



SOLON

The Dogs Have Barked and the European Caravan Must be Stopped – A short history of where we are, how we got here and what we do next

Introduction

The grand European project in its modern form started in the 1920s and was kick-started again after the Second World War. Its most recent and highly unpopular endeavour is the introduction of the Reform Treaty. The Reform Treaty has been described by the European Scrutiny Committee as “substantially equivalent” to the Constitutional Treaty of 2004. Both combined all the existing Treaties with constitutionally important amendments into a new legal framework which requires a referendum on the Government’s own referendum criteria. The issues that arise in the Reform Treaty cover all the issues in the European Union, including fishing, immigration, foreign policy, criminal law and agriculture.

Never before have all the Treaties been brought together in this way with a merger of the economic Treaties of the Treaty of Rome and the Single European Act on the one hand and on the other hand the governmental Treaties, of Maastricht, Amsterdam and Nice, into a new Union. The massive accumulation of power that this conveys over the daily lives of the people of the United Kingdom, let alone the rest of Europe, is such that apart from individual specific changes which the Reform Treaty includes warrants a referendum for this reason alone, because it is a fundamental change in the structural constitutional relationship between the United Kingdom and Europe and between the United Kingdom Government and Parliament and its own electorate. It will make us all citizens of the new European Leviathan, without proper democratic consent. Accumulatively, the Reform Treaty has more impact than Maastricht.

It is important therefore to fully explain not only why a referendum is needed but also what the Treaties have done and why renegotiation is an absolute priority. Given the Whip system and the Government’s endorsement of the Reform Treaty, the only way of achieving renegotiation will be by forcing the Government into a referendum and then arguing the case for a ‘No’ vote, whether before or after ratification. A post-ratification referendum is already supported by 50 Conservative MPs who have supported my Early Day Motion and many more who are precluded from signing such Motions. Given the importance of the issues and the fact that

the Conservative Party is, at last, fully committed to a referendum, and the deceitful manner in which the Government and other Member States in connivance with the German Presidency have collaborated in secrecy to produce this Treaty and the Government’s broken promises there is more than ample justification for tearing up this Treaty even after it has been implemented in Parliament. It has been signed by deceitful use of the Prerogative and will be rammed through by the Whips in a manner worthy of the Stuarts in the seventeenth Century whose downfall ironically led to the establishment of our democratic Parliament. This is now being undermined.

What is missing from the current debate is a real debate. Calls for a referendum will not stir the blood or feelings of those who are being betrayed unless those opposed to the Treaty step up to the plate and argue with passion and honest conviction for their cause. The deliberate playing down of these arguments in the media and in the political parties is in this modern media age an indictment of free speech on which the media harps continuously when anyone dares to impute their editorial integrity. There are some honourable exceptions but the arguments are not being heard even when they are deployed in Parliament – giving justice to the old adage that the best way to keep a secret is to make a speech in the House of Commons.

The Reform Treaty, because of its unique character in the merging of all the Treaties and with its further amendments, is more important than the Maastricht Treaty – which is saying something. It is some measure of the lack of explanation and public debate that the ‘I Want a Referendum’ campaign has so far mustered 30,000 supporters after a mere 3 months and newspaper petitions have just managed to muster 137,000 signatures. It is worth remembering that the Maastricht campaign in 1993 raised 500,000 in a petition to Parliament from every quarter of the United Kingdom simply because the rebellion provoked interest and anger. If Maastricht, why not the Reform Treaty? The opportunity to rectify this is now before us with the Prime Minister signing the Treaty in mid-December and the Bill to implement the infamous signature anticipated in January with the promised

three-month debate. I have proposed, insisted upon and succeeded in inducing a debate on the floor of the House before Gordon Brown signs the Treaty – unless of course, he ignores the latest European Scrutiny Committee report.

It is useful therefore to take a landscape view of how all this has come about since 1972 and to identify the route which the caravan has taken on its course to the present day and what attempts have been made to stop it in its tracks. This time, with the Conservative Party calling for a referendum, the present campaign is based not on a necessary rebellion from within but on the need for concerted effort between the Conservative Party and the British people in the national interest in the run-up to a General Election and a change of Government. This creates a completely new dimension but must be followed up with political will, clear simple explanation and a clear strategy for a referendum followed by a 'No' vote.

The Birth of an Old Europe

There were two significant historical facts that led to the instituting of the original European Economic Community (EEC) – the post-war reconciliation of France and Germany and the Soviet Union threat from Eastern Europe. As I proposed in my Bow Group pamphlet in 1990, *A Democratic Way to European Unity: Arguments Against Federalism*, the reconciliation of France and Germany was, of course, the essential and understandable basis upon which a new peaceful order could be ensured in Western Europe, yet at the same time the European Steel and Coal Community (ECSC) had an important and different aim which had been maintained in French interests: the containment of German dominance through the control of her economy. Germany entered the ECSC and then the EEC being driven, above all, by a desire for the respectability which came from a close alliance with France, to disengage from the memories of World War II, and by the political and military realities of the threat from the East. In almost sixty years since the war, the post-reunified Germany and its national economy has not been "contained" – and leading the other 26 Member States, it has gone on to set the best example for federalising Europe in its own image through the creation of a European superstate. The cunning falsehood and deception practiced under the 2007 German Presidency, under Chancellor Merkel's leadership, in order to lay down the framework for the Lisbon Treaty, is merely another piece of evidence of Germany's insistence on European political unification in establishing its pre-eminence in Europe. It has, as always, taken the words 'European Union' literally – its political practices and aims have always driven it towards the model of absorbing nation-states under a single European state, and with the reliance of most of the new Eastern European accession states of the past twenty years, it has found willing members to create such a state beyond national boundaries in return for perceived but illusory security and financial comfort. With evermore qualified majority voting, those countries dependent on Germany economically and politically will tend to vote with

