Part of the text of the Inaugural Lecture given on 28th October 1985 by Professor D. A. O. Edwart, CMG, QC, Salvesen Professor of European Institutions and Director of the Centre of European Governmental Studies at the University of Edinburgh.

It is conventional to include in an inaugural lecture a passage in praise of the new professor's predecessor. But the convention of praise can sometimes lead to the praise appearing only to be conventional. In John Mitchell's case, his inspiration lies at the heart of this institution and, in a sense, of the reason why I am here. We will, in due course, give him a permanent memorial by naming one of the rooms of the new library 'The John Mitchell Room', in order to remind students of him. Rather than repeat what has already been written about him, it seemed to me that the best tribute a pupil could pay to his teacher would be to try to show that the teacher's ideas remain relevant and important to the problems of the moment. That is the aim which lies behind the somewhat laconic title I chose: 'Integration and Diversity'.

The title of John's own inaugural was in the form of a question: 'Why European Institutions?' That was a question which, in 1968, he felt called upon to answer. Now, in 1985, it is hardly a question which calls for an answer from me—or not in the same sense. Community law has become an integral part of our law and, for good or ill, the European institutions are part of our lives. We may dislike what they do or what they stand for, but we cannot safely ignore their effect on what we do or the plans we make for the future.

It is sad that John died at a time when our relations with the Community were at their most unhappy; and that he died a prophet without great honour in his own country. But perhaps that was inevitable. His contribution lay at least as much in helping us to understand them. That may have been because, as he wrote in the letter which appears in the book published in his memory: 'When I was a student, it was a German who gave me most of the way I think about government.'

It should be added that it was also through John's delvings into areas of Scottish constitutional law long since abandoned to the historian that he was able to scrape away the mythology which had encrusted conventional ideas about the British constitution, and show us, as he put it, that 'we are not as peculiar as we think, or are thought to be'.

I have to admit that, to a class of rather idle first-year students at five o'clock on a winter's evening, it was not obvious what The Heritors and Kirk Session of Ceres had to do with control of the nationalised industries—obvious as it will be to all of you. But I was told recently that the function of a professor is to teach his students to be surprised by what they find in the world; and if that is so, John succeeded.

The need to scrape away the mythology from conventional wisdom is more than ever necessary in the current debate about reform of the institutions of the Community, which nearly wrecked the Milan Summit and is now being carried on in an intergovernmental conference. As presented, the argument is between, on the one hand, those who seek faster progress towards the political union of Western Europe as a cure for the economic and social evils of 'nationalism' and, on the other hand, those who seek the more modest goal of a truly competitive Common Market without surrendering the essentials of 'national sovereignty'.

It is convenient in many ways to use abstract expressions like 'nationalism' and 'national sovereignty' as a shorthand way of expressing what would otherwise require a paragraph or even a book to explain. Words used as 'labels' have their usefulness. They also have advantages in political dialogue and diplomacy. Most of us can agree with the signatories of the Treaty of Rome that we wish to see 'an ever closer union among the peoples of Europe' provided we don't have to say precisely what we mean by it.

The magic of abstract words is illustrated by a story told by Professor Marjolin, the leader of the French delegation in the negotiations leading to the Treaty of Rome:

'I remember interminable discussions in Brussels during the spring and the summer of 1956, during which the French tried vainly to get their partners to accept the idea of a "preference" for French agricultural products.

'The breakthrough occurred one day when I suggested that instead of talking "preference" we talk "non-discrimination". I was no longer asking for preferential treatment for French products. But I thought it was in the logic of the Common Market that French products be treated in Germany (or in any other country of the Community) on a non-discriminatory basis, on the same basis as German products; and that there should be only one set of prices applying to German products and to products imported from the other Community countries.

'I still remember the sensation this proposal created. It was easy to reject the idea of a "preference", practically impossible to object to "non-discrimination". "Preference" is vice, "non-discrimination" virtue.'

