My title, "The European Court of Justice - Friend or Foe?", was inspired by what I learned during national service as a very junior Sub-Lieutenant in the Navy about the use of radar in anti-aircraft warfare. One of the greatest fears, then as now, was that we might bring down our own aircraft by friendly fire. To avoid this, a system known as "Identification Friend or Foe", or IFF, was developed to identify friendly aircraft by a special blip on the radar screen.

When I first went to Luxembourg in 1989 as the first British judge on the new Court of First Instance, few people had the least idea what I was going to do. When I was appointed to the European Court of Justice in 1992, the appointment hardly attracted more attention. But since then, particularly during the last year, the Court of Justice has become a hot topic of discussion amongst politicians and the media. In a sense, it has been made the focus of distrust - even hatred - amongst those who believe, even if they do not explicitly say so, that we made a mistake in joining the European Community in 1973 and that we should now pull out.

Partly as a result of a widely publicised speech in Oxford by Sir Patrick Neill, Warden of All Souls, Oxford, the Court became identified as the institution which, most of all, represents a threat to the United Kingdom and its institutions¹. Sir Patrick has since protested that he did not say some of the things attributed to him. But, as so often, what matters is not the objective truth but the public perception of the truth.

The public perception of the Court of Justice as Britain's "foe" seems to embody the essence of Britain's European problem. Why should we, a proud nation with a long history, submit ourselves and the Acts of our Parliament to the arbitrament of a Court sitting in "a faraway country of which we know nothing", composed of judges from other countries with different legal traditions, and applying techniques of interpretation which, to a British eye, seem strange and unfamiliar? Why, in short, should we submit British sovereignty to a "foreign" court?

It is not my purpose to try to answer that question (the sovereignty question), for two reasons. First, it is essentially a political question to which each of us must give his or her own answer. There are people I know and respect who feel that we must leave the European Union, not least because the European problem - like the Irish problem a century ago (and perhaps still) - is poisoning our political life. I respect that point of view, though I profoundly disagree with it. All I would ask is that, if there is to be a Great Debate, it should be an informed debate.

My second reason for not answering the sovereignty question is that I am where I am. As a judge of the Court, I cannot work on any other assumption than that the question "In or Out?" was answered in 1973 or, at latest, in the referendum of 1975. Signature and ratification of the Act of Accession by the leaders of this country involved acceptance by the United Kingdom of an international contract. This country undertook to be bound, vis-à-vis the other member states, by solemn legal obligations. These include, in certain circumstances, acceptance of the compulsory jurisdiction of the Court of Justice. The effect of that contract was embodied by Parliament in the European Communities Act 1972, especially Section 2.

People who sign contracts frequently protest, when faced with the consequences, that those were not what they had in mind. They say, as Aeneas said to Dido, *non haec in foedera veni* (I never entered any such compact)². To such complaints the courts must give a short and brutal answer, "You made your contract and you must live with it". In the old Scots story, those who had been cast into Hell looked up to Heaven saying, "Lord, Lord, we didnae ken". But the Lord, in his infinite compassion and mercy, replied, "Aweel, ye ken noo".³

² "I never held out the bridegroom's torch or entered such a compact" - Virgil, *Aeneid*, IV.339.

³ "Lord, Lord, we didn't know". "Well, you know now".
Day and daily the Court of Justice has to say, not only to Britain but to every other member state as well, "You must abide by the contract you made when you accepted the Treaty". Whether, in so doing, the Court is a friend or foe of this country, you must decide. All I can offer is some IFF to help you.

I will first explain briefly what the Court is and what it does. Then I will try to answer some of the criticisms which have been levelled against the Court by Sir Patrick Neill and others, concluding with some more general remarks.

What is the Court of Justice and what does it do?

It is important, at the outset, to distinguish clearly between the Court of Justice of the European Communities, of which I am a judge, and the European Court of Human Rights. Both are referred to as "the European Court", but they are very different, both in their composition and functions.

The European Court of Human Rights was set up under the European Convention on Human Rights of 1950. It is an organ of the Council of Europe which now has more than 30 member states. The Court of Human Rights therefore has more than 30 judges: it sits in Strasbourg and deals only with cases involving interpretation of the Convention on Human Rights.

The Court on which I sit was set up by the Treaty of Paris (1951) which established the European Coal and Steel Community ("the Schuman Plan") and the two Treaties of Rome (1957) which established the European Economic Community (originally "the EEC", now "the EC") and the European Atomic Energy Community ("Euratom").

