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Britain in the European Union: A Very Short History

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Abstract

From the start, Britain's feelings towards European integration were complex; and when Britain finally joined the 'common market' in 1973, its reasons were predominantly of an economic nature. Its profound doubts of any 'federal' or 'political' union would become a recurring theme throughout its membership; and, in later years, Britain's critical attitude towards transfers of legislative powers to the European Union found numerous expressions in a wide range of 'opt-outs'. They gave the United Kingdom, in the words of the British government, a unique place within the Union. However, even this halfway house 'inside' and 'outside' the European Union could not prevent a British referendum in which the majority of British citizens decided to opt out of Union membership altogether. This article offers a very short historical overview of British membership in the Union. Six key moments in the story of British membership will illustrate the complex relationship between Britain and the European Union.

1 | INTRODUCTION

The history of the United Kingdom within the European Union (1973–2020) is a complex story replete with permanent themes and ironic counterpoints. While none other than Churchill himself had strongly commended the 'United States of Europe' in 1946, when it came to joining the 1951 European Coal and Steel Community, the view of the (then) British government was that 'the Durham miners simply won't wear it' (Morgan, 1985, p. 420). The reasons for this early rejection of European integration were economic and political in nature. For not only did the British economy produce as much coal as the rest of Europe combined (Camps, 1964, p. 3); politically, irritations arose, especially from the French insistence on 'supranationalism' – a 'foreign' idea that ran counter to the British ideal of parliamentary sovereignty.[1]

When, a few years later, it came to choosing between the 1957 European Economic Community (EEC) and the British Commonwealth, the British government again unconditionally favoured the latter over the former (Barclay, 1970).[2] Once more, economic reasons came to complement ideological ones. For not only was the 'common market' incompatible with the (then) imperial preference system guaranteeing cheap agricultural goods; British foreign policy still followed its 'three circles' logic in which Europe simply ranked last (Barclay, 1970, p. 16).

To nonetheless contain the consequences of its choice *against* Europe and its 'common market', the British government quickly proposed a rival organisation to the EEC: the 1960 European Free Trade Association (EFTA). The creation of EFTA thereby followed a dual political aim. Positively, it created a free trade area that would allow Britain to trade with six other European states, while at the same time keeping its imperial preference system especially for agricultural products. Negatively, on the other hand, EFTA was hoped to dissolve the (supranational) common market in a (intergovernmental) free trade area 'like a lump of sugar in an English cup of tea'.[3]

This second aim turned out to be wishful thinking, and in an extravagant act of pragmatic reorientation, membership in the European common market had suddenly become a British priority in the early 1960s. Yet Britain's first application to join the Union, made in 1961, was rejected by France. In a famous 1963 press conference,

General de Gaulle – then President of France – gave the following reasons for France's veto:

> Great Britain applied for membership of the Common Market. It did so after refusing earlier to participate in the community that was being built, and after then having created a free trade area with six other states, and finally … after having put some pressure on the Six in order to prevent the [putting into effect] of the Common Market from really getting started. Britain thus in its turn requested membership, but on its own conditions. This undoubtedly raises for each of the six States and for England problems of a very great dimension. England is, in effect, insular, maritime, linked through its trade, markets, and food supply to very diverse and often very distant countries. Its activities are essentially industrial and commercial, and only slightly agricultural. It has, throughout its [history], very marked and original customs and traditions. In short, the nature, structure, and economic context of England differ profoundly from those of the other States of the Continent (Reproduced in: Harryvan and van der Harst, 1997, p. 134).

This rejection came as a shock. Britain had seriously overestimated its bargaining power; and it was a shock soon to be repeated when de Gaulle vetoed a second British application in 1967. Only the third membership application would succeed – and then only after the French General had left the political stage. It led to the signing of the Accession Treaty on 22 January 1972; and on 1 January 1973, Britain joined the European Union.

However, Britain never was the happiest of member states. Doubts about European integration persisted; and especially the idea of an accompanying 'political union' continued to be resolutely rejected. This rejection reached its climax in 2016, when a referendum on British EU membership yielded a popular majority for 'Brexit' – the British exit from the European Union.