You may regret that this ingenious selection of a virtuous word gave birth to the Common Agricultural Policy. But that is nothing to the confusion caused by the labels 'nationalism' and 'national sovereignty', which have the added disadvantage of being morally neuter. They suggest virtue or vice depending on the time, the speaker and the audience.

It is not so long ago in historical terms that 'nationalism', under the unquestionably virtuous label of 'self-determination', was seen as the road to the salvation of Europe. Self-determination required the end of the old Continental
empires and the division of Europe into autonomous nation-states. Each nation was to be master of its own destiny. The practical application of self-determination had its drawbacks, such as the inclusion of the Sudeten Germans within the frontiers of Czechoslovakia, but this did not diminish the magic of its appeal to the political idealist. It was, as John used to say, a jujus.

The events leading up to the outbreak of war in 1939 showed that the jujus had no magic. After that war, ‘nationalism’ became the bugbear. The new theory was that Europe must be integrated and the jujus of the nation-state, ‘national sovereignty’, abandoned. In the event, economic integration through the mechanisms of the Treaties of Paris and Rome was accepted as second best to direct political integration. But it was believed that economic integration would lead progressively to political integration.

This belief was severely shaken by the refusal of President de Gaulle to accept the logic of the theory. But the theory held good to this extent, that de Gaulle’s attitude and activities could be characterised as ‘nationalism’, and that, after all, was what the machinery of integration was designed to eliminate. With the departure of de Gaulle and his highly individualistic brand of nationalism, progress could be resumed.

For a short while, this version of the theory seemed to have been vindicated. With a new President of France and renewed co-operation between France and Germany, Europe was relaunched and the negotiations for the first enlargement (bringing in the United Kingdom) were successfully completed. However, this brief reappearance of springtime was followed, not by a summer of construction, but by a hurricane which swept away the world economic order on which the success of economic integration depended.

Foolishly, by a series of inept political misjudgments, we allowed ourselves to be cast in the role of scapegoat. According to the others, although the hurricane had shaken the foundations, it was our blundering about inside that nearly brought the house down. If we had been more communautaire and less selfishly nationalist, the Community would have weathered the storm better than it did.

As to that, I may perhaps be permitted to speak from my own experience, brief and limited though it was. During the latter part of the 1970s I acted as chairman of a body representing the British problem, as far as I was able to judge it, was partly a part of the 1970s I acted as chairman of a body representing the (then) nine member states of the Community. If I had had to award prizes for chauvinism, there would have been many winners. Every member state, large or small, was capable when it suited of being as chauvinistic as any of the others. The British problem, as far as I was able to judge it, was partly a simple problem of public relations, and partly that (as John put it) ‘for far too long we have lived in an isolated world of constitutional self-righteousness’. This led, and still leads, to a deep and persistent misunderstanding of the Treaty and its machinery.

Whatever the reason, our attitude during the 1970s and the early ’80s provided an alibi for the others. It was possible for them to pin the blame on us for the failure of the Community as a whole to come to terms with problems which were, and are, much more deep-seated and difficult to solve.

Despite the errors of the past, there seems to be general agreement among all but a small minority that completion of the internal Common Market is essential to Western Europe’s economic survival and that the Treaty of Rome must be made to work. What is needed now, as The Scotsman declared last week (24th October 1985), is that we ‘streamline the decision-making process of the Community’ and come to ‘an agreement to make much more use of majority decision-making’. But the attractive simplicity of this position is complicated, on the one hand, by the insistence that any member state must still be allowed to veto any proposal which it chooses to regard as affecting its ‘very important national interests’, and, on the other hand, by a series of proposals—generally labelled ‘European Union’, though that can mean whatever you want it to mean—which would involve the decisive abandonment of national sovereignty and the taking of what is called a ‘qualitative leap’ towards political union. Central, though not essential, to these proposals is the proposal to invest the directly elected European Parliament with a share in the legislative powers now exercised by the Council of Ministers representing the member states. Very superficially, that is what the arguments at the Milan Summit and the current intergovernmental conference are about.