her or to seek consensus. This is not a healthy state of affairs even if it can be confidently stated that Germany is not embarking on a dark European future. The way in which the Reform Treaty was engineered in secrecy under the German Presidency is not a beacon of light or grounds for complacency. It is worth remembering what Bismarck said: "I have always found the word 'Europe' on the lips of those who wanted something from other powers which they dared not demand in their own name." To be governed by one European superstate is not what Britain ever wanted. As Winston Churchill said of Britain's required relationship with Europe on 11 May 1953, 'We are with Europe, but not of it. We are linked, but not compromised. We are interested and associated, but not absorbed.'

Creating Britain's Future

I mention that the ECSC and then the EEC were founded upon a legitimate, peaceful and understandable aim, regardless of how obsolete and distorted that objective has become as the European federalist project attempts to enforce political unification. This key aim, which is very much in Britain's national interest, can be described in two words: FREE TRADE. It is, after all, essential that Britain maintains free trade and in the global picture, builds voluntary alliances in Europe and across the globe as far as our economies and ambitions will take us and only insofar as they do not impinge upon the independence and authority of our national parliament. Britain should only ever take an interest in EU affairs insofar as a reformed and condensed EU can become a tool for better access to trade within the single market and in the global trading environment – Britain can only achieve this through the renegotiation of the binding European Treaties and removing the shackles of a European government. Once Britain opts for such a policy, many of the other Member States will realise that such a move is not only feasible, but in the best interests of their own Parliaments and in managing their national economies – and many will then join us.

The British electorate has often, in the polls, rejected the political ambitions of European integrationists. When Britain eventually joined the EEC in 1973, it was for economic reasons, reaffirmed in the 1975 referendum (which was a post-ratification referendum), and Edward Heath's White Paper explicitly ruled out political integration or federalism." It said: "The Community is no federation of provinces or counties. It constitutes a community of great and established nations, each with its own personality and traditions. The practical working of the Community accordingly reflects the reality that sovereign governments are represented around the table. On a question where a government considers that vital national interests are involved, it is established that the decision should be unanimous. Like any other treaty, the Treaty of Rome commits its signatories to support agreed aims; but the commitment represents the voluntary undertaking of a sovereign state to observe policies which it has helped to form. There is no question of any erosion of

national sovereignty. All the countries concerned recognise that an attempt to impose a majority view in a case where one or more members consider their vital national interests to be at stake would imperil the very fabric of the Community.” Wilson did not rule out political integration in the way that Tony Blair and Gordon Brown himself has misleadingly defended his red lines on the Reform Treaty, as the European Scrutiny Committee has reported.

In the early 1970s, only a few Conservative Members of Parliament, such as Enoch Powell, had bothered to doubt Heath’s assertions, arguing that the EEC would become very much a political (and not merely economic) union. Only much later did most begin to see that Powell was right in his judgement. It was even more obvious as the Maastricht Treaty passed before Parliament – as I mentioned in my book, *The Crunch* back in 1992 – that the change of the ‘European Economic Community’ into ‘European Community’ meant significant political ambitions were afoot, which the Community began to provide for itself for the first time. Heath’s position ceased to be tenable, since the federalist intentions of Britain’s partners became evident for all to see. I was elected Chairman of the Conservative Backbench European Affairs Committee in 1989 on an explicitly anti-federal ticket and was asked by the then Foreign Secretary, Douglas Hurd, to write the paper on European Policy for the Conservative manifesto Committee, in which I exposed the then Government’s policy – since published in *Visions of Europe* (Duckworth, 1993).

The Labour Government to its credit provided a referendum on continuing membership of the then European Economic Community, following its enactment of the Referendum Act of 1975. Yet, in Britain today, it is the accumulation of the existing Treaties since 1972, combined with the new Reform Treaty’s merging of the Treaty of Rome (European economic powers) and Maastricht (European government), which has culminated in such fundamental change as warrants a referendum. There are 27 million people who have not had an opportunity to express their view on our continuing membership of the European Union, as I pointed out to Gordon Brown on his return from Lisbon on Monday 22 October.

