



Policy Study No 110

# The Democratic Deficit

the balance in Europe for Britain to redress

Michael Heseltine MP



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## The author

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## The vision for Britain

PEOPLE WHO DWELL ON THE PAST FORGET THAT MOST OF WHAT WE have inherited was achieved by those who looked forward, not back. If the Elizabethans, Georgians and Victorians had spent their time lost in wonder at what they had inherited, they would never have enhanced that inheritance. We, in our turn, will be judged not by what others gave us but by our vision and ability to persuade this generation of the efforts required to reach it.

Politics knows no certainties. But, as long as it remains likely that the interests of western Europe will coalesce into a shared sovereignty, it is our duty to ensure that Britain's self-interest is at the forefront of what must profoundly affect us. To do that, we must understand the context in which power in the next century is likely to be exercised.

The leaders of all the other nations of the European Community will pursue their self-interest with dedication. No one should sneer at that. The Community will always be an alliance of self-interest, although leaders who ignore the element of idealism do so at their peril. Membership of a team in no way denies the human instinct to excel within it. So it is with nations. One can be a member of a club and still try for the leading role.

We are, in Europe, forging a market place of 320 million people: roughly the size of the United States and Japan put together. It will be the largest market in the free world, embracing the hopes and ambitions of twelve sovereign nations. Each leader will fight for his corner, even though compromise will eventually resolve the most bitter battles. Each knows that the harder he fights, the more satisfactory that compromise is likely to prove and the more the electorate will respect the battle well fought.

This pamphlet warns that we stand apart from tomorrow's Europe at our peril but, also, that Europe would be the poorer for our absence.

In 1951 Jean Monnet, the wise and distinguished Frenchman who sought to persuade us after the Second World War to lead



Europe in partnership with France, argued that 'Europe needs Britain'. But it works both ways. We need Europe as well. Take the single European market – the true common market. It has become indispensable, and in the work of constructing it, Conservative Britain, with our commitment to competitive capitalism, free trade and an Atlanticist outlook, is in a strong position to influence powerfully both its philosophy and its practices.

But it is more than that. Politically, Britain has a unique contribution to offer her European fellow citizens. It is not immodest to boast of our political inheritance and our tradition of constitutional government. As the sovereign frontiers within the Community become blurred, so the need becomes plainer for a new infusion of democratic control. Britain should make this cause of democratic control her own; the people's Europe is a great slogan. Who better than us to make it a living practice?

There are those who fear that, in moving closer to Europe, Britain will lose her identity. On the contrary, I believe that within the Community she will find a greater one. The French have no doubt that their country must take its place on the bigger stage. I want to see us, too, boldly spreading our influence. The prize is uncertain but the opportunities are plentiful. We are challenged yet again in our history to learn a new role. Our future strength will depend on the speed with which we identify it and the skill with which we play it.

We faltered in our first approaches to the European Community. We acceded to its treaties late; we have spent the '70s and '80s arguing step-by-step over the development of a more integrated Europe; and the more we have prevaricated, the longer we have denied ourselves a leading and influential role. It is not surprising that on the Continent this pattern of events has led many to question our European credentials. A word of caution spoken in London may sound like apostasy in Bonn.

It was not always so. At the Albert Hall on 14 May, 1947, Winston Churchill called on his vast audience 'to promote the cause of United Europe, and give this idea the prominence and vitality necessary for it to lay hold of the minds of our fellow countrymen, to such an extent that it will affect their actions

and influence the course of national policy'. Churchill looked forward to a time when the British people would be fully committed to a united Europe.

The actual shape of this 'kind of United States of Europe', as Churchill called it in 1946, would be for later generations to forge. He argued:

'In my experience of large enterprises I have found it is often a mistake to try to settle everything at once. We know where we want to go but we cannot foresee all the stages of the journey . . . We ourselves are content in the first instance to present the idea of a united Europe in which our country will play a decisive part as a moral, cultural and spiritual conception to which all can rally without being disturbed by divergences about the structure.'

And in recognising that 'mutual aid in the economic field' could not be expected unless it went 'step-by-step with a parallel policy of closer political unity', he anticipated the impact on national sentiment that closer political unity would have:

'It is said with truth that this involves some sacrifice or merger of national sovereignty, but it is also possible and not less agreeable to regard it as the gradual assumption by all the nations concerned of that larger sovereignty, which can alone protect their diverse and distinctive customs and characteristics, and their national traditions'.