It is interesting and, I think, illuminating to compare the background to this conference with that of another which claimed the attention of Europe a little over a century ago—the First Vatican Council of 1869-70. It continues to have its fascination today in the lively, if frequently untruthful, pages of Lytton Strachey’s Eminent Victorians.

The Vatican Council was the culmination of a long dispute between two schools of thought in the Roman Church—on the one hand, the Ultramontanes who favoured the centralisation of authority and influence in the Papal Curia and, on the other, the Gallicans who favoured more or less complete national or diocesan independence. The victory of the Ultramontanes, marked by the declaration of Papal infallibility, was widely regarded then, and is still regarded today, as a victory for the forces of reaction. So, in a sense, it was. What the reactionaries were reacting against was, in the words of Cardinal Manning, ‘the exaggerated spirit of national independence’. In secular terms, ‘the exaggerated spirit of national independence’ to which he objected was the movement for the unification of Italy. In another sense, however, the victory of the Ultramontanes was only a reflection within the Church of a more general and persistent belief that the strengthening of central authority is conducive both to efficiency and to the greater good of the mass of the people.

The debate between Ultramontanes and Gallicans is a debate which has always gone on and will continue to go on among those who seek to plan the future of society. It is reflected today in the fact that, while the European Ultramontanes urge faster movement towards political union, there is an equal and opposite pressure for autonomy in Scotland, Catalonia and Corsica, in Ireland, Flanders and the Basque country. In the industrial sphere, it was reflected in the pressure during the 1960s to combine the disparate elements of the British motor-car industry into a single nationalised concern, which was followed in due course by the revelation that it might, after all, be better to break up the corporation into smaller, specialised private concerns. Even nearer home, it is reflected in the current tension between central and local government and between Sir Keith Joseph and the universities.

Attaching labels to the party of the opposite tendency does not help. To say of those who oppose the political union of Western Europe that they are infected by the heresy of ‘nationalism’ is to some an insult, to others a compliment. Nor does it help to erect totems like ‘national sovereignty’ and pronounce anathema on those who refuse to accept the faith. The tension is a tension between two innate tendencies in human society—the desire to secure greater prosperity and security through Integration and the instinct to preserve the merits and comforts of Diversity.

We are not likely to find a way of resolving that tension once and for all. The world moves on and the pressures change. All
that we can rationally do is to recognise the dangers in each of
the opposing tendencies and seek to avoid them.

If one goes too far down the road of integration, the probable
consequence is that the peoples of Europe will not accept the
results. However perverse and unduly their instincts may seem
to idealists and to some political and economic scientists, there
comes a point at which people will reject the benefits of
economy of scale and opt for 'Small is Beautiful'. There is a
persistent human appeal in the Mole's cry to the Water Rat as
he sat forlorn in the snow: 'I know it's a shabby, dingy little
place—not like your own quarters—or Toad's beautiful
hall—or Badger's great house—but it was my own little
home—and I was fond of it.'

I, for one, cannot believe that, in the foreseeable future, the
abolition of frontiers will persuade people to believe that they are
'Europeans' and lose consciousness of the fact that they are
French, Italian, Greek or English. Here in Scotland, to go no
further afield, 300 years of Union have not diminished the
sense of separate identity or extinguished the claim to be
allowed to choose a separate destiny. 'The United Kingdom'
remains an abstract noun without a corresponding adjective,
and in most foreign languages the word for 'British' has hardly
got beyond the vocabulary of diplomacy.

It is misleading to point to the United States and say that if
federation works there, there is no reason why it should not
work here. American society is inherently mobile; ours is not.
The mixture of nationalities which we find is so hard to
achieve, even in the European institutions themselves, has
already occurred in the United States, as a glance at the names
of the Justices of the Supreme Court, the Cabinet or the Senate
will show. It is generally to Europe that they return to find
their roots—roots which are, in Continental terms, highly
localised and, if you like, 'national'.

