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Fabian International Bureau

**NOT  
WITH EUROPE:**  
the political case  
for staying out

WILLIAM PICKLES

*THREE SHILLINGS AND SIXPENCE*

WILLIAM PICKLES is Senior Lecturer in Political  
Science at the London School of Economics.

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FABIAN INTERNATIONAL BUREAU  
11 Dartmouth Street, S.W.1



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## I. Author to Reader

"I warn the reader that this chapter must be read with calm deliberation, for I have not learned the art of making my meaning clear to those who do not read attentively."

IT was with this sentence that Rousseau began one of the more difficult chapters of his *Contrat Social*, and it may be appropriate to reproduce it here. In the earlier parts of this pamphlet, the attempt to analyse and criticise, in far too brief a study, a quite new experiment in government, and to consider what would be its impact on our own system, may seem hard going to readers not familiar with this kind of subject. I have tried, therefore, to summarize and simplify each portion of the argument before I left it, and I hope that this will encourage the reader to persevere to the later parts, which present fewer difficulties.

Discussion about the problem of British entry into the European Economic Community is taking place in unfortunate circumstances. Nobody denies that, for good or ill, the whole future of Britain is at stake. The *Daily Herald* has said that the decision we have to make is more important than any that has been taken in the last 400 years, which means that in the months preceding the decision we need all the knowledge and all the intelligent discussion we can muster. Yet it so happens that nearly all the press is on one side. Of the nine London morning papers, eight are in favour of British membership. Some, it is true, give something of both sides of the case. *The Times* has been as near to impartiality as any and *The Guardian* has opened its columns on some occasions to the other side. *The Express* gives only the anti-Common Market case, on the (not unreasonable) ground that eight to one is already heavy enough odds. The most startling case is that of the *Daily Herald*, which is still the nearest thing there is to a Labour daily, and whose Editor, incidentally, was brought up in the fairest journalistic tradition of all, that of C. P. Scott. Despite the obligations which these facts might have been expected to impose, the *Daily Herald* has done all that could be done, outside a few snippets of news, to conceal from its readers the existence inside the Labour Party of an opposition to British membership stretching from Earl Attlee, Denis Healey and Douglas Jay on the one hand to

Barbara Castle and Anthony Greenwood on the other. Only Michael Foot, and he only once, has been allowed a say on the opposition side.

This shameful fact lays a heavy duty on those Labour men and women (including many supporters of British entry) who believe that whatever decision is taken should be backed by the maximum of knowledge and the fullest possible discussion. The Fabian Society shows itself to be worthy of its own great tradition in undertaking to publish pamphlets from both sides.

This pamphlet is addressed primarily to Labour Party members, voters and sympathisers, but much of it, I hope, will be useful to others too. Its purpose is less to convince or convert than to inform, and to start informed discussion of the political aspect. I hope, however, that the information itself will convince others, as it convinced me, that Britain should not, at this stage, join the E.E.C. and that there are ways by which any attempt to take us in without proper discussion could be frustrated. I have left out all argument about the economic aspect, partly because it does not come within my field of knowledge, partly because economic uncertainties are so obviously even greater than the political, and partly because the E.E.C. is primarily a political enterprise.

I should like to point out at this stage, and with great emphasis, that I do not claim to have anything like an adequate specialised knowledge of the political aspects of the E.E.C. I know enough to be aware of the extent of my own ignorance, and fully expect that, as I learn more, I shall discover in these pages errors of fact, of emphasis, of assessment, and of judgment as to the future. I have taken upon myself the task of starting discussion of this aspect of the E.E.C. only because all but one or two of my colleagues in British Universities seem to be even less well equipped than myself. I have lectured on the subject at the London School of Economics for the last five years, and I know of two other University teachers who have done some work on it. By now, some of our Civil Servants may be presumed to have gone into most of its aspects, but their knowledge is not publicly available. At the moment of going to press, two books have appeared which refer to some of the points discussed here, but apart from them there is scarcely any material available to those who wish to make a serious study of it.

This is a startling fact. On infinitely less important matters we do nothing in this country without careful enquiry and prolonged public discussion. It took three Royal Commissions and eighty years of argument to get the mines nationalised. The proposed changes in the government of London have been the subject of enquiry by a Royal Commission, to which a vast body of specialised knowledge and experience was made available, whose arguments have been published, and whose proposals are now going through the mill of extremely well informed discussion. We do not change a parish boundary or divert a public footpath, if objection is raised, without formal public enquiry. At the moment of writing no fewer than 33 Commissions and Committees appointed by the Government are looking into other questions of minor or medium public importance. All these are matters on which we are free to change our minds almost overnight if we have made a mistake, but on the political problem of membership

of the E.E.C., on which, in theory at least,<sup>1</sup> we shall be bound for ever if we go in, there is no kind of public enquiry, no informed public discussion, and not enough published material available to fill a book of moderate size. There is no means by which the ordinary intelligent citizen can inform himself and make up his mind rationally on a step which, by common consent, will profoundly affect the well-being of every one of us and determine whether in future this country is to exist or not. This pamphlet does not pretend to fill that gap, but at least it makes a start. It is to be hoped that others will follow, and so help to frustrate the evident intention of the Government to get this thing settled, if it can, without even the beginnings of proper consideration.

Because the decision to be taken is so important, the reader should also know the case for British membership. He will find the basic case in three Fabian pamphlets, by Shirley Williams and Evan Luard, and in pamphlets published by *Reynold's News*, *The Times* and the *Daily Telegraph*. The most recent exposition, and in my opinion the best informed and clearest, is by U. W. Kitzinger, in *The Challenge of the Common Market* (Blackwell). P.E.P. has issued a series of pamphlets with much useful factual information.

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<sup>1</sup> For fuller discussion of this, see below, pp. 29-30.

## II. What is the Community?

### Uncertainties

**I**N spite of all that has been said and written on the Community in English — and still more in other languages — we know next to nothing of what we need to know of its working effects and nothing at all about what it will become as time passes. This ignorance is by far the most important fact about the E.E.C. There are three reasons for it.

The first is that — inevitably — most of what goes on inside the E.E.C. machine is secret. The Council and the Commission<sup>1</sup> together perform something like the functions of a Cabinet, and, like the Cabinet, they do not publish records of discussion. Some of the 'directives', 'decisions' and 'authorisations' sent by the Commission or the Council to the Governments of member countries are published, but some remain secret, and so, of course, does the often prolonged correspondence between Commission and member Governments which precedes and follows their issue. Only the 'regulations' made by the Council are required to be published.

We know still less about the decisions made by private firms as a result of — or in anticipation of — the existence of the Community, because anything done by these firms *since* the coming of the Community may or may not have been done *because* of its coming. I.C.I. are building a factory at Rotterdam. Some say that the decision to do this was forced on the directors of I.C.I. by the existence of the Community; others say that it was made for totally different reasons and would have been made in any circumstances. In fact, only the directors of I.C.I. know, and then only if they are accurately introspective and analytical. The same uncertainty applies to many — probably all — the arguments about the economic effects of the first four years of Community existence.

Those are the first two reasons for our ignorance. The third, and most important, is that the Common Market is not yet in existence, despite the many inaccurate statements to the contrary. The European Economic Community came into existence on 1st January 1957, but much of the structure of the Common Market, which the E.E.C. is to set up as one of its functions, is not yet there. The rules of procedure for the control or abolition of cartels and monopolies have still to be drafted and tried out, and much of the vaunted agreement on agriculture is only provisional, while the vital question of common target-prices has been left undecided.

The rules on mobility of labour and association of overseas territories are still provisional, to be further developed in the one case and re-negotiated in the other; those on mobility of services and of capital, on the 'co-ordination' of commercial policies and on the 'harmonisation' of social policies are all still to come. Some of them may never come, for, as we shall see below,<sup>2</sup> the machinery of government of the E.E.C. makes it possible on many matters either for any one, or for certain combinations of two countries, according to circumstances, to prevent any decision ever

<sup>1</sup> For a summary of E.E.C. institutions, see pp. 19-20.

<sup>2</sup> pp. 23-24.

being taken. If and when all these decisions are made, we shall still be far from knowing how they will work out in practice, partly because they will affect each other, partly because no theory ever works quite as is intended, and partly because some countries enforce their social and economic legislation a great deal less efficiently (and indeed with a great deal less enthusiasm) than others.

To these three points about present difficulties, there must be added a fourth. Everybody agrees that if and when Britain enters the Community, a great many things in the Community itself will change, in both the economic and the political fields. Certainly, new tensions will be added to the many already there, but beyond that, only speculation is possible. All this speculation, including my own, should be treated with caution.

The main purpose, indeed, of this recital of uncertainties is to warn the reader against the danger of accepting at their face value some of the astonishingly categorical statements being made about the future of the E.E.C. The articulate supporters of the Common Market fall into two distinct categories. Some, either ignorant or wildly Utopian, confuse dreams with realities, and argue as if the future were already here and known. Others are fully aware that we are being asked to gamble our economic and political future in the hope of securing an extremely hypothetical gain, but, like those whose remains fill the suicides' corner in the cemetery of Monte Carlo, they believe that the prize they dream of justifies the gamble. The characteristic of the writings of this second group is the frequency with which 'is' and 'will' give way to 'should be', 'ought to be', 'can be expected to', 'I am confident that' and so on. Statements of fact merge almost unnoticed into expressions of hope. The reader is advised to study pro-Common-Market literature carefully and count the points at which the transition from real life to dream life takes place. He will find it revealing.

He will also realise—and this is the second reason for laying stress on the uncertainties—why until 1961 successive British Governments, Labour and Tory, kept out of all the aprioristic European schemes. Faced with many uncertainties, we believe in taking a step at a time, and then feeling the ground under our feet and examining the prospects ahead, before we take the next step. No Socialist objects to innovation and experiment; indeed, we all want them. But one can both be cautious and leave room for adaptation and change, as unexpected realities reveal themselves. **The more we believe in the need for change, the stronger the case for elasticity, precisely because we want to give our experiments a chance to succeed.** That is why Labour's Nationalisation Acts and social-service experiments all avoided over-rigidity. Anything else is a blind leap into the dark, of the kind that is only justifiable in extreme emergency. Trying to foresee the future shape of the Community is like trying to forecast the later moves in a dozen different games of chess. But since the Government, with President Kennedy urging it on, has decided to force the issue, we have to try to assess the possibilities as best we may. It is important, however—and this notion has guided me in this brief and inadequate study—that the assessment shall be based, not on hopes of what *might* happen or on dreams of what our prospective partners

might be persuaded to accept, but on the best available evidence of what is likely to happen.

### The Confusion of Purposes

The next most important fact about the E.E.C. is that its ultimate purpose is wholly political. It is the fruit of an alliance between federalists and exponents of *laisser-faire*, from which there emerged a tacit agreement that *laisser-faire* should be the method, and federalism, or something approaching it, the goal. The *laisser-faire*-ists are by no means all federalists, but they believe they have made a good bargain, since the method comes first, while the goal may never be reached. They may well be right. A start has already been made in enforcing a modified form of *laisser-faire*, while argument about the nature of the goal and the best way to reach it still goes on.

There is no natural reason why this alliance should have been made. It would have been both more natural and more sensible to combine the federalist aspiration with central economic planning, as do all existing federations, not excluding the United States. For that matter, a considerable degree of freeing of trade could have been combined with economic planning, and many of the federalists would no doubt have preferred this. The Socialists among them would, of course, have been delighted to have Socialist allies from this country, and they made great and honest efforts to get us to join them. But it would not have worked, simply because there were never enough Socialists among the Six (or even among the eight, if Britain and Denmark had gone in) to ensure that planning would be chosen as the road. And in any case, for reasons discussed below,<sup>1</sup> British Labour very wisely rejected federalism as a goal. So free trade and planning were both rejected by the Europeans, in favour of *laisser-faire*.