Churchill was speaking in a truly European idiom. He was using the language of Europe. He was ready to admit to the vision without pretending that he could answer every specific question of time and detail. Ask a Frenchman or a German if he acknowledges the concept and he assents without question. An Englishman will ask, 'what do you mean?'. Time and again, I have seen this philosophical divide open up in ministerial dialogue. In practice the distinction is narrower than it seems. The continental European is comfortable in accepting the general assertion in order to advance to the in-fighting for national advantage that follows. He assumes there will be an acceptable formula – in the interests of all as well as of his own country – without knowing at the outset what its form will be. There is, in that sense, a degree of trust and faith. Britain, less willing to



articulate the language of Europe, appears carping about the vision while she fights exactly the self-same battle of self-interest. So we pay a price. We continually alienate those who would be friends. We are perceived to be on the outside, looking in, and no one much wants an alliance with so distant a friend. We seem neither comfortable nor clubbable.

It is not the purpose of this pamphlet to re-trace the history of Britain's relationship with the European Community. I am concerned with tomorrow. But it is not possible to make a judgement about the future without understanding that the other European governments have adopted a steadily more structured approach to the development of the European Community: an approach which we have too often sought to prevent or frustrate.

Nor is it possible to understand the options we face without recognising that we have only embraced, with reluctance, most of the structural changes to date because our partners made it clear that they were determined to proceed, regardless of what we did.

The battle-lines have been drawn many times and a common pattern has emerged: a British unwillingness, giving way to a grudging acceptance, even when the objectives were agreed. Britain cannot stop or divert the rest of the Community from taking what they believe to be the next logical steps. We should have discovered by now the price of allowing others to design the mould into which they can pour their own self-interest. We have seldom found that we are able to re-negotiate their rules to our advantage.

Do not misunderstand the process. Our fellow Europeans want us to travel with them, but they will no more allow us to frustrate their ambitions in the '90s than in the '50s. In the last resort, of course, we are free to decide for ourselves. No one will *force* us to keep faith. If we march with our friends, we will further our cause and theirs. If we dawdle or drop out, the pace of their march will hardly falter.

Sometime in 1990 the old battle-lines are likely to be re-drawn over the issue of closer monetary arrangements within Europe. No one in Europe sees this as a sudden conjuring-up of a central bank or a single currency, let alone the transfer to

a Brussels bureaucracy of national economic policy-making – suggest that idea to the *Bundesbank* and see how far you get. But in Frankfurt and Paris, powerful interests will do all they can to weaken the financial pre-eminence of the City of London. Put simply: they want our business! The more British politicians are heard questioning the need for European convergence in one field, the more they will discourage progress in fields where it is to our advantage.

The British are left with a choice: either we can play a leading role and seek to influence the changing institutions and laws of Europe in line with British attitudes, furthering British interests, or we can settle for a two-speed Europe, with Britain bringing up the rear, more sure of what we are against than of what we are for. The smaller countries of the Community will continue to look to France or Germany for leadership, if Britain has little to offer. But they would prefer Britain to play the fullest part. Many of them see an *active* British presence as the Community's best guarantee against narrowness or lopsidedness. Even in France, there is an understanding that tomorrow's Europe will either be largely a Franco-German community – less Atlanticist and more protectionist – drawing on a more centralised tradition of government, or a more outward-looking, open-trading, Atlanticist Europe which Britain's historical experience and world view will have helped to shape.

By treaty we are committed to the European Community. In 1972, Sir Geoffrey Howe rightly stressed in the House of Commons that 'the purpose of the application to join the Community is a fundamental and deliberate use of sovereignty to engage in sharing sovereignty to the greater advantage of all.'<sup>1</sup> He was right to say it then. The truth, far from withering with age, is starker today.

The British Parliament voluntarily accepted a sharing of legal sovereignty when it passed the European Communities Act in 1972. The provisions of the Act allow no other interpretation. Law adopted by the Council of Ministers is directly applicable in national law, without prior parliamentary approval. We have accepted the binding authority of the European Court of Justice

1. *Hansard*, 13 July 1972, col.1874.



in Luxembourg. That ensures that member states live up to their treaty obligations and actually implement the laws which the Community is making. Thus – with our agreement – the European Court has become the most vigorous force behind the drive to European integration. The implications of direct applicability were clearly set out at that time, by the Labour Government in its White Paper in 1967, and by Sir Geoffrey Howe in 1972. In the Third Reading Debate on 13 July Sir Geoffrey said:

‘... no purpose is served by suggesting that direct applicability does not mean what it says. It cannot mean that we can pick and choose between directly applicable Community instruments after they are due to take effect’.<sup>2</sup>

In 1986, with the passing of the Single European Act, we gave a powerful new momentum to the business of making the Community work. This Act was a step in every way as momentous as the signing of the Treaty of Rome itself. We accepted majority voting over a wide range of issues, as well as the completion of the integrated market place. The logic of the decision to accept majority voting commits us from that moment to a process of persuasion. How else is it possible to win a majority for ideas that suit us? The Treaty allows each signatory the same opportunities. What it cannot do is prescribe the extent to which a member state will exploit them. That is for us.