Other federations where the mixture has been less complete
than in the United States—such as Canada—are potentially
more fissile, and it is perhaps worth noting that the most
enduring federation in Western Europe—Switzerland—is one
where power at the centre is weak. Even the Swiss had a civil
war within the last two centuries—more recently than us.

So an excessive degree of integration with an excessive
concentration of power at the centre can produce precisely
what it seeks to avoid—internal divisiveness and a pressure for
secession. It produces divisiveness in another way too, as I
think the victory of the Ultramontanes at the Vatican Council
showed. Those who are not in are out; and the integrated unit
excludes those who are not part of it. The founding fathers of
the Community called for 'an ever-closer union among the
peoples of Europe', but they also called upon the other peoples
of Europe who share their ideal to join in their efforts'. The
other democracies of Western Europe—our partners in the
Council of Europe—will not find it easier to join in our efforts
if the European Community or European Union becomes an
exclusive club; nor will a highly integrated union invested with
all the pontifical trappings of the nation-state be likely to
appeal to the lost East of the East.

The decisive abandonment of national sovereignty will not
be achieved by recreating it on a wider scale. Nevertheless, if
excessive pressure for integration is dangerous, it is equally
dangerous to gallop away down the opposite road to
self-determination, if this leads to a proliferation of nation-
states. The frontiers of nation-states, particularly in Europe, do
not coincide with the distribution of people who have divergent
aspirations, as we know to our cost in Ireland. Moreover,
national sovereignty, even if exercised in a way that satisfies the
majority of those who live within the state, is none the less
exclusive and capable of being repressive. In many states of
Western Europe the sovereign power of the State was, until
not so long ago, invoked to require people to obtain an exit visa
to get out, as well as to require foreign nationals to get an entrance
visa to come in. The frontiers of the nation-state can become a
prison for those who live within it as well as an obstacle to those
outside.

There are also economic drawbacks to recognition of diver-
sity, if diversity is given expression in the unlimited freedom of
autonomous nation-states to create their own laws and choose
their own policies. The economic problem is usually stated in
terms of 'technical barriers to trade'—an expression which,
because of its own technicality, might appear to the layman to
be remote from such concerns as the protection of the consumer
and protection of the environment.

But there is continual pressure upon modern governments,
and indeed an appetite in governments themselves, to regulate
the supply of goods and services and to improve the quality of
life by setting new standards, calling for new qualifications and
imposing new measures of protection for the consumer. Every
new regulation, if different from the regulations imposed by
other governments, is a barrier to the free flow of goods and
services, an impediment to widening the range of consumer choice,
and a fresh problem for those who are urged to create national
prosperity by exporting. The appetite for regulation creates its
own form of economic protectionism.

It is, in any case, fallacious to assume that sovereign states are
free to set their own standards. In reality, standards are
generally set by states which have such a large home market
that they are not affected by measures taken in other countries
and are not affected by measures taken in other countries
which cannot ignore the standards they set.

An agreed machinery for harmonisation of standards is essen-
tial if the minimum goals of economic integration are to be
achieved in a way that allows the smaller and economically
weaker states to have a real say in the process. But even harmo-
nisation on a Western European scale is already proving
inadequate in the field of modern electronic technology.
Governments are hardly able to set and enforce standards in this
field since the market will do it for them whatever they may
agree. De facto integration has already arrived, and if the
governments of sovereign states are to play any part in it, they
then can only do so through institutions which enable them to take
action together, such as the institutions of the Community.

To bring the matter even nearer home, it has to be recognised
that economic consequences flow from one of the most long-
standing, and in our case one of the most treasured, manifest-
ations of national identity—the existence of separate legal sys-
tems. Through the legal system the sovereign creates in law
what does not exist in nature—a mechanism for allowing
ordered economic activity to be carried on. The legal mechan-
isms for creating and dissolving companies with limited
liability, creating securities, insuring against risks, ranking
creditors on insolvency, and protecting the rights of employees
are allocated by lawyers to separate conceptual pigeon-holes. In
social and economic terms, they are all part of a system for distri-
buting economic risks and deciding where the buck shall stop.