The Treaties of Paris and Rome established three political institutions - the Parliament, the Council of Ministers and the Commission - and one judicial institution - the Court of Justice. The function of the Court, according to the treaties, is "to ensure that in the interpretation and application of this treaty the

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4 For a detailed reply to Sir Patrick Neill, see my contribution, "Judicial Activism - Myth or Reality", to Legal Reasoning and Judicial Interpretation of European Law: Essays in honour of Lord Mackenzie-Stuart, 1996, at p.290 ff.
law is observed". The jurisdiction and powers of the Court are prescribed and limited by the treaties. So, for example, the Maastricht Treaty excludes the Court from the second and third "pillars" of the European Union (the common foreign and security policy, and co-operation in the fields of justice and home affairs). That is why the Court remains the "Court of Justice of the European Communities", rather than "of the European Union".

There are, at the moment, 15 Judges of the Court of Justice and 9 Advocates General, one of whom gives an independent opinion on each case where the Court has to give judgment. In practice, one Judge is nominated by each of the 15 member states. Each of the "big" member states7 nominates one Advocate General, the remainder being nominated by the smaller states in rotation.

The work of the Court falls into three broad categories:
- "constitutional" disputes: actions between member states and the Community, between the member states themselves, or between Community institutions; and advisory opinions on proposed agreements between the Community and third countries;
- "administrative" disputes - principally, actions in which individuals or companies challenge the lawfulness of what is done by the Community institutions in the exercise of their powers (for example, decisions of the Commission fining companies for anti-competitive behaviour); and - "references" on points of law from the courts of the member states, some of which raise important constitutional questions.

In 1989, the Court of First Instance was established to deal with the administrative cases (the second category) subject to a right of appeal to the Court of Justice. The Court of First Instance, like the Court of Justice, has 15 judges nominated by the member states, but it has no permanent Advocates General.

5 Article 164 EC treaty.

6 See Article L of the Treaty on European Union.

7 France, Germany, Italy, Spain and the United Kingdom.
References from national courts (the third category) now account for about two-thirds of the caseload of the Court of Justice. The system of "references", established by Article 177 of the EC Treaty, was modelled on the arrangement in Germany and Italy where any court in the country, faced with a problem of constitutional law, can "refer" the case to the Constitutional Court and ask it to state what the law is. The court making the reference remains responsible for determining the facts and applying the law to those facts. The function of the Constitutional Court is only to deal with the question of constitutional law.

In the same way, under the Community system, any court in a member state, faced with a problem concerning the interpretation or application of Community law, can refer the case to the Court of Justice asking it to state what the law is. The function of the Court of Justice is only to answer that question. The Court is not a court of appeal from the courts of the member states. The system is, in fact, an early example of what is now called "subsidiarity": do at Community level only what needs to be done there.

In answering questions from national courts, the Court of Justice must state the law which would have to be applied by judges in 15 (or more\(^8\)) legal systems and speaking 11 languages\(^9\). Most particularly, the Court of Justice does not have power to strike down or set aside Acts of the Parliaments of the member states. All that the Court can do - and what the treaties require it to do - is to declare whether a particular course of action, if taken by any of the 15 member states, is compatible with their treaty obligations.

So, for example, in the famous \textit{Factortame} decision\(^10\), the Court said only that "it is contrary to the provisions of Community law and, in particular, to Article 52 of the EEC Treaty for a Member State to stipulate, as a condition for registration of a fishing vessel in its national register that the owners, managers and operators of the vessel must be nationals of that Member State". It is true that, in

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\(^8\) If you treat England and Wales, Scotland and Northern Ireland as separate.

\(^9\) Or 12, if you include Irish, which can be used in the Court of Justice.

\(^10\) Case C-221/89 \textit{The Queen v. Secretary of State for Transport, ex parte Factortame \\& Others}, [1991] European Court Reports I-3905.
consequence of that decision, the House of Lords had to set aside certain provisions of the Merchant Shipping Act 1988. But the decision of the Court of Justice applies as much to Spain as it does to the United Kingdom, with the result (so it is reported) that a significant number of fishing boats, flying the Spanish flag, operating out of Spanish ports and fishing against the Spanish quota, are owned by British individuals or companies.

The Court of Justice is now a very busy court. During the period from 1 January to 30 June 1996, it delivered one very important advisory opinion (on accession to the Convention on Human Rights) and disposed of 164 individual cases involving 107 reasoned judgments, each translated into 11 languages. As a judge of the Court during the weeks beginning 1st and 7 July 1996, I attended 10 public hearings, took part in the deliberation of 14 cases, and was involved in discussing 21 further cases which are ready for hearing.

