy Reding is claiming that the Government of Jean-Claude Junker illegally used public money to fund the 'Yes' campaign. Mr Reding claims that TV adverts which were supposed to be independent contained *"absolutely no information content"* about the Treaty, and that they *"consisted entirely of psychological manipulation of the voter."*

France and The Netherlands

Wolfgang Schüssel, the Austian Federal Chancellor, has suggested that the failed referendums in France and The Netherlands should be re-run in 2007. In an interview with the German newspaper, *Frankfurter Allgemeine Zeitung,* Herr Schüssel said that *"perhaps in 2007, if in one or other country there has been political change, then a second attempt [at referendums] can be made."* With the next presidential election due in France in 2007, these comments could indicate that the Austrian Chancellor believes the Constitution can only be approved after President Chirac of France has left office. (More information on Herr Schüssel's remarks can be found in Issue 222 of the European Foundation's *Intelligence Digest*).

Slovakia

The Slovakian Constitutional Court has advised the country's President not to sign the documents completing the ratification process whilst it considers a claim that the process is unconstititutional without a popular referendum. President Ivan Gasparovic has claimed that he does not need to heed the advice of Slovakia's top court, as the country's Constitution does not set any conditions on the President for the signing of international agreements.

Ross Cowling is studying Economics at the University of Kent and is a research assistant at the European Foundation.

FACTS

by Sara Rainwater

1 Kilroy-Silk quits Veritas

Robert Kilroy-Silk has quit the party he formed less than six months ago. The former chat show host stated, *"It was clear from the general election result… that the electors are content with the old parties…We tried and failed…It is also the case that it is impossible to have an effective political party without a central administration and significant financial support. We have neither."* Four of Kilroy-Silk's East Midlands colleagues in the European Parliament have sent a letter to its President, Josep Borrell, asking that Kilroy-Silk quit on the grounds that he rarely attends sessions and does *"little or no work"* for his constituency. [*The Daily Telegraph* 14 August 2005]

2 Shoppers brace for impact

Millions of Chinese textiles are stranded in ports across Europe because of EU import quotas, which were reintroduced after European and American producers complained that cheaper Chinese imports were seriously threatening their business. The British Retail Consortium has reported that pullovers, cardigans and waistcoats worth an estimated £30 million are being blocked from the British market alone. Trade Commissioner Peter Mandelson has placed the blame on European retailers, who he says allowed too many imports ahead of cut-off dates. British consumers are now bracing for impact, as a major stock shortage will hit the high streets by the crucial Christmas sales period; this will mean inevitable prices rises for consumers. Ministers across Europe are now warning that the situation may lead to job cuts and that trading companies may end up in bankruptcy or with huge losses.

Financial Times 18 August 2005]

3 EU spends millions on anti-smoking campaign

On 1 March 2005, the EU launched a £50 million anti-smoking campaign to *"promote tobacco-free lifestyles to young people, highlight the dangers of passive smoking, as well as supporting the trend towards tobacco-free public places"*. The campaign will run until 2008 and target adolescents and young adults. It is estimated that every year 650,000 people in the EU die from tobacco related disease, and that smoking costs Member States £677 million per annum in associated costs.

[Commission Press Release, *www.cec.org.uk* 23 May 2005]

4 French Anglophile calls for Britain to leave EU

Maurice Druon, whom *The Telegraph* calls *"France's most celebrated living intellectual"*, has suggested that Britain leave the EU. In an article that first appeared in *Le Figaro*, Druon said, *"What Britain and Europe want of the EU is quite different… Shouldn't we … ask whether it wouldn't be to everyone's advantage, Britain's included, for them to leave the EU's political institutions and take the status of privileged partner?"* But he continued, telling the *Telegraph*, *"I am not suggesting that Britain should be chased out of the EU. It must be Britain that takes the first step towards a modified status."*

[*Daily Telegraph* 17 August 2005]

5 Brussels not prepared for terrorist attacks

Brussels, home a majority of EU institutions, is unprepared for a terrorist attack, says the city's governor. Veronique Paulus de Chatelet says many emergency response teams lack proper plans to handle terrorist acts such as those that occurred in Madrid and London. *"Out of 68 subway stations, only 22 have emergency plans in place,"* commented de Chatelet in an interview with a Flemish radio station. De Chatelet's comments have received heavy criticism from such organisations as the Free University of Brussels' hospital and the company that manages the city's transport system, which both claim that emergency plans are in place and the city could cope with a possible terrorist attack.