When Free Market Europe Turned Upside Down

To whatever extent the good intentions of Europeans have been hi-jacked by federalist groupings, the original Treaty of Rome in its very essence provided for a free market. The Treaty of Rome essentially gives rise to a single European market which greatly reduces tariffs but the problem is that protectionism is still rife and in many respects the single European market does not work in the new globalised economy. It needs, at least, radical reform. It has generated an overwhelmingly overregulated economy. When the founding treaties of the Community were signed in the 1950’s, emphasis was laid on the necessity for competition and free market forces, especially in the Treaty of Rome. It seemed that lessons had been learned from the protectionism of the

inter-war period. Since then, the most significant reform in the EC’s history was the signing of the Single European Act in 1986. I recall putting down an amendment that “nothing in this Act shall derogate from the sovereignty of the United Kingdom Parliament” but my amendment was blocked. The only other person to sign it was Enoch Powell. The initial drive for a single European market came largely from the Thatcher Government following a major policy speech at Chatham House in March 1984 by Sir Geoffrey Howe, the then Foreign Secretary. The Government had two objectives: first, to improve the country’s relations with the Community, damaged by years of squabbling over the Community’s demonstrably unfair agricultural and budgetary mechanisms, which had severely disadvantaged Britain and second, to fulfil what was understood to be the explicit goal of the Treaty of Rome, the establishment of a free trade zone based upon economic co-operation (not “coordination”) between Member States. This involved the abolition of barriers to the free movement of persons, goods, services and capital; all of which accorded well with prevailing Conservative liberal economics with the emphasis on free trade and consumer choice. The language was that of co-operation, not compulsion. However, through the successful hijacking of the SEA by the federalists, our economic intentions – largely consistent with a Conservative economic framework – for a single market programme were displaced by political objectives and as Professor John Gillingham commented in the March edition of *The European Journal*, it “released an avalanche of legislation from Brussels, which today overwhelms parliaments and saps the strength of representative government across the EU, imposes often senseless and harmful regulations on business enterprises and discredits the political process generally.”

Then came the Maastricht Treaty (or, The Treaty on European Union). Whereas the SEA was about free trade and commerce, Maastricht was most emphatically about federal government. I therefore organised the Maastricht Referendum Campaign which generated 500,000 signatures. I also tabled 240 amendments in my own name to the three-clause Maastricht Bill and set up the Great College Street Group, operating out of a house at Number 17 which supplied, through a dedicated research team which I convened, briefings for a stalwart band of Members of Parliament which caught the public imagination and stopped the Bill in its tracks. Meetings were convened (sometimes daily) in Room J below the Chamber of the House where we planned our strategy and tactics for months of intensive debate. Even though the SEA was more precisely formulated than the Maastricht Treaty, the Commission still successfully abused its power, accorded under Article 100A and similar provisions, and tried to interfere excessively – but the Maastricht Treaty contained no provisions for containing abuse, nor for nipping in the bud attempts to extend the Commission’s power. It was a serious failing of the Maastricht Treaty that it added significantly to the Community’s powers rather than reducing them. Maastricht itself was concocted

by Germany and by the moribund French socialist Government attempting to find new ways of containing her resurgent neighbour, after President Mitterand had failed to prevent reunification itself. Germany needed a figleaf of respectability for her new assertiveness, and had for long wanted to establish a Deutsche Mark zone and a federal union modeled on herself. Germany was delighted at her successes at Maastricht. The planned European Central Bank was modeled on the German central bank. Federalism was inspired by Germany's federal structure. All of the key demands of the Germans were fulfilled. Maastricht established a "European Union", covering a common foreign and security policy and creating EU citizenship. It created a single European currency by 1999, which was to be issued by a European Central Bank, and powers over national education, culture, health, road and rail, telecommunications systems, environment, industrial policy and research and development and gave the European Court of Justice significant powers over the Union Member States. John Major and his political allies failed at Maastricht.

Economic and Monetary Union

Maastricht was about creating irreversible and centralising steps towards complete Economic and Monetary Union (EMU) and the Exchange Rate Mechanism (ERM). As EMU has gone ahead, nation states have found themselves to now be in an economic – and therefore political – straitjacket, resulting in social, economic and political instability. This was made intolerable when the United Kingdom became part of the then obligatory ERM, originally and before EMU, the ERM as it was called was a voluntary arrangement from which we could have escaped. John Major allowed us to be tied into the compulsory ERM despite a vigorous campaign by the Maastricht rebels and their allies, to reverse this. It failed as we had predicted and we were ignominiously dejected on Black Wednesday, 16 September 1992. Having made clear that the ERM would be bad for Europe and bad for Britain the rebels did everything to stop it.

The ruling Conservative Government under John Major – who pushed the Treaty through – paid for it dearly at the next election (with a landslide win for Blair's New Labour in 1997). The arguments put together in Great College Street have been proved right in the course of time, including the need for a referendum which is now Conservative policy. What has also become clear was the inevitable progression from Maastricht to the present infamous Reform Treaty. This progression was entirely clear to the opponents of Maastricht and it is interesting to note that according to Judith Chaplin's diaries which were published after her tragic death, that every time she sent back a draft to John Major when preparing for a speech on the Maastricht Treaty, it came back more federal than it had been before.