The decision where the buck should stop is ultimately a politi-
cal choice. The sovereign power expressed in the legal
system is simply one of the means by which that choice is given
practical effect. If the political choices are to be made by several
sovereign states in common, some degree of harmonisation of
the structure of the law is inevitable. But, as John Mitchell said,
'there is little point in starting the process of harmonisation
unless the economic consequences of various forms of law are
more fully known than they are'.

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Perhaps I can illustrate this by taking two examples of legal problems which are currently exercising the ingenuity of great minds in this building and in Parliament House: the floating charge and retention of title. Adoption of the English floating charge into Scots law has been difficult and it may offend the legal purist. But John Mitchell used to say that the earlier failure of Scots law to offer this form of security held up the material development of Scotland for two decades. There was, or appeared to be, no method in the absence of the floating charge by which the lender of working capital could get security for his lending while allowing the borrower to deploy his assets to best advantage as circumstances changed. It may or may not be desirable to allow the floating charge, since it favours the big lender at the expense of the small creditor. But that is an economic or social question different from the lawyer’s question of whether or how the technique of the floating charge is to be accommodated within the Scottish legal system.

Similarly, it is said that the technique of retention of title lay at the root of the German economic miracle since it provided a way in which the supplier of plant and equipment could allow a manufacturer to build up his factory on credit without the intervention of a third-party lender. Again the legal purist may dislike the technique, or at least some of its applications. What cannot be denied is that recognition of the technique, or refusal to recognise it, may have economic consequences which the lawyer, for perfectly good and understandable reasons, is not best placed to judge.

Ultimately, the choice is a political choice—whether to favour the lender of working capital, the supplier of plant, equipment and raw materials, or to rank them equally with other creditors. If there is to be an open market between states, that choice cannot be left to each state to make for itself.

That is why, in my opinion, the idea of the Community Directive is so valuable since, in its original conception, it was to prescribe the result to be achieved, leaving to national authorities the choice of form and methods. The aim was to create a legal instrument which, as between divergent legal systems, was juridically neutral. It is a difficult aim to achieve since it is not easy to find a juridical via media where one state, for example, treats retention of title as a form of security, another treats it as a condition of sale, and a third as a form of trust unknown to the other two. On the other hand, the juridically neutral Directive, which the politician must adopt or decline to adopt, may give him a clearer idea of the political choice he is being asked to make.

That, however, is a digression, although it is a digression which may have something to do with John Mitchell’s vision of the Centre as a place where lawyers, economists, social scientists, politicians, civil servants, businessmen and trade unionists can meet on neutral ground. What is of immediate concern is that what experts decide in discussions about barriers to trade may, when one seeks to implement it, touch the most sensitive nerves of the national sense of identity.

No nerve is more sensitive than ‘national sovereignty’. Here the debate is too often carried on as if the sovereignty of Parliament were the only sovereignty at stake. But the issue here is not simply whether there is, in the Community system, a diminution or surrender of the sovereignty of Parliament. Parliament is only a part of the machinery through which the plenitude of sovereignty in the United Kingdom is exercised. It is, for example, not accidental, or merely quaint, that the Royal Arms are displayed behind the judge on the bench, or that summonses and other writs run in the Queen’s name.

As soon discovers if one attempts to explain some aspects of our law to a foreign lawyer, the United Kingdom is in many respects (in legal theory at least) as much an absolute monarchy as a Parliamentary democracy. An attempt is sometimes made to evade the issue by speaking of ‘the State’. But, as John Mitchell again observed, ‘the existence of the concept of the Crown has provided an excuse for the failure to produce a theory of the state, the absence of which may create difficulties in modern times’. 10

Precisely such difficulties have now arisen in an acute form in the interpretation of the Official Secrets Act, which speaks of ‘the safety or interests of the State’. 11 It is not surprising that the judges in the Ponting case found it difficult to interpret this phrase or that others found it difficult to accept their interpretation of it. ‘The State’ does not and cannot mean to a British lawyer what ‘L’Etat’ means to a French one.