We will achieve more for our people within a concentrated and competitive European market than within a collection of separate, purely national markets. The gathering speed of change in today’s world, the evolution of a world-wide market with regional divisions, have made it abundantly evident that no single European nation can hope to command the resources or power of the Americans or the Japanese.

It is easier to catalogue the big players like India and China who will enter the lists in the twenty-first century than it is to identify economies which will attempt to dissociate themselves from the process. And all over Europe itself the instinct is to join in, not to remain apart. Applications to join are on the table from Austria and Turkey. Morocco has signed a Declaration of Intent. Malta has sought a form of association. Norway may

seek before long to reverse her narrow decision, taken by referendum, not to join. In Sweden the second twinges of doubt are manifest. Will Switzerland hold out? As the hold of communism becomes feebler, the Central European countries, led perhaps by Hungary or Yugoslavia, may find themselves freer to seek closer economic links with the Community. I believe that our energies should be primarily engaged in the evolution of the existing Community. One lesson is clear: we have created a focus of power to which others wish to accede.

But for many of our partners the Community is more than a matter of markets. Much of the drive towards a more united Europe was born in the prisoner-of-war camps and the resistance movements of occupied Europe. There had to be a better way. Men and women had a vision of a more ordered and peaceful world.

It seemed different to the British. They were neither occupied nor defeated. For most people in Britain the war had confirmed a feeling of detachment, if not outright superiority. All other nations in western Europe looked weak by comparison. It seemed natural to stand apart. Yet Dean Acheson, who was the American Secretary of State at the time, later wrote of Britain’s refusal to join the European Coal and Steel Community in 1951: ‘Despite my earnest arguments, Britain made her great mistake of the post-war period by refusing to join in negotiating the Schuman Plan’.<sup>3</sup>

For the British, with an alliance across the Atlantic and an Empire across the world, there seemed other options. Even when, in 1957, a Common Market between the Six had become a reality, Britain was proposing as an alternative a free-trade area: EFTA. The British Prime Minister at the time, Harold Macmillan, even threatened to pull out of NATO unless the fledgling European Economic Community (EEC) accepted a more open free-trade agreement. It was only when each apparent option had been explored and found wanting that, in the early 1960s, Macmillan’s Government recognised the magnitude of our misjudgement – only to find that de Gaulle’s vision for France in Europe did not countenance a leading role for Britain.

2. *Ibid.*, col. 1873.

3. *Present at the Creation*. Hamish Hamilton, London, 1970, p.385.



## The new Gaullists

Few politicians in Britain now question British membership of the European Community. With more than half of our exports going to Community countries, we would be taking unacceptable economic risks if we were to exclude ourselves. Of course, the balance of trade is against us. But where today are the old alternatives? Who would argue that to withdraw to an island home, behind protective barriers, could enhance the competitive strength of our industry? Like it or not, we have to compete with the Europeans: better to do so within a market which has strength in the wider world. Indeed, the Prime Minister's desire to establish an open, free-trading, single European market stems from the belief that the British will gain immeasurably from enhanced trading opportunities as the barriers come down.

Over recent years, the focus of the 'anti-Europe' case has switched. It is now argued that we can have all the economic advantages without closer political integration. Churchill, however, did not believe that trading arrangements could stand in isolation. Beyond the political desire to integrate the European powers, to prevent the antagonisms which have so often shattered the peace of Europe, the very concept of a single market necessitates political change, if it is to mean anything.

There is also an old yearning for power at the heart of the current criticism: 'If only it were Britain running Europe'; independent rather than influential; imperialism within a stone's throw of the Channel; able to exercise 'sovereign' power rather than having to share it. The very language is about a long-lost world. The modern world is interdependent, as computer networks and supra-national corporations have altered the map of national sovereignties.

A nation of our size, with an economy based so fundamentally on international trade, would have been forced over recent decades to re-define 'sovereignty' – whether within or without the Community. The modern world has, as it were by default, forced us to be interdependent. Military alliances, economic blocs, the cost of research and the scale of production have undermined old sovereignties. In Europe, our self-interest

has persuaded us to accept a fusion of sovereignty. The longer we delay, the more we assert that life is other than it is, the more we shall divert our attention from the real issue. In seeking that real world, we need first to know how power today is exercised within the Community.