[*www.expatica.com* 28 July 2005]

6 Internet blacklist considered

In light of the recent aeroplane crashes in Greece and Venezuela, the European Commission is considering the publication of an online blacklist of airlines and/or aircrafts that have been either restricted or banned in any Member State. The aim of this list would be to provide more information on safety records of specific airlines to passengers; the Commission plans on drawing up guidelines, which will be used before putting a company on any such list.

[*EU Observer* 18 August 2005]

7 Yellow card handed to Premier League

BskyB, part of the Murdoch Empire, holds exclusive broadcasting rights for live English championship football matches, a potential breach of EU competition rules. This has been a major area of contention amongst EU competition regulators; if the Premier League does not tackle the competition issue, the League may face legal action and fines of up to ten per cent of its sales. Commission spokeswoman, Antonia Mochan, confirmed press reports when she stated, *"[EU competition Commissioner] Neelie Kroes sent a letter to the Premier League signalling that she still had concerns and asked for a solution as quickly as possible."*

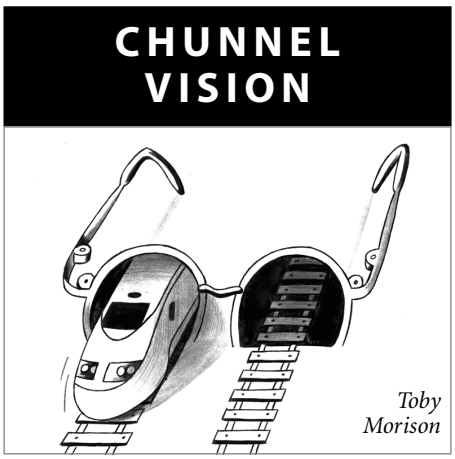
[*EU Business* 17 August 2005]

8 How EU money is being spent

EU Business often reports on new EU spending initiatives. Here are a few examples of what the EU has planned to spend:

€9.3 million to aid Sahrawi refugees in southwest Algeria;
€280 million to aid Palestinians after the Gaza pullout;
€3.5 million earmarked for Central Asian disaster preparation;
€92 million in budgetary support for Uganda;
€1.5 million to help fund the Catholic youth jamboree, World Youth Day;
€7.9 million to help fund the elections in the Ivory Coast;
€1 billion to be invested in Information and Communications Technologies (ICT).

Sara Rainwater is Editor of the European Journal.



de mortuis …

by Dr Lee Rotherham

Convention dictates one should speak no ill of the dead. So this column will avoid a review of Ted Heath's career. It would of necessity be a brief piece.

In any event, if you are a hoarder, then you need merely pull from your shelves some uncomfortable research I once carried out, way back in the *Journal* of Summer 2000. Some people just don't know how to make best use of their holidays.

I shall nevertheless allow myself one snick at the heels of the event. Reports suggest that room is to be found in Salisbury Cathedral for some form of memorial to our erstwhile premier. As an historian, I suppose one can't complain. We need reminders of our history in order to avoid repeating the same mistakes. And from my recent delightful sojourns in the pages of Plutarch's *Lives*, we learn how the cruel ancients often got away with memorials to their base grandeur. Since Ted never sacked a worker in his life, it seems unfair to deny him a plaque when people who sacked whole cities had the replacement towns named after them.

But Salisbury Cathedral? Such is, after all, the resting place of one of the surviving copies of the Magna Carta. I trust the Heath plaque will be a respectful distance from the monument of freedom that his actions have done so much to subvert. There are, I suggest, far more appropriate locations for the monument to the Yachtsman. Portsmouth Harbour. The panda enclosure at London Zoo. Or perhaps the city walls at Londonderry.

In the end, though, you have to give the fellow a modicum of credit. He did fight on the right side during the War, unlike Mitterand. It's just a pity he didn't turn out more like that truly great Briton and fellow musician, Sir Patrick Moore.

Heath vivendo aut nil, the EU project goes on. The Commission has published a vacancy for the Director of the European Agency for Safety and Health at Work, a lofty-grade post that is possibly the greatest job misnomer (at six degrees of inaccuracy) on the planet. At the same time, the Commission is also calling for proposals under the *"Promotion of Active European Citizenship"* scheme for support for town twinning programmes, including the mission of *"raising awareness of European [that is, EU] policies"*. It strikes me as a failing of the Eurosceptic Movement that we haven't developed a common internal website with a regularly-updated list of these posts, slush funds, and application mechanisms. There was a bold concerted attempt a few years back by Chris 'Mad Dog' Heaton-Harris and some Che Guevara groupies to buckle the EU budget at source, and redirect some of the finances to a variety of organisations of the Left and Right, but little effort seemingly since then. A prominent one-stop shop where Eurosceptics could find out about these slush funds and have a crack at infiltrating them would serve a triple purpose, by denying funds to Young European Federalist wannabes, supporting genuine 'information' projects on the European Union, and alerting politicians about how much of this dodgy propaganda financing is going on today. Let's face it, when the end-of-year report gets written, the Commission would go ballistic and would deny Euro-critical organisations funds outright, which then becomes potentially a breach of European law and a matter for the judges at Luxembourg. All very embarrassing.