The achievement of this strange alliance has led to a great deal of very confused thinking. For a very long time, British and continental participants in the discussion were at cross purposes, the former seeing the experiment as wholly economic, the latter knowing that it was wholly political. By now, many English commentators are willing to agree that the purpose is political, but still regard the economic aspect as the only one worth discussing. Some believe that, after a friendly gesture towards the foreigners' quaint political dream, we can safely look only at present facts, which are indeed wholly economic, and trust to British influence from inside to prevent future political folly. It was, presumably, this type of attitude which led Mr. Edward Heath to assure the representatives of the Six in Paris that we had suddenly become enthusiastic supporters of their political purposes, and then, three days later, to describe the E.E.C. to the Conservative Conference at Brighton as 'an economic enterprise', thus leaving many people on both sides of the Channel wondering just who was to be the victim of the perfidy of Albion.

Others, including some leading Liberals, who ought to have known better, saw the thing as a move towards free trade. This is an even more astonishing error. If the purpose of the E.E.C. had been the freeing of

<sup>1</sup> p. 28.



trade over the widest possible area, its leaders would have accepted the British proposals for a Free Trade Area; they would have jumped at the idea of fusion with the European Free Trade Association and they would now be welcoming the prospect of widening their own area to take in the European neutrals and the Commonwealth. Their rejection of the first two, and their preparations to reject the second two, are evidence, if it were needed, that free trade is not their purpose. It is not even their method, for *laisser-passer*, which is free trade, is by no means the same thing as *laisser-faire*, and the essence of their whole enterprise is the planned enforcement of *laisser-faire* in the service of federalism or of some alternative form of political integration. Because the E.E.C. leaders believe — quite rightly — that federalism (or its substitute) cannot be achieved over too large an area, they are protectionist, restrictive and inward-looking, while free-traders are essentially outward-looking.

Some supporters of British membership argue that it is precisely because the purposes of the E.E.C. are so confused that Britain should go in and use her influence, at this formative stage, to push the Community towards a purpose more suited to British needs and prejudices. The question of what Britain can do by 'influence' therefore needs careful examination.<sup>1</sup> For Britain to try to secure a general reduction of the E.E.C. external tariff would be perfectly legitimate, and some of the founder-members (Germany and Holland in particular) might join her. But only the Commission, not the member countries,<sup>2</sup> can take any initiative to this end, and in the Council, which would take the decision, every member would have a veto. This point is forgotten by those who look forward optimistically to a majority made up of (say) Britain, Denmark, Norway, Germany and Holland turning the E.E.C. into a low-tariff area. A majority would not be enough; we should have to persuade every member country to agree with us. What a hope!

An attempt to use our influence to turn the Community away from the pursuit of federalism would not meet with the same difficulty. On the contrary, we should be able to use our veto to prevent the Community from becoming in any way different from what it is today, provided we had enough obstinacy and strength of mind to stand alone, or nearly so, if necessary. In so doing, we should not in any way be unfaithful to our signature, since the 'principles' enunciated in Art. 2 commit us only to seeking 'closer relations' between the member States. But that is only the letter. Nobody in his senses imagines that any one country could stand out alone against political changes desired by all the others, and yet remain in the E.E.C., unless his presence was absolutely indispensable. Either the odd man out would be expelled (having by then lost all his other friends and suffered economic changes which would have been tolerable only if he had remained inside), or he would in the end have to accept a compromise which, in continental fashion, would be no more than the starting-point for further pressure. In fact, it is improbable that Britain

<sup>1</sup> It is further discussed below, p. 29.

<sup>2</sup> The tariffs on items on 'list G' are settled by negotiation between member Governments. (Art. 20). This is the only exception to the rule.

would want to stand out. After a brief experience of the bureaucracy, negativism and anti-planning mechanisms described below, many of us would begin to see federalism, with a strong central Government and democratic control, as the lesser evil.

X The alternative is that, without using the veto, we shall be clever enough to convince the others of the folly of their intentions. It is freely said in Whitehall, and has been repeated more than once in print, that British politicians and Civil Servants will run rings round the Europeans. This claim, it should be noted, is made on behalf of the Ministers and their advisers who have already shown their utter incomprehension of the European mind by their reactions to the invention of the E.E.C. They first believed that the Treaty would never be signed, and shrugged it all off. Then they tried to absorb it in a large free-trade area with a totally different purpose. Finally, they invented the European Free Trade Association, which became a millstone round their necks when, within two years, they decided to try to get into the E.E.C.

We shall not always have Governments as insular as that, but even others will find that the European political game needs a lot of learning. In many of the countries which would become our partners, politics has none of the fiduciary basis that it has here. Multi-party systems produce political habits of mind vastly different from those engendered by our two-party set-up. So do concepts of democracy based on interpretations of Rousseau, instead of, as in Britain, the ideas of Locke. Written constitutions create rigidities and ways of getting round them unknown to pragmatic Britons. The Napoleonic adaptations of Roman Law have produced legal institutions, practices and habits of mind totally foreign to us. None of that means that the politicians and Civil Servants of the Six are less moral or less efficient than ours. It means that because their unconscious or inarticulate assumptions are different, because they are the majority and have already fixed the rules, we shall have to play the game in their way, and shall find that learning it is a long and difficult process. When we have learnt — in, say, a couple of generations — we shall *perhaps* be able to exert our due share of influence, but certainly no more. To believe anything else is to be guilty of stupid and insular arrogance.

The 'perhaps' in italics in the paragraph above is important. Influence in any international or multi-national body depends on power and strength among others things. At the moment, Britain is economically weak, and will still be weak next year, by which time the Government hopes to have us inside the E.E.C. We shall then show our weakness by asking for help in balance-of-payments crises and invoking escape clauses in other circumstances. We cannot then expect to get help unconditionally. Far from influencing others, we shall be compelled to accept their prescriptions for our economic policies. Some people, indeed, want to take us in precisely for this reason. If, as is suggested below,<sup>1</sup> we remain weak or become weaker, our dependence will be complete and our influence nil.

X } What all this means is that the new imperialism of some politicians and civil servants, the belief that we can walk into Europe and run the show,

<sup>1</sup> See p. 38.

is an empty dream. It would be folly to count on our influence to change either the purpose or the methods of the Community. We must see these as they are and accept them as they are, or stay out.

### Birthmarks

The genesis of E.E.C. is worth some brief consideration, because it explains a great deal about the Treaty and the attitude of its members. In particular, it explains how many good European Socialists, and democrats of other hues, were led to accept the reactionary economic methods and bureaucratic political structure described below, for neither had formed part of their original purpose.

The first attempt at a major step towards a European federation was the Council of Europe, founded in 1949 after an agitation that had reached its peak in the so-called Congress of Europe, an astonishingly incoherent gathering of politicians with conflicting purposes, which was paid for by anti-Communist big business and organised by the European Movement. The Council of Europe was an attempt to go to the political goal of federation (or, in some minds, something short of federation) by a political road. It was to become a European Parliament and 'make Europe', to use a fashionable federalist phrase. It suffered from the beginning from a Narcissus complex, and also rapidly got bogged down in a quarrel between federalists and those—mostly British and Scandinavian—who called themselves 'functionalists'. These latter were in fact pragmatists, seeking practical solutions before they evolved a theory and allowing the future, to a very considerable extent, to determine itself, but their misuse of the term 'functionalism' led the Europeans to believe that what they wanted was a series of partial integrations, ultimately to be fused together to make a federation.

So M. Monnet and M. Robert Schuman invented the European Coal and Steel Community, a partial integration of which the political assumptions and implications are worth a more serious critical study than anything they have had so far. It was, however, unacceptable to the British and their friends, because it was the reverse of pragmatic; it was planned in great detail on paper and then built up, not from experience, but from the theoretical blue-print. Two similar but still-born projects with the same purpose (of partial integration), and dating from the same period, were a Transport Pool and an Agricultural Pool. A fourth, and more important, was the European Defence Community, providing, this time, for military integration. It was embodied in a treaty which got as far as being signed by all six Governments and ratified by five Parliaments, before it was killed by the refusal of the French Parliament to ratify it, in 1954.

The long debate on E.D.C. had forced the federalists and other integrationists to think again about politics. To hand over the coal and steel industries of six countries to a body of technocrats was a big thing to do, and many people in Europe expressed alarm about it, but nevertheless accepted it for the sake of the political and economic benefits expected from it. Very few, however, were able to stomach the notion that more obviously vital matters like the level of armaments expenditure and the

actual issues of war and peace could similarly be left to technocratic decision. So the E.D.C. treaty was furnished with an article (No. 38) which stipulated that the E.D.C. Assembly should 'examine within six months the constitution of an assembly of the E.D.C. . . . elected on a democratic basis . . .', which might 'constitute one of the elements of a federal or confederal structure, based on the principle of the separation of powers and having in particular a two-Chamber system of government'. When it became clear that the Defence Community was to come into being only slowly, if at all, the job of providing for political control was taken over by a mixed body, the Ad Hoc Commission, coming partly from the E.C.S.C. Assembly and partly from the Council of Europe.

Constitution-making has been a European hobby since 1789 and every one of the six countries has a fine collection of lawyer-politicians who can run you up a nice little Constitution in two twos. So the Commission worked quickly and submitted its draft Constitution for a European Political Community to a meeting of the Foreign Ministers of the Six in December, 1953. The organisation provided for in this draft<sup>1</sup> was by no means a federation, though its Parliament was to have power to legislate by simple majority on some matters. National sovereignties were preserved, however, by leaving the final decision on most major issues in the hands of a Council of National Ministers, in which every member country was to have an absolute right of veto. The central authorities were also to have very little judicial and almost no coercive power.

But there was still too much federalism (or supra-nationalism, or surrender of sovereignty) for the E.P.C. draft to be acceptable to all the six countries that had sponsored its preparation. Hostility came to a head over the proposed distribution of seats in the lower House ('the Peoples' Chamber'), and the whole project was dropped. Its history had revealed what many of us had known all along and I had more than once written — that many of those, especially the French, who talked airily of federalism had no notion of what in practice it meant. They had thought of federalism as a form of *international* government, capable of *preserving* their national influences and entities. It is in fact, as every smatterer in political science knows, a form of *national* government, involving the total disappearance of the existing national entities which go to form it. When the assembled Ministers saw that they were being invited to take the first big step towards a position in world affairs equivalent to that of the States of California, or British Columbia or New South Wales, they took fright and ran away.

But in running away, they took some of their illusions with them. One of the purposes of the E.P.C. had been to set up a Common Market, and this proposal was salvaged from the wreckage at a further conference of the Six at Messina in 1955, owing, mainly, to the efforts of the Dutch representatives. That was all that could be saved, after seven years of effort, and it was seized upon, in a mood of half-blind, half-desperate hope, by many otherwise sensible and democratic politicians. Two things, however, had been made clear to impartial outside observers. The first

<sup>1</sup> Those interested will find the details in *European Coal and Steel Community. Ad Hoc Assembly . . . Draft Treaty . . . European Political Community. H.M.S.O. 1953.*

was that **the prospective partners had much too little confidence in each other to make possible the operation of any democratic central authority, or indeed, of any central authority at all with over-riding powers over national Governments.** That is why the E.E.C. is stuffed with vetoes and semi-vetoes (the so-called 'qualified majority' being in fact the veto right of a two-nation minority). Some people believe that ultimately effective federal powers *have* been included. Professor Daniel Villey, a convinced integrationist, claims that the Rome Treaty contains many 'camouflaged weapons, invisible to the naked eye'<sup>1</sup> Others believe that the economic powers of the Commission will effectively limit national sovereignty in fields like foreign affairs and defence, in which it is supposed to be preserved, while still others believe that the muddle arising from vetoes and from the division of powers between national Governments and a supranational authority will drive the non-federalists into acceptance of federation.<sup>2</sup> What is certain is that, behind the pretence of creating unity, the battle between the non-federalists, defending themselves with their vetoes and qualified majorities, and the federalists using the weapons I have just described, will become increasingly bitter and generate a vast quantity of bad feeling.