"Wait and See" – from Major to Blair

The "wait and see" policy of John Major's Government – which Michael Heseltine and Kenneth Clarke readily abided

by and which Tony Blair happily inherited – could have been so easily redeemed by accepting the Danish referendum 'No' vote in 1992 on Maastricht, by re-negotiating in the aftermath of the ERM catastrophe on 16 September 1992, and by insisting at Maastricht not on opt-outs but by the veto of the Maastricht treaty itself. The 'Wait and See' framework consists in making a fundamentally flawed assumption. Those who believe in the policy pretend that the European question is a matter of economic pragmatism, not of democratic principle. They say that it is matter of waiting until the time is right, in terms of economics, to abolish the pound. But it can never be right for a democratic country to abandon its own self-government. On the question of EMU the European Foundation mounted a crucial exercise to produce a comprehensive guide and critique for MPs of the then proposed EU Stability Pact, with a point by point analysis and dissemination of the then Chancellor, Kenneth Clarke's, untenable position. They have been proved right. It does not work.

Europe is a political issue, not an economic one. 'Wait and see' in whatever form, is based on the mistaken view that the single European currency and the other associated issues of European integration are all technical matters about economic management. Instead they are about the most fundamental issues which any democracy can face: who governs us and how? The situation remains, as David Heathcoat-Amory MP said in *The European Journal* (October, 2007) on the new Reform Treaty, that "[i]t is in fact the content and reality of parliamentary democracy that is at stake here. A referendum would in essence be about where people are to be governed from, and how, and whether they wish to be ruled by people they elect and can remove, or do not elect and cannot remove." As I said in my recent European Scrutiny Committee draft report on the Reform Treaty, that contrary to the assertions of the present Foreign Secretary (David Miliband), parliamentary sovereignty is not diminished but enhanced by the granting of a referendum by parliamentary enactment. The policy of 'wait and see' was born out of despair. The despair itself was born out of a mixture of incomprehension of the real scale of the looming European problem and the desperate desire to hold the Conservative Party together even if in so doing it was condemned to electoral slaughter. There can be no excuse for this failure of nerve, abandonment of principle and the gross incompetence which it reflected. The tragedy is that it has not been resolved even today. It is ironic that the so-called success of Gordon Brown's tenure as Chancellor of the Exchequer praised by Tony Blair in the television programme, *The Blair Years*, on 18 November was despite and not because of Labour policy on Europe and their own policy on the ERM in the early 1990s.

The opportunity now presents itself in December 2007 to sort out just exactly what the Conservative Party intends to do about Europe and the Reform Treaty campaign is the vehicle. We are almost entirely united in our desire for a referendum which is a good start and David Cameron is making Gordon

Brown's life in the House of Commons very difficult indeed. What we now need is to make clear that we are aiming at fundamental renegotiation of the Treaties following a 'No' vote in a referendum, leading to an association of nation-states based upon economic competitiveness. This will involve overriding the 1972 Act where necessary if the renegotiations are unsuccessful. Agreement amongst 27 Member States with qualified majority voting is virtually impossible but must be attempted. If it fails then unilateral Westminster legislation becomes essential, requiring our own judiciary to obey that law. The stakes are as high now as in the repeal of the Corn Laws in 1846 which was the genesis of international free trade. Belatedly, Robert Peel saw the light and resigned as Prime Minister because the issue and the cause of freedom and democracy as he explained in his resignation speech had to take precedence even if recalcitrant forces resisting the national interest led by Disraeli were followed by the Conservative Party having to split. It is noteworthy that at the time of the Corn Laws, following the Tamworth manifesto of 1834, Disraeli wrote in his novel, *Coningsby*, "There was indeed a considerable shouting about what they called Conservative principles; but the awkward question naturally arose, 'What will you conserve?'" The issue is now the future, not only of the Conservative Party but of the nation itself.

The issue of renegotiation is fundamental and it is unacceptable for the Conservative Party to settle for a policy that accepts Maastricht and Amsterdam or the existing Treaties without radical renegotiation. The need to grapple with the scale of renegotiation cannot be ducked. This is not 'Europhobic' as one of the chief architects of the Amsterdam Treaty, Malcolm Rifkind would argue but practical necessity in the 21st Century. It was actually the Conservative Party who largely negotiated Amsterdam, and Labour sealed it shortly after their election in 1997, which then came into force in May 1999. As the Conservative Government sought to sign itself up to the Treaty, they produced a White Paper in defence of their rationale for signing up to the Treaty's objectives. Of course, there was no proper rationale so at that time, in 1996, I wrote *The Blue Paper: A Response to the Government's White Paper* and was welcomed by hundreds of delegates at the European Foundation fringe meeting in Bournemouth who shared my concerns over European policy. The Treaty sought to extend qualified majority voting, added new provisions on social policy, extended the co-decision procedure, developed a common foreign and security policy, added a new flexibility clause which enabled Member States to co-operate together on policy areas which were not even within the competencies of the EC, amongst other policies. I argued then that our presence at the Intergovernmental Conference and our Party manifesto must seize the initiative by renegotiating Maastricht which, otherwise, will be inherited by Labour. As it soon became clear, Labour did inherit both Amsterdam and the federal agenda. During the debates on Amsterdam, when the House of Lords still had a Conservative majority, it would

have been possible to precipitate a constitutional crisis by rejecting the Amsterdam Treaty in the House of Lords, but no attempt to do so was made. The European Foundation provided 'Treaty Packs' for all Conservative MPs to help guide the Eurorealist argument in line with the hundreds of amendments I had tabled throughout the Committee Stage of the Bill to implement the Amsterdam Treaty.