Perhaps as embarrassing in its own way is a recent Commission Recommendation on what do with euro coins that are unfit for circulation [2005/504/EC], which recognises the danger of *"counterfeit coins and other euro coin-like objects fraudulently or erroneously put into circulation,"* presumably meaning bottle tops and old UK 5p's being used in vending machines. Intriguingly, Article 7 acknowledges there will be attempts to *"deliberately alter"* genuine euro coins under the principles of *"disrespect of king's effigy"* and *"disrespect of issuing authority"*. Check your euro cents when you go on holiday: in some countries, if some incensed lately-unemployed continental has defaced one, they may be worthless.

But Brussels is more than a supply of print. It is more even than Notices of Initiation of a Safeguard Investigation under Council Regulations (EC) 3285/94 and (EC) 519/94 Concerning Imports of Frozen Strawberries, patently a pressing issue for the Poles.

For once, let's pay some attention to what the Economic and Social Committee has been up to. That body has more comedy value than the Edinburgh club scene, with the legislative impact to match. But it does prove its importance occasionally as a useful weather vane. Which is why its opinion on the Constitutional Treaty is of interest. And because MEPs and Commissioners use its opinions to justify their own actions.

The EESC concludes [2005/C 120/23] that, *"At this crucial time for the future of the European venture, everyone must be encouraged to look beyond their own interests, be they personal, sectorial, professional, local or national interests. The draft Treaty has to be scrutinised from the standpoint of its overall political importance in the context of the process launched over 50 years ago by the founding fathers of the European Communities."*

The Constitution cannot be ditched, because that would be a defeat for the new Convention method and the 'revolutionary' step in European integration. Rejection of the Constitution would send a *"negative signal regarding the European venture, both within the Union and outside, where hostile or competing forces would certainly take delight in such a setback."*

In concrete terms, the Constitution needs a communications strategy to rally civil society behind it. It needs to be sold.

And as it is being sold; ratification continues. What were the British 'No' camp up to in Malta recently? What help is currently being offered to our friends in Estonia? What links were being fostered in Luxembourg and Belgium? These have been our latest front lines, but I hear zip. It is frankly not good enough.

Let us then take away this lesson as our memorial to Sir Edward Heath. Brussels is a project, a dream, a destiny; and we forget it at our peril.

delenda est Europa.

Dr Lee Rotherham was Conservative candidate for St Helens South in 2001 and Rotherham in 2005.

The European Foundation

Mission Statement: The aims and objectives listed below are summed up in The Foundation's overall policy of 'yes to European trade, no to European government'. We believe that greater democracy can only be achieved among the various peoples of Europe by the fundamental renegotiation of the treaties of Maastricht, Amsterdam and Nice. The Foundation does not advocate withdrawal from the European Union, rather its thoroughgoing reform.

Objectives

- To further prosperity and democracy in Europe;
- To renegotiate the treaties of Maastricht, Amsterdam and Nice and prevent the ratification of the European Constitution;
- To reform and scale down the *acquis communautaire;*
- To ensure that future member states get a fair deal from EC/EU membership;
- To halt the continuing arrogation of power by the EC/EU;
- To prevent the UK from adopting the euro;
- To contribute as actively as possible to an informed public debate about the future of Europe;
- To liaise with like-minded organisations all over the world;
- To liaise with organisations affected by EC/EU action and policy.

Activities

- Addresses itself to the general public and to politicians, journalists, academics, students, economists, lawyers, businessmen, trade associations and the City;
- Organises meetings and conferences in the UK and in mainland Europe;
- Publishes newsletters, periodicals and other material and participates in radio and television broadcasts;
- Produces policy papers, pamphlets and briefs;
- Monitors EU developments and the evolution of public opinion and its impact on the political process in the EU.

The Foundation's History: The Great College Street Group was formed in October 1992 in order to oppose the Maastricht Treaty. The Group, consisting of politicians, academics, businessmen, lawyers, and economists, provided comprehensive briefs in the campaign to win the arguments both in Parliament and in the country. The European Foundation was created by Bill Cash after the Maastricht debates. It exists to conduct a vigorous campaign in the UK and across Europe to reform the EC/EU into a community of free-trading, sovereign states. The Foundation continues to establish links with like-minded organisations across Europe and the world.

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