The main lesson learned by the integrationists from the failure of E.D.C. was the need for speed. The E.D.C. affair had shown that if ordinary citizens are allowed to know what is going on, if the opponents are given time to put their case and get a hearing, any integrationist project is liable to be defeated. Dr. Adenauer in Germany and M. Mollet who was then French Prime Minister were both favourable to the Common Market, so M. Paul-Henri Spaak used all his energies, as he freely admitted on dozens of occasions, to rush the Treaty through to signature while these two were in office. M. Spaak never concealed his fear that, in a less favourable governmental climate and if too much time were left for talk, the Common Market would suffer the fate of the E.D.C. **'Europeanism' had boxed the compass. Starting by trying to get integration by pressure of public opinion in 1948 and 1949, it had come round to a belief that it could be got only if it were imposed from above on unwilling citizens.** It was this fear of public opinion, and not, as some British admirers have suggested, a belief in pragmatism, that left so much to future negotiation. Obstacles had to be by-passed, because an attempt to overcome them would take too much time and again allow the ordinary man to discover what was being prepared for him. This again made the vetoes and semi-vetoes necessary, since the national Governments had to have the means of defending themselves in the many postponed negotiations. **Every other line of the Treaty expresses the distrust the Six feel for each other, and the whole expresses the ambivalence of politicians who want the sweets and the halfpenny, the advantages of unity together with the wholly incompatible advantages of separation.** And schizophrenia is at least as dangerous in organisations as it is in individuals.

<sup>1</sup> *Le Marché Commun dans l'optique européenne*, p. 38, in *Le Marché Commun et ses Problèmes*, Sirey, 1958.

<sup>2</sup> See Pierre Uri in the same work, p. 315 (on the E.C.S.C.), 'We had to create a disequilibrium which would drive people into a wider effort'.

### III. The Sovereignty Problem

A GREAT deal of nonsense has been talked and written about sovereignty, and most of it overlooks the classic and vital distinction between *political* sovereignty and *legal* sovereignty. Political sovereignty means a nation's right to do what it wants on its own territory. I know of no Socialist (though I do know of many Communists) who would claim the right to an unqualified sovereignty of this kind. The supporters of the E.E.C. claim, quite rightly, that the era of small and wholly sovereign nation-states is over and that the age of wider groupings is already here. I do not see how any Socialist can reject that view. Most of us would willingly surrender more than we have done of our national political sovereignty to an effective United Nations; most would happily surrender many more specific items of sovereignty to the I.L.O.; and many others (like me) would do the same for N.A.T.O.

So far, however, every surrender of sovereignty has been part of an effort to solve a particular problem or problems, which could be solved only by international agreement. We have never contemplated surrendering our national existence, as E.E.C. theory expects us to do, in order to move towards some distant, doubtful and arbitrarily defined goal, by methods which Mr. Macmillan once contemptuously dismissed as 'constitution-mongering'. Under the principles that have hitherto prevailed, any further surrenders of sovereignty would cover only defined areas and would require the consent of Parliament. Parliament would know what it was authorising and why. For some considerable time to come, at least, future Parliaments would be free to reclaim the surrendered areas of sovereignty if circumstances changed, or even, if they were unwise enough, to do so in unchanged circumstances. Indeed, if it wanted to be really silly, Parliament could at any time contract out of the U.N., N.A.T.O., the I.L.O. and every other international organisation down to the Postal Union. The kind of surrender of sovereignty involved in membership of these organisations is by now commonplace, and no political party challenges its general desirability, though some would, no doubt, challenge it in particular cases.

Mr. Edward Heath, Lord Privy Seal and our chief negotiator with Europe, has tried to suggest that the surrender of sovereignty required by signing the Rome Treaty would be no different from those to which we are already accustomed. Speaking of the requirement that British law must be 'approximated' (*i.e.* adjusted) to fit the requirements of the Community, he said,<sup>1</sup> 'We do this in other organisations. In the I.L.O., for instance, if we accept a convention we approximate our law to carry it out. There is nothing unusual in it . . . the approximation is necessary only in so far as it is for the functioning of the Common Market, and there is, therefore, another specific limitation on that'. That statement is both strictly true and wholly misleading. An I.L.O. Convention covers known and stated points; it becomes valid in this country only if it is accepted by the Government and then translated into British law by an

<sup>1</sup> *Hansard*, H. of C. 3.8.1961, Col. 1676.

Act of our own Parliament. By so doing, Parliament surrenders, over a clearly defined area, a part of this country's sovereignty, but it surrenders none of its own sovereignty. On the contrary, it reasserts its sovereignty, and can assert it again, if it wishes, by repealing the Act applying the convention.

But the Rome Treaty, if it can be made to work in Britain as it works elsewhere — which, as I explain below, is in my view extremely doubtful — will take away some of the sovereignty of Parliament. For legal sovereignty, the sovereignty of Parliament, is a quite different thing from political sovereignty. It is a vital part of the British conception of democracy, hard won in centuries of struggle against arbitrary rule, from Magna Carta to the Act of Settlement. Stated in its briefest form, it is the right of Parliament — Queen, Lords and Commons — to say what shall be law in this country. Today, no other right is superior to that right. Every successive Parliament is itself sovereign; no law or any other instrument can prevent it from making what laws it wants or from undoing as much as it wants of what earlier Parliaments have done.

If the Treaty of Rome is to apply here as it does elsewhere, that will cease to be true. According to Mr. P. VerLoren van Themaat, the E.E.C.'s Director-General for Competition,<sup>1</sup> 'there are about 130 provisions of the Rome Treaty which have the character of substantive law'. In addition, the Council of the Community can issue 'regulations' (applying to all member States), and it and the Commission can issue 'decisions' (applying to named States) *which are immediately and ipso facto valid as law in the countries concerned*. This is perfectly possible in the six present member countries, all of which have written Constitutions, limiting the rights of their Parliaments in ways in which no British Parliament has consented to be limited. They also provide, as we do not, for the ratification of treaties by their Parliaments, and stipulate, in various ways,<sup>2</sup> that treaties, once ratified, are law, and take precedence over all other laws. If, in one of the six countries, a Court sees a conflict between a Community regulation or decision and one of its own national laws, it will regard the Community law as valid and ignore the other. If one of the six Parliaments passes a law which appears to a Court to be in conflict with the Treaty or with a regulation or decision made by virtue of the Treaty, the Court will regard the law in question as invalid, and apply only the Treaty.

This practice would raise two problems here, if Britain were to sign the Rome Treaty. In the first place, it is difficult to see how it *can* be applied in Britain. We have no written Constitution to alter, as the Six have. In Britain, as Sir Ivor Jennings has said,<sup>3</sup> 'the supremacy of Parliament is the Constitution'. What, then, can we do, if we enter, to satisfy the Six that we have fulfilled what, on this point, is an explicit obligation? Parliament could pass an Act, stating that the Treaty and the regulations and decisions made under it are law in this country, notwithstanding any earlier

<sup>1</sup> In *Legal Problems of the E.E.C. and E.F.T.A.* (Stevens) p. 77.

<sup>2</sup> See, for instance, Art. 55 of the French Constitution, Art. 24 of the German *Grundgesetz*, and Art. 66 of the Dutch Constitution.

<sup>3</sup> *The Law and the Constitution*, p. 294.

Acts which appear to say opposite things. But it could do nothing to prevent future Parliaments either from repealing that Act, or from passing other Acts in contradiction with earlier Community regulations or decisions. To try so to limit the powers of future Parliaments would be to try to abolish the sovereignty of Parliament, and such an attempt would inevitably fail in the short run. Only a prolonged conflict of power between (say) Government and Parliament, or the Courts and Parliament, or the Community Court and Parliament could prevent British Parliaments from reasserting their sovereignty if they so wished.

That is the first difficulty, and it will be obvious that it really ought to worry the Six more than us.<sup>1</sup> The second difficulty, however, concerns us very closely. It is possible to imagine a tacit abandonment by Parliament of its own sovereignty. If Parliament does pass an Act making past and future 'decisions' and 'regulations' of the Community Council and Commission valid here — please note, past *and future* — then future Parliaments might wish to respect that Act and try to avoid conflict with it. If they did, however, they would thereby have surrendered not only their sovereignty, but also another right, to which all Parliaments over the past 30 years have attached increasing importance. Ever since the publication of Lord Hewart's famous book on 'The New Despotism' and the report of the Donoughmore Commission on delegated legislation (in 1932), Parliament has steadily tightened its control over Statutory Instruments. Statutory Instruments are the Orders in Council and similar documents which Ministers use, with the specific authorisation of specific Acts of Parliament, to fill in the details of legislation which are either too small for Parliament to deal with, or which may need to be changed as circumstances change, and so on. These Instruments are, in effect, laws made by Ministers, and Parliament keeps a check on them in three ways: the Committee on Statutory Instruments (usually called the Scrutiny Committee) calls the attention of Parliament to any Instrument which, in its view, goes beyond what might be thought desirable, in any one of six specified ways. All Instruments, with a negligible number of exceptions, are laid on the table of the House; some come into force only if within 40 days the House has raised no objection; others become valid immediately, but must be withdrawn if the House votes a Prayer for Annulment. None of these devices is much used by Members of Parliament, but their existence, in my view and in that of many authorities, makes Ministers and their advisers much more careful than they might otherwise be, and prevents many possible abuses. Note that **these safeguards are used to check Instruments made by British Ministers responsible to our own Parliament, acting by virtue of laws passed by our own Parliament. Yet, if Britain signs the Rome Treaty, no similar safeguard, indeed no safeguard of any kind, will be available to Parliament as regards the regulations and decisions having force of law in this country, issuing either from a body of Ministers in Brussels, of whom only one will be responsible to Parliament, or from a Commission of appointed officials of whom none will be responsible to**

<sup>1</sup> If the French wished to be awkward, they could argue that our inability to ensure the 'reciprocity' required by article 55 of their own Constitution would release them from their obligations.

*Jack & Belmeo*



**anybody.** We shall have instituted checks against Lord Hewart's 'new despotism', only to surrender to a newer and more remote despotism, totally beyond our control. This point is further examined below, in the section entitled 'Bureaucracy'.

### Other Legal Problems

The Treaty presents a further problem in this field, which need not be insuperable if we really were under some economic compulsion to go into the Community, as some people quite wrongly think we are, but which will nevertheless play havoc with a useful and long established tradition. British lawyers interpret Acts of Parliament and Statutory Instruments in accordance with the commonly accepted meaning, as they see it, of the words in them. Their assumption is that Parliament, or the Minister, meant what they said, and that if they did not they are always free to change the words, in order to make their meaning clearer. This is a valuable tradition because, among other reasons, it means that the ordinary man or the ordinary man's lawyer also has a reasonable chance of knowing what the law is, or will be declared to be. In any case, it is now part of a habit of mind in which British lawyers have been trained for centuries, and will be very difficult to lose. But continental lawyers in all the countries of the Six interpret laws by asking themselves what the words in them *were intended to mean*. In order to find these interpretations, they go back to statements of principle in the preambles to laws, or to Parliamentary debates and similar sources. This creates great confusion. French citizens, for instance, have discovered, on a dozen occasions in the past three years, that the Constitution, for which over 80 per cent of them voted in a referendum in September 1958, is not held to mean what nearly everybody, including some of those who helped to draft it, thought it meant when they voted for it, and the interpretations which have led to these rulings have been based in part *on private documents*, to which neither the ordinary citizen nor the ordinary lawyer has access.