Not So Nice

The Conservative Party still dawdled on the subsequent Nice Treaty four years later (2001). The British electorate still felt the Conservative Party remained as unelectable as they were in 1997. In the Party, Kenneth Clarke's brand of Conservatism led him to enthusiastically support the Nice Treaty. Thus, Clarke hoped that the Nice Treaty would be accepted. So, when I put pen to paper for my pamphlet in July 2001, *Constructive Opposition to the Nice Treaty – the dangers of European integration*, it was intended for Clarke, but also Labour and Lib Dem members who had grave misgivings about the Treaty. Nice consisted primarily of a set of amendments and modifications to existing Articles, "renegotiating" the Amsterdam Treaty, albeit in the direction of ever-closer Union. Around 43 vetoes were surrendered. This compared with 19 at Amsterdam, 41 at Maastricht, 37 in the Single European Act and 38 in the Treaty of Rome. It pushed forward subsidiarity as a lever to centralisation, which was also the great con trick of Maastricht. Whilst the EU pledged that Nice was about preparing for enlargement to 20 Members, it was as much about deepening than it ever was about extending its reach. Even the Commission President, Romano Prodi, said in Ireland at the time that enlargement didn't require Nice after all. I then clashed with the then Minister for Europe, Keith Vaz, on January 2001 as I argued that Britain's influence in the Council of Ministers is seriously reduced. In the Council of Ministers, Britain's share of the votes fell from 10/87 – equivalent to 11.5 per cent of the votes – to 29/345, equivalent to 8.4 per cent of the votes. The concerns of German dominance resurfaced again: before the introduction of double majority voting in Nice, a decision required a 71.26 per cent share of the vote from votes of countries accounting for 58.16 per cent of the EU's population, and after, in a 27-member EU, a decision had to garner 74.78 per cent share of the vote from votes of countries representing 62 per cent of the population. Thanks to this new voting procedure, Germany and two other large countries – such as France or Italy – were now able to block anything they did not like, whereas Britain needed more than two other countries to vote with her to oppose undesirable decisions. As I argued with Iain Duncan Smith in 1996, the question has always been whether we would get "a European Germany or a German Europe," as Thomas Mann once famously said. The winners at Nice included the usual suspects: the Commission which gained from institutional changes, the European Parliament which gained co-decision powers, the ECJ which further extended its powers, the Council of Ministers continuing its transformation from an

intergovernmental institution to a supranational organisation characterized by QMV and the German elites. If this was not all bad enough, it was effectively decided at Nice to draw up a European constitution in 2004 at the new IGC. The provisions in the Treaty should not have been signed by the Labour Government. Since it was my position that the Party must stand firm and renegotiate in the interests of Europe as a whole – and that Labour and the Liberal Democrats would not recognise this – it was necessary for the Conservative Party to act. The Labour Party was now on a roll, passing binding Treaties to ensure Britain's place in the federalist project. The Liberal Democrats tend towards not only Labour agreement but openly confess their federalist credentials. The only democratic choice, thus, remained with the Conservative Party – despite Kenneth Clarke's approach which involved giving in to further EU integration.

Constitution, Take Two – the Birth of the Reform Treaty

The Constitution for Europe then began to emerge from the inevitable progression of Conservative and Labour initiatives, all tending towards greater integration whilst absurdly disavowing federal intentions. Indeed, when it came to the second reading of the Bill for the Constitution of Europe which had, at last, opened the eyes of many Conservatives I still had to force a vote against the Bill by informing the front bench that if they did not call a vote, I had tellers ready and was willing to do so. Although this established that the Conservative Party was against the Constitutional Treaty, the leader of the Opposition at the time, Michael Howard, was notably absent and worse still, Kenneth Clarke, David Curry and Quentin Davies all voted in favour of it. In short, Labour secured a 215 majority. I then tabled some 400 amendments to the Bill which no doubt played some part in delaying, if not completely obstructing the Committee stage which never took place. As a member of the European Scrutiny Committee with the cooperation of Angela Watkinson MP, I tabled a minority report against the Constitution and numerous amendments which unsurprisingly were defeated by the Labour majority on the Committee. During this period, I raised with the Prime Minister the fundamental nature of the Constitutional Treaty and the need for a referendum, referring to the transitional provisions which repealed all the existing treaties and reconstituted them under a new constitutional arrangement and I was subsequently informed by one of the most senior members of the present administration that this question had enabled other members of the Cabinet to force Tony Blair into conceding a referendum. In the meantime, through the European Foundation and with the Chairmanship of David Waddington QC, the former Home Secretary and now in the House of Lords, I convened the European Reform Forum which took evidence from Eurosceptics and Europhiles alike, all of whom agreed that Europe needed reform. The evidence is available at: www.europeanfoundation.org.