The range of subject matter is very wide. Of the 10 public hearings in the first two weeks of July, two were appeals concerning the rights of Community officials, and the others raised the following points:

- Can a citizen of Luxembourg order his national health spectacles from a Belgian (rather than a Luxembourg) optician?
- Are existing shareholders entitled, as of right, to participate in an increase of share capital where the new shares are issued for consideration in kind rather than cash?
- Is the sole shareholder and director of a Dutch company to be regarded as an employed or self-employed person for social security purposes?
- Is a woman who devotes 100% of her working time to looking after her paraplegic husband to be regarded as part of the "working population"?
- Was the European Commission entitled to grant an additional banana import quota to importers affected by Hurricane Debbie?
- Did the Council of Ministers act lawfully in adapting the banana import quotas on the accession of Austria, Finland and Sweden?
- Are Spanish migrant workers entitled to unemployment assistance on their return to Spain after working in Germany?
- Under what circumstances can customs authorities reclaim unpaid duty on tuna fish in olive oil?

All of the cases I have just described are, in one way or another, about the operation of the Single Market. Most politicians and newspapers in this country want us to remain part of the Single Market and say that the Single Market should be a "level playing field". What most of them do not recognise is that the creation of a true single market, with freedom of movement for goods, persons,
services and capital, is an intensely difficult task. It involves, on the one hand, some very broad principles - for example, the rule against discrimination on grounds of nationality which was ultimately in issue in *Factortame* - and some highly technical rules of which I have just given you some examples.

A "level playing field" means that everyone plays by the same rules, and that there is a single independent authority (the umpire or referee) to say what the rules mean and how they are to be applied. In the European Community system, the referee is the Court of Justice. Those who want to "repatriate" powers from the Court of Justice do not really want a level playing field. They want the playing field to be level when it suits them, or when it does not matter to them, but not when they find the rules inconvenient.

Why is it difficult to create a true single market? Everyone knows that countries can prevent the import of goods from other countries by imposing quotas and other forms of discrimination against foreign goods. It is relatively easy to do away with this sort of protectionism. But trade in goods between countries can also be impeded simply because the laws or standards adopted by one country are different from those of another. None of the countries involved intend their laws or standards to be protectionist. Nevertheless the effect is to make trade in goods more difficult, or in some cases impossible.

A true single market requires the removal of these so-called "technical barriers to trade", not only as regards trade in goods, but also as regards free movement of persons, services and capital which, by comparison, is infinitely more complicated.

During the 1960s and early 1970s, the European Commission sought to remove technical barriers to trade in the Common Market through the adoption of uniform or harmonised standards. This policy ran up against two difficulties: the member states could not agree on the standards to be adopted and, in any event, there were different standards in so many fields of economic activity that, with the best will in the world, it would have been impossible to adopt all the necessary legislation within any reasonable time-scale. In 1979, the Court of Justice provided the answer.

German law required that all fruit liqueurs have a minimum alcohol content of 25%. The effect was to prevent the import into Germany of Cassis de Dijon, a French liqueur made from blackcurrants, used in the drink known as Kir. The alcohol content of Cassis is about 15-20% - that is, below the German standard which Germany maintained was necessary to protect public health and to protect
the consumer against unfair commercial practices. The case came to the Court of Justice.

The Court held that
"There is no valid reason why, provided that they have been lawfully produced and marketed in one of the Member States, alcoholic beverages should not be introduced into any other Member State." \(^{11}\)

In other words, the member states must, in principle, be prepared to trust the standards set by the other member states. But the Court also said that the member states could, where necessary, take measures to ensure effective fiscal supervision, public health, fair competition and consumer protection.

I will come back to that judgment in another context. What matters for the moment is that the Court's *Cassis de Dijon* judgment became the cornerstone of Lord Cockfield's Single Market programme enshrined in the Single European Act. There are *many* other examples of Court judgments which have broken the log-jam of political disagreement. They have attracted very little attention in Britain because they deal with technical problems, but they have been of supreme importance in creating the Single Market and a level playing field.

Against that background, I turn to the criticisms of the Court which are most frequently to be found in the British newspapers. It is said
- that the Court is a political court which pursues its own integrationist agenda;
- that the judges of the Court are not proper judges;
- that the Court's methods of interpretation are different from those used by British judges and pay little or no attention to the words of the text;
- that the Court consistently decides against the United Kingdom; and
- more generally, that important decisions are being taken by non-elected, non-accountable judges.