There is no need to stress the dangers of this technique of interpretation especially in a country in which scarcely anybody is accustomed to it. But it carries with it another difficulty. Community regulations and decisions, as we have seen, are valid as law in every member country. They must, obviously, have the same meaning in every member country, if the Community is not to be reduced to legal chaos. If, therefore, Britain joins the Community, British judges must learn to interpret these regulations and decisions in the light of the intentions lying behind them, and not of the meaning of their words. What are they then to do when they interpret ordinary British law? Either they must change our whole tradition in this matter, and interpret *all* our law in this way, or they must risk creating contradictory interpretations of the same words and phrases, according to whether they are dealing with Community law or with British law. Clearly, this would create an impossible situation, and we shall either drift or jump into the purely Continental habit. It implies no disrespect to Continental law and Continental lawyers to say that most of us would see this as a change for the worse, and that it would in any case lead to a period of great confusion.

### III. Defects of Principle and Structure

#### The Underlying Philosophy

**I**F the conflict between federalists and non-federalists has produced some ambivalence in everything that touches on the ultimate purpose of the E.E.C., there is and always has been complete unity on method. All the integrationists are agreed that the road from the 20th century to the 21st goes by way of the 19th — or perhaps, more accurately, of the 18th. In other words, the major immediate purpose of the Community is the creation and maintenance of as complete a system of *laisser-faire* (in plain English, a free-for-all) in economic life as its founders are able to obtain. Indeed, it is worse than that, and in a way that suggests that I have been unfair to the 18th century. Adam Smith and Turgot believed that, if all individuals were left free to pursue their separate economic purposes, the hidden hand of a beneficent providence would ensure that it all worked out for the benefit of all. The nineteenth century demonstrated the falsity of this view. It showed, as Fourier put it, that 'competition leads to monopoly'. So the modern exponents of *laisser-faire* believe in planning for it.

Where you or I would plan for full employment, or for quality, or low prices, or the preservation of the countryside, or the many other social purposes we have in mind, they plan to create artificially the kind of situation which Adam Smith saw as a part of nature. This is planning only in order to prevent planning. It is trying to use modern knowledge and techniques in order to adapt the world to the economic superstitions of the eighteenth century, and in practice it is just as silly as it sounds in theory, since it combines the necessary bureaucratic elements of planning with the inefficiency and purposelessness of *laisser-faire*. We would plan, because we know from experience that, if competition sometimes stimulates effort and ingenuity, it also leads to get-rich-quick methods of shoddy production, knows no social priorities, and is always wasteful. They plan to ensure the freedom of every individual, outside specified areas of exception, to exploit other individuals to the top of his bent.

This is in no way an overstatement or a distortion. The integrationists had already tried their hand at international planning for *laisser-faire* in the Coal-Steel Pool, and they never concealed their intentions about the Common Market. They have called it 'the Institutional Market' and one of their leaders, M. Jacques Rueff, has explained what it means, in his introduction to the symposium from which I have already quoted, *Le Marché Commun et ses Problèmes*. 'The Institutional Market', he says, with endearing frankness, 'creates a geographical area in which the behaviour of individuals is in large measure determined by the price mechanism . . . . It abandons none of the legitimate hopes for free trade. It recognizes that the benefits of free trade will be greater as the geographical and economic area of free trade is greater. But its founders knew where they were going. They preferred to get one step nearer to their goal, rather than go on eternally expressing their regret at not reaching the goal. Therefore instead of total *laisser-passer* they preferred a market limited to the area in which the creation of (appropriate) . . . institutions

was politically possible, and instead of total *laisser-faire*, a *laisser-faire* limited by so much State intervention as would give it the chance of being morally acceptable and politically accepted'.

The author of that frank statement is now a member of the Community Court which interprets the Treaty. And the Treaty itself bears out his claims. It is true that there are exceptions to the rule of *laisser-faire*. There are expressions of belief in co-operation on exchange rates, trade-cycle policy and balance-of-payments policy, but there is no adequate provision for securing that co-operation, and no provision for enforcement of what may be agreed on. These articles, therefore, are likely to remain mere words. There is to be some kind of managed agriculture. There is a Social Fund, contributing half the cost of retraining displaced workers, and there is a European Development Bank, contributing, where appropriate, half the capital for development projects in under-developed areas of Europe. But the Social Fund runs only for another eight or ten years, unless a qualified majority of the Council votes to continue it, and the Development Bank makes its grants dependent on payment of interest at a level which must necessarily be high if its rules are fulfilled, and on the creation of a sinking fund. Any other variation from strict *laisser-faire* requires the permission of the Commission. The most casual glance at the Treaty suggests, and closer examination confirms, that *laisser-faire* is the rule, as M. Rueff and his co-founders intended, and the bits of planning very much the exception. If and when the Court has to decide on accusations of breaches of the rules of the Treaty it has to apply what the Treaty calls 'the rules of free competition' (under the watchful eye of M. Rueff) in every case in which an exception is not explicitly authorised.

There are people who argue that the view just stated is based on a misunderstanding of the Treaty. They point to pious aspirations about the desirability of economic expansion and a more rapidly rising standard of living (in Art. 2), and about the improvement of working and living conditions (in Art. 117). But they cannot point to a single reference to full employment, they forget that Art. 117 trusts to *laisser-faire* to do the job and that Art. 2 imposes no obligation, precise or imprecise. It is true that Art. 2 can be taken into account by the Court lawyers, who are last-resort rulers of the Community.<sup>1</sup> But this can be done only where there is real doubt about the intended meaning of the words in the Treaty or in the agreements and regulations which will complete it. In the absence of doubt, they must and will apply the Treaty.

The Treaty, of course, can be changed, but only in one of two ways. It can be interpreted out of existence by the combined work of a qualified majority of the Council, and ordinary majorities of the Commission and the Court. Since Commission members sit for a minimum of four years and Court members for six, any change of orientation could take a very long time, even if there was no minority on the Council with the desire and the power to prevent it. The other way is by formal revision, which

<sup>1</sup> Professor Perroux, the most distinguished living French economist, has described the E.E.C. as 'the second European lawyers' paradise' — the first being the Coal-Steel Community.

requires ratification by every member Parliament (*i.e.* can be blocked by the veto of any one member). If Britain, Norway, Denmark and Ireland go in, there will be ten potential vetoes, so the reader can work out for himself the chances of revision. The trouble is, of course, that the rigidities of written Constitutions are deliberately created in order to safeguard specific vested interests, and are intended to be respected. The notion that anything that doesn't work can always be changed is a British notion, based on a fiduciary and pragmatic approach to politics. Nobody on the continent accepts it, though some admire it from afar. So if we go in, we must go in in the full knowledge that we are accepting an anti-planning mechanism, and can change it only by learning to use the devious devices, strange to British minds, by which the rigidities of written constitutions are sometimes overcome.

Some supporters of British membership claim that things will not work out in that way. It is a strange argument for signing a treaty to say that it does not mean what it says, but the basic belief is probably true. That does not mean, however, that we shall be able to replace the free-for-all by Government planning, but that it is already being replaced by private, big-business planning. Cartels and unpublicised agreements between the big firms are rapidly coming into being throughout the Community countries, and few, even among its supporters, are convinced that the Commission can deal with them. The High Authority of the Coal-Steel Pool, which has been trying for years to enforce similar rules in its own sector, but with the backing of the same Court, has completely failed to secure the dismantling of the great Ruhr coal cartel, GEORG. We must expect the same weakness to be shown by the E.E.C. Commission, which has fewer powers than the High Authority of the Coal and Steel Community.

This takes us close to the E.E.C.'s central weakness. Governments which sign the Treaty sign away a great part of their existing planning and controlling powers. Some of these disappear altogether. They bind themselves not to exercise any power which, in the view of the Court in the last resort, could have the same effect as a tariff or an import quota, and which would affect trade between member States, and aims at or has the effect of preventing, limiting or interfering with the free working of competition within the Community. This renunciation of power applies specifically to nationalised as well as to private industry, and this means that, although member States are free to nationalise what industries they like, they are *not* free to pursue many of the purposes for which nationalisation may well have been intended. There are, of course, great areas of economic life in which member States remain entirely free, and there are exceptions to the *laissez-faire* rules, but the real meaning both of the rules and the exceptions will be decided by the combination of bureaucracy and negative control described below.

Other rights are handed over to the Commission, which is committed to using them, not in the interests of any social purpose, but solely in order to enforce rules of free competition against the small firms which are the only ones against which it is likely to be strong enough to enforce them. The Treaty binds member States, in effect and with the exceptions

mentioned above, to regard the maximisation of free competition as an overriding good, more important than full employment or aesthetic or strategic or political or any other considerations—but it then fails to create any central authority with democratic backing and real power to deal with international monopolies and cartels. That is why, from the very beginning, the money for propaganda in favour of European integration has come from the great European cartels, and why, also from the beginning, the pro-Common-Market campaign in Britain has been led by the giant firms, hungry for their share of the European pickings.<sup>1</sup> It is also why so many of those who really believe in free trade within a framework of social policy have rejected the Common Market. The Treaty does have a section on social policy, but that section begins by affirming that free competition within the Community will itself promote any desirable social policies. Among the immense powers given to the organs of the Community there is not one (again apart from the oft-mentioned three exceptions) which will, or is intended to, enable it to enforce or pursue or encourage any social policy. As the title and chapter headings of Part I of the Treaty clearly say, *laisser-faire* is one of 'the foundations of the Community'. Or, as Herr Hans von der Groeben, of the E.E.C. Commission, says, 'The Treaty is founded on the principle that the course of economic events in the Community is to be guided by competition.'<sup>2</sup>

### Bureaucracy

We have seen how the Common Market will help to consolidate the rule of big business, which will thus recoup its vast propaganda expenditure. Anybody who hopes that Britain can change this state of affairs whenever she wishes had better think again. For another characteristic of the E.E.C. is the total absence of democracy. To explain this more fully, I must first set out a few brief facts about its machinery of government.

The organs of the E.E.C. are the Council, the Commission, the Court, the Parliament, the Economic and Social Committee and, unofficially, the Ambassadors of the member Governments accredited to the E.E.C., who appear to meet frequently in Brussels and form a kind of unofficial permanent liaison between Council and Commission. The Council consists of one member (normally a Cabinet Minister) from each member State. It decides a few minor matters by ordinary majority; on many matters, at the present stage, it decides by unanimous vote, and on a steadily increasing number by qualified majority,<sup>3</sup> which means 'twelve votes out of

<sup>1</sup> 'The Commission has few *dirigiste* weapons at its disposal for any general regulation of the market'. P. VerLoren van Themaat in *Legal Problems etc. (op. cit.)* p. 84. It should be noted in this connection that, if the Court follows the same trend in dealing with the E.E.C. Commission as it has with the High Authority of the E.C.S.C., it will interpret the Commission's powers restrictively. v. Lagrange, *Les pouvoirs de la Haute Autorité et l'application du Traité de Paris*, in *Revue du Droit Public*, 1961, No. 1, pp. 45-47.

<sup>2</sup> *Policy on Competition in the E.E.C.* Brussels, 1961, p. 6.

<sup>3</sup> France, Germany and Italy have four votes each; Belgium and Holland two each. Luxembourg one. What will happen if new members come in can only be guessed. Negotiation on distribution of votes and on the level of the qualified majority will be a very delicate matter.

the total of seventeen. It is thus possible for one big and one medium-sized country, with six votes between them, to block any decision requiring a qualified majority. No provision is made for getting out of the deadlock; it goes on until somebody gives way. The Council issues *regulations* and *decisions*, which are binding in law, from the moment of issue, the former on all member States and the latter on those to whom they are addressed.

