

Letters to the Left on Brexit

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Preface

As the campaign began over the Brexit referendum, I found myself increasingly troubled that there seemed to be few people in the debate putting the old left-wing case against Britain's membership of the European Union. I started writing short essays for circulation among friends and occasional publication in various online settings, and not long before the vote I was asked to put some of these ideas together into a piece for Dissent, which attracted quite a lot of attention and encouraged me to develop the themes further, and to reply to my critics. The following are the short essays which I have written on the subject since April 2016. I would like to thank the friends for whom they were written: David Grewal, Daniela Cammack, Alex Gourevitch, Jed Purdy, Chris Bickerton and Maurice Glasman.

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On 19 February 2016 David Cameron agreed with the other European leaders on the details of his renegotiation of the terms of membership for Britain in the European Union, and on the following day he announced that a referendum would be held on membership on 23 June. On 22 February the Commons debated the renegotiation deal, and the campaigning for the referendum began.

16 April 2016

Do you remember David Cameron's renegotiation of the terms of Britain's membership of the EU? No, I thought not. The details of the negotiation have more or less disappeared without trace from the debate about Brexit, to be replaced by the apocalyptic scenarios of Project Fear, according to which Britain's exit from the EU will be catastrophic not merely for the British economy but for the entire Western World. At the very least Brexit (we are told) will carve a large hole in the European economy, but - even more urgently - it will apparently disrupt the entire current security system. When American politicians or generals (insofar as the categories are distinct) lecture the British on the need to stay in the EU, they are not doing so out of benevolence for Britain, nor do they even pretend to be doing so; they are doing it, they say, out of anxiety for the future of the post-war European order. The same is true of a certain kind of European politician, for whom the threat of terrorist attacks or Russian revanchism requires "more Europe", and for whom the tearing apart of the EU would be a disaster.

But if we pause for a moment, we can see that there is something odd about this. Force yourself to remember the tedium of the renegotiation, and its footling outcomes: did it have the ring of a discussion conducted under the threat of the collapse of post-war Europe? Did it look like the really vital and urgent diplomatic engagements of the 1930s, in which it was obvious to everyone that major issues hung in the balance, or the similar negotiations of the Cold War? Either the EU representatives at Brussels in 2015-16 were extraordinarily insouciant about the implications of what they were doing, or they thought that Brexit was so unlikely that it was not worth guarding against by politically plausible concessions (something which none of the polls, then or now, have supported, even if the balance of probability is for Remain), or they thought that a Brexit would not in fact be a disaster, and they could afford to run the risk of Britain walking away from the EU.

If they did not think this, then there only two explanations for the trivial character of the negotiations. One was that they were playing a game of chicken, in which they fully recognised the danger, but hoped to use fear of it as the key element in the negotiations, in order to force Britain into line. The EU of course has form in this regard: precisely this approach was used against Greece, as Yanis Varoufakis has testified. Rather than being offered some reasonable compromise, the Greek people and their government were led to believe that the choice was between exit from the euro - and even from the EU - and submission to the terms offered them. This was a manufactured choice, since they could relatively easily have been offered better terms; but the Greeks' nerve failed, very reasonably, and they chose to swerve their car away from the centre of the highway.

The Greeks (to continue the analogy) were driving the equivalent of a Reliant Robin, which would have been no match for an armoured Mercedes even in a head-on collision, so the stakes were relatively low for the EU, as the international markets were repeatedly reminded; but with Brexit, the EU and the USA are themselves now assuring us that the stakes are very high - though neither did so at all minatorily during the renegotiation . Sensible politicians do not play chicken in a high-stakes situation; neither the USA nor the Soviet Union did so during the Cold War, except perhaps in the Cuban Missile Crisis - but that is no model for modern politics, and was anyway solved by a back-room deal rather than the submission of one side. Do we conclude that the the EU and the State Department do not consist of sensible politicians? Or do we conclude that they do not really believe what they say, since if they did, they would - according to their own lights - have been behaving in the most reckless fashion?

The other explanation for the absence of any sense of urgency and importance is that the EU representatives were terrified of offering anything more than trivial concessions, as doing so would have encouraged other countries to seek similar treatment, and the EU project would have begun to unravel. This may be right, but it does not bode well for the future of the project, and confirms that Britain would be best out of it. It reveals that the leaders of the EU do not themselves believe that there is general support for integration, and that the citizens of Europe, given half a chance, would opt for the kind of deal which British eurosceptics want: once again, the leaders are convicted of extraordinary recklessness in seeking to force European union upon unwilling populations by - in effect - a threat of expulsion levelled at one of the major European countries. How long can such a structure last?

16 April 2016

It is now clear that the Labour Party, in the shape in which it has existed for upwards of a century, is dead. The loss of Scotland, as many commentators have observed, renders it virtually impossible that the Labour Party will rule again in a united kingdom; and since England has been a fundamentally Tory country since the seventeenth century, and shows no sign of becoming markedly less so, it is hard to see anything like the old Labour Party taking power in England alone. Something along these lines has been the obvious prize dangling in front of the Tory party since Scottish nationalism became a serious political force, and David Cameron - whether through extraordinary luck or extraordinarily good judgement - has seized the prize without (so far) having to break up the United Kingdom in order to do so. In the aftermath of the debacle of May 7th people both inside and outside the Labour Party have been quick to blame its failure on its rotten boroughs and sectarian politics in the West of Scotland, with long-festered resentments and disillusionments finally coming to the surface. But there is a much more fundamental reason why Labour sooner or later had to fail in Scotland.

Modern Scottish nationalism is essentially the working-out within Britain of the logic of the EU. Scotland joined the Union in 1707 explicitly to enjoy an economic union with a large market and a global trading power, and there is no need for it to stay within the old union when a new one beckons; why have an intermediate level of politics in Westminster when everything can be much more easily decided directly between Edinburgh and Brussels? To see this, one need only consider whether Scottish nationalism could be a credible movement if the EU did not exist. The EU's institutions guarantee it virtually the same freedoms of trade and movement with England which the 1707 Union provided; the only missing element (as the equivocation of the referendum campaign demonstrated) is a common currency, but the EU offers some security to an independent Scotland even in this area, at least as compared with the risks of a wholly independent and wholly Scottish currency, the failure of which was a principal reason for the British Union. Indeed, one does not have to imagine this: one only has to think back (if one is old enough, as I am) to the days before Britain joined the Common Market, when Scottish nationalism was largely a joke, and its supporters' principal activity was moving the Welcome to Scotland sign from one side of Berwick upon Tweed to the other. Even after Britain's accession, as long as the Common Market appeared to be merely a somewhat loose trading arrangement it played no part in Scottish nationalism - indeed, the SNP had violently opposed the accession. But once the Common Market began to take its current shape, the power of European integration to advance its cause began to dawn on the SNP, and as soon as it switched to an enthusiastically pro-European position in the 1980s its electoral fortunes began to improve.

There is little to set against the power of this logic. The ties of sentiment between Scotland and England can be maintained if both countries are united with one another via the EU as easily as in a United Kingdom; witness the ways in which strong ties continued between England and Ireland despite their separation since 1921, as long as freedom of movement and a high degree of economic integration were guaranteed. Enemies of Scottish nationalism often deny that an independent Scotland would be part of the EU, but no one is convinced: given the character and ambitions of the EU, is it at all plausible that an independent Scotland would be left outside while England stayed within? It would surely become a second Ireland, welcomed as an

independent nation at Brussels, whatever the Spaniards (in particular) might say or do. These obvious thoughts do not need to have been in the forefront of the minds of the almost half of the Scottish electorate who voted for independence in the referendum, though they have certainly been in the forefront of the minds of the SNP leaders; it is enough that the EU is simply now part of the necessary background to any discussion about the separation of the two countries, and as its clear logic works its way to a conclusion it is hard to see the old United Kingdom surviving. Even if it does, in some precarious fashion, the plausibility of Scottish independence in this context will remain, and will continue to attract large numbers of voters to the SNP and away from Labour.

The Labour Party should have remembered that more than the other parties it was a creature of the United Kingdom; it only came into being towards the end of the Kingdom's most powerful century, and from the start it was heavily represented in all the Kingdom's nations. It even organised in Ireland prior to 1913, when (in an ominous precedent for the current Labour Party), it withdrew in the face of Irish Home Rule, creating in its place a separate but affiliated Irish Labour Party which has continued as a party in the Republic until the present day. From this perspective, the carelessness with which Blair approached the twin questions of Scottish devolution and European integration was suicidal for his party. It remains one of the great oddities of modern British history that the powerful voices within the Labour Party in the Wilson and Callaghan years opposing membership of the Common Market were so easily silenced after the Party's defeat in 1983 (when its manifesto had included a pledge to withdraw from the EEC), and that the Conservatives and Labour so swiftly swapped places on this issue: in many ways the objective interests of the two parties remained what they had been in the 1970s, and the instinctive suspicion of European integration felt by many people in the Labour Party corresponded to the structural position of the Party in British electoral politics. This is leaving to one side, of course, the well-founded character of the suspicion that European integration would prove disastrous for the cause of traditional socialism, as European history over the last two decades has so amply demonstrated. Both democracy and socialism require a state, and the EU looks increasingly as if it will offer its residents something far short of a democratic state at the supranational level, but powerful enough to destroy the old democracies at a national level, in the process handing capitalism a freedom it has always desired.

Is there any rowing back from this disaster? All that the current leaders of the Labour Party offer is an act of will: a resolution that there must be a Labour government once again in the UK. But none of them are providing any plausible analysis of how such a thing can be achieved. At the moment it looks as if Cameron may succeed in setting the capstone on his historic defeat of the Labour Party by engineering a victory in a referendum on Britain's continued membership of the EU, supported in doing so by the very Labour politicians whose future the EU is destroying. Such a framework will continue to facilitate Scottish independence and prevent a United Kingdom Labour Party from effectively rebuilding in Scotland. But suppose that the vote in the referendum goes in favour of leaving the EU; what then? The SNP has moved quickly to declare that it will not be bound by such a result if Scotland votes to stay in the EU, and Nicola Sturgeon has attempted to argue that each constituent nation would have to be in favour of leaving before the UK as a whole could leave. This illustrates the extreme importance of this issue for the future of Scottish nationalism, and the judgement of the SNP leaders themselves that continued British

membership of the EU offers the best route to independence. But what would actually happen depends on the nature of a post-referendum settlement with the EU, and no one has any idea what that might look like; indeed, the pro-EU camp will make it their prime objective to keep any possible post-Brexit settlement completely unclear, as the pro-Unionists did in the Scottish referendum.

It should be said that the most likely arrangements following Brexit bode only a little better for the future of the United Kingdom than does continued membership of the EU. This is because it is extremely unlikely that Brexit would leave the UK standing in the same relationship to the EU as (say) Canada does, that is, as a wholly foreign country. If that were to be the case, and Scotland were subsequently to leave the UK and join the EU, there would be a completely unprecedented situation, for there would for the first time in post-medieval history be real barriers to trade and the movement of population within the islands of Ireland and Britain. Even after Irish independence, as I said, there was continued integration of the two populations and to all intents and purposes of the two economies, with Ireland recognising in 1973 that if the UK were to join the Common Market it would have to follow suit. Already there are some voices being raised in Ireland suggesting that a Brexit might entail an Irish exit as well, and a break with the EU of this radical kind would certainly cause major problems for both Ireland and an independent Scotland - so great, indeed, that it would probably deter Scottish voters from supporting independence.

But this is extremely unlikely as a post-Brexit scenario. Much more likely is that Britain would enjoy something like the relationship with the EU which Norway has; this is indeed the option often cited by opponents of British membership. The relevance of this to Scottish nationalism is that Norway has two kinds of relationship to the EU; one is its membership of the European Economic Area, along with Iceland (and Lichtenstein), but the other is its continued membership, also along with Iceland, of the Nordic Passport Union. The Nordic Passport Union guarantees free movement of people and an integrated labour market among the Scandinavian countries (which is why both Iceland and Norway have to belong to Schengen - just as the Irish, with in effect a passport union with the UK, cannot belong to Schengen as long as the UK stays outside). This would indeed be the obvious model for an England outside the EU but still integrated with the other two insular countries inside it. But equally obviously such a model would do little to hold back Scottish nationalism: if Denmark can be in the EU but Norway outside it, why cannot Scotland, and Ireland, be inside the EU and England outside it? So even if the vote in the referendum were to be in favour of exit, at least in England, the most likely and attractive post-referendum settlement would not stop the steady advance of Scotland towards independence, and with it the slow death of the Labour Party. There may now simply be no undoing the mistakes which the Party made under Kinnock and Blair. But if the Labour Party cares at all about the future of its role in a united kingdom, the worst thing it can do is oppose Brexit: Brexit offers the only prospect, however slight it may be, of preserving the United Kingdom and rebuilding a British Labour Party.

On 22 April President Barack Obama gave a press conference at the Foreign Office alongside David Cameron, in which he produced his famous remark that Britain would be “at the back of the queue” when it came to a trade deal with the US. This remark was widely believed to have been drafted by the British government, given the fact that no American says “queue” rather than “line”! But Obama also said of the referendum that “the outcome of that decision is a matter of deep interest to the United States because it affects our prospects as well. The United States wants a strong United Kingdom as a partner. And the United Kingdom is at its best when it's helping to lead a strong Europe. It leverages UK power to be part of the European Union.”

22 April 2016

President Obama's intervention today in the Brexit debate tells us only one thing, but that is something of great significance. It is that President de Gaulle was right when in 1963 and 1967 he vetoed Britain's application to join the Common Market. In his public utterances on the issue, he stressed (as he said in a famous speech in 1963) that

England in effect is insular, she is maritime, she is linked through her exchanges, her markets, her supply lines to the most diverse and often the most distant countries; she pursues essentially industrial and commercial activities, and only slight agricultural ones. She has in all her doings very marked and very original habits and traditions.

But the French press of the period, and private remarks by French politicians, repeatedly made explicit the specific anxiety which plainly guided de Gaulle's veto, that Britain would be “America's Trojan Horse” in Europe. Within Britain, this has usually been seen as an example of French cultural anxiety; but with the crisis of Brexit on the horizon, the American foreign policy establishment is finally coming clean: they might talk about their general desire for a stable and united Europe, but in their eyes Britain's membership of the EU is and plainly always has been a means of planting a reliable agent of the United States in the heart of the organisation. The French fears of the 1960s were well-founded in a quite definite sense, and it is highly likely that the French intelligence services, always preternaturally well-informed, were aware at the time of this aspect of American foreign policy. And de Gaulle, with his intimate knowledge of Anglo-American relations as they had been forged during the War, was in an especially good position to appreciate what British membership would mean.

Leaving aside the feelings of Continental politicians, now they have been told that what they always suspected was indeed the truth, and leaving aside the humiliation of British citizens on learning that their country has been acting as a secret agent for the US within the EU for fifty years, there is a serious question about what has now been revealed. The State Department's devotion to European Union under all administrations should always have been more of a puzzle than it has normally appeared. There is much we do not know about its real motives, and about its attitude to British membership. For example, Richard Crossman, a member of Harold Wilson's cabinet at the time of the renewed application in 1967, recorded in his diary that the Wilson government had turned to the Common Market only after an attempt to construct a North Atlantic free trade area between the US and Britain was rebuffed by the Johnson administration.

Was this payback for Wilson's successful manoeuvrings which kept Britain out of the Vietnam War? Certainly, one would not have expected that America's most important military campaign since at least the Korean War would be fought without any British military involvement, while Australians and New Zealanders died on the battlefields of Vietnam (this should always be remembered by people who talk about Britain simply as America's poodle). Or was it already the policy of the State Department that Britain should be inserted into a Continental structure which was now being talked about quite openly in foreign ministries around the world as prospectively a political union? As Con O'Neill, the British Representative to the EEC 1963-5 (and the man who led the successful negotiation to join), said in the characteristically flippant terms of the British diplomat,

Mao Tse Tung declared that power grows out of the barrel of a gun. Professor Hallstein [the President of the Commission from 1958 to 1967] operates in a more sophisticated environment; but he has always declared he is in politics not business, and he may well believe that power grows out of the regulation price of Tilsit cheese or the price of a grain a hen needs to lay one egg. I think it does.¹

There were - and still are - good reasons for the US to fear the EU rather than welcome it; beneath the veneer of Western solidarity there has always been a clear vein of anti-Americanism in the politics of the EU. During the Cold War this was obscured by the urgency of forming a united front against the Soviet Union, but even that requirement cut two ways: NATO and the military actions of the 1940s and 1950s such as the Berlin airlift were the most effective means of maintaining the Iron Curtain, and an independent Continental foreign policy led by France was not the most obvious pillar of Western security (and one should not forget the ever-present temptation of German unity bought by a promise of neutrality which the Soviet Union dangled in front of Germany throughout the Cold War, and which in a subtle fashion may turn out in the long run to be the bargain the Germans accepted). Nowadays, one would have thought that any objective analysis of a traditional kind would conclude that the EU was potentially more of a risk to the US than Russia: it is the EU which is economically successful, which can interfere with American companies in one of their largest markets and which can increasingly play an independent - and, as it turns out, often catastrophic - role in foreign affairs, as in the disastrous Libyan adventure cooked up by Britain and France, who now seem to see themselves as the basis of a kind of EU military force. But America's fears of the EU have been assuaged over the years by Britain's presence; the extraordinary level of integration in foreign policy between the two countries has been a guarantee that the EU will not develop in an openly hostile way.

In the days before the radical extension of qualified majority voting to most important matters that come before the Council of Ministers, Britain's role as a Trojan Horse was very straightforward, since it could veto measures that it - or the State Department - opposed. That is no longer the case, as the demand for Brexit within Britain testifies; the central fear of the advocates of Brexit is after all that Britain, with its special interests which are seldom shared by

¹ See Helen Parr, Britain's Policy Towards the European Community: Harold Wilson and Britain's world role, 1964-1967 (Routledge 2006) p. 19

other countries within the EU, will be consistently outvoted - it has been in the minority more than any other state in the last decade, and that is only likely to get worse. Most opponents of the EU in Britain would be mollified by a return to the voting arrangements which were in place when Britain joined. But the State Department does not yet appear to have drawn the obvious conclusion, which is that Britain will not be an especially effective Trojan Horse in the future. Even its military role, as it come increasingly under the spell of French military revanchism, will be far less reliable as a means of projecting American influence inside Europe. At the extreme, the Horse may be turned against the Trojans themselves, and that prospect ought to keep under-secretaries of state awake at night far more than the prospect of Brexit. The very reasons which drive the campaign for Brexit should - if the State Department were thinking clearly - make it very unconfident that the old order will be maintained even if Britain stays in the EU, and very fearful of what may happen if the existing project simply limps forward for another generation or more. One might even say that the last couple of decades have seen an historic defeat for American foreign policy; the European settlement in which Britain functioned as its arm within the EU was gradually transformed in the course of a subterranean diplomatic struggle into a new arrangement in which Britain cannot pay the role assigned to it. Overconfident as ever, the British Foreign Office has clearly continued to pretend to the US that it holds the key to Europe; the snag is that one day the State Department will discover that the locks have been changed.