Meanwhile, a new Gaullism has crossed the Channel in the other direction. There are those in Britain today who have resurrected the Gaullist concept of a *Europe des Patries*. The initial Treaty of Rome provided for decision-making by majority voting. General de Gaulle, in the pursuit of classic French self-interest, pulled out his civil servants in order to secure the so-called Luxembourg Compromise, which replaced majority voting by unanimity. This should not, however, be seen as a doctrinal matter. The Single European Act however was to put paid to this dilatory device. We must expose, for the diversion it is, the latter-day Gaullism of the re-grouped opponents of the European Community. Their alternative Europe has no more realistic prospect of acceptance today than any of the other alternatives we tried in the post-war years.

Mr Gorbachev's idea of a 'common European home' – a broad association of the states of eastern and western Europe, but without any central institutions – is a variant of the same theme. But without the central political drive which has proved necessary to implement a comprehensive programme such as the Single European Act, any EFTA-type organisation will remain ineffective and fail. The weakest or most obstructive will exercise the veto. I respect Mr Gorbachev for a brave initiative, but it is designed more to divert our attention from the momentum required to meet the challenge ahead – from North America and the Pacific – than to achieve a viable European alternative. His economy is a long way behind and falling further. Nothing should deflect us from the real competition. Our European partners will certainly not allow it to happen to them. It is only valid for Britain to press for a different Europe if someone is listening. Our partners are not.

The idea is no less a pipe-dream because proponents like Oliver Letwin, declare in ringing tones that it need not be so.<sup>4</sup> The empirical evidence is all against it. I see no sign that the

4. *Drift to Union*, CPS, 1989.



majority of our European partners have the slightest intention of being diverted towards a looser, less-structured approach any more than they have been at any time in the past. The case sounds suspiciously like earlier proposals designed to avoid the real decisions as to how to deal with the European Community. It is a case of the wrong weapons on the wrong battle-ground.

Critics of the European Community feed on the growing awareness in British politics of a 'democratic deficit' within the European Community. The frustration of national parliaments is very evident as they feel power slipping away, first to the Brussels bureaucracy and then, more recently, to the European Parliament. There is good cause for this anxiety, and we must address it. Britain could make a unique contribution to the birth of a people's Europe – a pluralist society driven by competition with the benefits shared in a rich tapestry of individual ownership and accountable at every level of democratic power.

### 3

## A Europe of Parliaments

European institutions are too remote. They lack accountability.

The easy political attack is to present Europe as a bureaucrats' paradise, impatient for unrestrained power, voracious in its consumption of taxpayers' money, ambitious to push its frontiers into an ever-widening circle of detail and directions.

The weakness in this case is two-fold. The Commission enjoys real power and is likely further to enhance its position, but the Commission, in order to act, has to have authority. This it obtains from the agreements which Ministers reach within the Council of Ministers, and from the Treaties to which we have put our name. To acknowledge that sovereignty has passed at all undermines the case of those who wish to pretend that it hasn't. Interdependence is inconsistent with independence. So the rearguard action rages, as trench by trench the ground is yielded. As long as this deception is encouraged, we deny ourselves the more constructive role of proposing measures to bring accountability to these new and developing arrangements.

It is little wonder that the British Parliament, at least, feels frustration. At its crudest we face the situation when, on the day a major statement is issued in Brussels, copies are not available in London. Even when they are, they are not in English. Arrogance has no limits if democratic control seeps away.

Much of the responsibility for this lies with national governments. Ministers and civil servants know perfectly well how deeply they are immersed in what is going on. They are, like ants, on a ceaseless conveyor belt moving between the bureaucracies of Brussels and the national capitals; of course they know what is going on. But the British Parliament has largely ceded its power to the executive. Patronage and preference will keep it that way. If government were now to involve Parliament in the effective control of Europe, it would herald a fundamental shift of power back to Parliament in other matters as well. Which government would wish that? This dilemma lies at the heart of the matter.



National governments are represented by their Ministers on the Council of Ministers. Ministers seldom give much priority to their European responsibilities – some 5% of their time. They fly in, read out the speech drafted by their civil servants, listen to eleven others haggle over the compromises and take the next plane home. They are seldom in their job long enough to know others well, or to develop enough trust for the give-and-take of genuine bargaining. The Minister one deals with yesterday may be represented by his deputy today and by an ambassador tomorrow.

How easy it is for Ministers, who have privately refused to agree the compromises necessary to give European companies one set of rules against which to work, to lash out publicly at the Commission, who are then forced to produce several different sets where one would have done. No company would put effective power into the hands of constantly changing part-timers, whose main interests are back home. Whether it is the European Parliament or the national parliaments questioning what has happened, few members indeed would want to rock the boat after difficult negotiations have been concluded.

The power of the Commission is founded upon its right to initiate legislation after consultation with national governments, not national parliaments. It prepares draft proposals which it sends to the Council of Ministers for approval. Over the years the quantity and breadth of Commission proposals has been increasing, usually as a result of Council initiative or agreement. The potential for tension and conflict with national parliamentarians has grown as a result.