The Commission consists of nine permanent officials (some of them ex-politicians), appointed by the Governments, for a minimum term of four years. Not more than two may come from any one country. It decides by majority vote. Its business is to further the general purposes of the Treaty (which its present members see as moving towards federation), to apply the *laissez-faire* and other rules (first to be worked out in detail by the Commission and approved by the Council); and to make proposals to the Council (it has a near-monopoly of this right) on all the main subjects. It also has powers of its own, which are discussed below. It issues *recommendations* and *opinions*, which are not binding; *authorisations*, without which many things are forbidden; *directives*, which order Governments to achieve a particular result, without specifying how, and *decisions*, which apply to named countries and are binding on them.

The Court consists of seven Judges, appointed by the Governments for a maximum of six years in the first place. They are assisted, in the Continental manner, by Advocates-General, and the procedure also is wholly Continental. The Court has the final word on the interpretation of the Treaty, of rules made under its authority and of the legality of the actions of Community organs. Its contingent powers are therefore almost unlimited.<sup>1</sup>

The Parliament (called *l'Assemblée* in the French version), consists of 36 representatives each for the three bigger powers, 14 each for the two medium ones and six for Luxemburg. They are delegated by national Parliaments, which in practice exclude all Communists. It meets once a year as of right, uses Continental procedures, and has as its only power the passing by a two-thirds majority of a motion of censure on the Commission, which entails the wholesale resignation of the Commission members. This, of course, does not amount to anything resembling Parliamentary control in any ordinarily accepted sense of that term. The fact that members of the Commission in practice attend meetings of the Parliament and its Committees and are sometimes influenced by what they hear takes this caricature of democracy only one small step nearer to real democracy. The Parliament has been given a steam hammer, difficult to operate (two-thirds majority), which it can use, if it wishes, to crack nuts. There has been much talk of a directly elected assembly with some real power to legislate, but this is running into the same difficulties as were responsible for the death of the European Political Community. The Economic and Social Committee appears, on the available evidence, to be purely decorative.

Let us now look at the working of these institutions. We can begin

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<sup>1</sup> 'Nearly all really important questions', says its present president, Professor Donner, 'tend to come before the Court'. *Legal Problems* etc. p. 72.

by forgetting about the Court. It is true that rule by judges is repugnant to all our instincts and traditions, but it is also true that if ever we do enter any wider international grouping, we shall probably have to accept some degree of judicial supervision of the application of its rules. It is possible to manage without such supervision, but if most of our probable partners want it, we might well decide that judicial supervision was a price worth paying for whatever other advantages there were.

One cannot, however, say the same of the Commission or the Council, both of which suffer from a basically anti-democratic structure. The Commission is the only public governing body known to me which is, in the literal sense of the term, a bureaucracy; it is a body of officials with the right and the duty to exercise many of the powers of government. It is also by far the most powerful of the Community organs. On nearly every matter, it is the only body in the Community with a right of initiative. The Council cannot prepare its own proposals for consideration; it can consider only those of the Commission. The only parallel known to me in history for this separation of the functions of initiation and decision is to be found in the Constitutions which Sieyès drafted for Napoleon I — and their all too evident purpose was to stifle democracy. The provision means that the Commission can prevent the Council from considering anything it does not want to be considered. Such proposals as the Commission does submit can normally be amended by the Council only if it is unanimous, or by a qualified majority which includes at least four members. The Commission also prepares the budget, administers the Social Fund and takes member Governments into Court as and when it thinks fit. It is itself the Monopoly and Restrictive Practices Court of the Community and it runs the managed agricultural market, having in particular the vital function of fixing the variable levies (*i.e.* taxes) on imports.

The Commission also has, as the Treaty says (Art. 155), 'its own powers of decision'. Note the words: *of decision*. And indeed it has. It can give orders to any member State on the principles and the details of application of the rules of free competition to nationalised industries or to any industries enjoying special or exclusive rights, or to monopoly services. (Art. 90). It can order a Government which has taken emergency measures in defence of its currency to withdraw those measures (Art. 73), and it can order it to abolish any form of State aid which it regards as incompatible with Art. 92, defining in vague terms the permissible forms of State aid. In all these cases, the rule means that the bureaucrats have the last word, unless the Government concerned takes the matter to the Community Court.

The Commission also issues 'directives' (specifying the result to be achieved, but not the method of achievement) on the rate of suppression of taxes equivalent to customs duties (Art. 13) and on the 'framework' within which agricultural prices are to be negotiated. It also gives or refuses 'authorisations' on a wide range of matters covered by a dozen Articles (17, 25, 26, 37, 46, 73, 80, 89, 91, 107 and 108). These include the maintenance of certain revenue duties, the creation of quotas at reduced or zero tariffs in certain cases, the partial or total suspension of the external tariff, the postponement in certain circumstances of the raising

or lowering of that tariff, the taking of protective measures on capital movements liable to cause disturbances of the capital market, the granting of supports or protection to enterprises or industries by way of transport rates or conditions, protective measures against dumping, similar measures in cases where another State has broken the rules, and so on.

The reader will have seen for himself that these powers are both extensive and important. They touch at three points upon taxation (Arts. 13, 17, 97), they affect the running of nationalised industries and the uses of Government aid, and they touch at one point on the right of the State to control capital movements (Art. 93). In the two cases in which the Council can intervene and overturn the Commission's decisions (Arts. 73 and 93), it requires a qualified majority in the former case and unanimity in the latter. In the absence of those majorities, and in all the other cases cited, the Commission is supreme.

What makes the nine bureaucrats the real rulers of the Community, however, is not only the range and importance of the powers given to the Commission by the Treaty, but the conditions of its work and the manner in which they compare with those of the only other decision-making body, the Council. The Commission decides by simple majority (and can therefore always reach some kind of decision); the Council requires either a unanimous vote or a qualified majority for every important decision, and may therefore, as is explained below, often find itself unable to reach a decision at all. The Commission has almost all the right of initiative, and the Council can only either amend its proposals (by unanimous vote) or tell the Commission to think again. The latter right is, in practice, the one most frequently used and the only effective one. The Commission members sit for a minimum of four years, while Council members come and go as Governments change or are re-shuffled. The Commission meets as often as it likes, the Council only once a month, for two or three days. The Commission thus acquires a corporate personality and a mind of its own, while the Council can have none. The Commission controls the Community Civil Service, prepares the budget, runs the Social Fund. There is no body of officials in any democratic country which enjoys anything even remotely resembling such a position of power vis-à-vis a body of Ministers issuing from democratically elected Parliaments.

To visualize anything equivalent at home, one would have to imagine our having two Cabinets, each with powers of its own, and of which the second consisted entirely of permanent officials. None of the officials would be responsible to any individual Minister; on the contrary, they would do many things without reference to the Ministers at all; it would be they and not the Ministers who would appoint all the other officials and they who decided on the agenda for the first Cabinet. The second Cabinet could not be got rid of so long as it had the support of only one-third of the members of Parliament, and neither Cabinet would be subject to any other form of Parliamentary control whatsoever. A straightforward proposal to abolish our present Cabinet and Parliament and replace them by the above arrangement would be treated with contempt. But the proposal to take Britain into the E.E.C. is in fact a proposal to take a great and growing part of our affairs out of the control of our present



Cabinet and Parliament and put them under precisely the kind of rule I have just described.

### Negativism

The Council is not a bureaucracy, but it is certainly not a democratic body. It is responsible to nobody and its individual members obviously cannot be held responsible by their national Parliaments for what they have done in a body whose proceedings are of necessity secret.<sup>1</sup> The most objectionable feature of the Council is, however, its voting system. Even after the passage from stage I to stage II of the transition period, there are 38 specified cases or circumstances (if my counting is accurate) in which it can take no decision except by unanimous vote; on about 30 others, the unanimity rule gives way sooner or later to the qualified majority rule. On none of these matters is there any provision for changing to normal majority voting. On its own internal affairs, together with a very few others, and on matters not foreseen in the Treaty, it decides by simple majority.

Both simple-majority voting and the unanimity rule can be defended. The one expresses confidence, the other lack of confidence. Majority voting is possible wherever those concerned have sufficient confidence in each other to accept this instrument of democracy. The unanimity rule safeguards national sovereignty where it is thought desirable to do so. The qualified-majority rule, on the other hand, is indefensible both in logic and in practice. It is intended to safeguard legitimate minority rights, but in practice it fails to safeguard those (though they may well be legitimate) whose strength falls just below the required minimum, and gives excessive power to those who can just reach that minimum. It enthrones minorities and incites them to horse-trading. It means that two minority countries (or more if Britain enters and the blocking figure is raised in consequence) have only to agree to veto the projects that either objects to, in order to prevent anything they dislike. It is thought of as a protection for minorities, but it is not possible, in logic or in fact, to protect minorities by fixing an arbitrary figure, above which minorities are allowed to dominate, while below it they cease to count. Respect for minority rights is best ensured by intelligent consideration of them by the majority, but none of the Six is prepared to trust the other five to do that.

The working of the qualified-majority rule is made even worse in the E.E.C., in that the Treaty provides in only one instance for a way out of the deadlocks created by this form of minority rule. Provision was made for arbitration, if necessary, over the passage from the first to the second stage of the transition period, but that is now past, and in no other case is any solution offered. In some cases, deadlock is relatively unimportant;

<sup>1</sup> It would be pointless and unjust to dismiss a Minister who had tried and failed to prevent a decision unacceptable to his home Parliament. If he were known to have voted for it, he could be compelled to resign. *But the decision would remain valid and be enforceable by the Courts of the country which had thus expressed its disapproval.* There is thus no effective responsibility of Ministers even to their home Parliaments.

the Community can still function in some way if no decision is reached. But in well over half of them, a decision of some kind is essential to the proper working of the Community, and discussion has to go on until enough members give way. The result is either compromise or anarchy.

What it means, at bottom, is that the six countries were not ready for the enterprise on which they have embarked. Mistrusting each other as they do, they would have been wiser to stick to international co-operation, instead of supranationalism. Britain certainly should not go in unless and until she and her partners are willing to accept democratic majority rule. Meanwhile, if Britain and two of the Scandinavian states go in, they will take with them, not only more vetoes, but different traditions and different interests to defend. Their mere applications will lead to some very difficult negotiations on the size of the qualified majority in the new set-up. If it is too low, it will be possible for the new member States (*e.g.* Britain and Denmark) to use it to defend their own ideas and interests; if it is too high, any of the founder powers may find it difficult to recruit enough support for the defence of *their* interests. It looks like a case where six are company but seven or eight are trouble. This is one of the reasons that lead many Continentals to fear that the admission of Britain would break up the Community, and it is why many are convinced, as I am, that the Community would never have come into being if Britain had tried to get in at the start. There is a limit to the number of conflicting interests that can be reconciled within a single effective organisation.

### Why Institutions Matter

This problem of the efficiency or the desirability of the institutions of the E.E.C. has scarcely been raised at all in British discussions. To my knowledge, only Hugh Gaitskell (in the Commons on August 2, 1961) has mentioned it. It is easy to see why the English behave as if institutions did not matter. We are more interested in what we are trying to do than in the tools we are using to do it; we think more of purposes and less of the institutions needed to achieve the purposes. We are able to do this precisely because, having an unwritten Constitution, we can change our instruments if they turn out to be unsuited to their purposes. Under written Constitutions, changing one's institutions is rarely impossible, but it is always very much more difficult. The provisions of written Constitutions can always be made more workable, as those of the Rome Treaty have been, by seasoning their application with a great deal of goodwill, commonsense and give-and-take, but it is always possible for someone to dig his toes in when it suits him, and insist that the rules be obeyed.