There are wider issues which the question of America's attitude to Britain and the EU raises. Secrecy has always been part of the business of international affairs, with negotiations conducted entirely in private, and possibly without the agreements which are made ever becoming fully public. In the past there were secret treaties (such as Charles II's infamous Treaty of Dover, which in retrospect bears some similarities to the EU treaties!), and though they have largely vanished, the world of diplomacy still operates with a far higher level of concealment and subterfuge than would ever be acceptable in domestic politics. Traditionally, citizens have accepted this: the ambassador, sent to lie abroad for the good of his country, did not usually threaten the internal political structures of his nation, and if he did he would be summarily dismissed or prosecuted. One of the deep problems of the modern international order, of which the EU is the most extreme example, is that this is no longer the case. International agreements bite deep into the internal organs of states, but they are arrived at by the same opaque processes by which they have always been handled. Given the traditional division between executive and legislative, moreover, and the fact that foreign affairs is usually the special province of the executive, this feature of the modern world has handed enormous new powers to governments; the American senators who blocked the US membership of the League of Nations may have known (at some subconscious level) what they were doing - just as Weber said the reactionary opponents of civil service reform in nineteenth-century America knew what they were doing when they resisted the move to a modern bureaucracy. The fact that we do not really know exactly why Britain is in the EU, and the smell of secrecy which hangs over both the history of its accession and the recent diplomacy to keep it in the EU, are among the principal reasons for wishing to get out.

30 April 2016

Many people on the Left now oppose both the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). They do so partly for economic reasons, since free trade (even if the two “partnerships” actually provided it) is not the unquestionable good which naive commentators often suppose (I will return to this later). But high up on their list of reasons for opposing them are their political implications, and in particular the regulatory structures which they put in place. As the Yale Law School Professor David Grewal, in particular, has stressed, these treaties are not old-fashioned trade agreements for the lowering of tariffs; the process of tariff reduction between major trading nations has in most cases (except for agriculture) gone almost as far under the aegis of the WTO as it is likely to do in practice under the “partnerships”. Instead, the treaties attempt to construct co-ordinated regulatory structures in a wide variety of areas, ranging from worker’s rights to states’ industrial policies and even some environmental regulations. These provisions of the treaties clearly intrude on areas of national life which in the past were presumed to be the preserve of national governments. Furthermore, the treaties create mechanisms for so-called Investor-State Dispute Settlement (ISDS) which amount to the creation of supranational courts, ruling in accordance with loose principles and free from appellate scrutiny. Liberal defenders of global capitalism led by President Obama like to stress the fact that the treaties enshrine workers’ rights and (they are particularly keen to point out) gender equality, and they imply that the other provisions are necessary to enforce these rights and to prevent states from resiling from free trade through such things as the manipulation of labour laws and health and safety regulations. But the fundamental fact is that supranational intervention on behalf of left-wing causes is bundled together with intervention on behalf of modern global capitalism, and it is not difficult to see which type of intervention will have - and is intended to have - the longest-lasting impact.

Everything I have just said would be commonplace in discussions on the Left across Europe, and most people would be well aware that the bundling of these various causes is basically a trick to persuade the citizens of the states concerned to grant the capitalist enterprises greater freedom. But oddly, they do not see that the first and in many ways the greatest of these Partnerships was in fact the European Union. In its structure it anticipated both this kind of bundling of left-wing and right-wing promises, and the assumption that modern free trade requires a supranational structure with powers to intervene in the internal life of the member states - that because there are so many ways in which regulatory hurdles can be erected in order to restrict trade, regulation has to be managed at a supranational level. And like the Partnerships, in practice the EU subordinates its concern with workers’ rights to its concern to maintain the freedom of companies to shop around within the EU for the weakest regimes of labour protection; to see this one need only look at recent judgements of the ECJ concerning trans-national labour disputes within the EU, which the European Trade Union Confederation has described as confirming “a hierarchy of norms, with market freedoms highest in the hierarchy, and collective bargaining and action in second place”.

The paradox at the heart of the current British argument about EU membership is that it is the Right which ought to applaud this kind of structure - as indeed it tends to when it comes to the TTIP, which many anti-Brexit advocates on the Right appear to be terrified about finding

themselves outside if Britain leaves the EU. It is the Left which ought to be hostile, and when it is freed from its cultural prejudices about the EU, and freed from its anxieties about short-term issues of British politics, its natural suspicion about these kinds of project comes straightforwardly to the surface. On the whole, the Left has not bought into the idea that free trade is an unequivocal good, and it has been right not to do so. The general defence of free trade is that everyone benefits, if the extra wealth generated by free trade is distributed to compensate those who lose out; but in practice there is virtually never any compensation, and in its absence free trade merely leads to a reallocation of resources which may be benign but may also be malign. Everything depends on the political power of the various groups concerned, something the Left has usually understood, and the renascent Left in the USA has rediscovered. Anxiety about the TTIP in Britain and the rest of Europe is well-judged; but there is no point in resisting the TTIP, or even employing European political institutions to prevent the EU signing up to it (a doomed enterprise, anyway, many would say - we do not even know what the EU's negotiating positions are, nor will we be allowed to know for thirty years!), if we remain within the EU. Everything which is objectionable to the Left about the Partnerships, with the single exception of the fact that the USA is involved in them, is objectionable about the EU. This was what the original opponents of the Common Market in the Labour Party understood, and time has merely proved them correct.

On 5 April Yanis Varoufakis published an article in the Guardian containing an extract from his new book And the Weak Suffer What They Must, which was published the same week. He ended the article by saying that “Just like in the early 1930s, Britain and Greece cannot escape Europe by building a mental or legislative wall behind which to hide. Either we band together to democratise - or we suffer the consequences of a pan-European nightmare that no border can keep out.”

30 April 2016

Yanis Varoufakis is one of the most interesting left-wing politicians in Europe. He speaks with authority about the true character of the EU project, as someone who has witnessed one of its major crises from within; his accounts of the discussions in the councils of Europe about the euro crisis, with their pictures of ignorant and preening finance ministers resolutely bent almost exclusively on an exercise of power, ring absolutely true (including the exception he himself makes for his adversary Wolfgang Schauble - one can understand the respect Varoufakis voices for the German finance minister). And his views obviously carry a great deal of weight with the British left; indeed, the fact that Jeremy Corbyn has reluctantly been dragged to the altar of a marriage with the EU owes a great deal to Varoufakis and what he stands for. But it would be a profound mistake for the Left to follow Varoufakis too closely in his loyalty to the European project. To see why, we should go back to the theorist with whom Varoufakis himself continues to identify, Karl Marx.

One of Marx's most striking insights has largely been forgotten by the European Left. This is the observation that the various constitutions of the French republics, and their imitations in other Continental states, were designed to throw obstacles in the progress of genuine democracy. The French Revolution introduced universal suffrage, but then undermined it by the Declaration of the Rights of Man and the accompanying constitutional structures, which prevented a genuine social transformation of the kind the radicals of the Revolution wanted. When Marx wrote his most significant works in the 1840s, this was still the case, and the failure of the revolutions of 1848 and the restoration of the constitutional orders in Europe merely confirmed the accuracy of his judgement. Only a successful and inevitably violent revolution could overturn these “bourgeois” liberal economic and political constitutions. We forget that Marxism grew out of a profound and far-reaching critique of bodies of rights and constitutional devices of all kinds; this predated his interest in modern economics, and underpinned all his later work.

But Marx (and, even more so, his partner Engels) thought that England was different, and would not need a revolution. They did not think so because they believed in some special magic in English politics, some innate propensity towards gradualism; quite simply, they thought that England was different because of the untrammelled power of the House of Commons. They already recognised that the Lords and the Monarchy were largely irrelevant, and they concluded that once the English working class got the vote, it could use this exceptional political institution straightforwardly to achieve its political and economic goals. England, they thought, through an historical accident, had never had the kind of constitutional apparatus which prevented peaceful left-wing politics on the Continent. The early members of the Labour Party in England (who were

more Marxist than their successors cared to acknowledge) understood this, and had every confidence that a properly-organised working class using representation in the House of Commons as its vehicle could institute radical economic and social change. And compared with the life of the working class in the nineteenth century, working-class life after the growth of the Labour Party in the first half of the twentieth century vindicated their confidence in peaceful transformation.

Up to the 1980s this would, I think, have been the common-sense view among Labour politicians. But they abandoned it in the last decades of the twentieth century, and fled to the shelter of constitutional structures of the kind Marx, and their own English predecessors, had mistrusted. The most important and obvious of these structures is the EU, which functions for the internal politics of its member states exactly like the bourgeois constitutions of the mid-nineteenth century, though the Blair government introduced various other checks on the House of Commons such as a newly energised and apparently more independent “Supreme Court”, and an independent central bank. The loss of faith in the advancement of left-wing politics through the ballot box may partly be explained by the success of Thatcher; though I would be more inclined to say that it was the other way round, and that Thatcher was victorious over a Labour Party many of whose most important figures had already lost confidence in traditional electoral politics and whose hearts were not really in the struggle against her. The defection of leading members of the party to the new Social Democrats in 1981, largely on the issue of Europe, symbolises this. It is a mistake to think that Thatcher’s victory in 1979 was necessarily the beginning of the long period of Tory government which it turned out to be: the Labour Party split with astonishing rapidity, only two years after Thatcher’s first election, and before the landslide of her second election in 1983. Labour politicians had already succumbed to the temptation to use an external order to put in place left-wing policies before Thatcher began to roll back the achievements of the Left (and in the case of Roy Jenkins, there was also the allure of personal power within the external order). This was precisely the temptation which Jacques Delors dangled in front of the TUC in his famous speech in 1988, and which brought the rest of the Labour Party round to the same position on the EU which the Social Democrats had espoused.

But like all temptations of this kind, it was not what it seemed. The same structures which Delors promised to use in the interests of the working class, turned out by the time of the financial crash in 2007-8 to have been used instead to push through a neo-liberal economic and social agenda. This would not have surprised Marx: as he understood, this is really the default position of such structures, since their whole point is and always has been to repress what Continental politicians call with disdain “populism” - that is, democracy.

To return to Varoufakis: despite his bruising encounters with the institutions of the EU, he has remained loyal to the idea that left-wing politics could be pushed through using those institutions, if only the parties of the left across Europe could properly co-ordinate their activities - in other words, the old temptation. But even if the parties did succeed in coming together with a common programme, the EU is not the kind of political entity whose approach to the world can be altered by popular politics: after all, this is precisely what it was designed to prevent. Like independent central banks and constitutional courts, its institutions are essentially technocratic - but technocracy is not (as it likes to pretend) a neutral or rational system of government. Instead, it confers immense power on culturally select bodies whose prejudices will be those of the class

their members are drawn from - exactly what Marx diagnosed as the danger of “bourgeois” constitutions. The kind of shift in European politics which Varoufakis, and his friends in the British Labour Party, want to see within the EU is simply not possible without comprehensive institutional change at the European level, and this means not merely a change of policy but the wholesale dismantling of the constitutional structure of the EU. Without this, like the Labour Party in Britain, the Left in Europe is reliant purely on an act of will - a conviction that the Left must prevail, without any serious analysis of how it is possible.

It is not easy to see this from a Continental political perspective, since most Continental countries have long had these kinds of constitutional structures as part of their internal political architecture; in this respect, accession to the EU represented much less of a change for them than it did for the United Kingdom (and indeed, as is well known, most citizens of the United Kingdom did not understand that the EU would become this kind of structure). But it would once have been obvious from a British point of view, and was obvious to leading Labour figures of the mid-twentieth century. The British governing class in the late twentieth century threw away the most valuable institution it had inherited, an institution whose preservation was the most obvious imperative for their predecessors; exactly why they did so will occupy the attention of future historians, but a vote to stay within the EU will render their casual trashing of it irrevocable, and end any hope of genuinely left-wing politics in the UK.

By mid-May it was becoming likely that Hillary Clinton would win the Democrats' nomination for president, but Sanders' supporters still had some reason for hope. In an NBC/Wall St Journal poll 53 % of respondents said they would vote for Sanders if Trump were the Republican nominee, and only 39% for Trump, whereas Clinton and Trump were in a dead heat...

16 May 2016

One of the curious ways in which British and American politics continue to run parallel with one another - think Thatcher/Reagan and Clinton/Blair - is that in both countries at the moment class war, and class contempt, have unexpectedly reappeared. In both countries, moreover, one of the key issues has been international trade: in the US the argument is over TPP and in the UK the argument is over Brexit. But on both sides of the Atlantic trade has come to stand in for a much wider range of threats which the old working class faces. The difference between the two countries, however, is that in America the Left has understood this and - to a degree - has been able genuinely to speak to it, while in Britain the Left has remained imprisoned in the mind-set of the Clinton/Blair years, however much it might ostensibly deny it.

The degree to which commentators in this new world feel able to express their contempt for the pathetic losers stranded by the glorious capitalism of the recent past is quite astonishing. From the USA comes the infamous article by Kevin D. Williamson from the National Review in March 2016 about Garbutt, a decaying industrial town in upstate New York:

The truth about these dysfunctional, downscale communities is that they deserve to die. Economically, they are negative assets. Morally, they are indefensible. The white American under-class is in thrall to a vicious, selfish culture whose main products are misery and used heroin needles. Donald Trump's speeches make them feel good. So does OxyContin. What they need isn't analgesics, literal or political. They need real opportunity, which means that they need real change, which means that they need U-Haul. If you want to live, get out of Garbutt...

But that can be exactly matched by a column in the London Times eighteen months earlier by the socially liberal Conservative Matthew Parris writing about a by-election in Clacton-on-Sea, a decaying seaside town in Essex. UKIP duly went on to win the seat.

[U]nderstand that Clacton-on-Sea is going nowhere. Its voters are going nowhere, it's rather sad, and there's nothing more to say. This is Britain on crutches. This is tracksuit-and-trainers Britain, tattoo-parlour Britain, all-our-yesterdays Britain.

So of course Ukip will do well in the by-election...

If you want to win Cambridge you may have to let go of Clacton.

From the train leaving Stratford at platform 10a, you can see Canary Wharf [where many of the biggest banks in London are based], humming with a sense of the possible.

You must turn your back on that if you want to go to Clacton. I don't, and the Tories shouldn't... (Sept 6 2014)

As Parris's invective testifies, in Britain UKIP, whose *raison d'être* since its foundation in 1991 has been to get Britain out of the EU, is the movement which has managed to reach these voters, and indeed in many northern towns, and now South Wales, has managed to peel them away from their traditional Labour loyalties. UKIP is universally despised by the liberal intelligentsia, and in this respect as in many others it resembles the Trump wing of the Republican Party; though since it operates outside the traditional party structures it has very little chance of achieving any real political breakthrough in ordinary elections. But in the current Brexit campaign it is yoked in a somewhat uneasy fashion to quite prominent figures from the Conservative Party, with the campaign as a whole coming to look rather more like an insurgency within the mainstream right-wing party - and with the one of the main leaders of the campaign, the former Mayor of London Boris Johnson, as many commentators have pointed out, strangely resembling Trump, including his distinctive hairstyle, his reputation made partly through appearances on TV shows, and a history of womanising. There are important differences, though: Johnson as Mayor presided enthusiastically and with great popularity over what must be the most culturally mixed city on the planet, and it hard to imagine a President Trump addressing Congress in Latin, as Johnson on occasion addressed the London Assembly. He is also genuinely funny and charming, in a way Trump will never be. His success as Mayor in fact illustrates an important truth about Brexit (which may not be paralleled in the US): there is little enthusiasm for the EU among the large non-European population of the capital, and of the country as a whole. South Asians, for example, understand that EU immigration policies will inevitably make it harder for people like them to come to Britain in the future.

Nevertheless, the similarities between the electorate which has been looking to Trump and Sanders as its defenders against a globalising, capitalistic and meritocratic elite (with this last trait perhaps being the most significant, as Thomas Frank pointed out in a brilliant article), and the electorate which is currently looking to a Brexit, are very striking. But as I said, there is one major difference: there is no British Bernie Sanders. For a while it looked as if the new leader of the Labour Party, Jeremy Corbyn, might play the role; he even has a long history of opposition to the EU and voted against it in the last referendum. But he has disappointed almost all his followers, and has allowed himself to be captured by the pro-EU forces in his party. The Labour figures associated with Brexit have failed to catch the public's eye, and the result is that Brexit is seen as largely a movement within the Conservatives. And yet, as the American primaries have shown, there is a real Left-wing case to be made for the necessity of giving this deracinated working-class electorate a real voice of the traditional kind, and the one American politician who has seen this has so far reaped unexpectedly great rewards. But in Britain almost all my friends say that they cannot support Brexit because of the political and cultural identities of the leaders of the Brexit campaign, even though most of them simultaneously voice scepticism about the EU, and even though most of them are long-range enthusiasts for Sanders.

Why is there no Sanders campaigning for Brexit? Why in a country without a major modern tradition of socialism is a self-described socialist doing so well, while in a country with a long-standing supposedly socialist party no one is willing to step up and fight this cause? The last time the question was put to the vote, heavy-weight figures from Labour campaigned against the

Common Market, including the man now seen as in some sense the model for Corbyn, Tony Benn. But there is no one like that within the party today. Some rather feeble gestures are currently being made towards the old working-class English electorate: Tristram Hunt, the former Shadow Secretary of State for Education (and, oddly enough, a biographer of Engels), has recently urged his party not to neglect it, and allow it to fall into the hands of UKIP. But Hunt and the figures like him in the party can offer nothing any more which that electorate wants: it has correctly perceived that the only kinds of change which will make a real difference to it are precisely those which are precluded by Britain's membership of the EU, not to mention by all the structures (such as an independent central bank) put in place by the last Labour government. Labour politicians still believe that political science - the technical organisation of a party - can win back its lost ground; but as Hillary Clinton is discovering, only political theory can do that.

So the question remains: why no British Sanders? One explanation might be the institutional difference between American and English politics: it is hard to make the kind of run outside conventional party structures which both Trump and Sanders have managed. But this is not a satisfactory explanation, since the Brexit campaign offers exactly this kind of opportunity, and Johnson, who is not exactly a conventional party figure, has duly seized it. I think the true explanation, unfortunately, is Britain's membership of the EU itself. Resisting the TPP, or even annulling NAFTA, are simple tasks compared with the difficulties of extracting Britain from the EU. Faced with that, a generation of Labour politicians have lost their nerve; and it becomes a vicious circle as, with no one willing to defend Brexit, the cause looks as if it is (to put it in American terms) purely Trump - and then the politicians, and most party members, feel ashamed at being associated with it. But then there is no way of recovering Labour's lost working-class support: as in Scotland, the Party drank from the poisoned chalice of the EU, and it may be too late to find the antidote.