(1) "The Court is a political court which pursues its own integrationist agenda".

The so-called "integrationist agenda" is in the treaties. No-one who spends ten minutes reading the treaties can be in the slightest doubt about that. Like it or

\(^{11}\) Case 120/78 *Rewe v Bundesmonopolverwaltung für Branntwein* [1979] European Court Reports 849.
not, that agenda is political. The Court, interpreting the treaties, cannot ignore the agenda the member states have set for themselves.

The Court of Justice has been criticised for holding that member states should compensate those who suffer loss as a result of the member states' failure to comply with their treaty obligations. The Court said that "The full effectiveness of Community rules would be impaired and the protection of the rights which they grant would be weakened if individuals were unable to obtain redress when their rights are infringed by a breach of Community law for which a Member State can be held responsible."\(^\text{12}\)

This has repeatedly been said to be a "political decision" and so, in a sense, it was.

In the nature of things, the Court of Justice has to deal with political, or "policy", questions. It is not alone in this. Compare what was said very recently by the Judicial Committee of the Privy Council (composed of four British judges and one New Zealand judge). The case concerned the liability of local authorities in New Zealand for the negligence of building inspectors\(^\text{13}\). The essential question was whether the law of New Zealand should be the same as the law of England, recently laid down by the House of Lords. The Judicial Committee said that the decision was "bound to be based, at least in part on policy considerations" and that the New Zealand courts (differing from the English courts) were entitled, for policy reasons, to impose a duty of care on local authorities "to ensure compliance with the bye laws".

That reasoning was not, in essence, any different from the reasoning of the Court of Justice. One of the most effective ways of ensuring that people comply with their legal obligations is to require them, if they fail to do so, to pay compensation to those who suffer loss as a result. This reasoning will be found over and over again in the English common law.

\(^{12}\) Joined Cases C-6/90 and C-9/90 Francovich and Others [1991] European Court Reports I-5357.

Judges cannot avoid taking "political" decisions if, by that, you mean that they have to take decisions which have political consequences. But that does not mean that the judges themselves are acting as politicians or deciding cases for political reasons.

(2) "The judges of the Court of Justice are not real judges".

At the time when the present fifteen judges of the Court of Justice were appointed six were serving members of the judiciary in their own country, two were professors of law, two were judges of the Court of First Instance, one was President of the EFTA Court, one was an Advocate General, one was a cabinet minister, one was Attorney General of Ireland and one was the chief legal adviser of the Quai d'Orsay. Amongst other previous experience, one had been Ombudsman, five had been professors and six had practised at the bar.

You must judge for yourselves whether that is a suitable range of experience for judges of a Court which has to deal with the range of problems I have mentioned.

(3) The Court's methods of interpretation

It is said that the Court uses methods of interpretation which are "purposive", "teleological", "activist" or - dirtiest word of all - "continental". This is said to differ from the British method, strictly based on the text.

The Court's approach to interpretation was clearly set out in the caselaw of the Court of the Coal and Steel Community before the Treaty of Rome was signed. It was even more clearly known by 1964 - eight years before the UK signed the Treaty of Accession. No lawyer capable of reading the available material could have been in the slightest doubt what the Court's approach to interpretation would be.

Moreover, the Court's methods of interpretation are the classical methods of international law which requires the court to look, not only at the words of a treaty, but also at its object and purpose. The Community treaties set out very clearly what is their object and purpose. They are "framework treaties" - rather

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14 Article 31 (1) of the Vienna Convention on the Law of Treaties provides that "A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose".
like a canvas on which the painter has sketched the outline, leaving the detail to be filled in later. When Community legislation is enacted in the form of regulations and directives, these will, unlike British Acts of Parliament, always contain a preamble which sets out the legislative purpose and is a guide to interpretation of the text.

The Court's Cassis de Dijon judgment, which formed the cornerstone of the Single Market programme, was an "interpretation" of Article 30 of the EC Treaty. But there was nothing in Article 30 or elsewhere in the Treaty which said explicitly that member states must, in principle, accept the standards set by the others, or that member states could, where necessary, legislate to ensure effective fiscal supervision, fair competition or consumer protection. Indeed, the original Treaty was written before consumer protection had become a significant political issue, and the words did not figure in the treaty text at all.

The Court's judgment could not have been based solely on the words of the Treaty, for the simple reason that the Treaty did not explicitly deal with the problem. Faced with the problem, the Court had to interpret the words of Article 30 in the context of the treaty-makers' intention to create an economically effective Common or Single Market.