The extent of House of Commons influence over a Minister in the Council of Ministers is determined by the willingness of that Minister to be so influenced. With negotiations in the Council of Ministers secret, complex and twelve-sided, MPs' deliberation of issues is as ineffective as it is late in the day. They know that they can only accept or reject decisions. They have to take the Minister's word that the agreement reached was the best possible in the circumstances.

This is not the case in West Germany. There the state parliaments have won a striking concession from the Federal Government. Representatives from the *Länder* now form part of the West German delegation to the European Council of

Ministers, and in this way they can ensure that the Federal Minister best serves their interests in his negotiations in the Council.

The idea of each country mandating Ministers is unrealistic. The way agreements are reached in the Council, by a process of bargaining and compromise, makes strict adherence to a predetermined negotiating position exceptionally difficult.

The Danish Parliament, however, does mandate its Minister. It has a permanent Parliamentary European Community Committee, known as the *Markedsudvalget*, and Danish Ministers are required to consult it before Council meetings and set out the negotiating position for approval. If that position changes in the course of Council meetings, the Danish Minister is obliged to seek an amended mandate from the Parliamentary Committee.

One country's parliament in twelve may be able to hold its Ministers on such a tight rein but, if all twelve attempted to do so, the Council would never reach a decision. However, a Minister could strengthen his bargaining hand in the Council if he were able to demonstrate to his colleagues that his own Parliament had formed an opinion on the legislation in question. European ministerial summit meetings mark the earliest formative stage of Community legislation and it is, therefore, important that Parliament has the opportunity to make its views known before, as well as after, the meetings take place. Parliament had no opportunity to discuss the items on the Madrid agenda in June 1989 before the Prime Minister set off.

Although the Government, through the Foreign Secretary, undertakes to provide the House of Commons with a report every six months on developments in the Community, by the time these reports are debated in Parliament the issues may well be stale. Two days per session are allocated for discussion of European White Papers on the floor of the House, but they are taken up in an historical review. The January-June White Paper is typically discussed by Parliament in January of the following year, well after the proposals have become law and too late for Parliament to influence the outcome. White Paper debates should be widened to cover current or forthcoming proposals and developments.

British parliamentary sessions do not necessarily correspond



with the activities of the European Community. There are long periods, especially in the summer, when Parliament is not sitting but business in Europe continues apace. Since the European Community operates throughout the year – eleven months in total – there will always be pieces of European legislation which go through without Parliamentary scrutiny. Further, there is usually a rush of European legislation at the end of each six-monthly Presidency.

The House of Commons devoted only 3% of its business to the debate of European Community documents in the 1987-88 session. In the House of Lords in the same session 1.5% of business was devoted to debating the reports of the Select Committee on the European Communities.

Debates on European documents in the House of Commons are typically held at the very end of the day's business. In 1987-88, out of 24 debates, 16 were held after 10 p.m. Few MPs turn up. Nor does the media attend, with the result that a great deal of European legislation passes through Parliament silent and unobserved.

Although all Members of Parliament are entitled to attend Standing Committee debates on European Community documents, very few do. In the 1987-88 session, this right to attend was used at only three Standing Committee debates (out of a total of 17) by six MPs. Maybe MPs feel that their participation makes no difference. But more notice and wider publicity might raise awareness and attendance.

Which European proposals should be debated in Standing Committee or on the floor of the House is the responsibility of the Select Committee on European Legislation. It has sixteen members (with no power to co-opt) and can divide into two sub-committees, which it rarely does for fear of placing too great a burden on its Members' time. It can, in fact, barely cope with the scale of its task. In the 1987-88 sessions, 1,195 European Community documents were reported on by the Select Committee. Only 117 were recommended for debate. However, a Minister is not required to block a proposal in the Council of Ministers until the debate recommended by the Select Committee has taken place. He merely has to explain his position to the House, in a written answer, after it is too late to change the Council's decision.

Part of the answer must be that the Select Committee on European Legislation should anticipate as well as react to Community proposals. Its terms of reference need to be widened to include not just the scrutiny of existing documents but current and future proposals as well.

Some lessons could be learnt from the House of Lords Select Committee on European Communities. It has 25 members, 72 co-opted members, 7 sub-committees, and the power to appoint specialist advisers: the Law Sub-committee, for example is made up of professional and academic lawyers. Its method of 'sifting' Community proposals into those which require special attention and those which do not is particularly valuable. Unlike the Commons Select Committee, it concentrates on the merits of particular proposals and consequently is able to move more swiftly and with greater confidence and lucidity through Community proposals. Its sub-committees altogether met a total of 154 times in the 1987-88 session.