On 6 June 2016 I published an article entitled “The Left Case for Brexit” in the online edition of Dissent magazine, which attracted a great deal of attention on both sides of the Atlantic, including a recommendation by Charles Moore in the Spectator of 18 June . The article was based on the preceding “letters”, and it can be accessed here:

https://www.dissentmagazine.org/online_articles/left-case-brexit

9 June 2016

So far, most of the responses to my Case for Brexit have fallen into three groups. The first is the simple and understandable fear that a Brexit will hand power in Britain to the people who have been most vocal in its support, and they do not include many figures on the Left: Brexit would therefore represent an historic defeat for the Left in Britain. The point of my article, however, is that there has always been a Left case for Brexit, and that abandoning the field to the Right was the historic mistake which there should be some attempt, even at this late stage, to reverse. Continuing to oppose Brexit simply means doubling down on this mistake. Moreover, the defeat of the Left after Brexit is inevitable only if the default Left position continues to be support for the EU: if there is the possibility of accepting or even welcoming a Brexit and turning it to the advantage of Left politics, the defeat is not inevitable. In the article I asked the question, Why is there no British Bernie Sanders? A Brexit might allow one to appear, since it would transform the political landscape in very many ways. Without it, it is hard to see any such revival of the Left at a popular level.

More substantial are the other two groups of responses. One concentrates on the possible economic damage of a Brexit, damage which (it is argued) will necessarily affect the poor more than the rich. This is of course the central argument of the official Remain campaign, but it is a frustrating argument in many ways. Much of the debate has simply consisted in citing authorities, and in the process the Left has found itself in the odd position of treating as sages economists and think-tanks it would normally disregard in (say) a General Election - how often have socialist policies been criticised by those same authorities? The tone of the economic debate is indeed exactly like that of a General Election, in which each side seizes upon suggestions by economists that support their case and disregard the rest. That is understandable when there are reasonable arguments of a non-economic kind to incline people towards their particular party, and when the economic arguments are rhetoric; but in this instance, allegedly, it is only the economic considerations upon which people are basing their decision. This is highly dangerous: there are perfectly good economists, particularly in the US where they can take a more neutral view, who argue that Brexit would make little economic difference to the UK. For example, Ashoka Mody, formerly the assistant director of the IMF's European Department and now the Charles and Marie Robertson Professor at Princeton, published a formidable article in the Independent on 31 May refuting point by point the claims of the British Treasury, and accusing the community of economists of "groupthink" on the subject. Mody is easily as well qualified as everyone else in the debate, and has been closer to the economics of the EU than most; we could add to him Mervyn King, the former Governor of the Bank of England, who knows what he is talking about and has described the Remain campaign's economic arguments as "wildly exaggerated". Relying on authority, in this area as in most others, is a risky intellectual strategy.

There are in fact a number of features of the economic relationship between the UK and the EU which are rarely mentioned in the debate. For example, as of 2014 the UK ran a balance of trade deficit with 18 of the 27 member countries of the EU, and a surplus of less than £1 billion with each of another eight. But it had a trade surplus of almost £10 billion with the remaining

country: Ireland.² What this illustrates is that almost all statistics which treat the EU as a single economic unit, from the point of view of the UK, are grossly misleading; strip out Ireland and the EU looks very different. Given the high degree of integration of the Irish and British economies (indeed, I have heard it said that the Irish economy is more integrated into the English economy than the Scottish one is), it is inconceivable that post-Brexit the close economic relationship will not continue, even if there are some minor tariffs: after all, having separate currencies potentially adds more costs to import/export trade than the kinds of tariffs which might be imposed post-Brexit.

And it is not clear whether there would be tariffs of any significance. “Project Fear” has insinuated that in the event of Brexit the UK would be punished by the imposition of trading barriers: but some calm reflection would show that that is highly implausible. Most of the debate in Britain has concentrated on the self-interest of EU countries in continuing to trade easily with Britain, but that is really the least of it. Under WTO rules to which all the relevant countries have signed up, it is simply illegal to raise tariffs once they have been agreed at a particular level; moreover, punitive tariffs unjustified by domestic economic considerations are exactly the things which the WTO came into existence to prevent. And for the second or third largest economy in the world (the EU minus Britain) to impose punitive tariffs on the fifth or sixth largest (Britain) would be to move decisively into an era of global protectionism and trade warfare with implications going far beyond Europe. Both “Remainers” and “Brexiters” are fixated on ways of remaining legally in the single market, but it is not at all clear that in the modern trading world single regional markets matter very much, except (as I said in my article) as devices to enforce a certain kind of neo-liberal economic policy.

The third set of objections to my article amount to the claim that I am guilty of baby-boomer utopian nostalgia, and that a realistic view of the modern world, and of current British politics, shows that a revival of classic Labour policies in the UK is simply impossible. On the charge that I am a baby-boomer, I plead guilty (I could scarcely not do so). I would say, however, that there is a romance of realism as well as a romance of utopianism - indeed, realism is often a form of utopianism. The self-image of the realist is as someone who has seen truths which their idealistic contemporaries disregard, and who has thereby gained a special insight into the future: but a genuinely realistic sense of politics shows us that idealists often triumph. More to the point, no one to my knowledge has given a convincing account of why policies and attitudes that were possible in the 1940s and again in the 1960s should not be possible again. My central claim in the article was that we should not overlook the self-imposed character of the constraints under which the Left now labours. Just as the US Constitution almost made the New Deal impossible, and it was FDR’s threat to flood the Supreme Court which permitted the social transformation of the US in the 1930s, so the new constitutional order of the EU makes radical policies in Britain impossible, and no British government can flood the European courts. It is easy to come to think of these kinds of structures as facts of nature - exactly that has happened with the US Constitution in the past fifty years, and it is now hard to see any decisive changes in it. But they are not facts of nature.

² House of Commons Library Briefing Paper No 06091, 13 April 2016, p.14.

The “realists” say that the global situation has changed, and that we can no longer have (they often say to me) “socialism in one country”. But was what the Attlee government put in place “socialism in one country”? Were the Scandinavian welfare states in their heyday “socialism in one country”? Is a world of interdependent but independent states, much like the world for most of the modern era, now impossible? If socialism has to wait for a global state, or even a European state, then most people who currently call themselves socialists may as well abandon the label, since there is no foreseeable route to what they want: that is the inevitable consequence of their “realism”. I have a more limited ambition, but (I would say) in practice a more genuinely realistic one, that the scope for Left politics can be broadened in Britain beyond its current narrow confines; but that is only possible if the political structures in Britain once again permit it.

On 23 June 2016 the referendum on Britain's membership of the European Union was held, and the result was 51.9% Leave and 48.1% Remain. England outside London voted by 242 districts to 52 for Leave, and Wales by 17 districts to 5. London voted 28 districts to 5 for Remain, Northern Ireland 11 districts to 7 for Remain, and all the Scottish districts voted for Remain. Districts were not necessarily Parliamentary constituencies, but it has been calculated that 64% of Labour constituencies and 74% of Conservative constituencies voted Leave.

28 June 2016

In the current deep crisis of the Left, the Labour Party is in acute danger of making an historic mistake. There is a widespread sense in the Party that it has failed to represent its old electoral base, and plenty of its leaders talk in vague terms about reconnecting with the northern English working class, but there is very little recognition among them of the central difficulty in doing so. The failure of representation is not merely the consequence of the cultural gulf between the leaders of the Party and the old working class, brought about as much as anything by the shuddering halt to upward mobility in the last forty years; it is intimately connected to the practical consequences of Britain's membership of the EU, and in areas which have nothing to do with the question of immigration upon which everyone is so transfixed.

To see this, ask yourself the following: could a British politician of the Left at the moment, while Britain is still in the EU, propose the actual measures which Bernie Sanders has campaigned on in the United States? There are three proposals which Sanders put at the heart of his movement: pull out of or radically modify NAFTA and do not enter the TPP; greatly increase the tax on the big Wall Street banks; and introduce free state college and university tuition paid for largely by the Wall Street tax. None of these would be feasible for a British government within the EU. The EU is itself Britain's NAFTA or TPP, and it also decides all questions of trade for Britain with the rest of the world, so there is no question of a British Bernie within the EU even thinking of such a thing. A British government could theoretically change the tax regime on the City, but the free movement of labour and capital within the EU would permit the banks simply to transfer operation to a friendlier tax regime elsewhere in the Union without anything of the trauma which would afflict Wall Street banks if they fled the US to avoid a Bernie tax. And even something (one would have thought) as parochial as free college tuition is not to be entered into lightly by a Britain within the EU: the EU enforces the principle that no distinction can be made between home and EU students when it comes to college fees, so free tuition funded by British taxes for British students (assuming that the banks could be made to stand still long enough to be taxed) would mean free tuition for students from across the EU funded by the British. Scotland has managed this on a small scale, though with the significant anomaly that it can charge fees to English students but not to other EU ones, but it is inconceivable that a scheme of this kind could be put in place for the whole of Britain.

The point of this comparison is that the Left should not be misled into thinking that the abyss which has opened up between the Labour party and its old electorate on the EU is purely a cultural one, nor that it is all about immigration. Though the voters of the northern cities may not have articulated this, and may only have a vague instinct about it, it is a fact that policies which outside the EU would seem obvious possibilities for a modern left wing party cannot be

considered by a Labour Party within the EU. This is to say nothing of the kind of nationalisation which the Attlee government introduced, which would in most cases be straightforwardly illegal under EU law - as would the creation of the NHS if we were to try to do it today, since it involved the mass expropriation of private property, in the form of the old hospitals, which the European Court of Justice would almost certainly prohibit. We are used to thinking that the actual policy differences between modern political parties in Britain are wafer-thin, and that only on constitutional matters such as the EU and Scottish independence are there radical conflicts; but there is a concrete reason why that should be so, which is that membership of the EU necessarily locks countries into a certain kind of economic and social order which precludes at a national level left wing policies which even in the US - the US! - can attract a major following and offer the hope of a new kind of politics.

If the Labour Party insists on presenting itself as essentially a pro-EU party, as there is every danger it will do as I write, it will never be able to offer the voters anything other than a watered-down version of what the Conservatives will be offering them; and we have seen where that has landed them so far.

4 July 2016

One of the most striking facts about the Brexit debate was that it was mostly conducted as if it was a normal British general election, in which matters of policy were to be decided for the next five years or so. The argument about levels of immigration which came to dominate the debate, at least in some quarters, exemplified this: it was largely concerned with the desirability or otherwise of specific numbers or types of immigrant, as if what was at stake was the British government's immigration policy over the next few years. I was even told explicitly by a number of anti-Brexit friends that what mattered was preventing a Tory victory, and that the issues in debate could be sorted out later.

But of course it was not a normal general election, and the electorate as a whole turned out to be more aware of this than the commentators. The best way of thinking about what happened is in terms which are unfamiliar to the British, though very familiar to the Americans: it was a debate about a constitutional amendment, of a very far-reaching kind, to do with the constraints on the legislature. It is often said that Britain does not have a constitution of the American kind, and that if it has a constitution at all it is "unwritten", but this is not in fact the case. Fundamental constitutional rules on matters such as the succession to the Crown, the powers of the House of Lords, the relationship between England and Scotland, and accession to the EU itself, are written down as Parliamentary statutes. The difference is that until recently these kinds of statutes were like any other Parliamentary legislation on quite trivial issues: there was not, as there is in the US, a different way of legislating for the constitution from that used in ordinary Congressional legislation, a way which is deliberately designed (for all its faults) to be more directly democratic.

But over the past forty years a new convention has grown up in Britain, that any major constitutional changes will be put to the vote of the entire people. Technically these are consultative referendums, but the idea that they could be disregarded seems to most people about as fanciful as the idea that the Queen could actually use the power, still technically in her hands, to veto a Parliamentary statute. Even in the aftermath of the Brexit vote, few people have advocated simply ignoring the result; the popular anti-Brexit response has been instead to call for a second vote. So Britain has now effectively moved into the situation of most modern states, in which a constitution decided by popular vote determines the powers of the political institutions, including the legislature; in Europe, almost all states decide these questions by referendums, as the UK now does..

When these constitutional questions were occasionally raised in the debate, they were treated with some contempt as an academic matter of no real concern to the electorate; but one is inclined to say, adapting Trotsky, that you might not be interested in constitutions but constitutions are interested in you. Americans in particular understand this very well. What in effect was at stake in the referendum was a choice between two constitutional proposals. One was that certain key issues of economic and social life should be taken out of the hands of the domestic legislature and decided by the European Court of Justice on the basis of principles enshrined in EU laws, laws for the amendment of which there is no straightforward or transparent procedure other than a comprehensive rethinking of the EU treaties. The other was that the British Parliament should in principle be the body which decided policy in these areas. People talked misleadingly about "the sovereignty of Parliament" during the debate, but in fact, as I said,

Britain no longer has a sovereign Parliament in the old sense; the critical question was instead whether key political decisions should be made by an elected or an unelected government, and be capable of speedy change as circumstances alter. Despite the extremely poor public debate on the referendum, it gradually dawned on many people that if it continued in the EU Britain would create for itself a constitutional structure of a kind it was unused to, in which it was possible for a political debate to be closed down for a generation or more - as, for example, the issue of money in politics may have been closed down in the US following Citizens United..

Moreover, the political debate that the EU has closed down is the central question of our time, the debate over the role of the market, which dominated the twentieth century and which has been revived across the world since the financial crash. It is a debate which cannot be conducted effectively in Europe. The central fact of the EU is that the policies which are enshrined in its treaties and in its administrative structures are essentially those of the neo-liberals; it is no surprise that Thatcher originally supported the Common Market, and only surprising that she later turned against it. Four “freedoms” are baked into the EU, the free movement of goods, services, capital and people. Consistent Thatcherites around the world have always endorsed all four: after all, why insist on competition in production if one does not have competition in the labour market? And over the years these freedoms have been interpreted to preclude most economic measures that a left-wing government might want to take. For example, it could not give state aid to industries and it certainly could not nationalise them, and it could not introduce different corporation tax for different regions (something which would immediately make far more difference to the voters of the depressed old industrial cities of England than restricting immigration), it could not subsidize agriculture or control fisheries in ways that would be appropriate to the needs of its own workers and consumers, and so on. The voters who voted to leave the EU need not have known the details of all this, but their instinct that the inability to restrict immigration was part of a general inability to intervene in the old way in the market was absolutely correct.

Many thoughtful people on the Left across Europe are well aware of this. For people in countries which adopted the euro, there is a whole other set of constraints on what the Left can do, as the Greek experience amply demonstrates, but even in the countries which did not, the fundamental character of their economic life has been tilted permanently away from the kind of economic management characteristic of Europe in the ‘50s and ‘60s, and towards an entrenchment of the market at all levels. What people like Yanis Varoufakis, the left-leaning economist who served as Greek finance minister from January to July 2015, want instead is a pan-European movement to wrest control of the EU from the neo-liberals and implement left-wing policies at the European level; but no one has any realistic programme for how to achieve this, particularly given the technocratic character of the EU institutions which are specifically designed to be impervious to political pressure. If the Left is to wait until the time is ripe for a pan-European transformation, it will simply continue in practice to endorse the neo-liberal policies of the EU; the fantasy that one day in some unspecified future it will secure its goal will disable it from taking the only actual course of action which is readily available - namely, to use the existing democratic state machinery in most European countries, which the EU has never wholly dismantled, and to restate the principles of democratic socialism as they were understood in post-war Europe and as they have now been revived by Bernie Sanders in the US. Once this is done,

we can think about rebuilding European institutions in such a way that we are never again locked into these kinds of constraints, but it has to be this way round.

Hegel wrote of the cunning of reason, in which we fulfil the goals of reason without knowing it. The tragedy of the Left and the EU could be described as the cunning of capitalism: terror of appearing xenophobic has led the Left to support structures which in happier days they would have been the first to condemn. How is it that so many people in Britain who think of themselves still as socialists could use as conclusive arguments against their opponents that their policies will weaken London's banking industry, or damage the U.K.'s international competitiveness, as if all we can do is join in the race to the bottom prescribed to us by global capitalism? Do they not remember all the times those arguments were used against them, and how they seemed to be merely the cries of anguish from a threatened class? Once, they could easily reply that competitive markets are selective in their distribution of benefits, and need to be controlled in all kinds of ways by democratic politics; why did they forget this? How have they allowed themselves to be persuaded that people should not make the conditions of their life through political action, but have them made for them by market forces over which they have no control? In short, how did they take on all the attributes of a conservative governing class, and fail to take advantage of the one opportunity they were given to put their old principles into practice? Perhaps in the aftermath of the astonishing Brexit vote they can still do so, though I should say that the vicious class prejudice voiced in recent days by so many erstwhile socialists, accusing the pro-Leavers of being driven by racism rather than by a desire to assert control over their lives, does not give me much grounds for hope. Nevertheless, it remains the case that political structures matter: put into a setting where they are once again free to offer a wide range of policies to the electorate, left-wing politicians in Britain may eventually begin to realise the electoral benefits they can reap in the post-Brexit world; but they need to hold their nerve over the next few years, and not double down on their historic mistakes.

On 8 June 2017 the British general election, which Theresa May had called in the hope of increasing her majority, produced a result in which the Conservatives held 317 seats (13 fewer than in the previous Parliament), Labour 232 (30 more), the SNP 35 (21 fewer), and the other parties 29 (9 more). May formed a minority government with support from the DUP.

16 June 2017

I don't want to say I told you so, but: I told you so. Before the referendum I published a number of articles arguing the Left Case for Brexit. Brexit would aid the British Left in two ways, I claimed. One was that it would kill the drive for Scottish independence, a sine qua non for the a Left-wing government at Westminster, since the Labour Party has virtually never been able to govern without Scotland. It would kill it because independence, if both England and Scotland were members of the EU, would have been essentially costless: almost everything the Act of Union gave Scotland vis-a-vis England would be given to it under the aegis of the EU. But once England was out of the EU, independence would no longer be costless, and Scots would balk at the prospect. This indeed seems to have happened, even more quickly than I had supposed

My second claim was that Brexit would open up a new space for radical Left politics in Britain. The structures and policies of the EU consistently move in a kind of neo-liberal direction (as Wolfgang Streeck, in particular, has constantly emphasised), and - perhaps even more importantly - the general sense of powerlessness which the institutions of the EU induce in the citizens of its member states undermines the possibility of genuinely radical action (remember Greece?). The fortunate circumstance (from the point of view of Brexit) that Jeremy Corbyn had recently become leader of the Labour Party made an enormous difference to the referendum result, as his enemies have correctly observed. But if the result had gone the other way, Corbyn would almost certainly have been deposed in favour of another centrist pseudo-socialist of the Blair type. As it was, he was able to push through a manifesto which would have been deemed crazy any time since the mid-1980s, including nationalisation, and to galvanise for the first time an electorate which had supposed politics was not for them - as indeed it had not been.