In this article, I wish to offer a very short historical overview of British membership in the Union. With its commitment to stronger European integration often minimal, the United Kingdom has come to be seen as an 'awkward partner' within the European Union (George, 1996). Four key political moments, discussed in four sections, will illustrate the complex relationship between Britain and the European Union. Two additional sections will, subsequently, explore the 'awkward' legal relationship the United Kingdom entertained with the European constitutional order. There is, naturally, a strong relationship between these political and legal dimensions – which will be further explored in the conclusion.

2 | 'SECOND THOUGHTS': THE 1975 MEMBERSHIP REFERENDUM

Having joined the common market in 1973, 'second thoughts' about Britain's EU membership soon emerged. For once a new Labour government entered Downing Street in 1974, it instantly tried to renegotiate the 'Tory Terms' of EU membership. Under pressure from its left wing, Harold Wilson – then Prime Minister and leader of the Labour Party – had been forced to promise a 'fundamental renegotiation' of the British membership in the Union (Gowland & Turner, 1999). The 1974 Labour Party Manifesto therefore read as follows (Labour Party, 1974):

> Britain is a European nation, and a Labour Britain would always seek a wider cooperation between the European peoples. But a profound political mistake made by the [Conservative] government was to accept the terms of entry to the Common Market, and to take us in without the consent of the British people. This has involved the imposition of food taxes on top of rising world prices, crippling fresh burdens on our balance of payments, and a draconian curtailment of the power of the British Parliament to settle questions affecting vital British interests. This is why a Labour government will immediately seek a fundamental renegotiation of the terms of entry. (…) In preparing to re-negotiate the entry terms, our main objectives are these:
>
> - Major changes in the Common Agricultural Policy, so that it ceases to be a threat to world trade in food products, and so that low-cost producers outside Europe can continue to have access to the British food market.
> - New and fairer methods of financing the Community Budget.
> - As stated earlier, we would reject any kind of international agreement which compelled us to accept increased unemployment for the sake of maintaining a fixed parity, as is required by current proposals for a European Economic and Monetary Union.
> - The retention by Parliament of those powers over the British economy needed to pursue effective regional, industrial and fiscal policies.

These four points expressed four political cleavages that would become fundamental fault lines in future UK-EU relations. The budget issue in particular became an intractable bone of contention. For in the view of the British political establishment, the standard formula for membership contributions severely disadvantaged the United Kingdom, and the latter was therefore entitled

to a 'rebate' so as to reduce its net contributions to the Union budget.

All these demands for a 'fundamental renegotiation' might have been simply rejected by the other EU member states on the grounds that the ink of the 1972 Accession Treaty had barely dried; yet faced with a conflict in the 'honeymoon' period of British membership, the 1975 Dublin European Council found a compromise that offered some minor, yet not insignificant, changes to please the British. The Labour Prime Minister therefore recommended continued membership in the Union; and the subsequent vote in the British parliament supported the government's position – a result that was nevertheless overwhelmingly thanks to Conservative votes. The Labour government had, however, also promised a referendum on Union membership, and the Referendum Act 1975 therefore determined that the people themselves could, on 5 June 1975, decide whether the United Kingdom should remain in or leave the European Economic Community. Two-thirds of the votes cast favoured Union membership, and this – almost enthusiastic – support provided strong democratic legitimacy to the decision to join (and remain) in the Union.

3 | A MARKET WITHOUT A STATE: THE THATCHER VISION

Would the 1975 referendum result ease the 'awkward' relationship between Britain and the Union? With the coming into power of the Conservative Party in 1979, these high hopes existed.[4] They were, however, soon dashed. The rebate issue quickly returned and was henceforth pursued with unbending zealousness, as Stephen Wall brilliantly recounts in this special issue: Britain wanted its 'own money back'. And in order to achieve this aim, Britain adopted a strategy of (un)civil disobedience by deliberately obstructing the Council in 1982 – a strategy inspired by France's empty chair policy seventeen years earlier.[5] This policy of obstructionism irritated France so much that it openly suggested that the UK should search for an alternative status to full Union membership – a suggestion that was instantly rejected. Progress on the British Budgetary Question, colloquially termed the 'Bloody British Question' (Jenkins, 1991), was finally made in 1984 when the Fontainebleau European Council reached an agreement on EU Membership contributions that applied until 2020 (Council, 1985).