Although primarily reactive, it also looks forward to future developments in the Community. It has, for example, produced valuable reports on the relations between the European Community and Japan, on the completion of the internal market and on monetary union. Its clerks have for years paid regular visits to plenary sessions of the European Parliament; and so they have good contacts with MEPs, Commission officials and Commissioners. Baroness Serota has said:

'Sometimes we receive early warnings of what is in the pipeline and begin to get to know MEPs and invite them to give evidence to our committees. It is a range of informal rather than formal contacts, but it is very valuable to the day-to-day work of the Select Committee'.<sup>5</sup>

And the House of Lords Committee, too, invites MEPs regularly to give evidence.

The Commons Select Committee should follow the example. And, as John Biffen MP has suggested, the two Select Committees ought to consider joint sessions. He believes that a joint Commons/Lords European Affairs Committee could:

'co-ordinate the European aspects of the present

5. Evidence to the House of Commons Select Committee on Procedure, Session 1988-1999; *The Scrutiny of European Legislation*, HC 368-viii, 5 July 1989.



departmental committees. It would have a sub-committee able to continue the Commons' work scrutinising the Commission's proposals. Most important, the Commons/Lords committee would undertake a study and assessment of the general EEC debate.<sup>6</sup>

Terence Higgins MP, Chairman of the House of Commons Liaison Committee, has argued that the Select Committees of the House of Commons – which do not themselves have time thoroughly to examine important areas of European Community legislation affecting the departments which they monitor – should establish sub-committees to examine in detail the documents which affect their departmental brief.<sup>7</sup> They would study such documents in the context of their department. These sub-committees could draw upon specialists with wide experience of their subjects. They would be able to deploy a more technical as well as a more detailed examination of European Community documents than the hard-pressed MPs on the Select Committee on European Legislation. The *Bundestag* has special sub-committees of its Foreign Affairs, Budget and Legal Affairs committees which are devoted to European Community questions.

But, since pressure on members of existing Select Committees is also great, a new set of departmental Select Committees in the Commons which would scrutinise European legislative proposals might have a better chance of doing useful work. And British MEPs could be invited to serve on these in some non-voting capacity, just as MPs have been invited to attend European parliamentary committees.

There is another step – one with sound precedent – which would enhance parliamentary accountability. The Foreign Secretary has overall responsibility for Britain's relations with the Community, but no member of the Cabinet is under greater pressure as he travels the world attending to British interests. A second Cabinet Minister should therefore be appointed to support him in the Foreign Office, with responsibility for Community affairs. Such an appointment would serve several

6. *The Daily Telegraph*, 4 July 1989.

7. Memorandum submitted to the House of Commons Select Committee on Procedure, Session 1988/89; *The Scrutiny of European Legislation*, HC 378-vi, 21 June 1989.

purposes: the Minister would represent parliamentary opinion in the round to other governments; could co-ordinate the ceaseless negotiations and keep watch for any unnecessary delays; could take an active interest in the development of European policy and in the more detailed expenditure of our money; and could more readily be called to account by the House or by Select Committees.

National parliaments need to be sure of their own direct powers of scrutiny. They must be satisfied with the links with the European Parliament which, though regarded with profound suspicion by its national rivals, has slowly begun to flex its muscles.



## The European Parliament itself

The European Parliament consists of 518 members, elected since 1979 by universal suffrage. 81 MEPs represent the United Kingdom. The role of the Parliament is limited, but increasing. Prior to the Single European Act it could offer opinions, which the Council of Ministers could disregard. And, provided that a two-thirds majority can be secured, the Parliament is empowered to dismiss the Commission. The Single European Act now gives the Parliament the power to amend certain proposals. In the last resort, it can alter or reject the Community budget and on several occasions it has done so – with the consequence that the Community has had to limp from month to month with emergency financing.

The Budget has become the European Parliament's most effective way of influencing policy. MEPs have used it as a weapon against the Council of Ministers; year after year they have pushed spending beyond the limits proposed by the Council. But because their concern has always been more with the size of the budget than with its effective use, they have never exploited their full potential as a watchdog over public accounts.

Far from the European Parliament acting as a check on the bureaucracy, they are often allies. Both Commission and Parliament are 'federal' institutions which define their power in relation to the Council of Ministers – the authority which represents national interests. Of course, officials in Brussels find the European Parliament as tiresome as bureaucrats do find elected institutions; but in the last resort they need the Parliament as a court of appeal against the Council.

It is easy to disparage the European Parliament, but the scrutiny of legislation by a European Parliamentary Committee – multi-party and unwhipped – can be more detailed and effective than that of Westminster's committees. European Commissioners regularly attend the 18 European parliamentary specialist committees where MEPs cross-examine them on proposals in their earliest stages.