Now, the Rome Treaty is the written Constitution of a partial (functional) federation. If we accept it, we accept, within the field it covers, exactly the kind of obligations that are imposed by federal constitutions on their member States. The only difference is that the Rome Treaty is more rigid—less easy to change—than any federal constitution known to me. It can be changed only with the consent of the Parliaments of all the member States (Art. 236). Note that this particular unanimity rule is tougher than the others I have mentioned. They require unanimity only among Governments: Art. 236 requires it among Parliaments, where

it will always be more difficult to get, as the French Parliament showed when it refused to ratify the E.D.C. Treaty, which successive French Governments had accepted. The unanimity rules were put there for a purpose. They exist in order to safeguard specific national vested interests, and the tougher provision of Art. 236 exists to safeguard the whole structure by which the vested interests are protected. It would be wise, therefore, to regard the Treaty as practically impossible to change, and to enter the Community only if we are prepared to accept its crazy mixture of bureaucracy, negativism and rule by judges.

### Continental Motives

By this time, the reader may well be asking why, if the Treaty is as bad as I have shown it to be, and so difficult to change, the Governments and Parliaments of six countries accepted it. It is a fair question, since European statesmen, members of Parliaments and electors are as intelligent and as sensible as ours. Part of the answer to this has been given above on pages 8-11. It must also be recognised that, despite the criticisms accumulated in this pamphlet, the Community was in part the product of a highly idealist inspiration, and has good sides. It would be foolish and ungenerous to sneer at the idea of trying to get rid of the economic causes of conflict in Europe. It is true that economic union can not, in fact, prevent war: the States of North America fought each other three-quarters of a century after union, and more recently both Germany and Britain performed extensive and painful surgical operations on their own economies in order to fight the second world war. France and Germany could do the same tomorrow, despite both the E.C.S.C. and the E.E.C., in the now unlikely event of their being foolish enough to want to fight each other. But we cannot withhold respect for those who had the energy and the imagination to try even the improbable ways.

In the same way, one must recognise the merit of the idea of planning agriculture on a continental scale, even if one dislikes the methods used and is apprehensive about its probable results. Freer movement of labour too would be wholly desirable, if the Community had adequate machinery for ensuring full employment, and a democratic Parliament to insist on its use. It is easy to see how the constructive idealism of these notions attracted many minds, both in Britain and on the Continent.

There were other reasons, too, which made the objections listed here less objectionable to the Six than they are to us. In the first place, all the Six are accustomed to written Constitutions, the difficulties they create, and the ways of getting round them. Some of them are less worried than we are about bureaucracy in economic affairs. The French, for instance, have tended more and more since the war to hand over control of their economic life to their admirable technicians; their *Commissariat au Plan* was for long one of a dozen organisations responsible directly to the Prime Minister, who never had time to bother with it, and the second Plan was not debated in the French Parliament until it had been working for two full years.

There was, nevertheless, in all six countries, much criticism of the Treaty's bureaucratic provisions. On vetoes, too, I quote below what

Dr. Erhard has said. The Treaty was accepted, in spite of these criticisms, for various reasons. Every one of the six countries has groups of federalists and *laisser-faire*-ists who were prepared to sacrifice a lot of democracy in an attempt to achieve their purposes. And each country as a whole had its own reasons for wanting or being willing to accept some kind of merger. Italy was so weakened by Fascism and war that she gains in influence by having 4/17 of a voice in the running of a much bigger show, in which she is treated, quite unrealistically, as equal in power to France and Germany. Germany saw great political and psychological advantages in being accepted as a full, equal and respected member, only 12 years after the end of the war, of an organisation in which her former enemies were in a majority. It was a heaven-sent chance to work her passage back into European society. Dr. Adenauer may also be right in thinking, as it is said he does, that some merging of sovereignties would help to prevent a revival of militarism in Germany. And, of course, many German businessmen were and still are convinced that they would eat up their competitors and make their country boss of the show. Belgium and Holland are small powers, heavily dependent on *entrepôt* trade, and they long ago accepted the implications of their status. When you know that your fate depends on what your bigger neighbours do, when it is their policies, and not yours, that take you into and out of wars and slumps, it really is an advantage to be close enough to them to know what they are thinking, and to have a voice, even if only a small one, in the decisions made. Luxemburg was already economically linked with Belgium.

France is and was a special case. In 1955 and 1956, when the Treaty was under discussion, French business opinion was largely hostile, and public opinion apathetic. But — strange as this may seem — business opinion in France, which is well organised to enforce sectional demands in matters of internal economic policy, has never developed a similar mechanism for influencing foreign policy, or any general decision. The French negotiators, moreover, did some very tough bargaining, and extracted concession after concession from the others, to an extent which made it increasingly difficult for the French Parliament to reject the Treaty. General de Gaulle (not then in power) is said to have been just as impressed by the vetoes (unanimity and qualified-majority rules) as Dr. Erhard had been depressed by them, and to have authorised his supporters to vote for the Treaty. So the Bill for ratification finally got a majority (342 to 234) which was both quite unrepresentative of real public feeling, and still, in my view, far too narrow to justify the acceptance of so far-reaching a change. It should, in fairness, be added that many French businessmen have now changed their minds, are doing very well, and are looking forward to dominating the Market economically, as General de Gaulle counts on dominating the Community politically.

In other words, the Six knew what they were doing and had good reasons for accepting techniques which we detest. We have none of these reasons and, if we know what we are doing, we shall stay out. If we do, we shall not, as is sometimes suggested, be 'cutting ourselves off from European Socialism'. Of the thirteen European Socialist parties in the International, only six are from countries which are members of the

E.E.C. The others were all opposed to membership, until Britain showed signs of changing her position. If Norway and Denmark go in along with Britain, it will be only because they feel that we have driven them to it. If the three neutral countries are kept out, as is probable, their Socialist parties really will have been cut off from the majority, and by our fault. The probable fate of Finnish Socialism is a matter that ought to weigh heavily on the consciences of pro-E.E.C. Socialists.

### Will it Work?

The shortcomings described above have not, of course, escaped attention in Europe. They explain why Dr. Erhard described the E.E.C. (in the *Bundestag* debate of 12.3.57) as:

'like an armoured car, heavily protected against attack from outside, with an allotted place for everybody inside, outside brakes and an under-sized engine, which will stall more often than it runs'.

Or take M. Daniel Villey, whose fervent Europeanism has already been mentioned. He agrees<sup>1</sup> with those who see the Treaty as something:

'interminable, complicated, inextricably muddled . . . a mixture of eloquent declarations of principle, of tiny and sometimes ridiculously detailed rules, platonic protestations of good intentions . . . pious hopes, principles, exceptions to principles and exceptions to the exceptions'.

M. Robert Marjolin, Vice-President of the E.E.C. Commission, has been equally critical:

'If the Europeanisation of agriculture is to work', he says among other criticisms,<sup>2</sup> 'if the infinite number of day-to-day decisions on prices, levies, subsidies, etc., are to be taken, we shall need a real (European) Government, and not merely periodic meetings of Ministers of the Six countries'.

One could go on almost indefinitely with quotations of this kind. What is important is that many of those who support the E.E.C. or even actually help to run it, have doubts about it similar to mine, and want to move on to something different. Dr. Erhard, as everybody knows, would be happier with a straightforward free trade area, uncluttered with rules and regulations. Professor Villey thinks the Treaty as it stands could be (with luck and determination) the starting point of a federation. M. Marjolin is quite sure that a decision to federate, or to go through 'confederation' to federation, must be taken consciously and quickly.<sup>3</sup> Others believe that the very difficulties I have summarised will drive the member Governments and peoples into federation, simply in order to get themselves out of the difficulties created by the division of powers between six national Governments sovereign in some spheres and the E.E.C. organs sovereign in the rest. There is wide agreement that the E.E.C. cannot stay as it is, though that is what the British Government appears to want.

<sup>1</sup> *Op. cit.*, p. 31.

<sup>2</sup> *Le Marché Commun et l'Unification de l'Europe*, Société Royale d'Economie Politique de Belgique. 1961, p. 11.

<sup>3</sup> *Ibid.*, pp. 13-16.

The question of what it should change into is not easily answered. Federation means the disappearance of the member States as separate, sovereign entities, with their own defence forces, Ambassadors, foreign policy, representatives in the U.N. and so on. It means giving all the major powers of government to a single West European Federal Government, Parliament and Civil Service, and leaving to the existing national organs only the minor functions performed by the State organs of States like California or British Columbia. The alternative, which General de Gaulle calls 'confederation' is almost the exact opposite, since it leaves two of the most important powers, defence and foreign policy (subject to a meaningless 'co-ordination') to the constituent States, and hands most economic and social powers to the central authority. This is what was proposed in the French Government's 1961 plan for an 'indissoluble political union'.

Both these notions raise immense difficulties. It is far from certain (to put it mildly) that it is possible to form a democratic federation of from six to ten developed industrial States, with long histories, deeply embedded traditions and habits of mind, from four to seven different languages, different legal, political and social systems, different régimes (some monarchic, the others Republican), and great entrenched vested interests at every social level and in every field of activity, industrial, agricultural or professional. All existing federations have come either from the breaking-down of an existing unitary State (*e.g.* West Germany), or from the union of countries at a very early stage of economic development (U.S.A., India, Canada, Australia) or from quite special circumstances, determined by unique historical and geographical factors (Switzerland). An attempt at federation in part of Western Europe would be, at best, a hazardous venture, doomed to a prolonged period of acute internal friction, and to consequent disunity. It is worth adding that, as Mr. Menzies once remarked (and he ought to know), federalism is an anti-Socialist form of government, since it normally leaves in its constituent States enough power for any one of them, even if it has only a fraction of the total population, to frustrate a great deal of federal policy.

'Confederation' looks even less attainable. The only confederations in history, those of North America in 1777-87 and of North Germany in 1867-71, were so short-lived as to suggest that the notion was even then impossible of realisation. In modern industrial countries, economic policy is tightly interwoven with foreign and defence policies. Trade treaties, for instance, over which E.E.C. member States are to have no separate control, are matters both of foreign and of commercial policy. It is very difficult to see how this division of powers can work successfully, and it is certain, in my view, that the nation which does not control its own economy cannot have independent foreign and defence policies. This opinion is shared by M. Marjolin, who asks, 'how much independence would be left to a national State which had given up all its economic powers to a central authority or authorities?'<sup>1</sup> If 'confederation' is tried, either Community obligations will remain unfulfilled, or the member States will be driven to make the difficult experiment in federation.

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<sup>1</sup> *Op. cit.*, p. 10.

It is often said, especially in the United States, that it is Britain's duty to go into Europe, and accept, as well as helping to create, whatever form of union comes into being. We must do this, we are told, in order to bring stability to the unstable Europeans, or to prevent them from turning anti-American, or from being dominated by Germany, and so on. This is a different notion from the one discussed above,<sup>1</sup> according to which Britain is to recover her lost prestige, power and influence through going into Europe. In the American theory, Britain sinks her identity in whatever Europe may turn into, but she does it wholly for the sake of others. The blunt and only possible honest reply to this suggestion is that it assumes too much and asks too much.

It assumes far too easily that if a relatively stable nation merges with the relatively unstable, stability will result. The chances of Continental instability overcoming British stability are in fact, because of the disparity of numbers, very much greater than the opposite. It still has to be proved that instability in France, Germany and Italy is not, in part at least, a product of the very type of political institutions which we should accept if we joined the E.E.C. And the possibility of the new entity's being run by a Franco-German combination is at least as great as that of its coming under Anglo-German or Anglo-French domination, and infinitely greater than that of Britain's exercising alone any controlling or guiding influence. The way to reduce instability in Europe is to give whatever help we can from outside, not to sacrifice Britain to it. The sensible missionary does not jump into the cannibal stewpot in order to reduce its temperature. Besides, if the argument were valid for us, it could equally well—or better—require the U.S.A. to merge her stability into South-American instabilities, but nobody seems to have suggested that. The U.S. prefers to exercise its stabilising influence from outside, and we can quite well do the same for Europe.