Furthermore, a point I often found myself making in the USA against people who thought that Trump and Brexit were the same phenomenon, Brexit was in fact an inoculation against Trump and the politics of the radical right. Leaving the EU, I told people, would not only kill Scottish independence, it would also kill that kind of right-wing politics, since it too was largely driven by a sense of powerlessness. The feeling - and it need be no more than that - that the political process could after all be responsive to what people wanted even on fundamental matters immediately removed the emotional force from the radical right's message, and that too duly seems to have happened. Compare UKIP's performance in the election with Trump's, or with Marine Le Pen's, or the radical right's performance in almost any Western country today. As in the 1930s, Britain may have dodged the bullet of a kind of fascism, and largely because its political structures once again permit rather than constrain radical politics. This is a lesson which needs to be learned more widely: the more one attempts to use constitutional or cultural power (these being largely the same thing) to suppress dangerous and distasteful political movements,

the stronger they grow, for the members of the movements now possess a justifiable case against their rulers. The Left often recognises this when it comes to Islamic radicalism, but it doesn't so often recognise it when it comes to home-grown right-wing parties.

However, the Left will need to tread carefully in the aftermath of this June's election. There has been a remarkable outburst in the press and at Westminster of people trying to engineer a "soft" Brexit - remarkable since, as the more dedicated Brexiteers have pointed out, both the Labour and the Conservative manifestos promised either explicitly or in effect to leave the Single Market and the Customs Union (the Conservatives expressly, Labour implicitly by promising an end to the free movement of labour, something incompatible with the Single Market, and the creation of new trade agreements with the rest of the world, which is incompatible with the Customs Union). Astonishingly, the idea seems to have gained ground that the Labour vote was a vote against Brexit; this is an idea that could only occur to people in the Left establishment who believe that in reality most Labour Party voters must be just like them, and for some reason were merely pretending to be in favour of Brexit last year. This is testimony to the extraordinary power of the conviction that to be on the Left simply entails support for the EU, and that sooner or later everyone will realise this; it is also testimony to the social gulf between the Left establishment and its traditional electorate..

In particular, something like membership of the EEA is creeping back onto the agenda. At the beginning of the referendum campaign, like many Brexiteers at that time, I was mildly in favour of the EEA option, but I have come to realise its dangers. First, from the point of view of keeping Scotland in the Union it is not really an improvement on the EU. Scotland would still not need the United Kingdom to have a United Economy with England, and the logic of that position would sooner or later work itself out; Norway after all manages to have an integrated economy with the rest of Scandinavia without being under Danish rule. This is presumably why Nicola Sturgeon seems reasonably happy with a soft Brexit. Ruth Davidson is also supposedly pushing for it; this could simply be a piece of local political tactics, but she might mean it, and if so she may not so easily be able to see off the next push for independence. Indeed, she might easily find herself in a few years time Prime Minister of an independent Scotland, and who knows whether this has occurred to her or not?

Second, the arguments I advanced in my Brexit pieces about the restrictions on Left policies which the EU institutions represent - what we might call the Streeck view - apply just as much to the EEA or EFTA. By now the laws in EEA and EFTA countries on such things as competition are thoroughly integrated into the EU legal framework, and are governed by ECJ judgements. It is true, as some Left defenders of the EU have pointed out, that strictly speaking EU competition law does not forbid (for example) either re-nationalisation or differential corporation tax in different regions (both things the Left might be very interested in), but it is also true, as even the defenders have admitted, that the actual interpretative practice of the Court and the other executive and judicial institutions consistently pushes in a neo-liberal direction, and it is hard to see where the political will comes from at a European level to arrest this. As long as this is so, the EEA and EFTA will have broadly the same economic character as the EU. This has already been seen in Norway, where a collective agreement dating from the 1970s which granted the Norwegian dock labourers' union the sole right to unload cargo was nullified by the

Norwegian Supreme Court earlier this year on the grounds of its incompatibility with EU law. The same thing is happening in Spain. And though some defenders of this “soft” Brexit talk about it as a temporary measure, if there is one safe generalisation in politics, it is that temporary arrangements usually become permanent.

So what should the Left in general and the Labour Party in particular now do? If I am right in supposing that this new surge in left-wing politics is the result of Brexit, it would be suicidal to overturn it. We can see the dangers of doing so very clearly in the case of the working-class UKIP voters, particularly in the North, who felt it was now safe to return to Labour; but it is also dangerous indirectly and in the long term for the newly-energised younger voters of the South. They may vaguely support the EU, but their new energy is a product of Brexit, and not in the sense that it is merely a reaction to it. Like everyone else, they have sensed the opening-up of possibilities long denied to them, and even if they think they want the EU they do not want the return to power of the kind of politician the EU necessarily breeds. I suppose the closest analogue to the position we can reasonably ascribe to them is not Streeck’s but Yanis Varoufakis’s: a hope that somehow the EU can be seized by the forces of the Left, coming especially from Southern Europe. The views of both Streeck and Varoufakis are way beyond anything available in the British debate about Europe in their seriousness and sophistication, but the problem with Varoufakis’s position is that he has never given any good reasons for supposing his vision is attainable; the more sober view espoused by Streeck carries more conviction, and its lesson (as he has himself acknowledged) is that Brexit may be the best hope, not only for Britain but for the rest of Europe as a whole. The great prize awaiting the Left in Britain, and it is now almost within reach, is Brexit followed by a Labour government. Then the Left can re-enact whatever it thinks is good in EU regulations about such things as the environment and working conditions, and at the same time free itself from the far-reaching restrictions which the EU imposes on traditional socialism.

But the Labour Party is faced with a tremendous temptation: undermine the May government by joining with those in the Conservative Party who want a soft Brexit, and profit from the Conservatives’ consequent dissolution. Already there are voices in the Shadow Cabinet calling for this, and the British newspapers are full of carefully planted stories about “secret” talks between Conservative and Labour Remainers, and talk of a bi-partisan approach to Brexit. The temptation ought to be resisted: it cannot be stressed often enough that objectively the EU is a friend to capitalism and an enemy to traditional socialism. The party alignments in Britain in the 1970s over Europe corresponded much more closely to the underlying verities than they have done since, which is why it was Corbyn, a relic from the 1970s, who could see this. If the Labour Party chooses short-term success by re-entering (in some form) these structures, the logic of British politics over the last thirty years will simply repeat itself, and we will inevitably end up with permanent Tory rule in an England without Scotland, or some kind of Blairite regime, no doubt repackaged (barely) as “Macronist” - Macron being the perfect emblem of the conjunction of the EU and neo-liberal economic policies, and the consequent destruction of socialism. Without Brexit the Labour Party will revert to its role of providing an alternative managerial class for late-stage capitalism, and the enthusiasm of its new-found supporters will wither away or find new and more troubling outlets. This is exactly what the Tory Remainers would like to see happen, and the Labour leadership ought not to fall into their trap. As I write, the signs are not

good, with Kier Starmer insisting that some deal must be struck with the EU and that a “hard” Brexit will necessarily be opposed in Parliament by the Labour Party. It would be extraordinary if Jeremy Corbyn, while presiding over a Labour Party which is on the verge of its greatest prize in a couple of generations, allows it to throw everything away, but that looks (I am afraid) increasingly likely to be the case.

On 17 July I gave a lecture at Policy Exchange entitled “Brexit: A Prize in Reach for the Left”, which drew on some of the material in these Letters. It can be viewed at

<https://www.youtube.com/watch?v=ErAHSGY8W3c>

and part of the text is available on the LSE Brexit blog at

<http://blogs.lse.ac.uk/brexit/2017/08/21/long-read-brexit-is-a-prize-within-reach-for-the-british-left/>

The Rt Hon Caroline Flint’s response to my lecture can be viewed at

www.carolineflint.org/the_left_and_brexit_my_speech_at_policy_exchange

16 August 2017

The central fact about the British relationship with the EU is that by the end of the twentieth century the Labour and Conservative parties had changed places on the issue. In the debates of the 1960s and 1970s about joining or staying in the EEC, many leading figures in the Labour party expressed great suspicion about what membership would mean for the future of socialism in the UK, but only a few Conservatives expressed any opposition to it. The young Margaret Thatcher, famously, was photographed wearing a jumper made of all the flags of the Common Market. By 2000 exactly the opposite was true, as large numbers of Tory backbenchers and some ministers had turned against the EU, at the same time as hostility to it could barely be voiced within the main stream of the Labour Party. The remarkable thing about this, however, is that the underlying logic of the situation remained the same: on any reasonable analysis of the EU, both its structure and its policies were largely inimical to the traditional Left, and largely friendly to late twentieth-century capitalism.

When Macmillan's government first applied for membership of the EEC, the dominant strain in the Labour Party was opposed to it, with a major concern of the left of the party being that membership would limit the possibility of a planned economy. This was still entirely obvious in the great discussion inside Wilson's Cabinet at Chequers on 22 October 1966 which effectively committed the Labour party, and therefore British governments of whatever political complexion, to continue to seek entry to the EEC. This was in fact the decisive moment in the history of Britain's relationship with the EU, since it made the cause of Europe for the first time a bi-partisan issue, and therefore one bound in the end to succeed.. Richard Crossman, the most acute observer of the events (and the last genuine intellectual to serve in a British Cabinet), recorded in his diary that there had been two key issues: the first was whether the pound would have to be devalued on entry, but the second was

whether the Commission in Brussels would really deprive us not only of some of our sovereignty but of some of our power to plan the economy? Would investment grants be allowable or not? Would we still be able to see that new factories are put in Scotland rather than in South-East England?³

This was the heart of the matter for the socialists in Wilson's government, and a few months later Crossman noted that

Today Barbara [Castle] made a tremendous speech saying that entry would transform our socialism and make us abandon our plans. In a sense she's completely right. If anybody wanted, apart from myself, Britain to be a socialist offshore island, entry to the Market would mean the abandonment of that ideal. Up to the July freeze [on wages, for the last six months of 1966] it was still possible to believe that we in the Wilson Government

³ Richard Crossman, The Diaries of a Cabinet Minister (Hamish Hamilton and Jonathan Cape 1976) II p.83

would strip ourselves of the sterling area, withdraw from East of Suez, and take the Swedish line of socialism... but now it is felt by almost everyone that it's too late.⁴

“East of Suez” played to modern eyes a surprising role in the debates: many even in Wilson’s Cabinet thought that Britain could only sustain its post-imperial role in the Middle and Far East from within the EEC. As Con O’Neill, at the time Britain’s Ambassador to the EEC, had put it in a staggering memorandum two years earlier, without membership

we can decline again to what was for so long our proper place: but if we choose this course I feel we must be prepared for the decline to be rather rapid. In particular, I feel that unless we succeed in creating a satisfactory relationship with Europe we may have declined in a relatively short time into neutrality ... a greater Sweden.⁵

Given that by the end of the century Britain had officially withdrawn its troops from “East of Suez”, had abolished the sterling area, and had devalued the pound, it would seem that - as so often - the advice from the Foreign Office had been wrong in every particular. Who on the Left now, looking back, would not have preferred Britain to be a “greater Sweden” for all those years, rather than enmeshed in the expensive and futile task of “punching above its weight” (something most skilled boxers advice against)?

Again and again in the discussions which prepared the British state for entry into the EEC it was post-imperial politics which preoccupied the participants. It was, for example, taken for granted that the Americans were anxious for Britain to join the EEC as part of their own European schemes - something of which de Gaulle was fully aware and which his ministers described in private as America’s “Trojan Horse” policy. De Gaulle’s veto in 1963, and his threat to use it again in 1967, were largely in response to this; the well-judged character of the response was made entirely clear when Obama in his notorious interventions before the referendum finally came clean and confirmed that this had always been the basis of America’s support for British membership.⁶ Does anyone on the Left now feel comfortable about this? And even if by any chance they are still old-style Labour Cold Warriors, they should understand that in the end the State Department was as mistaken as the Foreign Office: once majority voting came into the EU Britain could no longer single-handedly advance America’s interests within the Union, and the grand schemes of the 1960s ultimately came to nothing. Brexiteers have often been accused of nostalgia for Britain’s vanished greatness, but as the story of Britain’s entry into the EEC shows in abundance, it was the pro-Europeans who were transfixed by a fantasy that Britain could avoid

⁴ The Diaries of a Cabinet Minister II p.335

⁵ Helen Parr, Britain’s Policy Towards the European Community: Harold Wilson and Britain’s World Role, 1964-1967 (Routledge 2006) p.20. This is a definitive work on the subject, and should be compulsory reading for everyone taking part in the current debate

⁶ E.g.: “The United States sees how your powerful voice in Europe ensures that Europe takes a strong stance in the world, and keeps the EU open, outward looking, and closely linked to its allies on the other side of the Atlantic.” Barack Obama, As your friend, let me say that the EU makes Britain even greater, Daily Telegraph 23 April 2016.

being (in O'Neill's revealing words) in "our proper place", and the anti-Europeans who were - and still are - the true realists.

The key fact, however, for our present discussions is that the socialists in Wilson's Cabinet were exactly correct even in 1966-7, and the development of the EU since then has fully confirmed their judgement. They were aware that the Treaty of Rome which brought the Common Market into being had enshrined the famous "four freedoms", the freedom of movement for goods, services, capital and workers, and had created the European Court of Justice to oversee them. The structures of the EEC in the 1960s and 1970s were relatively undeveloped, but it was already obvious that enforcing the four freedoms would cause problems for traditional socialist measures such as nationalisation; it was in 1964 that an Italian case involving the nationalisation of the electricity industry led to the ruling by the ECJ that on such matters the Treaty of Rome took priority over domestic legislation. Nationalisation without compensation was not expressly forbidden, but a series of judgements from the 1970s onwards established the principle that it would normally be impossible, and it was already clear in 1966/7 that that was likely to be the case. Many members of the Wilson government had served in Attlee's administrations (though only Wilson himself had been in Attlee's Cabinet), and they were well aware that the measures of nationalisation pushed through in the Attlee years, including above all the creation of the NHS through the nationalisation without compensation of the existing hospitals, would not have been possible within the EEC.

Crossman's anxiety about regional planning was also prescient: the EU has consistently tried to forbid such things as different levels of corporation tax intended to benefit certain regions of member states. Indeed, an often overlooked feature of the push for Scottish independence is that under the EU rules Scotland could not be singled out for special treatment within the United Kingdom in the way the old Labour Party had envisaged. A few gestures towards workers' rights, in many cases quickly undermined by judgements of the ECJ, cannot alter the fact that, as Wolfgang Streeck in particular has repeatedly stressed, the fundamental constitutional structures of the EU tilt it decisively towards what is now termed "neo-liberal" economic policies. The famous speech by Jacques Delors to the TUC in 1988, which is often thought to have led the Labour Party to believe that the constitutional apparatus of the EU could be used in the cause of socialism, turned out very quickly to be a set of empty promises, as anyone who understood the fundamental nature of the EU would have seen at the time - and as Bryan Gould, defeated in the leadership election of 1992, did see.

It is a familiar lament on the Left across Europe that after Thatcher and Reagan the world shifted markedly to the Right, and that social democratic parties had no choice but to follow suit. This was above all the myth of the Blair years. But already in the Wilson discussions a sense of failure hung over the proceedings, as Crossman noted; the demoralisation of at least the British Left, and its willingness to put itself into a system which precluded further steps towards socialism, preceded Thatcher by more than a decade. But it is important to stress that the demoralisation was largely induced by fear of Britain losing its international role. Long before Thatcher the British Left was faced with a choice between what many people (wrongly, as it turned out) supposed would be the continuation of Britain's post-war "great power" status and what was often stigmatised as a "Little England" policy. Crossman, again, put his finger on the real issue: "I regard Little England as the precondition for any successful socialist planning

whether inside or outside the Common Market”,⁷ and he urged the Cabinet to take it seriously as a basis for life outside the EEC. But he failed to convince his colleagues, and though powerful figures from across the Labour spectrum between 1973 and 1975 tried to force the Party to withdraw from the EEC after Britain’s entry in 1973, they too lost in the referendum campaign of 1975. Naturally the Left had to follow Thatcher’s example in the 1980s and 1990s: they were locked into a system which precluded anything else, and the continued attempt to break out of the system had critically wounded the Labour Party, with the defection of some of its leading figures to form the Social Democratic Party - less than two years after Thatcher’s first election and well before her landslide victory in 1983. It was not Thatcher who destroyed the prospects of socialism in Britain, but the Labour Party’s own loss of nerve over Europe. Something similar was repeated across the whole of the EU, with the result we can now see, that the old socialist parties have in most cases been destroyed.

But not in Britain. Miraculously, a party which before June of this year almost all pundits were consigning to the norm of European oblivion has not only survived but has come close to taking power again. One explanation of this, based on some opinion polling and a great deal of conjecture, is that the party managed to present itself as in some sense anti-Brexit - despite the fact that it was led by someone who was pretty clearly at least half-hearted about the EU, and the fact that its manifesto took for granted that Britain would leave both the single market and the customs union. There may be some truth in this; but much more striking was the fact that both party workers and Labour’s old electorate seemed to be newly energised and unwilling to crouch down into the usual posture of defeat. Whether or not the people concerned were fully conscious of the fact, they were for the first time in almost fifty years in a position where the party they supported could offer a large range of new choices, from rail renationalisation to free tuition at English universities (something which the EU insistence on parity in fees between member states also makes extremely difficult in practice). If - though this now looks less plausible - the Labour Party were to relapse into a commitment to membership, it would not take long for its policies also to relapse into their old rather trivial character, and for its new-found energy once again to dissipate. The relative collapse of the SNP can also be understood in this light: once it came to be believed that England, at least, would leave the EU, it would not be surprising if many Scottish voters balked at erecting barriers between Scotland and England; independence if both countries remained within the EU would be virtually costless, both economically and psychologically, but that was far from being the case after 23 June 2016.