The Conservative Party are now at last beginning to take note, open their eyes and take a critical line. It has been a long

haul and much remains to be done. The original Constitution was rejected in 2005 by the French and Dutch electorates. In the meantime, a reflection period was invoked to enable Europe to regroup and to decide where to go from there. I wrote a pamphlet in 2003, rejecting the proposals for a European Constitution, entitled *The European Constitution – A Political Timebomb* as Shadow Attorney-General. As a way “forward”, the arguments remain as strong now as then. In 2000, I had written a pamphlet entitled *Associated, Not Absorbed* calling for an association of nation-states, and The Economist, having put the central arguments to people in a poll, concluded that my proposals were worth an 8 per cent swing to the Conservatives if they were adopted. I estimate that they would be worth more than 8 per cent now. Then, as a way forward, the EU has now returned to the substance of the Constitution, in the form of the Reform Treaty, now being considered by national parliaments. The 27 Member States have all given their consent for the Reform Treaty to be signed on 13 December.

The Conservative Party has made substantial progress under the leadership of David Cameron – it has pledged a referendum on the Reform Treaty so that the British electorate may, at long last, have their say on the European issue. This marked development in recognising Conservative principles has come a long way since 1986, when I fought to be heard in *The Times* and in many subsequent articles in that paper and elsewhere that the tides of European legislation would become oppressive unless much more was done to counter it through Parliament. What the country and the Conservative Party now needs is a sensible and realistic discussion on the practical issues of the Reform Treaty that affect our everyday lives as well as the constitutional issues. These include changes to our energy supply, immigration policy and criminal law and other matters set out below. This is vitally important and will be a real challenge, particularly as a Conservative post-ratification referendum has not been ruled out and the Labour Party continue to refuse to hold a referendum. The Party and those campaigning for a referendum are simply not going to be able to generate the necessary interest in the Reform Treaty unless people are told why we want a ‘No’ vote. The European Scrutiny Committee, on which I sit with David Heathcoat-Amory, Greg Hands, James Clappison and Anthony Steen has produced a powerful minority report, totally undermining the Government's arguments for the Reform Treaty. The European Scrutiny Committee is about to publish another scrutiny report, to which I have appended another minority report as well, which amplifies the criticism of the Government's position.

By refusing to offer a referendum – as a simple democratic obligation – Gordon Brown has put both his Party and Parliament on trial. After the Prime Minister returned to the House of Commons from the Lisbon conference, at which he agreed the drafted text of the Treaty, I made it clear to him in no uncertain terms of this case: “Does the Prime Minister accept that by refusing to hold a referendum he is putting not only himself on trial but Parliament itself? Does

he not appreciate that 27 million people have been denied the opportunity of a referendum since 1975? Given the circumstances of deceit and the manner in which this treaty has been negotiated, as the European Scrutiny Committee has indicated, it is absolutely essential that we have a referendum. No wonder only 59 per cent of people bother to vote at all. Does he not understand the responsibility upon him?" Clearly he has no idea.

Europe isn't working

We need to take a hard and realistic view in the national and European interest as to where we are going and what needs to be done. The sovereignty and constitutional arguments lie at the heart of the debate but so do the practical issues in every field. It is breathtaking how wide and deep the European legislation runs. Europe isn't working. By its own admission, the Commission has been forced to declare that €600 billion per year is spent on over-regulation of business. Indeed, with Bill Jamieson I wrote a pamphlet, *The Strangulation of Britain and British Business* in March 2004 detailing this. David Cameron has made it clear that he puts economic competitiveness at the top of his list of Conservative priorities and he is right to do so but so many of the obstacles to economic competitiveness come from over-regulation that it is essential to unravel these burdens on business by legislative repeal. The issue came to a head under the Legislative and Regulatory Reform Bill in 2006 when I proposed a formula to override European legislation by using the words "Notwithstanding the European Communities Act 1972" to be included in Westminster legislation to achieve repeal where negotiations have failed and which would require the British judges to give effect to Westminster legislation where it is expressly inconsistent with European law. Having some 40 or so Conservative MPs signed up to my amendment and others ready to support it, prudence and good practical common sense prevailed and the Conservative Whips asked me if the Party could adopt my amendment to relieve the burdens on business and I readily agreed. The Amendment was then whipped through the House of Commons and some weeks later through the House of Lords. This is a vital benchmark and it is a policy that must be included in our next manifesto. This formula is the only way forward to achieve economic competitiveness in line with David Cameron's intentions unless renegotiation improbably were to succeed. The formula can well be applied and should be applied to other areas of European legislation and policy as well. In the new Treaty, which consolidates all the existing Treaties and therefore covers all European legislation and policy, there is ample need for the application of the 'Notwithstanding' formula, unless of course it becomes unnecessary by fundamental renegotiation in the wake of a 'No' vote, following a referendum. It is clear that the stakes are high but that the cause is great in the national interest. To be specific, on the Reform Treaty, there are a number of issues to be dealt with, which include the following:

The crisis of immigration: The already mismanaged EU immigration crisis has rightly caused such deep concern to the UK electorate will worsen under the Reform Treaty. In an amendment to the Treaty establishing the European Community, the revised Article 61 asserts that the European Union "... shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals." Under Article 69b of the Treaty, the Union will gain the capacity "to develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States ...", with the Council and Parliament adopting measures in many areas, including "the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion", "the definition of the rights of third-country nationals residing legally in a Member State..." and also "...illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorization...". Of equal concern, the Union is entitled to "conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfill the conditions for entry, presence or residence in the territory of one of the Member States." Despite this gross intervention in Member State immigration policy, it is still asserted that "this Article will not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed." Immigration is very much at the top of many people's political agenda and is inextricably bound up with the Human Rights Act, which has led to a series of judicial interpretations, contrary to the proper balance between public safety and terrorism. As I said to the Prime Minister, "we need British law for British judges and British judges for British law". We also need the repeal of the Human Rights Act, as I proposed when I was Shadow Attorney-General and which David Cameron has rightly reaffirmed. The issue also encompasses the vexed question of control orders. The control order legislation which is designed around the HRA must be repealed, but as my Prevention of Terrorism, No. 2 Bill also said, alleged suspects must be given *habeas corpus*, a fair trial and due process. The Government seems to think that it is possible to reconcile the HRA with policies to enforce public safety but they are mistaken. The issue is coming to a head this session with new counter-terrorism proposals and the Conservative Party is moving down the right path. Illegal immigration has to be properly assessed and also the actual number of foreign nationals must be statistically obtainable. There is complete chaos on numbers as there is with deportation and in every nook and cranny of

this whole subject of immigration, most of which is derived from European legislation. It has to be handled with clarity and with firmness but also with some sensitivity but it is out of control and much of the cause of this is European-based legislation. I am shortly introducing a Bill, requiring local authorities, who in their electoral roll forms ask for details of nationality for each household. This is information which if they were under a legal duty to supply it to the national statistical office, would go a long way to establishing the accuracy of the numbers of foreign nationals from each and every country in the EU and elsewhere and their whereabouts. This would do much to resolve the chaotic lack of statistics which currently prevails.

No Say Over UK Energy: It is utterly unacceptable for Europe to control the UK's energy policy and also for foreign policy reasons. Article 100, paragraph 1, demands that "... the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy." I am now seeking a debate on the use of the vast quantities of British coal which could continue to supply us with virtually limitless energy in a mix with nuclear and gas but would enable us to avoid over-reliance, indeed our being under the thumb of Russian gas supplies and the foreign policy dangers that this carries. I voted against the Conservative Government's proposals to close down the pits under the Europhiliac Michael Heseltine because I was certain that we must preserve our coal for future generations in this country and that the dash for gas was a dangerous folly. This would be made even worse by subsuming our energy policy under the Reform Treaty and leave us exposed to a European jurisdiction in this vital area of national interest.

British Foreign Policy on the Cusp: We have every reason to be concerned that the UK will be subject to the baleful requirements of a new High Representative for Foreign Affairs and Security Policy, given Article 280d relating to enhanced cooperation that "The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies." This gives direct responsibility to the Union and in fact is presupposed by the idea that the Union will determine foreign policy above and beyond the Member States. The rejected Constitutional Treaty detailed the proposal for a European Foreign Minister, which was simply replaced with a High Representative for Foreign

Affairs and Security Policy. As with the Constitutional Treaty, the jurisdiction of ECJ was not excluded in respect of how the Union provided for a duty on Member States actively and unreservedly to support the Union's common foreign and security policy (CFSP) even though the ECJ had no jurisdiction in relation to CFSP. This is why the European Scrutiny Committee welcomed a "clarification (by a new Article 11(1) EU) that the ECJ will not have jurisdiction, save in respect of monitoring compliance with the provisions Article III-308 (which preserve the non-CFSP competences of the institutions) and in relation to the legality of restrictive measures imposed on natural or legal persons."

Charter of Fundamental Rights: The application of the Charter to the UK via the Reform Treaty would mean changes to the rights to strike and the creation of a plethora of rights to protect criminals and terrorists whilst jeopardising public security – as has the European Convention on Human Rights, enforced by judicial interpretation in UK law through the Human Rights Act of 1998. The ECJ – with its newly accrued powers – would feed the Charter into UK law, as the European Scrutiny Committee reported. Despite the so-called guarantees which would change the rights to strike, the Committee has been vigorously critical of the UK's totally inadequate so-called protection for the United Kingdom in the Reform Treaty.

Europe isn't working now under the existing arrangements provided for by the European Treaties. This new Reform Treaty not only exacerbates these effects, all of which have greatly affected our daily lives but it extends the powers of the ECJ above and beyond the authority of the national courts. Our short term solution is to push for a referendum and then campaign for a 'No' vote; our long-term solution is the fundamental renegotiation of the existing Treaties which have fundamentally altered the relationship between the British people, the UK Parliament and the European Union. We must unravel the undemocratic European superstate which is being created, even as the dogs bark.