Did the end of the rebate 'war' inaugurate a period of European 'peace'? A short peace indeed followed; yet short it was. In 1985, a temporary 'ideological' alliance between Thatcher's Britain and the European Union had suddenly emerged in the form of the Commission's White Paper on the 'Completion of the Internal Market'. The paper had a British 'father': Lord Cockfield – a close collaborator of Thatcher, and who had become EU Commissioner for the Internal Market in 1985. The 'British' idea was seized upon by (then) Commission President Jacques Delors believing it to be the Union's best chance to reinvigorate European integration after a decade of 'eurosclerosis'. However, whereas for Britain 'the single market was an end in itself that could raise to a European stage the liberalizing and deregulatory elements of the Thatcherite project', for most Continental European States – it was 'a means to an end, that end being deeper economic and political integration' (Geddes, 2013, p. 70).

To that effect, the 1985 Milan European Council called for a major institutional reform of the Union: the 1986 Single European Act (SEA). The SEA was a decisive if small step towards political integration. And far from being a surrender to continental views, British interests had predominantly found their way into the SEA (George, 1996). Yet the very idea that Europe could reregulate markets and offer social rights to workers was anathema to the (then) British government. Furious to discover that the single market project was more than an exercise in deregulation, Thatcher set out her (Conservative) vision in 1988 in a famous speech at the College of Europe in Bruges:

> We have not successfully rolled back the frontiers of the state in Britain only to see them reimposed at a European level, with a European superstate exercising a new dominance from Brussels. (…) [T]he Treaty of Rome itself was intended as a Charter for Economic Liberty. (…) By getting rid of barriers, by making it possible for companies to operate on a Europe-wide scale, we can best compete with the United States, Japan and the other new economic powers emerging in Asia and elsewhere. It means action to *free* markets, to *widen* choice and to produce greater economic convergence through *reduced* government intervention. Our aim should not be more and more detailed regulation from the centre: it should be to deregulate, to remove the constraints on trade and to open up. (Reproduced in Harryvan and van der Harst, 1997, pp. 242–247)

This speech became a prelude and source of accepted Euroscepticism within the Conservative Party (Geddes, 2013); and henceforth a section within the party would hold the 'Thatcherite' line – especially after the 1992 Treaty on European Union.

4 | FROM MAASTRICHT TO LISBON: 'A EUROPE OF BITS AND PIECES'

The 1992 Treaty on European Union represented 'a new stage in the process of European integration'

(TEU, Preamble). Not only would it lay the foundations for Economic and Monetary Union, a significant push towards political union had been made – especially by means of reducing the national veto in the Council. Yet it was also a constitutional compromise. Politically sensitive areas, like foreign and security policy and justice and home affairs, had remained intergovernmental; and even within the supranational parts of the European Union, the Maastricht Treaty had created 'a Europe of bits and pieces' (Curtin, 1993, p. 17). With regard to EMU, for example, Britain had secured an opt-out;[6] and having vehemently opposed further integration on social matters, it had also here received a second opt-out which meant that the envisaged social chapter within the EU Treaties had to be abandoned in favour of an 'Agreement on Social Policy concluded between the Member States of the European Community *with the exception of the United Kingdom of Great Britain and Northern Ireland*' (Protocol, 1992a).

This second opt-out would eventually be dropped when a British Labour government returned to power in 1997; yet the British ambivalence towards 'full' membership obligations remained. When it thus came to the 1997 Treaty of Amsterdam, Britain (and Ireland) not only decided to opt out of the incorporation of the Schengen Agreement (Protocol, 1997a); it also extrapolated itself from the Treaty Title on 'Visas, Asylum, Immigration and other Policies related to the Free Movement of Persons' (Protocol, 1997b). The same strategy of 'differential' membership surfaced with the 2007 Lisbon Treaty, where the United Kingdom obtained a partial opt-out from the EU Charter of Fundamental Rights (Protocol No. 30, 2008); and even more remarkably, Britain was allowed a complete opt-out of the already existing Union law on police and judicial cooperation in criminal matters (Protocol No. 36, 2008). This was cherrypicking at its best – or worst.