The attitude of the Labour electorate and, belatedly, the Labour party to the EU thus makes perfect sense. The British working class has never been particularly keen on Britain’s imperial role, suspecting with good reason that it benefitted their rulers rather than themselves, and now that the fantasies about that role have receded it is easy to see the real character of the EU and the damage it has done to left-wing causes both in the UK and across the Continent. The real puzzle is why it was the Conservative Party which precipitated the referendum, and why it was the party in which the cause of Brexit has until now been most firmly lodged. It is this fact which has in practice given many people on the Left their principal reason to mistrust Brexit, seeing it as inherently a right-wing enterprise. One would have thought that a combination of

⁷ The Diaries of a Cabinet Minister II p. 83

neo-liberal economic policies, enforced through a constitutional structure which it is almost impossible to change, and the vision of a Britain which was still acting as a great power, would have proved irresistible to most Tories, as indeed it was in the 1960s and 1970s. We might have attributed Tory hostility to the EU to the explosion of immigration from Eastern Europe after 2004, except that Euroscepticism as a significant force in the Tory Party long predated this - remember John Major's "bastards" outburst in 1993. So what happened? Delors is one explanation - Thatcher in particular is often seen as changing her stance on Europe when it looked as if it might become a vehicle for socialism. But by the time John Major succeeded her such an outcome was looking increasingly improbable, as Major himself obviously understood, and yet Tory Euroscepticism continued to flourish, and indirectly to legitimate its more demotic version in the shape of UKIP.

One answer, which may be difficult for the Left to accept, is that many Tories worked against what might have been thought to be their own political and economic interest because they had a romantic vision of the nation state. As we know, Marx and Engels argued that among the principal victims of capitalism were the old nations, as the bourgeoisie "through its exploitation of the world market [has] given a cosmopolitan character to production and consumption in every country" (the Manifesto). The Tories who opposed this, at least in the form of the EU, might have been what Marx and Engels termed "Reactionists", but at least they did not run headlong into the arms of world capitalism, as so many on the Left have unwittingly done. To continue with the Marxist, or in this instance the Hegelian, terminology, there is a kind of cunning of capitalist reason, in which people who call themselves socialists are in fact without realising it doing capitalism's work for it. Those on the Left who continue to support the the EU out of what they vaguely feel is a kind of cosmopolitanism are a tragic example of this. In the same way, the Tory Eurosceptics are governed by the cunning of socialist reason: their attachment to the old nation state is what will permit the reappearance of socialist politics in Britain.

16 August 2017

Everyone who has been involved in the Brexit debates since the referendum was called has been conscious of the viciousness of the campaign. The Scottish referendum should have prepared us for it, but nevertheless it came as a shock to many of us that old friendships could be broken and adult tears shed over what many people had thought was a rather technical issue. I have been voting in every British election since 1970, and I do not remember any period - even the Three Day Week and the Miners' Strike - in which people felt free to voice such venomous denunciations of their political opponents. This is partly because the tribes of British politics have become much more closed to one another, and it came as a shock to their members that in the world outside there was such widespread disagreement with their views; this was particularly so in the British universities, where the old Tory professors who were still quite thick on the ground in the 1970s have almost entirely disappeared. But this was not the fundamental reason for the venom, and understanding what the fundamental reason was takes us into the heart of the debate about Brexit.

Like the Scottish referendum, the Brexit referendum put a constitutional question to the electorate. This has often been ignored or misunderstood, largely because the British have until recently never had to think about what it might mean. It is, for example, often asserted that unlike most of the world Britain has an "unwritten" constitution. This is not in fact true, since there is a whole set of Parliamentary statutes which together specify most fundamental features of British political life, including the Bill of Rights, the Act of Union, the Act of Settlement, the Parliament Act, the Act of Accession to the European Communities, and so on. What differentiates these written laws from the written laws that form for example the American constitution is that in Britain are passed by the same body which passes ordinary legislation of the most trivial kind: there is no separate procedure, as there is now in most countries, for passing constitutional laws in some way other than the processes of ordinary legislation.

Since the American and French revolutions, these separate procedures have been widely adopted because they have been seen as more purely democratic than the means by which day-to-day legislation is enacted. The most obvious example of this is the referendum, which was used immediately after their Revolution in America by many states to ground their new state constitutions, and which was used throughout the Revolutionary years in France to legitimate the new regimes. The referendum was never universally adopted for this purpose, and the federal constitution in the USA was not ratified through a national plebiscite, though it was ratified through a different and more democratic set of institutions than the existing governments of the individual states; but by now a large number of modern nations treat the referendum as the natural means of constitutional legislation..

A key feature of these separate procedures is that they are sporadic. When they began to be adopted, everyone understood that a modern population could not gather together regularly like the inhabitants of an ancient city, to decide the ordinary business of government. But a modern population could occasionally put its mind to the fundamental rules by which it was to be governed, without having to devote itself full time to the details of politics. Accordingly, and inevitably, the rules acquired a certain permanence. When Jefferson in eighteenth-century America and Condorcet in eighteenth-century France proposed that constitutional legislation

should automatically be revisited after twenty-five years, they were more or less in the target area; the American constitution has been amended on average about once every twenty years since 1791, though there have been long periods when no alteration was made (twenty-six years since the last one, with no prospect of another in sight probably for a generation), and very few really fundamental alterations - maybe only four or five, depending on how one defines fundamental.

The essence of the old British system was that this kind of semi-permanence was not built into legislation. In principle, the next Parliament could always undo the work of the previous one, and even if it balked at doing so with important measures such as the extension of the franchise, it could certainly alter or adapt them, and not leave the business of working out their implications to a constitutional court. This was the famous “omnicompetence” of Parliament, obvious to everyone from the seventeenth century onwards, and true not just in constitutional matters: John Selden, a famous seventeenth-century jurist, observed that Parliament could make it a capital offence to stay in bed after eight o'clock, and Leslie Stephen two hundred years later remarked that Parliament could legally order the death of all blue-eyed babies. One might have thought that this extraordinarily untrammelled power would be disastrous for civil liberties, but the central paradox of British constitutional history is that on the whole Britain has had a remarkable record for civil liberties, certainly as compared with most other long-established states. How has a legislature with absolute power coexisted with liberal political practices?

Some people might say that there is some special political culture in Britain that prevents Parliament from actually legislating for genocide, and that without this all hell would break loose; but this is a view rather too reminiscent of Kipling's contempt for “Lesser Breeds without the Law”. I do not think there is some special magic in the island of Britain. I think that the omnicompetence of Parliament actually bred a culture of civil liberties, since no one faced permanent or semi-permanent defeat for their political projects. Every few years it was possible to reverse a measure, if necessary by forming some new coalition of interests to win the next general election; and if one did lose, one lost through the relatively transparent force of the ballot box rather than the mysterious and apparently unfair power of a supreme court. This is one of the practical consequences of powerful democratic politics. Contrary to what people often suppose, democracy is actually a means to civil peace and toleration, and not in potential opposition to them. Bringing as many people as possible into the sphere of political decision-making, and allowing them as much freedom as possible to effect the outcome, calms political passion rather than inflaming it.

An obvious example of this is the difference between the UK and the USA over abortion. In Britain, abortion was legalised by a straightforward act of Parliament, and in principle it can be banned once more equally straightforwardly. The inability of anti-abortion activists to bring this about can then be ascribed purely to their ineffectiveness at persuading enough of their fellow citizens to support them. In the USA, on the other hand, it was legalised through a Supreme Court decision, something which it is extraordinarily difficult to overturn through a transparent political process. In Britain there is little hysterical opposition to the legislation; in the USA people working in abortion clinics have routinely been murdered. This is exactly what one would expect if it is true that genuinely democratic processes tend to lower the level of anger in public life. However, all this changed when Britain entered the EEC in 1973, though the working out of its implications took a long time, and the referendum campaign in 1975 as a

consequence was much calmer than the campaign we have just experienced. Though the Accession to the European Communities Act was an ordinary statute, it put in place a new kind of constitutional order in which fundamental rules governing British political, economic and social life could not be amended by the same process by which they had been enacted. It would be a mistake to say that Britain thereby “lost its independence”; it is not clear how it could, and certainly the EU is not a superstate which has taken away national independence from its members. But the EU is a constitutional order for each member state, taken separately: it enacts fundamental rights and duties which the legislatures of the members cannot alter. The only way open to Parliament to change the rules is by a wholesale repudiation of the entire constitutional structure, in other words Brexit, and the same would be true in any other European state.

Harold Wilson’s government duly recognised the gravity of this change when it introduced the first referendum in British history. Britain now had to have some supra-Parliamentary system for determining these fundamental rules since Parliament itself was no longer able to do so, and the Wilson government simply followed what had become the almost universal practice of modern states in turning to a constitutional plebiscite to provide the mechanism. The fact that referendums in Britain are notionally “consultative” is irrelevant: no one seriously thinks that they should be ignored, any more than they seriously think that the Queen can veto a Parliamentary bill.

But the constitutional order represented by the EEC was exactly the sort of semi-permanent arrangement into which Britain had never previously locked itself, and the question of whether we should stay in the EU or not raised exactly the prospects of permanent victory or permanent defeat which had not formerly been on people’s minds. Brexiteers, at least, understood that if the vote went against them, the issue would not be reopened for a generation or more; Remainers too paid lip service to this principle, though in the aftermath many have tried to pretend otherwise. We do not need to look anywhere else for an explanation of the hysteria and viciousness in public life during and after the campaign.

Exactly the same was true of the Scottish referendum campaign, which as I said was the first intimation of this aggressive and violent politics. Here too the idea of holding a referendum on Scottish independence made it a constitutional question of the modern kind, in which high passions were aroused. It should be said that the very action of giving Scotland the referendum actually gave Scotland its independence at the fundamental, constitutional level, since the Scottish people could now decide the basic terms of their common life (something the Spanish government has always understood in relation to Catalonia), and this was not significantly in debate - nobody denied the capacity of the Scots to make the decision. What made the campaign so vicious was that whatever conclusion the Scots came to in 2014 about what they wanted to do with this fundamental power was - or was believed to be - another decision which would be semi-permanent. The fact that both in Scotland and in Britain more widely the losing side is tempted to enter into what the Canadians have called a “neverendum” does not alter the dynamic of this process, since the neverendum is always entirely one-sided. There was no question of quickly reopening the question if Independence had won in Scotland, or in Quebec, or Remain had won in Britain. And as long as it is one-sided, the threat of permanent defeat for one side remains.

The key fact about what we have just lived through is that though one might think the two sides were on an equal footing in this regard, in that either Remain won permanently or Leave did

so, it was Remain which closed down political possibilities much more than Leave. It was membership of the EU which limited the political space, and which over the years has induced a sense of powerlessness in the electorate, even if the root cause of this sense has not always been obvious. The vote for Brexit is an opportunity to cancel this: conservative politicians will still be able to argue for conservative measures, but socialist politicians can now argue for socialist ones, and they will have a fair fight in front of the voters. This would not have been true had we voted to remain; we have been handed the opportunity to return to our old politics, and we must not lose it.

6 November 2017

The press on both sides of the Atlantic is full of stories about a “crisis of democracy”. And there is indeed one, if by “crisis” we understand the word’s original, medical, meaning: the point in an illness at which the patient either dies or recovers. We cannot make sense of the events of 2016 unless we recognise that democracy has been ill for much of the last fifty years, and that this “crisis” is indeed the point at which it will recover or finally expire.

Once upon a time - and how long ago it now seems - the citizens of Western states recognised that they needed the help of even the poorest of their fellow citizens in constructing the conditions of their common life. The help ranged from the manufacture of much of what they consumed, on a scale far beyond the localised production of the pre-industrial world, to - at its extreme - the creation of the great citizen armies of the twentieth century, which quite literally in many instances saved the lives of even the richest and most powerful members of those states, and in which the ruling class and the working class to a significant extent fought side by side. The recognition that these citizens had to be given a serious voice in what happened to their countries was not based on some vague humanitarian principle: it was based on a concrete understanding of what mass action on the part of the citizens had achieved and (it was thought) would continue to achieve. It is no coincidence, for example, that the great advances in democratic politics tended to take place after these wars of the citizen armies: in Britain all adult males finally achieved the vote only in 1918, at the same time as the suffrage began to be extended to women. Similarly, after 1945 the practical implications of democratic politics were worked out with the policies of the Attlee government. But the scale of the transformation wrought by the mass armies of industrial workers induced something of the same response, independently of warfare: such a crucial population could not be kept in a form of subjection indefinitely. One can go from old movies of the Ford plant in Dearborn Michigan to movies of the armies in Europe in the Second World War and see exactly the same collective force, and how it had to be respected.

This sense of gratitude to one’s fellow citizens was not felt as plainly in the defeated nations of Europe, for obvious reasons. Indeed, after both World Wars, and especially the First, the response of many in the defeated nations was likely to be suspicion of betrayal or resentment at feebleness rather than gratitude. But in Britain and the US, at least, it sustained during the post-war period a general sense of at least potential collaboration between the ruling class and the working class, manifested in such things as the acceptance of powerful unions and a reasonable

balance between the rewards of labour and those of capital (the kind of thing traced in Thomas Piketty's book). The high-water mark of those years was the securing of the vote for the African-Americans of the South, though in retrospect that may also have been the final act. And in the defeated nations, above all Germany itself, after the Second World War the sheer scale of the work involved in rebuilding their shattered societies also brought home for many the necessity of relying on all their fellow citizens if they were to succeed in the rebuilding. This, more than anything else, sustained Piketty's trente glorieuses.

The central problem of Western societies now, however, and the septicaemia which has invaded the organs of the democracies, is that the concrete benefits which mass action used to deliver are no longer necessary. The history of the citizen army, again, is revealing. The last mass citizen army which Western societies (other than Israel, a very special and unrepresentative case) will ever have seen was the army which fought the Vietnam War, and far from feeling gratitude to it, the American ruling class was terrified by its near mutinous response to a plainly unjust war - though this was exactly what the old theorists of citizen armies, from Machiavelli onwards, took to be one of their points. Never again will there be an American army of the old type, and instead we have a relatively small group of expert soldiers and a set of geeks playing deadly video games in a bunker in Iowa. A kind of windy rhetoric in American public discourse about the military mimics the genuine feelings people once had, but it cannot disguise for very long the transformation in what the military represents.

The same is true of industrial power. People in America and Britain now owe very little concretely to one another's efforts: what they consume either comes to a far greater extent than sixty years ago from overseas, or, if made in their own countries, it is made with minuscule workforces, and even then often by an immigrant population without the vote. 100,000 workers in their prewar heyday manned the old Ford lines at Dearborn; now there are 6,000. As robots take over yet more production, the numbers of people in productive employment are clearly going to fall even more.

The result of all this has been the creation of what Guy Standing has termed the "precariat" or what the pseudonymous blogger "Anne Amnesia" has more vividly and accurately termed the "unnecessariat". And one striking consequence of this shift has been a subtle change in political rhetoric. Many politicians on the Left now routinely describe themselves as having gone into politics to help their fellow citizens; thus Hillary Clinton said during the campaign that she was in the race "to make life better for children and families" (this was the same speech in which she said, equally revealingly, "when it comes to public service, I'm better at the service part than the public part"). Listening to this kind of politician one often feels that they think of the state as something like the armed wing of Oxfam. But charity is not a strong enough principle to sustain genuine democracy; apart from anything else, as a long tradition from the ancient world to the eighteenth century recognised, the recipients of charity can come to hate their benefactors, since the acts of benevolence merely reveal ever more clearly the power differential between the people concerned. Moreover, as upward social mobility came to an end during the same period, particularly from the white working class, the cultural gap between the rulers of Western democracies and their electorates grew even wider.

The disappearance of this visceral sense of a collective enterprise permitted the development of the institutions which have been described as "post-democratic", such things as

independent central banks, more powerful supreme or constitutional courts, and the intrusion of the market into what used to be publically managed activities. This fits with the extraordinary discovery by my Harvard colleague Yascha Mounk and his collaborator Roberto Stefan Foa that in all the long-standing Western democracies there is a very precise correlation between the age of respondents in opinion polls and the degree of their commitment to democracy. About 75% of those born in the 1930s believe that it is “essential” to live in a democracy, but this falls steadily to little more than 25% of those born in the 1980s. And lest this be thought to be a relatively trivial question, the same is true of the answer which people give to the question of whether a military takeover would be legitimate: again, the older respondents are strongly opposed, and the younger ones far less so! Among other things, this finding should give pause to some of the post-Brexit commentary: it may well be true that the older and less educated voters were more supportive of Brexit, but (as other people have observed) “less educated” is the same as “older”, given the staggering expansion of higher education since the 1990s. The fact that older voters are in general both keener on democracy and keener on Brexit is unlikely to be a coincidence.

The response of another political scientist to Mounk and Foa’s findings was to say that democratic values are still flourishing, as “tolerance of minorities” has been steadily increasing over the same period. But this goes to the heart of the matter. It is often casually assumed that tolerance of minorities is part of democratic politics, but it can also often be part of non-democratic politics, as the history of “enlightened despotism” in eighteenth-century Europe illustrates (a period in European history, incidentally, with marked resemblances to our own - a society of relatively liberal values and the rule of law, but no democratic control). Indeed, despotism of this kind is often defended precisely on the grounds that it does a better job of protecting minorities than full democratic government will do - the fear of the “tyranny of the majority”. But this has almost always proved to be a highly short-sighted policy. Populations denied democratic expression turn against the minorities whom they see to be the beneficiaries of the unrepresentative political structures with far greater vindictiveness than they would feel if democratic politics were working effectively. The great example of this used to be Britain, which had both a reasonably liberal society and a sovereign Parliament completely untrammelled in what it could do by any constitutional constraints, two things which opponents of democratic government think should not go together. Unfortunately, once the fear of the majority is embedded in political institutions it is extremely difficult to reverse course except at great social cost.

In January 2018 a pamphlet appeared entitled Busting the Lexit Myths edited by Francis Grove-White, with contributions from Catherine West, Nick Donovan, Andy Tarrant, Richard Corbett, Mike Galsworthy, Sarah Veale, Tom Burke and John Monks, foreword by Heidi Alexander and Alison McGovern, published by Open Briain and Labour Campaign for the Single Market. The Guardian ran a story on the pamphlet on 30 January, describing it as a call “on Jeremy Corbyn to stop hiding behind what they call leftwing myths surrounding membership of the European single market membership after Brexit and instead argue openly about the issue.”

17 February 2018

Those of us on the Left who have been opposed to Britain’s continued membership of the EU have been motivated by two beliefs. The first and most important of the two is that genuinely left-wing politics has always taken the form of popular action, potentially of a very radical kind. Socialism is democracy: when the early followers of Marx called themselves social democrats (for that description was not in its origins an alternative to Marxism but its expression) they knew that achieving full democracy in late nineteenth-century Europe was an essential - indeed the essential - condition of socialism. The major achievements of the Left in the twentieth century were the product of highly unconstrained democratic politics, the most striking example being the programme of the Attlee government. Compensation of a kind was paid by the government to the owners of some nationalised industries, but the most striking and longest-lasting instance of nationalisation, the nationalisation of the voluntary hospitals to create the NHS, involved the straightforward expropriation of a form of private property. Whether this was desirable, and what kind of compensation, if any, it was appropriate to pay the owners of the heavy industries, were arguments entirely among the Labour politicians; no law cases attempted to control or reverse the process, nor could they have done so, given the general understanding at the time of the “omnicompetence” of Parliament. The Labour government was also quite willing to use its democratic mandate to force constitutional change in order to permit its political programme to succeed. We can see this from the Parliament Act of 1949, whose validity, significantly, was not questioned at the time but has since come under scrutiny, a sign of the confidence some lawyers now possess that they can control even Acts passed with the royal assent.