Legislation now goes through a two-stage 'second reading'. After the Council has adopted a common position, it then refers

it to the European Parliament which has up to three months to make amendments. If the Commission adopts the amendments of the Parliament in its re-examined proposal, it is then sent back to the Council, which has up to three months to decide either to accept it by qualified majority, or to amend it by unanimous vote. The European Parliament has, therefore, acquired a negative power to require the Council to reach a unanimous decision if the Council wishes to change the amendments proposed by the Parliament.

The European Parliament's new-found influence is not inconsiderable: during the second reading procedure in the period July 1987 to October 1988, the Council accepted 21% of the European Parliament's amendments. This second reading procedure must not take more than seven months – but can be carried through much more quickly. In practice, amendments may be tabled and agreed before our own Parliament is able to debate them.

Now that the European Parliament has been given the power to amend Community legislative proposals, the House of Commons has every interest in co-operating more closely with British MEPs. The latter have a limited power to influence the shape of European legislation before it becomes fixed and legally binding on Member States. The Members of Parliament have none. The House of Commons may even find itself having arrived at a common position only to see it changed under the procedure I have outlined. The key point, therefore, is that, if our Parliament wants to influence amendments which the European Parliament makes, it must ensure that MEPs are advised of its views early. This is a powerful reason why Westminster should maintain close links with MEPs, and call upon MEPs' knowledge, expertise and power to influence the shape of Community legislation. MEPs could greatly help to improve the ability of national parliaments to scrutinise Community legislation – but only if the relationship between them was close.

In the United Kingdom, each MEP represents an average of 700,000 people compared with 70,000 for each MP. The isolation of British MEPs from our Parliament and from the British public and press gives an advantage to our Community



partners who, almost without exception, maintain much closer links between their MPs and MEPs.

For example, in Belgium the Chamber of Representatives has an Advisory Committee on European Questions consisting of 10 MPs and 10 Belgian MEPs, while the Chamber of Deputies has a Joint Advisory Committee on European Affairs, also with 10 MEPs and 10 Deputies. Belgian MEPs may also take part in the Standing Committee of the House in a consultative capacity.

In Germany, as noted above, the *Bundestag* has a sub-committee of its Foreign Affairs Committee with responsibility for European Community affairs. 13 German MEPs have the right of admission to meetings of the sub-committee and are, in principle, on an equal footing with their 13 national parliamentary colleagues who sit on the sub-committee. They are entitled to suggest subjects for discussion and to convey information and make statements during the discussions, but they do not have the right to vote or put forward motions.

In the Netherlands, the Standing Committee on European Affairs holds regular discussions with MEPs.

In France both the National Assembly and the Senate have a delegation for the European Communities, each with 18 members. Although French MEPs cannot belong to either delegation, they are regularly invited to give evidence. Both delegations maintain close contacts with the committees of the European Parliament.

The Irish Parliament has a joint Committee on the European Communities, with 25 members. Irish MEPs who are also members of the Dail may take part in Committee proceedings, but not vote.

Both chambers of the Italian Parliament have a committee on Community Affairs. Italian MEPs who are also members of their national parliament may belong to the committee, and MEPs are invited to give evidence.

There can be no doubt that the closer the links a national parliament forges with the European Parliament and its committees, the better placed it is to influence Community legislation in its own national interest.

There are, according to Christopher Prout MEP, a 'whole

range of issues' where British MEPs could act as an early warning system for Westminster.<sup>8</sup> MEPs have access to European Community documents at a much earlier stage than Westminster. Parliament could benefit from an early opportunity to examine and discuss the working texts of forthcoming Commission proposals.

We should, as a first step, implement the recommendations of the European Parliament's Committee on Institutional Affairs that members of the scrutiny committees of national parliaments be entitled to attend meetings of the committees of the European Parliament in a 'consultative capacity', with the right to speak but without the right to vote. It also recommended that 'regular joint meetings' be held between members of national scrutiny committees and the European Parliament's Committees.<sup>9</sup>

One suggestion, which has been canvassed to remedy the democratic deficit, is the election of the European Commission itself. I see no prospect of either national governments or national parliaments being willing to contemplate so dramatic a shift of power, leading – as it inevitably would – to the diminution of the role of national governments through the Council of Ministers.

There is another simple innovation that would advance the democratic process in Europe. Once each year the European Parliament could conduct a general debate analysing the priorities for the year ahead. The Council of Ministers and the Commission would take note if significant majorities emerged for a general line of policy. There is every argument for each national parliament to conduct a similar debate coincidentally on the same statement so that their views could be set in the same time-frame, and be weighed by those judging how to negotiate in Council or with the Commission.