It must also be remembered that membership of the Community is in theory permanent, and that its members intend to make it permanent in fact as well. Both these aspects are important. It is true that there are plenty of examples in history of treaty obligations being broken, and that for some time to come, Britain will be able to withdraw from the Community, if she is prepared to break her word. But to go in now *with the expressed intention of breaking our word*, as Lord Boothby has suggested we should, and as others imagine we could, if we find we don't like what we have promised to do, is surely carrying cynicism and dishonesty in international relations a considerable step further than it has ever been carried before.

What is perhaps more important is the fact that, if the Community works as it is intended to work, it will soon be impossible for its members to break their word, except at an increasingly high economic cost. E.E.C. theory assumes that, in the completely free market which it is intended to set up in industry, a vast redistribution of productive resources and of manpower will take place, each firm, and indeed each industry, ultimately

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<sup>1</sup> pp. 6-8.

settling down and each service being performed, in the place where its particular commodity can most economically be produced or its service performed. It is in fact improbable that member Governments will allow this to happen on the scale on which it happens in Common Market dreams, but something of the kind will take place, and to the extent that it does, countries wishing to break away will find that they have lost the whole or great portions of some essential industries. Clearly, they will think many times before breaking away. This is the process which the federalists count on to hold the Community together, before they drive it on to federation.



## V. The Wrong Grouping

**T**HE political objections listed so far add up to an overwhelming case against British membership. The economic objections are also strong and there is in addition one other political objection which ought alone to lead us to decide against, even if none of the others existed. **The E.E.C. is the wrong international grouping for Britain to join, because it is irrelevant to the principal requirements of the age we live in and destructive of the most effective international grouping in the world today, the Commonwealth.**

Many people believe that it would be wrong for Britain to join an organisation in which General de Gaulle and Dr. Adenauer, whom they regard as dangerous reactionaries, play a prominent part. I do not share their view, partly because I am less ready to condemn these two statesmen, and partly because I recognise that both are advanced in years and both mortal. It has also been said, in the same quarters, that the E.E.C. 'underpins the cold war'. If this means that it would strengthen N.A.T.O., I disagree with that too. My own fear in this respect is that it will weaken N.A.T.O., partly through the many new subjects of discord which it injects into the European scene, and partly because of the anti-American prejudices and purposes of some of its supporters.

There is, however, a substratum of truth in the view just discussed. The movement for European integration, of which the E.E.C. is the culmination, began at the height of the Stalinist period, and much of the support for it was, in its political aspects, almost entirely inspired by fear of Russian aggression. Russian aggression is, of course, still possible under Khrushchev as it was under Stalin, but the balance of terror and the existence of N.A.T.O. have made it infinitely less probable and made Communist political infiltration, especially in the uncommitted areas of the world, a much greater danger. It follows that priorities have changed. N.A.T.O. is still very much needed, but if any further ganging up by the West against Russia ever was a priority, it is not so now. With the acquisition of strength by States inside or alongside both big power blocs, and with the fraying at the edges (Denis Healey's phrase) of the Communist bloc, the picture has changed. Protected by N.A.T.O., which we must not weaken, we must take the opportunity now offered, and patiently seek a *modus vivendi* with the Communist world.

Doing this successfully will give us all the better chance of tackling the greatest and most urgent job awaiting the world today, which is the narrowing of the still growing gap between the rich nations of the northern hemisphere and the poor nations, grouped largely in the southern hemisphere. To this purpose, the E.E.C. is irrelevant and indeed harmful. Its existence, methods and purposes have already created acute alarm, not only in the Commonwealth and in Asia and Africa, but also in Israel, in Jugoslavia, and in Latin America.

The E.E.C. Commission has admirable views on the needs of the under-developed countries. M. Lemaigen, the Commission representative dealing with the under-developed countries associated with the Community, has

quoted with approval President Sekou Touré's statement that he sees neither Eastern nor Western countries, but only rich and poor ones. The same M. Lemaignan has pointed out that, although one of the purposes of the Community is supposed to be the improvement of overseas living standards, the behaviour of its members often has the opposite effect. Coffee, he points out, is a vital product in tropical economies; but in addition to the 16 per cent tariff to be imposed by the Community, it already carries the burden of consumption taxes equivalent to 40 per cent of its import price in France, 85 per cent in Germany and 140 per cent in Italy. M. Lemaignan and the Commission deplore this, but **they can do nothing about it, except appeal to the moral sense of those concerned.**<sup>1</sup> **The Commission has been given great powers intended to make some of the rich nations richer, but none to make the poor richer, except by gifts and loans which, in the Commission's own view, constitute neither the right nor an adequate method.** Commission and Council together can allow the overseas associates to protect their industries until their economies have become more balanced, but this protection must fall to zero by the end of the transition period, and the philosophy of the Community will most probably prevent any extension of the period allowed.

It is sometimes claimed that it would be right for Britain to join the E.E.C., precisely because both Britain and her prospective partners would become so much more prosperous that they would be able to help the under-developed countries by buying more from them. This cynical and dangerous argument has always been used by the rich to defend their riches. We must, of course, make the most of our resources, but the question is not whether we shall become richer or poorer, but whether we shall set ourselves as a priority task making *ourselves* richer or making the poor countries richer. If the Common Market does make its members richer, then unless they devote more than fifty per cent of their extra wealth to helping the under-developed, they will be widening the gap between rich and poor and, incidentally, paving the road to Communism in the under-developed world. Our present Government shows no signs of wanting to give very much away. If Ministers really wanted to help the under-developed world, they would have seized upon President Kennedy's proposal for free entry for the products of under-developed countries to the U.S. and the Common Market, and have made acceptance of it in principle by the E.E.C. a condition of our entry. The probable reason for their not doing so is that they know how the whole idea terrifies the E.E.C. federalists, and are afraid that the inevitable E.E.C. refusal would be too revealing. If we go in with the intention of changing the E.E.C. trend, its own machinery will prevent us from doing so, as I have shown, and we shall find ourselves part of the line-up against the poorer countries.

The E.E.C. is irrelevant or harmful in another sense too. Anything that tends to the creation of rigid, inturned, single-race or single-continent groupings is a threat to peace. Vast new and homogeneous nations, if they can be created, which is improbable, can quarrel just as violently and with

<sup>1</sup> Within the Community too, as the Commission itself admits (*Bulletin from the European Community*, Dec. 1961), it is only the rich areas that are getting richer. Again the Commission's powers are limited to exhortation.

consequences even more devastating than the old and smaller ones. There is both greater safety and more profit to the world in the creation of mixed blocs, bringing together black, white and brown, rich and poor, Asian, European and African, and influencing each other through overlapping memberships.

### The Commonwealth

Britain has the good fortune to belong already to just such a grouping, the Commonwealth. There are Conservative Ministers who have already secretly written off the Commonwealth and there are Tory journalists and others who, more honestly, have done so openly. Their attraction to some other grouping is comprehensible, and it is not with them that I am arguing. To those who have only begun to lean the same way, however, I would say this: the trade figures which are commonly being used to decry the Commonwealth bond are a passing phenomenon which is in part the direct result of the Government's own policies. The Commonwealth is still by far our biggest customer and supplier, and long-term planning, bulk buying and commodity agreements could still further increase Commonwealth trade, without reducing our trade with Europe (which is growing fast, without the benefit of Common Market tariff reductions). As for the political disagreements, which are also often mentioned, they are no greater and no more frequent than those we have and shall continue for a long time to have with European countries; but they are discussed and the edges of conflict softened in an infinitely friendlier and more co-operative atmosphere.

There is no point in writing at great length about the impossibility of reconciling E.E.C. needs, demands and loyalties with those of the Commonwealth. The result of the membership negotiations will be known soon enough after this pamphlet appears, and it will show clearly, to anyone prepared to look beneath the ambiguities and hopes in which the reality will certainly be clouded, that we cannot have both. Mr. Heath's opening statement to the E.E.C. was a wonderful picture of what it would be nice to have if we could get it (though even there he offered to sacrifice Canadian industry), but he will not get ten per cent of it. The Europeans know perfectly well, as M. Couve de Murville has said, that if the Commonwealth goes in with us, that is the end of the Community, but too many people here still refuse to recognise the truth of the other half of his statement, that if we go in without the Commonwealth, that is the end of the Commonwealth. Or, more accurately, it would be the end of British membership of the Commonwealth, for the other members value the Commonwealth ties very highly, and would probably re-form the Commonwealth without us around a Montreal-Delhi axis.

The Europeans know better than we do that if they accept a permanent link with any considerable area of the world, they weaken the economic clauses of the Treaty and stultify its political purpose. They cannot, therefore, make substantial or long-term concessions to Canada, Australia or India. Nor can they agree to 'associate' status for African and other under-developed territories on the same terms as those granted to the former French and other territories now associated, for the former British terri-

ories would eat up 60 per cent or more of the available funds, while Britain herself contributed only 30 per cent. In any case, the former British African territories will not accept any status less than one of complete equality, and that they will certainly not be offered. There may be tapering concessions to some Commonwealth countries, but in the not very much longer run, British membership of E.E.C. would break her economic ties with the Commonwealth.

It would also break the political bonds. Our links with the Commonwealth, though they are real and immensely valued, are partly sentimental and traditional. Where they are not, they rest on the continued and confidential exchange of information. If we accept precise and written obligations to Europe, these must inevitably take precedence over the intangible and imprecise Commonwealth ties. We cannot respect the obligation of secrecy to both bodies at once, as we discovered after Mr. Heath's first meeting with the European negotiators. We have already done the Commonwealth damage so serious, as the Accra resolutions showed, that only time and patience will be able to remedy it, even if we finally stay out of the E.E.C. If we go in, conflicts of loyalty will arise over and over again, so that we shall have less and less to offer the Commonwealth and it will either fade away or continue without us. It is not even probable that this shabby and dishonourable treatment of the Commonwealth would do us any good in Europe. The man who is too quickly and unashamedly off with the old love is liable to find the new one more than a little mistrustful in consequence, especially if his lies and evasions are all public property.

It is sometimes said, in defence of the attempt to link up with Europe, that we must do so, because we cannot stand alone, and the Commonwealth no longer has any effective existence. Ours is not the first period in which the Commonwealth has been thus discounted. Hitler's specialist in British affairs, von Ribbentrop, told his master that the Commonwealth was made of moonbeams—but he soon discovered that his 'moonbeams' could hit very hard. The truth is, not that the Commonwealth no longer exists, but that, politically, Europe does not exist and never has existed. The European integrationists have never denied this—hence their favourite expression, 'to make Europe'. Only the British integrationists, with all the fervour of recent and reluctant converts, pretend that it already exists today.

In fact, if one takes only the countries of Western Europe, it is clear from a moment's examination that they have no political cohesion and do not form any natural political block. Germany and Italy are drawn towards the East or to the United States, and the Scandinavians inwardly towards themselves, France towards her former African possessions, and Britain towards the Commonwealth and her world trading partners, while Spain and Portugal form a Fascist island of their own. The European countries have not a single common interest that they do not share with the U.S.A., the Commonwealth and South America. Outside the fields of world-wide interest, Europe is marked by conflicts of interest, habits and ideologies infinitely greater than any we find in the Commonwealth. It is thus not, in any sense of the term, a political reality. The desire to

believe that it *is* such a reality springs only from fear—fear of Communism, of war, or of loss of friends elsewhere, and so on. And fear, as always, has led to irrational beliefs and behaviours. To believe in the political existence of Europe is worse than clutching at a straw; it is inventing a straw to clutch at.