The authors of this pamphlet utterly fail to deal with this issue, which is central to the whole debate on Brexit. Even if the structures of the EU were at the moment entirely friendly to radical socialist measures (which they patently are not), they would be so only as long as a particular political culture existed in the relevant institutions, especially the ECJ. This is a very risky basis for serious political action. There is very little scope for political control over these institutions, even if there were to be a co-ordinated push across Europe for left-wing policies, of the kind imagined by people like Varoufakis: the EU has been designed to create a strong constitutional order for each country in Europe administered by independent or quasi-independent agencies. The Left taking power in the EU, it cannot be stressed often enough, would not be like the Left taking power in pre-1973 Britain: however united it would be, without a comprehensive revision of the treatiesthe current juridical order would persist. Even in the United States, where the power of the Supreme Court and the constraining effects of the Constitution have long been felt, it is possible to introduce some sort of political control over the court - this is after all why

every modern US Presidential election is to a very large extent a campaign about appointments to the Court. But nothing of this kind is conceivable within the EU as currently organised. It is also possible in the US to amend the constitution, admittedly now with some difficulty; but the EU constitution, its treaties, can only be changed by unanimous agreement of the member states, something which renders significant amendment almost impossible.

This is a matter of general principle, but the force of the principle is illustrated by the second thing that has led people like us to support Brexit. That is the fact that the way the EU constitutional provisions are configured inevitably means, in the circumstances of the modern world, that traditionally socialist measures will find it difficult to pass their scrutiny. As everyone now knows, they are based on the four freedoms, movement within the EU of capital, labour, services and people, to which one should add a kind of fifth freedom, the freedom of establishment (that is, the right to set up a new business in any country of the union). These “freedoms” are in turn intended to guarantee a regime of fair competition across Europe: the EU after all began as a common market, and its political structures have all been built round the idea of enforcing competition in cross-border economic activity, and in internal activity in any cases where the internal activity is open to some degree to external intervention such as foreign investment (which means pretty well everything - even railways, which in the UK at least have only a tenuous physical connection to the rest of Europe). The four freedoms are essentially market freedoms. Nineteenth- or early twentieth-century socialists would have perfectly understood what that meant, and how difficult it would be to achieve their ambitions in such a structure.

To see how this can work in practice, let us take a case which the pamphlet does not discuss, of great interest in our present debates. This is the case of Holship Norge AS v Norsk Transportarbeiderforbund, a Norwegian case decided in the EFTA court in April 2016. This was an EFTA case, that is, not directly an ECJ case, but because the rules of the EEA, which the EFTA court administers for the non-EU members of the EEA, require it to acknowledge the four freedoms of the EU as a condition of membership of the single market, the ECJ’s jurisprudence effectively determined the result, and the EU Commission was a party to the case. Among other things, this illustrates that the EEA is no solution to the problem of Brexit, at least as viewed from the Left.

The case arose from the fact that since 1976 the Norwegians had operated a dock labour scheme rather like the pre-Thatcher arrangement in Britain, whereby members of the dock labourers’ union had monopoly rights over unloading cargo from anything other than small craft in Norwegian ports. In 2013 a Danish transport company began to use its own employees to unload its vessels in Norway; the workers were employed by a Norwegian subsidiary of the Danish company, and were unionised, but did not belong to the dock workers’ union. The Norwegian dock workers mounted industrial action against them, and the Danish company took the case to the EFTA court. The court ruled against the dock workers’ union, and the Norwegian government who supported the union, on two grounds. First, that the freedom of establishment within the EEA meant that any foreign company was entitled to set up in an EEA state; but more far-reaching, that the general exemption from rules restricting anti-competitive practices which unions possess under EU law - that is, the labour market cannot be entirely a zone of free competition - must be limited. The court concluded, first, that

to exclude all collective agreements from the reach of competition law would go too far. It would create a legal environment where collective agreements containing provisions restricting competition could be concluded, without there being any judicial review of such restrictions.

And second, that unions could only claim exemption from competition law in matters that affect “conditions of work and employment”, which the court defined as

wages, working hours and other working conditions. Further elements may concern, *inter alia*, safety, the workplace environment, holidays, training and continuing education, and consultation and co-determination between workers and management...

On this basis, they judged that the Norwegian dock labour scheme was illegal, and the Norwegian Supreme Court duly followed the EFTA Court’s ruling.

This case illustrates exactly the character of the EU. The default principle is free competition, and exceptions have to be justified in a way competition as a principle does not. And in the case of unions, the exceptions are only those of working conditions - the exceptions with which modern liberal capitalists are by and large entirely happy. Any attempt to give unions more power than this, the judgement implies, will be resisted. It is of course the case that many modern social democrats are not unhappy with this kind of ameliorated capitalism, though the idea that the EU is necessary to protect these kinds of workers’ rights in a modern state with regular Parliamentary elections is pretty fanciful.

We could make the same sort of point about the issue which has often featured in Lexit discussions, the renationalisation of the British railways. As we know, this is a very popular measure among voters of all political stripes. Andy Tarrant addresses the issue in his section on nationalisation, but he dodges the central question, and in the process reveals exactly the mindset of the authors of this pamphlet. As he concedes, the EU rules do preclude a return to the old-style British Railways, as they require free competition in access to the track - in other words, exactly the strange structure introduced by the Major government. There can be nationally-owned operating companies, but they have to prove themselves in a free competition for the right to use the infrastructure, unless (a standard proviso in EU jurisprudence) there is some overwhelming public reason against this - which is hardly ever going to be the case in the sense that the ECJ or EFTA courts would recognise. So the present British structure is permitted under EU law, unsurprisingly. But what most people want, a fully-integrated publically-owned system (like Amtrak, oddly enough, in the heartland of world capitalism the United States) would be forbidden. The rest of Andy Tarrant’s section amounts to little more than telling us we should be glad about this, since the world economy now requires it; this may or may not be true, but it is beside the point, which is whether a perfectly familiar left-wing policy would be impossible within the EU. If it is unwise, let the British people decide on the matter (as they did, for a time, under Thatcher); but if it is not unwise, and circumstances may change and indeed may already have done so, it should not be the case that a whole class of possible policies, most of them part of traditional socialism, should be permanently beyond the pail. As so often in these debates, we see again how

the Conservatives, including even Thatcher, should always have supported the EU and the Labour Party should always have opposed it: the EU enshrines in near-perpetuity the capitalism of the 1980s.

On 26 February 2018 in a speech at Coventry University, Jeremy Corbyn set out what at that point was agreed Labour Party policy towards Brexit. He said the following.

Labour would seek a final deal that gives full access to European markets and maintains the benefits of the single market and the customs union as the Brexit Secretary, David Davis promised in the House of Commons, with no new impediments to trade and no reduction in rights, standards and protections.

We have long argued that a customs union is a viable option for the final deal. So Labour would seek to negotiate a new comprehensive UK-EU customs union to ensure that there are no tariffs with Europe and to help avoid any need for a hard border in Northern Ireland.

But we are also clear that the option of a new UK customs union with the EU would need to ensure the UK has a say in future trade deals.

A new customs arrangement would depend on Britain being able to negotiate agreement of new trade deals in our national interest.

Labour would not countenance a deal that left Britain as a passive recipient of rules decided elsewhere by others. That would mean ending up as mere rule takers.

28 February 2018

No one who is involved in a negotiation starts with the option they really expect to end up with. This is especially true of negotiating with the EU, whose capacity to tangle up not only external parties but also its own members in coils goes far beyond anything even Laocoön experienced.. So what are we to make of Jeremy Corbyn's speech on 26 February? As presented, the proposal is not entirely unappealing, though even on its own terms there are many serious objections to it. But as a proposal which as it stands must inevitably not actually be implemented, it is largely futile. The only question is, what is likely to be the final destination, if the negotiations start from this point? And would anything short of Corbyn's scheme be acceptable? It is of course quite possible that he, and the rest of the shadow cabinet, are simply being frivolous, and that in reality they do not expect to have to negotiate anything. But it is also possible that the Remainers in the shadow cabinet would be quite happy with something well short of what Corbyn outlined, for reasons we shall consider shortly, and - most disturbingly - that they will succeed in getting it.

Corbyn proposes a customs union with the EU. He, and other Labour front benchers, have been at pains to stress that this is not the same as entering into the EU's customs union, but instead a new and bilateral agreement between two independent entities. If we take this at its face value, it means that both the EU and the UK would have a veto on the tariff arrangements which they collectively reach with the rest of the world. If this were actually to happen, it would therefore not be the same as the deal Turkey has with the EU, whereby it has a (sectoral) customs union with the EU but does not take part in negotiations over external tariffs, merely accepting them as decided by the EU. Instead, it would at least in theory be a union of equals. Leaving aside for the moment the improbability of the EU agreeing to such an arrangement, would it actually be worth having?

In the world of international trade agreements there is a hierarchy. The lowest level of integration is a free trade area (FTA), such as NAFTA, in which goods move with minimal tariffs between the parties, but each member state can negotiate its own tariffs vis-a-vis non-members. Above this comes a customs union, in which these external tariffs are the same for each member. Above this comes a common market, in which there is regulatory integration, and lastly there is full economic union. If Britain could secure a free trade agreement with the EU, as Canada has done, would it make any sense to move up to the next level and enter into a customs union? The conventional wisdom is that the principal benefit of a customs union over a FTA comes from the elimination of documentation about the origin of goods crossing frontiers. Goods traded into a member state of an FTA from outside, and then traded on to another member state, have to meet “rules of origin” requirements, so that appropriate tariffs can be levied on them, while goods produced in the first member state cross the border tariff-free. This happens all the time in a FTA - and will happen in NAFTA even more, now Canada is open to EU goods - and documenting the origin undoubtedly constitutes an annoyance and a cost for importers. But that is the only objection to a FTA as compared to a customs union, and it pales into insignificance when set against the many political objections to a customs union.

NAFTA in fact provides us with an excellent example of this, since Canadian economists and politicians periodically discussed the merits of turning NAFTA into a customs union (this was before the days of Trump). As a result, they had to think hard about precisely the question of the merits of a customs union over a FTA. Though almost everyone concerned agreed that eliminating the need to document origin would be an economic advantage, they disagreed about how much the savings would be, with some saying that it would be trivial. And many of them, especially on the Left, quickly concluded that the political disadvantages clearly outweighed the small economic benefit. This has also been the position taken in practice by Canadian governments, who have not sought to persuade the USA to upgrade NAFTA into a customs union. A customs union between the relatively small Canada and the much larger USA would obviously tend to favour international arrangements which were in the interests of the USA; could the Canada-EU FTA have been achieved if the negotiations had had to involve America? Exactly the same would be true even of the kind of UK-EU customs union Corbyn is hoping for.

Defenders of Corbyn’s proposal say that it would solve the problem of the Irish border after Brexit. Again, it is true that it would eliminate some paperwork, but at a high price in terms of the wider political implications. Trade across the US-Canada border flows pretty freely without a customs union: car manufactures, for example, have fully integrated production in plants on both sides of the border. No one in Britain is proposing to end the common travel area which is in effect a passport union between Great Britain and the Republic, so (unlike in the US) there would need be very little policing of individuals crossing the border; non-Irish EU citizens using an open border to settle in the UK would be like the many non-EU citizens currently overstaying their visas etc in the UK, and not a new or special problem. Anyway, a customs union would make no difference to this

However, all of this is academic, since there is no possibility of Corbyn’s proposal actually being implemented. This is not to say that Corbyn could not be the person leading negotiations with the EU, but simply (as I said at the beginning) that the first move in a negotiation cannot be the one the parties end up with. So anything which a Corbyn government

might agree to would have to be worse than what he outlined on the 26th. If his proposal is not especially attractive as it stands, why would anyone settle for something worse? One answer to this question might be that it would be the equivalent of virtue signalling: something which has no intrinsic merit might be supported because of the message it sends about political allegiance. This is no doubt true for some advocates of the proposal, but there is another and more troubling possibility.

A lesser version of the Corbyn proposal which could be agreed on would be broadly similar to the current EU-Turkey arrangement. Only this, in fact, is possible, since there is no other concession which could be made in the course of negotiations by a Corbyn government which genuinely wanted to be in a customs union. The key feature of this arrangement is that only the EU negotiates external tariffs; and this, it is paradoxical to say, might be the real reason why certain British politicians would be keen on it - in some ways keener than on the Corbyn proposal. The unusual customs union with Turkey came about because it was supposed that at some point in the relatively near future Turkey would become a member of the EU, and would then be fully involved in setting tariffs etc. It was not supposed that Turkey would be a rule-taker in perpetuity. And if Britain were to enter into an arrangement of this kind, it is not hard to see what the result would be. After a few years, it would be said that it was unsustainable, and that Britain had to choose between either leaving the customs union or moving back into the institutions which decide policy. Given public exhaustion over the issues, a campaign from business urging us to be able to "have a say" over our economic future, and (probably) a disinclination to hold a referendum on the question, the outcome is easy to predict. In other words, the proposal to enter "a" customs union is primarily a trap, set by people who basically wish to re-enter the EU.

One of the tragedies, if Labour does decide to propose a customs union, is that a year and a half ago the party endorsed a perfectly well-judged critique of doing so. At the party conference in September 2016 Barry Gardiner, currently the shadow trade secretary (and once described in The Guardian as "one of the best educated and most internationally experienced MPs") set out his vision of a "Just Trading Community". This was in turn endorsed in the Labour manifesto for the general election of 2017. In his speech to the conference, Gardiner said the following.

For too long governments and politicians have allowed for one-way trade deals to be concluded behind closed doors on terms that give foreign investors power to sue governments if they believe that laws and policies may affect their profit potential - even if those laws are passed in the public interest.

Deals like TTIP have struggled to find any support amongst the public because of the dangerous risk to sovereignty and because people do not believe that anybody other than big business benefits from them.

That is why, today at Labour Party Conference, I have announced the launch of the Just Trading Community, bringing together like-minded politicians and legislators to work towards establishing a new model trade agreement that places, at its very heart, the protection, promotion and progression of workers' rights, human rights, quality standards and environmental safeguards.

Labour knows that small and medium-sized businesses are the backbone of this economy and yet they are too often ignored when it comes to negotiating international trade deals and in receiving the support necessary to expand into new export markets.

That is why I have also announced today that any future trade deal under a Labour government would incorporate a mandatory requirement that any country who wants to sign a trade agreement with the UK must set out a strategy for supporting our SMEs seeking to export to them.

This entire vision would be rendered pointless if Britain were to enter into a customs union with any other countries. But Gardiner spoke for many on the Left, echoing for example the opposition to TTIP which in part fuelled Bernie Saunders's campaign in America. If the Party does repudiate this vision and return to its posture under Blair, of vaguely hoping that left-wing measures might some day be adopted by the EU while accepting in practice the very different kinds of measure which actually emanate from its decision-making institutions, it will have cut its ties with the genuinely radical forces on the Left, and in the end it will not even gain any electoral advantage from having done so.

On 2 March 2018 Theresa May gave a speech on “our future economic partnership with the European Union”. Originally supposed to have been given at Newcastle - the epicentre of the “Leave” vote - it was all too appropriately rescheduled for the Mansion House in London, as a result of “bad weather”.

9 March 2018

All major political speeches work by including the most important material in an apparently reasonable, almost throw-away fashion. This was certainly true of Teresa May’s speech in London on March 2nd. The most significant passage was the following.

If we want good access to each other’s markets, it has to be on fair terms. As with any trade agreement, we must accept the need for binding commitments - for example, we may choose to commit some areas of our regulations like state aid and competition to remaining in step with the EU’s.

The UK drove much of the policy in this area and we have much to gain from maintaining proper disciplines on the use of subsidies and on anti-competitive practices. Furthermore, as I said in Florence, we share the same set of fundamental beliefs; a belief in free trade, rigorous and fair competition, strong consumer rights, and that trying to beat other countries’ industries by unfairly subsidising one’s own is a serious mistake.

As far as I can tell, not many commentators nor prominent Brexiteers have leaped onto these remarks. Indeed, the most high-profile figure to do so was Jeremy Corbyn, in his response to May in Parliament on March 5th, when he said that

The Prime Minister’s only clear priority seems to be to tie the UK permanently to EU rules that have been used to enforce privatisation and block support for industry.

The reasons for this relative neglect tell us a lot about the strange history of Britain’s relationship with the EU. As we all know, the EU and its predecessor the EEC were founded on the famous “four freedoms”, the free movement of goods, services, capital and people, to which we should really add a fifth, the freedom to establish a business in any member state (a “freedom” recently used to break the old Norwegian dock labour scheme). From the beginning it was clear that a jurisprudence based on these innocuous-sounding principles was in fact going to entrench a certain kind of competitive capitalism in each member state, since large-scale political intervention in the economy would almost certainly be ruled illegal. This was already obvious to the members of Harold Wilson’s cabinet when they met at Chequers in 1967 to discuss whether they should keep Macmillan’s failed application to join the EEC on the table or withdraw it and seek other options; Tommy Balogh urged instead a North Atlantic Free Trade Area, and he was broadly supported in his opposition to the EEC by the other leading economic advisors to the Treasury, Nicky Kaldor and Robert Neild. As Richard Crossman, the most eloquent opponent of the EEC in the cabinet, put it in his diary, the question was

whether the Commission in Brussels would really deprive us not only of some of our sovereignty but of some of our power to plan the economy? Would investment grants be allowable or not? Would we still be able to see that new factories are put in Scotland rather than in South-East England?⁸

And though the Wilson cabinet decided to keep the application alive, largely, as Crossman also recorded, as a means of underpinning Britain's post-imperial ambitions, including the sterling area and its role "east of Suez" (how antiquated these terms now seem!), the unhappiness of Labour with the European project had been made quite clear.