In looking to see what is the purpose of the treaties, or of legislation made under them, the Court is doing nothing unusual or unexpected. Indeed, a distinguished British Professor of Public International Law has commented that the practice of the Court of Justice has not shown any special attraction to the teleological approach and that the Court has taken "a relatively conservative approach to texts".15

(4) "The Court consistently decides against the United Kingdom".

The United Kingdom, like all the other member states, can intervene and argue its point of view in any case before the Court. To test the United Kingdom's success rate, we examined the 70 judgments delivered in cases with docket numbers between 1/94 and 210/94. The United Kingdom intervened in only 23 of those cases, which implies that, in the remaining 47 cases, the British government did not feel that any particular interest of the United Kingdom was likely to be affected.

In 11 of the cases in which the United Kingdom intervened, the arguments presented were wholly successful, in the sense that the Court's judgment coincided with the government's submissions both as to the result and as to the reasoning. In 3 cases, the judgment coincided with the government's submissions as to the proper result, but arrived at that result by different reasoning. In 5 cases, the United Kingdom was successful on some points but not on others.

In only 4 out of 23 cases - or, if you take the higher figure, 4 out of 70 cases - was the United Kingdom unsuccessful on all points. The success rate of the United Kingdom is, by any standards, very high. The British public hears very little about this, and still less about the many cases in which other countries are unsuccessful.

For example, at the beginning of July, the Court delivered a judgment on the employment of teachers in primary and secondary schools in Luxembourg\(^\text{16}\). The Court held that Luxembourg could not reserve these positions to Luxembourg nationals. The judgment was welcomed by the British government. So far as I am aware, no British politician or newspaper mentioned the fact that, as a result of the Court's judgment, Luxembourg may have to change its Constitution!

(5) "The judges of the Court of Justice are non-elected and non-accountable".

It is no part of the European tradition to have elected judges. Each of the Judges and Advocates General of the Court of Justice and the Court of First Instance was nominated by the government of the state from which he or she comes and "appointed by common accord of the governments of the Member States"\(^\text{17}\). They hold office for a period of six years. Though they can be reappointed, they have no right to be reappointed. In most member states, including this country, judges hold office until retiring age and can be removed only for very serious offences. To that extent, the judges of the Luxembourg Court are more accountable than most.

\(^{16}\) Case 473/93 Commission v. Luxembourg, judgment of 2 July 1996, not yet reported.

\(^{17}\) Article 167 EC Treaty.
No court creates its own work. The Court of Justice, like any other court, can only respond to the cases brought before it by individuals, companies, institutions or governments. Once seised of a case, it must answer, even if it knows that the result will be unwelcome or unpopular.

A judge, once appointed, has, and should have, only two guides:
- the law, which he has sworn to uphold, and
- his own conscience and sense of justice.
To suggest that judges should, in some other way, be accountable to public opinion, or that they should bend to the will of politicians or the press is a flat contradiction of the judicial oath.

It is not inconsistent with the British tradition that judges should make law. On the contrary, Dicey, on whom Eurosceptics rely for many of their arguments, said that "the legislative activity of the judges is the necessary consequence of ideas which underlie our whole judicial system"18.

In the nineteenth century, the tradition in continental Europe, inspired by the principles of the French revolution, was that the task of interpreting the Constitution was a matter for the Parliament, not the judges. By contrast, in the British Empire, the task of interpreting the constitutions of the self-governing Dominions was that of judges sitting in the Judicial Committee of the Privy Council19. It is, to say the least, anomalous that those who claim to stand up for British traditions should ignore that important aspect of our history.

Many European states - especially those with experience of totalitarian dictatorship - now have a Constitutional Court, or a court or council performing the functions of a constitutional court. This is, undoubtedly, a restriction on the powers and freedom of the elected legislature and the elected executive. But it is accepted as a necessary guarantee of a stable democracy.

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19 The constitutions of the self-governing Dominions were set out in Acts of the Westminster Parliament such as (for Canada) the British North America Act 1867.
A parallel development has taken place in Britain during my professional lifetime in the enormous expansion of judicial review of the acts of the Executive. When I was called to the Bar, it was only in the most exceptional circumstances that the courts would review the decisions of a Minister of the Crown. Now it is an everyday occurrence. Some ministers and civil servants do not find this development to their liking. But others see it as a necessary element in the functioning of a modern democracy: where ministers and civil servants have wide powers to affect the lives of citizens, citizens should have access to the courts to ensure that they act reasonably and within the limits of their powers.