Conservative Party and a "Renegotiation referendum"

The UK Parliament itself, given that the Labour Government is unlikely to do so, should at the initiative of Conservative opposition or backbench amendment at the very least override the European Communities Act 1972 to guarantee the red lines, including the Charter of Fundamental Rights, during the passage of the Bill to implement this now infamous Reform Treaty. This is how the Reform Bill was amended in 1867. This would be in line with my amendment adopted and whipped by the Conservative Party in both the Lords and the Commons to reduce the burdens on business in the Legislative and Regulatory Reform Bill on 16 May 2006 and which is good law. Of course, David Miliband and the legal adviser to the Foreign Office in the European Scrutiny proceedings could not deny that such a provision would guarantee the red lines but they made clear that it was not

Government policy to do so.

Given that the importance of this is so fundamental, it is essential that David Cameron recognises that it is necessary to pledge a referendum, even after it is ratified. As long as the Conservative leadership pledges a post-ratification referendum with conviction, the opportunity for the “renegotiation” of Britain’s position within Europe remains possible. The leadership must begin by endorsing the Early Day Motion (EDM) which I proposed and has now been signed by 50 Tory MPs, calling for a referendum “before or after ratification.” I have already explained above that there is no constitutional bar to this because after all that is exactly what Harold Wilson did in 1975.

“Fundamental renegotiation” must be David Cameron’s long-term policy on Europe for the Party to have a credible agenda. A referendum must be achieved and a ‘No’ vote must follow and then the renegotiation of all the existing Treaties. As the EDM says – “the Reform Treaty is a consolidation of the existing treaties into a merger of the European Community into a European Union involving substantial, fundamental, constitutional and structural change by the Government’s own criteria for a Referendum”. The European Foundation has been campaigning for fourteen years for the renegotiation of the binding European Treaties, and the relationship which the country which has with the European Union. There is no other credible and diplomatic way out of our troubled relationship with Europe. As Bernard Jenkin MP told *ConservativeHome* recently: “The question is not whether there should be renegotiation, but how it should be achieved.”

David Cameron and William Hague have done well in calling for a referendum on this Treaty. However, a recent poll by *ConservativeHome* on 30 October shows the importance of getting his message right on Europe. Whilst 77 per cent of Conservative supporters agree that the EU Treaty amounts to a significant surrender of British powers, there are 63 per cent who support the idea that if the Treaty is ratified, they would support a referendum that mandated the incoming Conservative Government to renegotiate back to the idea of a free trade area. Put in context, then, this is not a mere referendum for referendum’s sake. It goes back to what I have been saying throughout Maastricht, Amsterdam and Nice: this referendum must take us back to the renegotiation of the Treaties. It was also disconcerting to read in a recent YouGov poll that 80 per cent of people from all political parties and none want a referendum but that 66 per cent of them said that not having one would not make any difference to how they voted in a general election. In other words, the message that the Reform Treaty matters to their daily lives has not been convincingly explained. The Labour Party and the Liberal Democrats who are in favour of it have no incentive to get the message across. The Conservatives on the other hand have every reason to do so for all the reasons set out above but so far have not managed the task. There is an absolute necessity to raise the stakes to explain where Europe has gone wrong and why we need a referendum, a ‘No’ vote

and fundamental renegotiation. As William Hague has said, endorsing what David Cameron wrote to me in a reply to a letter I wrote him, “we cannot let matters rest there”, if the Government does not concede a referendum now.

The New Campaign for Democracy and Freedom

There are three phases of the campaign to come, in which the Conservative Party must be seen to be act vigorously with conviction and explaining what is at stake in the national interest or again, impale itself on the thorns of Europe. The lessons from this essay are that although much has yet to be achieved, it is only by persistent and determined vigilance at every twist and turn of the European integration process that pressure has successfully moved the Conservative Party policy in the right direction. This achievement has often gone unnoticed but in the landscape of the debate since the end of the Second World War, the European caravan is still very much on the move. The dogs have barked the warning, and have brought down the quarry where referendum’s have produced a ‘No’ vote. However, the relentless European project has wrestled free on each occasion – although the Eurosceptics have been proved tenaciously right. Only when Britain exerts its democratic strength and political force will Europe as a whole respond. That is why a referendum on the Reform Treaty in the United Kingdom is so essential. What therefore has to be done?

1. Between now and the publication of the Bill in January is a window of opportunity to (i) persuade Brown to put in a referendum clause on the approaching Bill by realistically and emphatically targeting his marginal seats. Each MP in those 120 seats must be made to realise that failure to hold a referendum will lose him/her a seat in Parliament. Generalised opinion polling will not achieve this objective. It has to be a personal canvas in each seat. The same policy should also be applied to the marginal seats of other parties; (ii) to step up the campaign for a referendum backed by practical reasons why people should cast a ‘No’ vote, making them first, curious, second, interested and third, angry.
2. After the publication of the Bill in January, the aim must be to force Brown into a referendum or defeat on the Treaty in both the House of Commons and the Lords (although present indications are not good), and reinvigorating the campaign in Labour marginal seats. Indeed, if a referendum did produce a ‘No’ vote, it would in practice lead to the setting up of an Intergovernmental Conference with Britain in the lead, leading to fundamental renegotiation of the Reform treaty, at which point many other Member States would back us.
3. If a Bill goes through without a referendum clause, then it will be necessary for the Conservative Party to campaign in its manifesto for a referendum by a separate Act of Parliament i.e. post-ratification referendum under a Conservative Government.

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