The unhappiness continued down to the mid-1980s. Labour whipped against the final vote on the European Communities Act in 1972, which passed, certain current Remainers agitating for a second referendum should be reminded, by a majority of only seventeen - and the second reading had earlier passed by a still smaller majority, of eight. Our entire history of membership of the EU would have been different had five members of the Commons voted differently on the second reading on 17 February 1972; Hansard recorded that the members voting for the second and third readings included Norman Tebbit, Nicholas Ridley, and "the Rt. Hon. Mrs Margaret Thatcher". In government, as we know, Wilson solved the dilemma of whether to pull out by instituting the first referendum in British history, and allowing a free vote on it to his cabinet; but even after Leave lost the 1975 vote, Labour remained largely hostile to the EEC. A party conference the same year had voted two-to-one to leave, and it became official policy to do so in 1981, precipitating the split in the party and the formation of the SDP by prominent pro-Europeans - a split which arguably undermined Labour's authority and permitted Thatcher's landslide victory in 1983. In that election Labour polled 8.5m and the Lib/SDP Alliance 7.7m, as against Thatcher's 13m. Another road not taken: suppose the SDP leaders had remained loyal to their party, Thatcher might well have lost in 1983. Her regime would not then have seemed the inevitable turning-point in history which to many people it subsequently appeared to be - including to Tony Blair. We could say without much exaggeration that Thatcher was the principal - and ungrateful - beneficiary of Britain's membership of the EEC.

The positions the two parties took up prior to the mid-1980s were thus entirely in line with the logic of the EEC. Tories correctly saw it as a way of locking Britain into structures which essentially precluded the kind of socialism which was still the aim of the Labour Party in the 1960s and 1970s, while the Labour Party (though not all its politicians) correctly saw it in exactly the same light. Those of us who support Brexit today, from the perspective of either the Right or the Left, do so (I think it would be fair to say) very much because we do not believe in any structures which lock people into particular political policies in near-perpetuity. But we should remember that it was the Tories who originally chose to use this weapon against their opponents, and Labour who were willing to have a fair fight, and to run the risk that in the future a Tory government might overturn their socialist measures. One is reminded of Harold Laski's famous quip, that "the gentlemen of England will always play the game, but they reserve the right to change the rules".

⁸ Richard Crossman, The Diaries of a Cabinet Minister II (London: Hamish Hamilton and Jonathan Cape 1976) p.83.

The puzzle in the story of Britain's relationship with the EEC is that in the mid-1980s the two parties swapped positions. Jacques Delors's speech to the British TUC in September 1988, in which he argued that the EEC could be the guarantor of workers' rights, is conventionally taken to be the point at which Labour abandoned its stance of opposition, while Thatcher's speech in Bruges twelve days later is conventionally taken to be the point at which the Tories abandoned their support for the EEC because of its move to the left under Delors. The conventional story, however, remains puzzling. No one who had thought clearly about the EEC should have been won over by Delors's speech, which essentially offered the kind of workers' rights in the context of liberal capitalism with which the Continent had long been familiar, and the promise that regional aid would be delivered by the EEC, and not (though he did not say this) by national governments. Equally, Thatcher, the great enthusiast for the single market, should have been able to live with some version of what Delors outlined, if it was a necessary condition for the integrated market which she wanted.

The real reason why Labour leaders changed their position, I think, is that they had been psychologically undermined by Thatcher's electoral success; this is clearly true of Blair. They had come to believe that a Labour Party dedicated to the policies of 1983 could never win again, and that it had to be prevented from reverting to those policies after Blair's success in eliminating the old clause four. The idea that the manifesto of 1983 had been (in Gerald Kaufman's words) "the longest suicide note in history" gripped them to the exclusion of other, straightforward reasons for Labour's failure, such as the unimpressive leadership of Michael Foot and the split among the old grandees of the party (those two things being connected, since in happier days one of the SDP defectors would have been a natural choice for leader). There did not have to be any deliberate plan to use the EU (as the EEC had become in 1993) for this purpose: an instinct that "Europe" and "modernisation" went together was enough to do the job. Blair himself, it is easy to see, came in addition to covet the global role which attached to a leading politician within the EU; the temptation which European union offered to the British establishment in the 1960s of reliving their dreams of empire had not gone away. These politicians were not particularly troubled by the thought that a Labour party of this kind had little that was distinctive to put in front of the electorate, since they seem to have thought of themselves primarily as being more skilled managers of a late-capitalist economy than their rivals.

It is much harder to say why the Tories changed - and it should not be overlooked that the majority of the Parliamentary party never did. But by the time of the Cameron government there were enough prominent Tories who were willing to deny themselves the benefits of the EU, that they could deliver the stunning result of the 2016 referendum. Partly this may have been the result of a romantic nationalism which (as Marx and Engels frequently observed with some respect) has often been at odds with the requirements of modern capitalism, and partly it may have been Thatcherites who took the logic of their position to imply much more extensive global free trade: the EU in their eyes had turned into the kind of protectionist distortion of market forces which the institutions against which they had fought in Britain had formerly represented. In some people (Daniel Hannan is a good example) these two things could be combined, though with some degree of latent difficulty: immigration, for instance, was always a theoretical problem for the Thatcherites, since a fully free market should imply a free market in labour, and why should that stop at national boundaries if the rest of the market does not?

At all events, the swapping of positions continued down to the eve of the referendum; but we then discovered that the Labour Party was now being led by people who had always understood the logic of the EU, and had not changed their position on it. Whatever his faults, Brexiteers of all stripes owe a considerable debt to Corbyn, who (like Bernie Sanders in America) emerged from relative obscurity to utter political sentiments which had been treated as outlandish for thirty years or more. Acute Conservative commentators also began to remember why their party had once been the prime mover behind Britain's entry into the EEC; one of the most acute, Charles Moore, asked in June last year

Could the EU prevent a government led by Jeremy Corbyn? Since our confusing general election result last month, I find significant numbers of people asking this question. Such people do not like Mr Corbyn. Indeed, they regard a government led by him as the worst of all the imaginable possibilities facing our country. It spooks them because, before June 8, they had considered it all but unimaginable. They tend to think that if the EU could keep Mr Corbyn out, perhaps we had better stay in.

They are not wrong to raise this question. In the now largely forgotten days when most Conservatives were strongly pro-European, the threat of the hard Left helped explain why...

In a Britain dominated by strikes, "Europe" beckoned. The EEC was scarcely a paragon of free-market virtue, but it seemed to offer relative industrial peace. Right-wing Labour supporters thought it could marginalise the extremists. A lot of Tories thought decent, free, bourgeois Britain was finished. Perhaps Brussels could rescue it...

It probably is true that a Corbyn government could be much more easily beaten down with Britain in the EU than outside it. His socialism-in-one-country would quickly fall foul of single market rules and be squashed by the commission (Brussels) and the European Court of Justice (Luxembourg)...⁹

To his enormous credit, Moore resisted the temptation to look to the EU for protection against a Corbyn government, stating clearly that it must not be the case that it should be "virtually unconstitutional for there to be a Labour government"; but his article was one of the few I have read which recognised the fundamental issues at play in the last forty years of British politics.

And this is now the key issue to be resolved in Britain's so-called "negotiations" with the EU over our future relationship with the Union. What May let slip on March 2nd was that the Tories still want to use the EU as a means of blocking Corbyn-style politics in perpetuity. They will now not do it through membership of the EU, at least at the moment, but they will do it through something equally effective and without any of the EU's irksome baggage, namely a "binding commitment" to just those aspects of EU membership which prevent effective socialist measures within Britain.

It is no surprise that Corbyn spotted this, given his familiarity with this history, and also no surprise that Tory Brexiteers (who still dominate the Brexit debate) kept quiet about it. But the urgent question is whether Corbyn and the Labour Party can do anything to stop it. Technically

⁹ [The Telegraph](#) 30 June 2017

speaking, the commitment they have recently entered into to join a customs union with the EU does not entail these kinds of institutional constraints on state aid etc; but a customs union even of the kind they are officially endorsing - that is, a bilateral arrangement between the EU and the UK, rather than simple membership of the EU's customs union - puts a great deal of British domestic politics potentially under a juridical regime which is likely to insist on uniformity in market behaviour across the customs union, in order to prevent competitive gaming of the customs regime by the countries involved. Once one is in structures of this kind in the modern world they tend to move in only one direction; this was at the heart of Sanders's opposition to the TPP and TTIP. It is true that membership of the WTO imposes certain restraints on what governments can do with regard to political intervention in the economy, but the restraints are far less than (for example) those imposed on its members by the EU, since they refer exclusively to interventions which affect external trade. A full-scale renationalisation of the British railways would encounter no problems from the WTO, but would at the least have to be defended in front of the ECJ if Britain were still to be in the EU.¹⁰ The difficulty with Labour's current proposal is that even if (miraculously) it were to be accepted as it stands, we have no idea what it is going to look like once the administrative and judicial institutions get going on it, but we have no grounds whatsoever for optimism. And of course, it will not be accepted as it stands.

Corbyn's leadership of the Labour Party has offered the chance of breaking out of the strait-jacket into which the EU has strapped all the political parties of Europe. As we can see in country after country on the Continent, it is the old left-wing parties which have been the chief victims of this strait-jacket. They have all suffered from the inability of their leaders to renounce their old allegiance to the European project, and it is no accident that the new left-wing parties such as Syriza which have begun to fill the gap left by the electoral implosion of the old parties are almost all in varying degrees opposed to the EU. The British Labour Party is at the moment the one exception to this rule, and at times in the recent past it has come perilously close to succumbing to the same fate as its Continental equivalents. Corbyn's remarks on March 5th show that at some level he understands this, and it will be tragedy of historic dimensions if he allows himself to be forced back into the strait-jacket by timorous (or worse) colleagues in the shadow cabinet.

¹⁰ See the extremely helpful briefing paper by Federico Mor, EU State Aid Rules and WTO Subsidies Agreement (House of Commons briefing paper 06775, 9 June 2017).

For a symposium at the LSE on 13 April 2018 on “The Political Theory of Brexit: Alternative Perspectives” (which was the origin of the Full Brexit group) I wrote a short paper for a panel on “Sovereignty”. This is a longer version of the paper.

11 April 2018

One of the commonest arguments against Brexit from those whose politics in general I sympathise with, is that the ideal of regaining power over our own legal arrangements is a fantasy. Every modern state is so thoroughly enmeshed in a series of international arrangements that it can never be free in the old, nineteenth-century sense. Why bother with the elaborate and difficult business of leaving the EU, when we will simply have to accommodate ourselves to the WTO, and the European and UN Conventions on Human Rights? Another version of this argument, which I also respect, is that it is not possible to have “socialism in one country” - it is impossible in practice to cut oneself off from all the global economy, and one has to bend to its demands, or turn oneself into Cuba. If that means that one cannot have socialism as it was understood before the 1980s, too bad. This is sometimes said with that special frisson which people feel when they think they are being realistic in the face of other people’s romanticism - though realism of this kind is really a form of romance itself.

As I said, this is an argument I respect, and we have to take it seriously. One easy, but I think fallacious, response to it is that none of these other international arrangements reach into the very heart of our common life and its juridical character as the EU and the ECJ do. But that is, I think, to misunderstand the actual character of the relationship between the member states and the EU. As I have now argued in a number of places, the best way of theorising about the relationship is not that the EU is a kind of state, or has the ambition to become one: the disclaimers issued by the Eurocrats are to this extent correct. Nor is it true that the member states have lost their sovereignty, in the sense of state sovereignty. Each one remains a state in the sense that it is the ultimate authority for its citizens, and possesses that standing vis-a-vis other states in the international sphere; no EU state is going to renounce its seat at the United Nations. What the structures of the EU are, is best understood as a co-ordinated constitutional order for each state. The member states voted severally to impose a series of constraints on what their domestic legislatures could do which stand in relation to the legislatures exactly as their domestic constitutions (in all countries except Britain) do. This is what is really meant by the annoying term “pooling sovereignty”, something which on most reasonable accounts cannot be done. I should observe here that the British have found it hard to understand or adjust to a system of this kind since they had no experience before 1973 of constitutional constraints of this sort at all. For countries which had had them for a century or more, adding the EU was not such a dramatic act as it was for the UK, and it is no coincidence that when Wilson came back into power he felt that the new arrangements had to be legitimated by something else which was a novelty for Britain, namely a plebiscite, the commonest means in the rest of the world of legitimating constitutions which constrain the legislatures.

The authority of these constraints comes from the original vote to impose them, just as their old constitutions’ authority did, and still does; and the state can simply vote to nullify the

constraints of the EU, as it can those of its other constitutional instruments. There are two differences between the EU and the old domestic constitutions. One is that the site of interpretation is partly outside the country, though from the point of view of the relationship between the legislature and the constitutional constraints this is actually a rather trivial difference, particularly given the cultural similarity between jurists from different countries. The really important difference is not often emphasised: it is that the EU constitutional constraints have to be accepted as a package. Most constitutions can be amended without having to be entirely rejected - though some have tried to build in barriers to amendment in fundamental respects, such as Norway, Greece, Portugal and - above all - Germany. But the EU, as we are discovering, is not like that: if a member state doesn't like some feature, in particular the implications of some judgement at the ECJ, it cannot do what it would do for other constitutional laws and change them, at least not without going into an elaborate and probably impossible set of international negotiations. This renders the EU structures far more rigid than any other juridical constraints on domestic legislatures, except perhaps in Germany, and gives the constitutional court enormous power over all the member states. It must be emphasised that this is not a problem peculiar to Britain, though as I said the British were unusual in being wholly unaccustomed to such a state of affairs.

When people in Britain talk about the "loss of sovereignty" implicit in membership of the EU, what they principally have in mind, I believe, is the fact that democratic sovereignty is impeded in this fashion - that is, the democratic will cannot change important features of the politics of the country. And when this complaint is heard with bafflement on the Continent and by some of the ruling class in this country, it is because in the other sense of sovereignty - the ultimate independence of a "state" as a juridical entity - there has in the end been no such loss. There is a long and interesting history of the difference between these two senses which I do not want to talk about today, but which I would simply summarise by saying that what we might call the "hypostasisation" of the state, treating it as a person, has always been used as a way of constraining the late eighteenth- and nineteenth-century push towards democracy - the push, that is, based on the belief that the people currently living under a particular political regime have full power to change it, and should not be "ruled by the dead", as Bentham put it in the most powerful attack on undemocratic constitutionalising ever penned.

Seen from this perspective, the formal character of a constitutional rule is not really the issue. What matters is the extent to which as a matter of fact it is part of a large package which has to be changed as a whole, thereby introducing a set of powerful disincentives to change which are not intrinsic to the issue under consideration. For example, we might want to thoroughly renationalise the railways. This looks as if it should be a stand-alone question; but the legal power to do so is dependent on a judgement from the ECJ about whether such a policy would be anti-competitive, and if the judgement were to go against the policy, the only way to overturn it would be a renegotiation of the treaties setting up the EU, or pulling out of it altogether. Compare what would happen without the EU; indeed, think about what the Attlee Government did do, with no legal barriers to its programme. This is true whether or not we think that the ECJ would rule against nationalisation, though as a matter of fact I think it is pretty clear that at least it would not countenance an Attlee-style programme.

A judgement of the ECJ is directly applicable in the UK in a way that (say) the rulings of the UN Human Right Committees are not, or the rulings of the ECHR before the incorporation of the European Convention in British law in 1998 were not, and some leftish Brexiteers find comfort in this. But I think this is to put too much weight on the forms. If there is a substantial price to be paid internationally for the adoption of a particular policy, then the policy is no longer stand-alone, whatever the legal forms may be. In extremis Parliament can ignore or rebut any of these rulings, but extraneous considerations have been introduced into its deliberations just as they have in the case of the EU; the idea that it can always take action and that we are therefore freer than we are in the EU rests, as I have said, on a misunderstanding of the actual character of our membership of the EU, for in that respect too we can always take action. In both cases the cost of the action has been rendered artificially high, however, just as constitutionalising a policy domestically renders it far harder to change than an ordinary piece of legislation - though international agreements of this kind make their provisions even harder to change than a single article of a domestic constitution would be. Treaties of any kind always play some role in the domestic judicial process in Britain; roughly, the presumption is that they are to be honoured and applied unless Parliament has clearly ruled against doing so. So given what I have said about the packaged character of these agreements, I am not sure that the real difference between (say) the ECHR before 1998 and the ECHR after 1998 is all that great. When the ECHR produced a decision on an important case in 1983 which effectively destroyed the old closed shop agreements in the UK, they awarded damages to the petitioners which the then British government had to pay (gladly, of course, given that it was the Thatcher government at the time), and required the government to report on how it was bringing domestic legislation into line - which it also gladly complied with. The Court's role in breaking union power in the Thatcher years seems all but forgotten.

So what is to be done? I think the way forwards is to think more carefully about the concrete character of the principal international agreements, and to distinguish between them. The examples I want to use are first, the earliest such agreement to have clear implications for domestic law, the section of the Versailles Treaty setting up the International Labour Organisation, and second the European Convention on Human Rights. The first was created by socialists, or at least the Left, and reluctantly acceded to by the Right; the second was created by the Right, and reluctantly acceded to by the Left. Their different characters give us suggestions about how the Left should think about international arrangements. The modern Left in Britain has rather lost interest in the ILO and seems to be rather keen on the European Convention, but this is an error comparable to its similar error over the EU.

During the First World War it was widely felt that (as the General Secretary of the General Federation of Trades Unions said in a letter to Asquith in 1916)

Nearly all other wars have ended with treaties which conserved the rights of kings, the boundaries of nations and the privileges of property. The poor people have had no part in the making of war or peace; they have suffered, they have endured contumely, and they

have died, but never yet has monarch or statesman made their situation a determining factor in a treaty of peace.¹¹

In July 1916 there was a meeting of trades unionists from the Allied countries at Leeds, followed by one from neutral countries and the “Central Powers”, i.e. the allies of Germany, in October 1917 at Berne, to discuss what such a treaty should include. The relative extent of co-ordination between the parties who were still involved in a ferocious war is very striking, as is the assumption on both sides that there will be an extensive peace treaty.¹² Obvious issues were work conditions and trades union rights, though high up the agenda of both conferences, interestingly from our current perspective, was the issue of freedom of movement. Each conference endorsed the general principle that (in the words of the Leeds Resolutions) “Every workman, no matter to which nationality he may belong, ought to have the right to work wherever he can find employment”¹³; but they also qualified this by prescribing various restrictions on immigration, including the banning of contract labour recruited overseas with a view to avoiding labour agreements in the host country.¹⁴ Surprisingly to our eyes, the trades unionists were more concerned with guaranteeing freedom of emigration: by 1914 a number of countries had begun to consider restrictions on emigration, with a particularly draconian law to that effect passed in Hungary in 1909, all largely aimed at curtailing emigration to the USA.

¹¹ The Origins of the International Labor Organization ed. James T. Shotwell (Columbia UP 1934) I p.65

¹² The relative extent of co-ordination between the parties who were still involved in a ferocious war is very striking, as is the assumption on both sides that there will be an extensive peace treaty. The German willingness to consider the possibilities in October 1917 was presumably partly a response to America’s entry into the War in April; Max Weber, for one, immediately saw that this meant the end of Germany’s ambitions, despite its total victory in the East. The German section of the International Association for Labour Legislation was constituted by the Gesellschaft für soziale Reform, to which Weber and many of his associates such as Ernst Francke belonged, and the Gesellschaft produced an important paper drafted by Francke for the German government on the post-war labour settlement (The Origins of the International Labor Organization II pp 50-51).