The relevance of this to the problem of our relationship with the Community lies, I believe, in the special psychological and legal difficulties which the concept of sovereignty presents when we are asked to accept what Jean Monnet called ‘the indispensable first principle’ of the Community system: ‘the abnegation of sovereignty in a limited but decisive field’. 12 If the theory of sovereignty is carried to its logical conclusion, Monnet was asking the impossible since sovereignty is, in a sense, one and indivisible. The right to exercise aspects of sovereign power may be distributed internally (and appear in human forms as improbable as the Registrar of Companies), but sovereignty cannot be ‘abnegated’ externally without, as a corollary, creating a new and higher sovereignty elsewhere, or leaving the field vacant.

Here again John comes to our rescue, or at least I think he does. In his last published article (‘What happened to the Constitution on 1st January 1973?’) he said that

‘What was involved in the creation of the Communities was a rearrangement or pooling of the modes of exercising national sovereignties.... It was to gain the advantage of joining into the arrangement by which others had reciprocally agreed, for an indefinite period, thus to exercise their sovereignties, that we acceded in 1973’. 13

On this analysis, what is at issue is not sovereignty itself, but the manner of its exercise. Or, to put the point another way, the mystery of sovereignty can be left untouched, and the debate becomes a debate about powers and who shall exercise them.

If it is possible—and it may not be possible—to demystify the debate and reduce it to terms with which the administrative rather than the constitutional lawyer is familiar, the question then comes to be, what powers should be given to which organs of the Community, within what field and what should be the conditions for their exercise? That is the type of question which politicians are accustomed to asking and answering every day in relation to the powers of local authorities, the boards of nationalised industries, universities and Quangos.

At the Community level it is a matter of choosing which, if any, of the Community institutions should be allowed to exercise any given power and whether any other institution should play a part in the process of exercising it in order to strike a balance between conflicting interests—particularly the conflicting interests of integration and diversity. But, having made that choice, there is no point in saying that one will allow the organs of the Community to exercise power and then putting obstacles in the way of that power being exercised quickly and efficiently. Specifically, it is absurd to say that the Council of Ministers shall have power to take decisions by a majority vote except when we or any of the others choose that it shall not do so. The claim to preserve the so-called right of veto
while calling for more majority voting is not a logical, and cannot ultimately be a tenable, position. It would be more logical, as well as more honest, to say that all decisions must be unanimous, allowing the dissentient minority to abstain on the odd occasion when they are prepared to do so.

Subject to that, there is—to a greater extent than the European Ultramontanes are prepared to admit—a coherent intellectual case for continuing to vest the power of decision in the Council of Ministers rather than the European Parliament. If the best analysis of the Community system is that it rests on a sharing or pooling of sovereignty, rather than a surrender or abnegation of it, then it is proper that the ultimate source of legislative power within the Community should be an institution representative of those from whom the shared sovereignty derives—the member states.

But it should be recognised by those who feel safe with this analysis that sovereignty means different things to different people. In our case sovereignty may reside in the Crown or in the Queen in Parliament. In many other countries, sovereignty is seen as residing in the people. To take up an example already given, it is not accidental that in some countries the judgment of a court begins with the words 'In the name of the people ...'. The very existence of a European Parliament, directly elected by the people of Europe, is seen by some as the expression of a sovereignty more extensive than that of any nation state. It might therefore be wise for those who seek to limit the powers of the European Parliament not to rely too strongly on sovereignty as part of their argument.

