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Finding Britain's Place in an Enlarged Europe

Not surprisingly, France since the end of World War II has been determined to hold its neighbour Germany in check. Having been overrun three times in seventy years might be expected to arouse that response in a spirited people. Seeking allies to this end, the French conjured up the image of a Europe united, perhaps a federal Europe - even a European unitary state. Some nearby nations, also sickened by the waste caused by two grotesque internecine struggles within a mere thirty years in the first half of the twentieth century, were inclined to support the French in this and did so. The shamefaced Germans fell in, which presented we British with a problem that has straddled our domestic politics for two generations.

The British genius is to be independent, to go our own way. Foreigners may learn from us, but we have little to learn from them. It is we who are the destined world leaders, as testified by our magnificent unwitting creation of an Empire on which the sun never set.

That is all very well you may say, but there is another side. We British cannot deny belonging to Europe. For two thousand years or more, our populations migrated to Britain from the continent and beyond. Our culture owes much to Europe, and to that further extended Europe which was instituted when in the 17th century the Pilgrim Fathers set sail from Plymouth to the west. Let no one doubt that the United States, indeed the entire American continent, is culturally a European enclave. It began that way, and still is that way - even though we may find it difficult to keep this progeny in check.

In that bind, what were we British to do? As always, some genius sprang to the rescue. The name of that genius I do not know, but he or she is deserving of our praise. The answer was TO ENLARGE! The European Union of a few nations was too small to shrug off the monolithic power of Germany, confined only by feeble Gallic constraints. So let us bring in tough eastern nations such as Poland, Hungary, the Czechs and the Slovaks. Are they not European? Of course they are, who can gainsay it? This unknown genius in the British cause perceived that there is safety in numbers.

That brings me to the present day and the Nice summit, where once again a hapless British Prime Minister was required to square the circle. Mr Blair delivered his report to the House of Commons on 11 December 2000. He said that the summit was the culmination of a year-long conference called to deal with issues on which agreement could not be reached at Amsterdam three and a half years before. Agreement was essential to open the door to the enlargement of the European Union, the goal of successive British Governments. Enlargement will mean that the EU will ultimately comprise 27 nations, 'embracing all the countries of Europe - east and west - in a way that would have been unimaginable throughout most of the troubled history of our continent'.

The Leader of the Opposition, William Hague, had little useful to say in reply. On a key issue for lawyers, the Charter of Fundamental Rights, he feebly cited the Commission's website, which says that the Charter's causing a large rise in the number of lawsuits cannot be excluded. The Charter means, says the website, that the European Union has entered a new,

more resolutely political stage of integration. It boasts that the Charter will be a very important milestone on the road towards this political Europe.

Hague made nothing of this, whereas he should have stressed its utmost importance. We have just gone through a lengthy, detailed process to get the Human Rights Act 1998 on to our statute book. This sets out articles of the European Convention on Human Rights. Our courts, acting in the shadow of the Human Rights Court at Strasbourg, have to set these articles beside our ordinary Acts of Parliament and other laws to check whether the latter measure up.

Also to impose in addition a somewhat different, partially overlapping, set of rules laid down in the EU Charter of Rights must cause additional confusion and conflict in our legal system, as well as giving the Luxembourg Court unwanted additional power. It was already very difficult for the citizen and his or her advisers to find out just what the law provided on any matter. The Human Rights Act 1998 makes these problems of legal uncertainty far worse. The Nice proposal to pile on yet another tier in the shape of the Charter of Rights must inevitably lead to unspeakable confusion. The entire concept of law as an instrument for the just government of society is being overturned. People need to know what the law says about their case. That is what law, as a social tool, is all about. We need certainty in our law, or we are lost. Thanks to European influences, certainty in our law is for ever receding in this age that thinks itself enlightened.

But what did poor little William Hague know of the rule of law, its value to society, and what was needed to preserve it? The short answer is nothing. Which all goes to show that if you try to place raw youths in positions of high authority you will inevitably come unstuck. Nice chap, but it was not enough.

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