¹³ The Origins of the International Labor Organization II p. 23. The Berne Resolutions read “(a) The enactment of prohibitions of emigration shall not be permissible. (b) The enactment of general prohibitions of immigration shall not be permissible” (ibid p. 44).

¹⁴ The Leeds Resolutions for example proposed that “there should be in every country a special commission on emigration and immigration, consisting of representatives of the Government and of the organizations of employers and workers of the country. The recruiting of workmen in a foreign country should only be permitted if the commissions of the interested countries whose duty it is to examine into the question as to whether the demand for, and the extent of, such a recruiting really corresponds with the needs of an industry or district... [sic: something missing in Stockwell text]”; they also added, “Should the need arise to employ colored labor, the recruiting must proceed under the same conditions as apply to European workmen” (ibid p. 24).

These concerns all found their way into the articles of the Peace Treaty setting up the ILO (along, interestingly, with the “principle that men and women should receive equal remuneration for work of equal value”) (Article 427). But they were not (at first) configured as a declaration of rights. Instead, the each member state undertook to “at the earliest practicable moment ... bring [any] recommendation or draft convention [from the ILO] before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action”, so that each measure was treated separately and could be accepted or rejected individually. If a “convention”, as distinct from the lesser category of a “recommendation” was legislated for, there were restrictions on whether it could be repealed without some action being taken by other countries which had ratified the convention, usually economic sanctions of some kind, the idea being that poor labour conditions were a form of unfair trade.¹⁵ The treaty prescribed a period of ten years before a convention which had been ratified could be (to use the technical term) “denounced” by a member country without such a retaliation; if it was not denounced during the year following the expiration of the first ten-year period, it could not be denounced for another ten years, and so on. In doing so, it was modelling its conventions on commercial treaties which for many years had contained such clauses permitting unilateral denunciation within a defined time period.

The Peace Treaty had thus created a body which was entitled to make rules governing the domestic economy of member states, and by doing so had introduced a new kind of legislation into domestic politics. It is true that initially the ILO was significantly circumscribed, since first, each resolution had to be separately agreed by a member state if it was to have any effect on its internal policies, and second, even if a convention was ratified by a member state, it could be unilaterally denounced after ten years without a member state having to leave the Organisation - each convention was in effect a treaty between individual members of the ILO. The Thatcher

¹⁵ Article 414 allowed a Commission of Enquiry authorised by the ILO to indicate in its report “the measures, if any, of an economic character against a defaulting Government which it considers to be appropriate, and which it considers other Governments would be justified in adopting”, measures which could be confirmed by the Permanent Court of International Justice. The initial British draft included the proposition that “Any State, therefore, which does not carry out a Convention designed to prevent oppressive conditions is guilty of manufacturing under conditions which create a state of unfair competition in the international market. The appropriate penalty accordingly appears to be that when a two-thirds majority of the Conference is satisfied that the terms of the Convention have not been carried out the signatory States should discriminate against the articles produced under the conditions of unfair competition proved to exist unless those conditions were remedied within one year or such longer period as the Conference might decide.” *The Origins of the International Labor Organization* II p. 125. The British negotiator Edward Phelan in one of his contributions to Volume One described this as “a somewhat daring but interesting suggestion” (II p.118). A later amendment gave the ILO authority to decide what kind of action should be taken. It should be said that this procedure has only once been invoked, when sanctions were applied against Myanmar in 2000 for violating Convention 029, against forced labour. See *ILO Record of Proceedings 101st Session*, 15 May 2012 PR No.2-1.

government indeed denounced three conventions which in its view restricted the labour market in the UK, two of which had been ratified by the Attlee Government.¹⁶

But the men of the Left who created the ILO were extremely wary of anything like a supranational authority. The left-wing German republican government in 1919 proposed the creation of a body whose rulings on labour issues would automatically have the force of international law, but they were rebuffed by the other parties in the negotiations. As Clemenceau put it with characteristic brutality, “The Allied and Associated Democracies, who have had a very long experience of democratic institutions” understand that “the workers of one country are not prepared to be bound in all matters by laws imposed on them by representatives of other countries; international conventions ... are therefore ... more effective than international labour laws.” As these founders understood, the ability which their scheme gave a Thatcher to denounce conventions was a quid pro quo for having them in the first place - and they would have realised that Blair could have reinstated them for another ten years, had he so wished. That he did not do so is a particularly good example of the way he hid behind Thatcher’s skirts.

In 1998 there was an attempt to bring the ILO more in line with what was by then becoming an international norm, when the “Declaration on Fundamental Principles and Rights at Work” was adopted at the 86th International Labour Conference. But this Declaration, although in theory binding all member states as a condition of membership to accept a set of basic principles (including no gender discrimination in pay), did not invoke the enforcement mechanism written into the 1919 Treaty for individual conventions, and though the ILO subsequently nominated eight existing conventions as in accordance with the Declaration, it left their original juridical status unaltered. So it is probable - though this has never been put to the test - that if a country were to denounce one of them, it would be able to remain a member of the ILO, just as it could have done earlier.

There have been some powerful criticisms of the Declaration from people on the Left, including Guy Standing, who have argued that it was a retrogressive step, since it diverted attention from the concrete work of the ILO and introduced a set of vaguely worded “rights” which were perfectly acceptable to a neo-liberal globalising world - unlike the conventions which the Thatcher government had denounced, as the very act of denunciation testifies. Immigration, for example, which had been uppermost in the minds of the original founders of the ILO, disappeared from the Declaration on Fundamental Principles. And like all such sets of rights, if it had been justiciable, it would have been applied to a very wide range of cases, constituting precisely the “package” of which I spoke earlier.

The ILO was the product of European socialists working together, well aware that they needed full democracy at home in order to introduce their measures. In this respect it stands in sharp contrast to my other example, the European Convention on Human Rights. Though the Convention is now frequently praised from a Leftish perspective, its origins, as Marco Duranti has recently documented in an important and path-breaking book, lie squarely in post-War anxiety to constrain not merely Eastern European communism but Western European socialism as

¹⁶ C026, Minimum Wage-fixing Machinery Convention 1928, denounced July 1985; C094 Labour Clauses (Public Contracts) Convention 1949, denounced September 1982; and C095, Protection of Wages Convention 1949, denounced September 1983.

well. In fact, the tendentious modern history of the Convention is itself a revealing example of how the old Left has been marginalised in today's world.

The movement for it began in an independent "Congress of Europe" organised at The Hague in May 1948 by the Joint International Committee for the Movements for European Unity, with its star attraction being Winston Churchill, who was of course then only the Leader of the Opposition in Britain. The Congress called for the drafting of a convention of human rights and a court to enforce them, a call which was considered by the Council of Europe, which was founded in May of the following year. The Convention on Human Rights was the first convention which it issued, after the conventions setting up the Council itself; it was opened for signature in November 1950. But more or less forgotten until Duranti's book has been the fact that from the beginning the project was bitterly opposed by the European Left, particularly in Britain.

The Labour Party described the Congress of Europe as a project of "reactionary politicians", and persuaded the Socialist Conference on European Policy meeting at Paris to bar any member of a socialist party executive committee from attending it.¹⁷ David Maxwell Fyfe, frequently (and correctly) invoked in the modern literature on the Convention as one of its principal progenitors, mostly nowadays in a transparent attempt to give it some legitimate British ancestry for a sceptical public in the UK, was a thorough-going Conservative and former appeaser who described the Labour Government's nationalisation of steel as "a step on the road towards totalitarian government in England", and called for "an overhaul of the relations between the law-making body and the judicial tribunals" to prevent the emergence of "the legal structure of a totalitarian dictatorship."¹⁸ In the Consultative Assembly debating the proposed Convention, he explicitly compared the European human rights court to the US Supreme Court, something which caused Arwyn Unged-Thomas, a Welsh Labour MP, to respond that the Supreme Court had sought to overturn the New Deal on the flimsiest of pretexts, and that the draft convention was "anti-democratic and reactionary".¹⁹

When the Attlee Cabinet considered the draft Convention in August 1950, Stafford Cripps launched a comprehensive and well-judged attack on the whole idea.

The Chancellor of the Exchequer said that a Government committed to the policy of a planned economy could not ratify this Convention on Human Rights. He drew attention to various Articles in the draft Convention, e.g., on powers of entry into private premises, which were inconsistent with the powers of economic control which, were essential to the operation of a planned economy. The Convention had originally been conceived as a statement of the rights which western civilisation preserved for the individual, in contrast

¹⁷ Duranti pp 103, 105.

¹⁸ Ibid p. 220. Duranti observes persuasively that this resembled the views and the language of Hayek's The Road to Serfdom, which also argued for the creation of a supranational authority "which effectively limits the powers of the state over the individual" (p.222). The future Lord Hailsham also said something similar in the Commons in 1949, foreshadowing his famous attack on "an elective dictatorship" in 1976.

¹⁹ Duranti p. 247.

to the absence of such rights in Communist-dominated countries; but, if the Convention were adopted in its present form, this country could be pilloried for infractions of its provisions which would be unavoidable in the course of economic planning. The draft Convention would be acceptable only to those who believed in a free economy and a minimum amount of State intervention in economic affairs.²⁰

The most objectionable clauses in the proposed convention, from the point of view of the Left, were those guaranteeing a right to private property and the right of parents to have their children educated in accordance with their own religious beliefs. The former was common ground for all the socialist parties of Europe, since they all understood the impediment it would represent to their economic policies, while the latter was of particular concern to the secularist parties on the French Left; it was a “right” which the Catholic Church had repeatedly tried to insert into the French constitution, so far without success. Socialist delegates from across Europe to the Council of Europe’s Consultative Assembly succeeded in getting both clauses dropped from the final draft of the Convention which was approved in late 1950 and ratified by the Attlee Government during its precarious second term; though France, where the Legislative Assembly had been dominated by the Left including the Communists (the largest party in both votes and seats) since November 1946, refused to ratify - and indeed did not do so until 1974, something often forgotten in the modern hagiography of the Convention.

However, in a moment of far-reaching significance, property and education clauses were reinserted in the first protocol to the Convention in March 1952. The Attlee Government gave up trying to veto their insertion, but managed to head off the demand from most other delegates that the property clause should require compensation for any nationalisation by a member state; revealingly, however, the ECHR in a 1986 court case arising from the Wilson government’s nationalisation of shipbuilding ruled that despite this history the property clause must imply a right to fair compensation. So all the Attlee government’s diplomacy in the end came to nothing.

While the property clause divided British politicians, with those on the Right pushing for it precisely to discourage nationalisation without compensation, almost all of them were agreed on resisting Article 25 which allowed individual petition to the Court of Human Rights, and which almost all the other countries favoured. The Attlee Cabinet was clear on the subject: in the same meeting when Stafford Cripps delivered his withering attack on the draft,

Ministers agreed that, if individuals had a right to take alleged infractions of the Convention from the courts of this country to a European Court of Human Rights, the effect on the judicial system of this country might be very serious. It was intolerable that the code of common law and statute law which had been built up in this country over many years should be made subject to review by an International Court administering no defined system of law...

British diplomacy could do nothing, however, in the face of the near-universal acceptance of this clause, and the Labour Government’s only recourse was to ratify the Convention with a

²⁰ CM 52 (50), CAB 128.18

reservation excluding both Article 25 and Article 46, covering the jurisdiction of the Court as a whole.

This stance was preserved by succeeding Conservative administrations, but it was abandoned in 1966 by the Wilson Government, which thereby opened up the steady increase in the Court's involvement in British affairs which has repeatedly caused disquiet in the UK. The 1966 decision was potentially very far-reaching, but it was arrived at with no discussion in Cabinet, and in a spirit of frivolity - Gerald Gardiner the Lord Chancellor pronounced that "I do think that this would cost us nothing and would show that a Labour government is not anti-Europe as such"²¹ It was of course a gesture by the Wilson Government at the start of its awkward attempt to keep on the table the application to join the EEC which had been rebuffed in 1963 by De Gaulle, and it appears to have been treated as a trivial part of the much more complicated question of EEC membership. It is true that between 1966 and 1998, when the Blair Government passed the Human Rights Act, the ECHR's judgements even on individual petitions had no direct effect in the UK, in the sense that any action brought before the ECHR was against the UK government and not a domestic defendant; but the difference between 1966 and 1998 can be exaggerated, as I have already said. The common claim that the issue of the EU and the issue of the ECHR are separate is not in fact true: without an intention to join the EU, one can reasonably suppose, the Wilson government would have maintained the reservations entered into by their predecessors.

The EU was of course created by the same sort of people who created the ECHR, and the Attlee Government's response to its first institutional expression, the Coal and Steel Community, was broadly similar to its response to the ECHR. I do not now want to go into the question of how thoroughly "neo-liberal" the EU currently is, but I would just say that the dangers implicit in its character were obvious from the beginning. Addressing an audience at Colchester in July 1950, John Strachey the Minister of War said

What is the real issue underlying the Schuman Plan? This is a plan to give control of the coal and steel industries of Europe ... into the hands of a council of eight or nine men. These men were to have complete power of these industries and they were not to be responsible to any Government or Parliament or other democratic body. These dictators, responsible to no one but themselves, were to have power ... to close down half of the coal mines in South Wales or the steel mills of Sheffield if they thought fit - and if they thought it would profit the shareholders of these industries to do so...

Is it not perfectly obvious that the real purpose was precisely to put up a barrier against the control of the basic industries of Europe by the European people. After all, gradually and with difficulty ... the people of Europe and the people of Britain are getting hold of economic power...

All this is an alarm bell to the great capitalist interests of Europe. Therefore they put up this sort of plan by which the real power in these industries is put in the hands of an irresponsible international body free from all democratic control...

²¹ Broad, Labour's European Dilemmas, p.60

We shall get more and more of these schemes no doubt, which under the guise of internationalism are designed to prevent the people really controlling their economic system.

These dangers became even more obvious after the Treaty of Rome formalised the “four freedoms”, and they were eloquently captured in an article by Nye Bevan in August 1957.

In the absence of a wider sovereignty, all the conception of a common market does is to elevate the market place to the status now enjoyed by various European parliaments. It is at this point that Socialists become suspicious of what is intended. Is it the disfranchisement of the people and the enfranchisement of market forces? Are we now expected to go back almost a century, reject socialism and clasp free trade to our bosoms as though it were the one solution of our social evils? ... The conception of the Common Market ... is the result of a political malaise following upon the failure of socialists to use the sovereign power of their parliaments to plan their economic life.

It is an escapist conception in which the play of market forces will take the place of political responsibility... Socialists cannot at one and the same time call for economic planning and accept the verdict of free competition, no matter how extensive the area it covers. The jungle is not made more acceptable just because it is almost limitless...

I am not sure I can add anything to this.

17 May 2018

The morning after the referendum, like many people who had voted to Leave, I was in a mood to compromise. The result after all had been fairly close, and if a new constitutional settlement was to last, it had to compel quite widespread consent. I thought that membership of the EEA might be possible; certainly some kind of free trade arrangement was imperative. Since June 2016, however, I have changed my mind, and I think I am not alone. The reason is partly that as I have thought more about the nature of the EEA and the role in it of the ECJ I have backed away from it as a solution; but the key reason is more profound than that. The behaviour of the leading supporters of remaining in the EU during the period after the referendum has made me deeply mistrustful of any compromise, since it is clear that all compromise proposals leave open a route quite quickly back into the EU in some fashion, and there are absolutely no grounds to think that the prominent Remainers will not seize the opportunity to go down it.

Trust has become the central issue in British politics. And in doing so, it has reminded us of one of the main objections to the EU, and why accusations of treason have alarmingly become a staple of the right-wing press in Britain. The EU is an institution which - despite all its window-dressing - is still essentially an intergovernmental organisation. Decisions are made through the familiar processes of international bargaining, though unlike other international bargains the ones made in the EU directly apply to the internal arrangements of the member states. And international negotiations have always been pre-eminently the arena in which governments act secretly and spring faits accomplis on their citizens. The age of the secret treaty may be over, though I wouldn't rule out the existence of a wide range of secret "understandings" between modern states, particularly over such things as nuclear weapons. But secrecy in general is endemic to international relations. Because of this, even if a country's constitution gives the final say over an international agreement to the legislature (as ours arguably does not), in practice the negotiations are entirely in the hands of the executive, the repository of secrets in most modern states. International negotiations also tend to give a disproportionate role to the civil servants, the "sherpas" in contemporary parlance, who prepare the ground for their (supposed) masters, since very few modern politicians have the time or the experience to pay as much attention to international politics as they do to the internal politics of their own countries. Their instincts are also likely to be much less acute when they leave the familiar territory in which they have made their careers.

This is the particularly toxic feature of the EU. A democratic state like the United Kingdom has, by and large, a pretty open debate about important domestic issues. There may be secret manoeuvrings within party executives and within Whitehall, but it all has to come out into the open before any firm decisions are made, and politicians can relatively easily be forced into u-turns. But to make important decisions through international bargaining, decisions which then structure the economy, and even to some extent the society, of a member state, as those made through the EU institutions must do, is to bring secrecy into the heart of domestic politics. With secrecy inevitably comes mistrust. As modern states do more and more through international agreements, distrust of politicians grows among their populations, who suspect that their ruling classes now have more in common with the ruling classes of other countries than they do with the ruled of their own. They may be right in this mistrust - after all, for much of the pre-democratic

history of our countries this would have been an entirely well-founded apprehension - but even without a cultural sympathy of this kind the logic of the international structures makes a politician into a kind of secret agent within their own country. Who knows what they really want, and what they have implicitly as well as explicitly agreed to?

Defenders of the EU can agree with all this, and they can go on to say that for this reason it is vital to turn the EU into a proper state with the kind of transparent internal politics that we were used to in our individual nations fifty or sixty years ago. But as things stand that ambition looks absurdly utopian - far more utopian than anything Brexiteers are guilty of. Like so much of the EU, its political accountability is stuck in a half-way house, unable to move forward or backwards. If we value transparency and trustworthiness in our politics, we have to leave the EU and detoxify our public life; until we have thoroughly disentangled ourselves from it, distrust will remain the default attitude of the British public, and nothing can be done about that during the interim period we have embarked upon. Remainers cannot avoid the distrust so many of us feel about them, and we would be extraordinarily foolish to suppose that they do not deserve it; in this respect, at least, there is a profound asymmetry between Leave and Remain, for no one seriously thinks that Leavers have a secret agenda - the whole point of their position is to throw open British politics once again to the public gaze, and public debate. There is - alas - no basis for compromise now between the sides.