Those on both sides of that ideological fence will, I think, have to accept that we can do no more than attempt to strike some sort of balance between them. In the short term, the balance can only be struck by defining and limiting the powers of the institutions we have in a way which will prove, on the whole, to be acceptable and efficient. In the longer term, particularly if the Community is to exercise wider powers than at present, we will have to consider whether the existing institutions, which were designed for a limited purpose, can, without further adaptation, provide an acceptable balance between the conflicting claims of integration and diversity. At the moment, I question whether they can.

Specifically, it is not the case, as is suggested by some theorists, that the Parliament and the Council stand to each other as the two Chambers of a Federal Parliament or Congress, one representing the people as a whole, the other representing the regions or provinces. The Council represents governments or states, not regions or provinces and, as John Mitchell said, 'Governments and governmental bodies have as many reasons for conniving among themselves as they have for opposing each other'...

For the present, the Community institution which has the ultimate burden of preserving the balance between the conflicting claims of Integration and Diversity is the Court of Justice. If the proper analysis of the current debate is in terms of powers rather than sovereignty, courts are the institutions whose function it is to see that powers are exercised lawfully and not usurped or abused.

Courts are not, however, universally popular. There has been much thundering from 'the Thunderer' about the jurisdiction of the Court of Human Rights at Strasbourg. It is even murmured that the British government may be contemplating withdrawal of the right of individual petition to that court. And rumbles of thunder have been heard in relation to the jurisdiction of the Court of Justice at Luxembourg.

By way of reply I would simply continue my last quotation from John Mitchell:

'Governments and governmental bodies have as many reasons for conniving among themselves as they have for opposing each other and, in the evolution of government, it is important that, within acceptable limits, individuals should be able to participate through the neutral mechanisms of courts not merely in maintaining the framework of rules, but also in advancing its construction. I think it is not unreasonable to assert that the role of courts has, or should have, something to do with the realities of democracy. Properly organised it is through them that the individual can play a larger and more significant part in government while gaining a greater sense of security. Such techniques help governments to be good even more than they compel them to be so.'

The most significant remark of all in that quotation is, I think, that 'the role of courts has something to do with the realities of democracy'. In the context in which John was speaking, the word 'court' has a wider connotation than we are accustomed to give it. It would include, for example, what we would classify as administrative tribunals. To anyone who has participated in a number of public local inquiries, as I have done, it is obvious that the realities of democracy do not stop at the ballot box or exist only in the House of Commons or the Council Chamber. It is common experience to see those who have given the democratic mandate to the majority party in their local council or in Parliament turning out in droves to a public inquiry in order to oppose what that same majority party proposes to do.

In this and many other respects, the individual who wishes to be treated as more than a unit on the Electoral Roll must look to the courts (in the widest sense) as the only 'neutral mechanism' through which he can 'play a larger and more significant part in government'.

For me, however, the courts of the Community have an even more fundamental role. That is to preserve the simple freedom of the individual to go where he wishes, to live where he likes, and to trade and to work where he can. That freedom is guaranteed to every citizen of the Community as a personal right which neither the member states nor the Community itself can take away. It is that simple freedom of choice for the individual which other régimes will not, and cannot, allow. If you look for a manifesto for my tenure of this Chair, that is what lies at the heart of my belief in the European institutions.

1 J. D. B. Mitchell was Professor of Constitutional Law at the University of Edinburgh from 1954 to 1966 and thereafter the first holder of the Salvesen Chair of European Institutions until his death in 1980. He was founder and first Director of the Centre of European Governmental Studies.
2 In Memoriam J. D. B. Mitchell, p xviii.
4 (1843) 5 D 552.
5 Marjolin, Europe in Search of Its Identity, 1980, p 43.
6 Quoted in Gray, Cardinal Manning, p 227.
7 Kenneth Grahame, The Wind in the Willows, ch V.
9 Art 189 EEC.
11 Official Secrets Act 1911, s 1.
14 Why European Institutions?, p 11.
15 See, for example, Times, 1st June 1985.
16 Why European Institutions?, pp 10 and 11.