The powers of the Court of Justice are, unquestionably, a restriction on the powers and freedoms of the elected parliaments and ministers of the member states. Is it worth paying that price as part of the machinery of a working Community in Europe?

There are various canards about the purposes of the European Community. A Scottish Calvinist, arguing his own case in a Scottish court, maintained that it was no accident that the treaty was called the Treaty of Rome! One of the most mischievous suggestions, which has recently gained a good deal of currency, is that it is all a diabolical scheme to recreate the German Empire in Europe. This is not a new allegation. In 1919, Keynes (with others) proposed a Free Trade Union in Europe. He believed that "By this, some part of the loss of organisation and economic efficiency may be retrieved which must otherwise result from the innumerable new political frontiers now created."

But he recognised that some critics would object that "such an arrangement might go some way, in effect, towards realising the former German dream of Mittel Europa". To this, Keynes gave the answer: "If other countries were so foolish as to remain outside the Union and to leave to Germany all its advantages, there might be some truth in this. But an economic system, to which everyone had the opportunity of belonging and which gave special privilege to none, is surely absolutely free from the objections of a privileged and avowedly imperialistic scheme of exclusion and discrimination."

That is precisely the analysis that led Jean Monnet to propose the Schuman Plan as a way of putting an end to the age-old rivalry between France and Germany.

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Keynes, who had been a member of the British delegation, left the Conference of Versailles in despair. He recognised - at a time when it could have made a difference to the disastrous subsequent history of Europe - that the existence of nation states entails the creation of new frontiers.

Frontiers have the effect of excluding from the state some of those who would like to be part of it. Frontiers include within them people who believe that they belong to another nation and would prefer to be outside. Frontiers make it possible for governments elected by the majority of the population to discriminate against the minority. Some people find it convenient to forget that we have our own land frontier in Ireland which creates, or is seen as creating, precisely such problems. As Mrs Thatcher is reported to have said, "States just cannot be made to coincide with nations".

We now recognise that systematic exclusion of those outside, and discrimination against those inside, the frontiers of the state is neither humanly acceptable nor, in the long term, economically efficient. The European Community has never been, for me, the way to a new European state which would only recreate the problem at a different level. On the contrary, the Community is an experiment in the creation of a new type of political structure.

The problems for which such a structure is needed are not new. In 1921, James Bryce, who probably did more than any other to forge the European-Atlantic alliance, addressed an audience of students at an American University:

"The world is now one - one in a sense in which it was never one before. ... Everything that affects industry and commerce in one country affects it in every other, and affects it instantaneously, so widespread and swift have communications become. ... Everything which affects any single state necessarily affects each of the others - primarily its economic situation, and through its

21 For two perceptive studies of this aspect of the "Irish problem", see Maurice Hayes Minority Verdict: Experiences of a Catholic Civil Servant and John Dunlop A Precarious Belonging: Presbyterians and the Conflict in Ireland, both published by The Blackstaff Press, 1995.

economic its political situation also, its industry and its finance. ... Credit and security are now the things most needed for the economic recovery of the world. Security is the precondition to the re-establishment of sound business conditions anywhere and everywhere.

The route to that security cannot, in my opinion, lie in maintaining the absolute and exclusive sovereignty of a large number of small (or relatively small) nation states, each pursuing its own national agenda.

The European experiment is a practical attempt to overcome the problems created by the separate existence of nation states, while leaving them in being for the good things they can do. A condition of the success of that experiment is that there should be a body whose task is to ensure that the rules are the same for everyone and are enforced with fairness and justice. Whether, in performing that task, the Court of Justice is a friend or foe of this country, you must judge for yourselves.

*From an address in a Committee in the House of Commons to the European-Atlantic Group on 18th July 1996*

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2 "I never held out the bridegroom's torch or entered such a compact" - Virgil, *Aeneid*, IV.339.

3 "Lord, Lord, we didn't know". "Well, you know now".


5 Article 164 EC treaty.

6 See Article L of the Treaty on European Union.

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18 The constitutions of the self-governing Dominions were set out in Acts of the Westminster Parliament such as (for Canada) the British North America Act 1867.
19 Keynes, The Economic Consequences of the Peace, 1919, pp.248-250.
20 For two perceptive studies of this aspect of the "Irish problem", see Maurice Hayes Minority Verdict: Experiences of a Catholic Civil Servant and John Dunlop A Precarious Belonging: Presbyterians and the Conflict in Ireland, both published by The Blackstaff Press, 1995.
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