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That ends the list of the main political disadvantages. From Britain's point of view, the E.E.C. is the wrong body, doing the wrong job, in the wrong way. The picture that I have given in outline will, I hope, have thrown some doubt on the legend which would have us believe that a six-nation or ten-nation grouping of peoples of one race and colour, run by big business on the basis of a discredited philosophy and by undemocratic methods, is, in some incredible way, more internationalist, more forward-looking, more progressive, more attractive to the adventurous mind than a group of more than a dozen free and independent countries, and of others rapidly becoming so, covering all races, creeds and continents and combining, or trying to combine, political democracy with modern ideas of economic planning and social progress. This notion, which had become a veritable *mystique*, has been fostered by skilful propaganda. I hope I have shown that it will not bear analysis. It now remains to consider what can be done about the whole problem.

## VI. What Britain Should Do

### How to Stay Out

THERE is much to suggest that the Government has decided that Britain must go into the E.E.C. whatever the result of the negotiations. Public opinion has been and is being softened up, first by vague suggestions, then by references to 'association' (which is something less than membership), then by phrases (in the resolution carried by the House of Commons on August 3rd) about 'formal application . . . to see if satisfactory arrangements can be made . . . etc. . . .' Since then we have moved from Mr. Macmillan's 'the moment of decision has not yet come' of August 2nd, 1961, to Mr. Heath's 'great decision, a turning-point in our history' (October 10th), which clearly cannot apply to a mere tentative opening of negotiations. It would, indeed, be difficult almost to the point of impossibility for a Government to admit defeat in an enterprise of this kind, especially after the heavy blow which the application itself has dealt to the Commonwealth. Clearly, if the Government can get away with it, we are to be taken in (in both senses), whether we like it or not.

How can this be stopped? It is obviously too much to expect that Conservative Members of Parliament will revolt against it in sufficient numbers to defeat their Government. They might, if they have the courage and the convictions, utter a warning behind closed doors, but it is improbable that enough of them will have enough of either. But the Labour Party, in my view, *can* stop it, by announcing in advance that it will not accept the Treaty and will either denounce it or ignore it when it returns to office. In all normal circumstances, any such action would be undesirable, though there can be no doubt at all that it is constitutionally possible and proper. Governments normally do accept the obligations entered into by their predecessors, because both sides know that the ordinary business of foreign affairs would become impossible if obligations could be lightly repudiated when the Opposition became the Government. Behind this convention, however, there lies of necessity the assumption that the more serious obligations (including declarations of war, the acceptance of obligations liable to lead to war, and other proposals involving the whole life of the nation) are not undertaken without the knowledge that the Opposition either accepts them or will not repudiate them. The absence of any such knowledge was, for instance, what gave constitutional propriety to Labour's attitude over Suez.

Nobody pretends that signing the Rome Treaty would be a minor matter. It is accepted that it would be, indeed, 'a turning-point in our history', affecting for all time and for good or ill our lives, livelihoods, habits of life, law, rights and duties, prospects and status in the world, and in the long run the very existence of Britain as a separate entity. It is just not possible for a Government to commit the country to a change of this magnitude on its own sole responsibility and with the support only of a party majority, elected on a programme which made no reference to any such intention, and after Ministers had specifically stated, over and over again, that Britain could not and would not go in. Labour is perfectly

entitled to inform the Six of these facts of British political life and warn them that the electorate must be consulted before a signature in these circumstances can have any moral validity. **For a Labour Government to withdraw from the E.E.C. if the condition was not fulfilled would not be to repudiate an obligation, but to honour a pledge. It would strengthen rather than weaken the conventions on which continuity in foreign policy is based.**

If such a declaration led to a general election, as it ought, the issue would not, of course, be as clear-cut as election issues sometimes have been. Some Conservative candidates would be opposed to British membership and some Labour ones in favour. Many electors — perhaps most — would base their choice on matters unconnected with the proposal to join the E.E.C. But neither of these probabilities would obscure the outcome to the point of making the verdict uncertain or unclear. Many voters would change sides on the E.E.C. issue, knowing that their parties would still be there at the following election, but that an independent Britain might not, if the voting went the wrong way. Shifting majorities would show what the popular trend was, and whatever Government resulted would be wise to take note of them. If the popular vote were overwhelmingly favourable, it could fairly claim that it had a mandate. My own deep conviction is, however, that Labour could sweep the country on a programme rejecting British membership of the E.E.C., proclaiming support for the Commonwealth, and setting out the steps to be taken to put our economic house in order. I can name prominent Liberals and Conservatives who in these circumstances would speak, work and vote for Labour. But whether or not this forecast is well founded, the essential is that an election should be held before any such vital decision is made.

### The Positive Answer

Supporters of British membership of the E.E.C. tend to reply to the kind of argument I have put by asking 'What will you put in its place?' or 'What, then, would you do about Britain's economic problem?'. This type of question is as irrelevant as that put by the individual who was found in the streets of Lisbon after the earthquake of 1755, selling pills to cure earthquakes, and who, when he was asked if he was sure they would work, invariably countered by asking: 'Have you got anything better?'. If a proposed course of action is harmful or irrelevant, pointing out those defects is in itself a service, without any positive proposal. The first alternative to folly is not to be foolish. But the practical man also likes to have positive suggestions, and he is entitled to have them.

It says a lot for the propaganda skill of the Common Market supporters that they have made their ideas sound positive, when in fact they are only passive. 'Going into the Common Market,' says Mr. Macmillan, typically, 'will be a bracing cold shower'. Cold shower indeed, but cold showers solve no problems, and neither would membership of the Market. There is no advantage in being braced and re-invigorated, if we then waste the tonic effects in doing the wrong things. There is nothing that the Common Market can do for us that we cannot do for ourselves — and that, according to Lord Hailsham, in six weeks, if we put our minds to it.

Supporters and opponents of British membership agree on one or two things. They agree that, in the short run, imports will rise very much more rapidly than exports, as they did under the O.E.E.C. liberalisation programme, which was only a partial taste of freer trade. That will be cold shower number one. Opponents wonder just how long the short run is likely to be, and how the economy will stand it if it turns out to be too long. Supporters believe that it will brace us to make a bigger export effort. Opponents ask why, in that case, we can't brace ourselves *now*, without the cold shower, and they point out that, since the creation of the Export Council for Europe, we have in fact been expanding our exports to the Six faster than they are now expanding theirs to each other. No cold shower; just a pulling up of socks! Both sides agree that food prices will go up—cold shower number two. This is bound to stimulate wage demands. Supporters of British membership believe that the cold shower will so stimulate employers that they will be braced into refusing the wage demands. Opponents don't see why we have to inflict dearer food on ourselves anyhow. They also fear, as even the *Economist* does, that Britain may become 'the Scotland of the Common Market', too far from the economic centre of things, and too small a minority to make her voice heard politically.

Supporters believe that the Common Market economy is more dynamic than that of Britain. Opponents believe that the economies of the Six were just as dynamic before the coming of the Market as they have been since, because they did not suffer from a lethargic and restrictive Conservative Government. They are not convinced that the virus of dynamism can be picked up merely by 'going into Europe', and they point out in support of their view that the less dynamic parts of Europe are just as undynamic today, on the admission of the E.E.C.'s own Commission, as they were before the Market existed. There are other things to be said on the same lines, and they all add up to one point: the Common Market will neither save us nor cure us; we must save ourselves. So the 'positive answer' of the supporters of British membership turns out to be not so positive after all!

The more genuinely positive answers offered by economists vary, in this as in all other matters, and it is not the function of a pamphlet on the political aspect to discuss them. What can be said is that the points mentioned above are only a small part of the economic objections to British membership. *Economist* opponents, like their colleagues in law and politics, were taken by surprise by the folly and the suddenness of the Government's about-turn. They include some of our most eminent economists, and some, no doubt, will in due course publish their arguments and conclusions. The reader is advised to look out for them.

In the meantime, the Labour Party has its own positive answer. Its economic programme is designed to do all that the lethargic dreamers are counting on the Common Market to do for them. It aims at reviving production and seeks to meet the problem of rising costs by increasing productivity, and the balance-of-payments problem by positive encouragements to exporters. There are six potential customers for these exports in the Common Market, and 97 (on the basis of U.N. membership), in-



cluding both rich and poor, in the rest of the world. The 97 already take four-fifths of our exports and can take more if we make the necessary effort. So can the Six themselves, if their external tariff is to be as low as the Common Market supporters assure us it will be, when they are trying to prove that our membership would not hurt the Commonwealth—and they can't have it both ways. On the home front, too, we must put our house in order. We must share the effort and the burden fairly. We must know where we are going, and show that we know. In these circumstances, if we believe in ourselves, we can do what needs to be done, and if we don't believe in ourselves, going into the Market will only be a quicker way of committing national suicide.

### The Case for Waiting

A decision by Britain not to enter the Community now would not necessarily prevent her from entering (and obviously not from trying to enter) at some future date, if it then seemed desirable. One of the few certainties about the Community is that it will change, as facts impose themselves upon those who run it, as the social cost of intended policies becomes clear, as institutions are run in, and as membership of the Council and Commission changes. In addition, many of the current uncertainties will be cleared up as the open parts of the Treaty are filled in, and as theory gives way to practice. Even the outcome of the conflict between free-traders, federalists and confederalists may begin to be visible. If, for instance, President Kennedy's proposals for all-round tariff disarmament by agreement between the U.S.A. and Western Europe (for he is unlikely to leave Britain out, whether or not we join the E.E.C.) are accepted by Congress, they will create a major crisis inside the E.E.C. In the unlikely<sup>1</sup> event of their being accepted by the E.E.C., both federalists and confederalists would regard this as a major defeat for themselves and some of the fears expressed here would have been answered.

If, for this or any other reason, the Community seems to be evolving in the right direction, if it becomes more outward-looking, more interested in social policy and less in *laisser-faire*, more democratic and (most important of all) more effectively conscious of the duties of the richer countries towards the poorer, it might well be worth Britain's while to go in. To go in now, in the hope of guiding it in a direction in which it does not want to go, would be to play Canute, but we really could have influence from inside if it were already going our way. It is also clear that, in such circumstances, British membership would be much more welcome than it is today.

It is true that supporters of British membership have been saying that time is against us, that this is our last chance, and so on. But this is patently untrue. No claim even for association of any Commonwealth territory would have been so much as considered in the early stages of the negotiation of the Treaty. Even the association of the French Overseas Territories (as they then were) was agreed only at the last moment, after a

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<sup>1</sup> Acceptance would require a unanimous vote of the Council (Arts. 111 & 114). On the improbability of acceptance, see also above, p. 6.

difficult meeting between Dr. Adenauer and M. Mollet, and only as the last of the long series of concessions which were France's minimum price for entry. Today the position of Commonwealth territories is being considered and some minor concessions will certainly be offered. The simple truth is that, as conflicts within the Community become more and more acute, each side in the conflicts tends to see Britain as a possible and desirable ally and this softens some of the quite understandable suspicions we have aroused. If this situation persists, that and the trading advantages we could bring to the Common Market should always ensure a serious British application of some sort of welcome. The only thing that would prevent it would be a strong trend towards federalism, which in any case ought to make us want to stay out.

The proper policy for Britain, therefore, is to wait and see. To go in now would be a gamble of unprecedented size. To procrastinate is to give ourselves a chance to see just what kind of pig is in the poke. And procrastination is surely a proper policy to advocate in a Fabian pamphlet!

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