There is a further way, too, in which the conflict of interests between national parliaments and the European Parliament could be reconciled. They could share the parliamentary function. This could be achieved by the establishment of a second chamber – the 'Senate' – in the European Parliament, consisting of members of the national parliaments. The Senate would enjoy

8. Evidence to the House of Commons Select Committee on Procedure, Session 1988/89; *The Scrutiny of European Legislation*, HC 368-vii, 28 June 1989.

9. *European Parliamentary Document* A2-0348/88, 1988.



the same powers as the present Parliament.

The precedent is to be found in the United States. Just over 200 years ago the thirteen founding states of the American Republic decided that they could no longer carry on with the original Continental Congress which was, rather like the present Council of Ministers, a continuous process of difficult intergovernmental negotiation. Although the present United States is very different from the European Community, the relations between the original thirteen states were not so different. Their views differed radically on many questions. But in order to keep their internal trade open, and to avoid domination by a powerful Europe which was playing them off against each other, they – and the smaller states in particular – considered that they had to have a more effective political system to manage their affairs. The compromise reached in 1787 established a two-chamber Congress. The composition of the lower House was to be elected according to population but each state had equal representation – two from each – in the upper House, the Senate. From the day the Senate was founded no one has doubted that each Senator speaks for his state or that the Senate speaks collectively for the United States.

Europe is not America, but there is a precedent here that we should explore. Many later constitutions have adopted the idea of a second Chamber, designed as it is mainly in order to ensure that the concerns of distant constituent parts are clearly expressed at the centre.

Such an innovation would mean a shift of power from national governments to national parliaments but, since power has been shifting steadily in the other direction for a long time, this would be no bad thing. Governments should be reminded from time to time that it is not they who are sovereign but Parliament.

I would, however, depart from the American precedent in that a European Senate would need to have an unequal distribution of upper chamber seats, based on already established proportions. At present, larger countries such as Britain have 10 votes on the Council of Ministers. On this weighted system Britain could have 20 Senators in a Senate of 152 members – larger than the 100-strong United States Senate but roughly in

proportion to the larger size of the Community's population. The respective national parliaments would rightly insist on choosing how each was to select its Senators. In Britain, a system similar to the selection of members for existing Select Committees would probably command support. As their authority grew, they would be increasingly answerable to Parliament rather than the government. Our twenty senators would need access to as much government information as possible, if they were to fight for British interests. But they would also have access to a stream of European information and thus be part of informed political life both in Europe and in Westminster.

In making such a proposal I recognise the validity of the argument, based on past experience, that the exercise of the dual mandate is too onerous a burden for individuals to carry. In part, this issue could be addressed by a practical attitude in the respective Whips' Offices. But my colleague, Sir Philip Goodhart MP, has suggested to me that further easing of the pressures would follow if we changed the rules that insist that members of the Council of Europe have to be MPs and members of the Western European Union have also to be members of the Council of Europe. MEPs could occupy a proportion of the positions involved.

The role of the Council of Europe has changed with the creation of the European Parliament. It makes sense to focus on the implications of this change and allow the Council of Europe to develop as a wider, pan-European forum extending far beyond the membership of the Community. But it follows that it can never hope to play a governing role other than through the contribution of wisdom, experience and informed dialogue.

European politics would not only become the concern of Westminster, but would also in consequence begin to attract, through the media, a wider public awareness. The influence and role of the national parliaments would be enhanced since the majority agreement of the Senate would be necessary before any European legislation could take effect.

There are many in the European Parliament who oppose the idea of a European Senate made up of national parliamentarians. They argue that national interests are already represented in the Council of Ministers and it is precisely the

'interference' of national interests that holds up the smooth implementation of European Community purposes. To allow national parliamentary interests to penetrate into the heart of the Community in such a dramatic way would weaken the cause of European integration.

I do not take so defeatist a view. It is the remoteness of national parliamentarians, the understandable frustration about the present arrangements and the inability to influence events over which they see themselves losing control that encourage hostile views. If the case for closer European co-operation is sound, then the closer national politicians are involved, and the more they have to consider the evidence and address the arguments, the more their support will be forthcoming. That is important. For European institutions to work and achieve their potential, they must carry the people and their representatives with them.

The implications of changes in the European political scene for Britain are substantial. They need not be frightening. Experienced politicians across Europe, in reaching collective agreement, will gauge the sticking point beyond which a member state should not be forced to go.

But the speed of change in Europe will move – indeed is already moving – fast, as the implications of a single market and the replacement of twelve national regimes by one become apparent to the entrepreneurs and the bureaucratic systems. That change is an essential feature of our resolve to meet the external competition we shall in any case encounter. The more enthusiasm we bring to the task, the more successfully we shall adapt.