5 | AFTER LISBON: THE PATH TO WITHDRAWAL FROM THE UNION

By 2009, the United Kingdom was two-thirds in and one-third out of the European Union. While remaining a 'full' member in form, its various opt-outs had partially exempted it from the general obligations and placed it at the margins of Europe. This strategy of semidetachedness took a decidedly more Eurosceptic turn with the return into power of the Conservative Party in 2010. Fearing to lose out to the 'United Kingdom Independence Party' (UKIP) – founded in 1993 as a response to the Maastricht Treaty – the Conservatives had become an essentially Eurosceptic party (Baker et al. 2002). And although forced to work within a coalition, their programme heralded a 'nationalist' move away from closer European integration (HM Government, 2010, section 13):

> The Government believes that Britain should play a leading role in an enlarged European Union, but that no further powers should be transferred to Brussels without a referendum. This approach strikes the right balance between constructive engagement with the EU to deal with the issues that affect us all, and protecting our national sovereignty. (…)
>
> - We will ensure that there is no further transfer of sovereignty or powers over the course of the next Parliament. We will examine the balance of the EU's existing competences and will, in particular, work to limit the application of the Working Time Directive in the United Kingdom.
> - We will amend the 1972 European Communities Act so that any proposed future treaty that transferred areas of power, or competences, would be subject to a referendum on that treaty – a 'referendum lock'. We will amend the 1972 European Communities Act so that the use of any passerelle would require primary legislation.
> - We will examine the case for a United Kingdom Sovereignty Bill to make it clear that ultimate authority remains with Parliament.

The European and national outcomes of these commitments are well known. The most significant European expression undoubtedly is the completely senseless – though highly symbolic – veto of the EU Fiscal Compact by the British government so as to fulfil its first promise. A solution to the second and third – national – commitments was the European Union Act, 2011. The Act provided for a 'referendum lock' for future amendment treaties transferring new competences to the Union (Gordon & Dougan, 2012), while it also reconfirmed national parliamentary sovereignty as the core principle of the British constitution.

But there would be more: in an attempt to win over Eurosceptic voters (and to please its own right wing), the Conservative Party finally promised – just as the Labour Party had done in 1975 – a 'fundamental renegotiation' of the British terms of EU membership and an 'in-out' referendum. Winning the 2015 national elections, the Conservative government almost immediately set out its renegotiation demands in a letter to the European Union (UK Prime Minister, 2015), and a European Union Referendum Act 2015 was duly adopted.

Following intense negotiations in early 2016, the European Council and the other member states offered the United Kingdom an olive branch in the form of the – pompously styled – 'A New Settlement for the United Kingdom within the European Union' (2016). This cannot be the place to fully analyse this agreement in any detail, but the most important concession here was a safeguard

mechanism for 'situations of inflow of workers from other member states of an exceptional magnitude over an extended period of time, *including as a result of past policies following previous enlargements*' (European Council, 2016, p. 9 – emphasis added). Based on these not insignificant concessions, a referendum was called for 23 June 2016 to let the British voters decide on them and their continued membership in the Union as such. Yet to the dismay of the (then) government, a (slight) majority of voters within the United Kingdom here expressed their wish to leave the European Union. With a turnout of 72 per cent of the electorate, 52 per cent decided to leave, while 48 per cent voted to remain. The 'New Settlement' was off the table; and the United Kingdom henceforth began to prepare its withdrawal from the European Union.

6 | LEGAL DISSONANCES I: EUROPEAN UNION LAW IN THE UNITED KINGDOM

Many of the 'political' moments and misunderstandings in the UK-EU relations, discussed in the previous four sections, find their root in the core principle of British constitutionalism: parliamentary sovereignty. British constitutional law is indeed famous for its categorical rejection of all legal limitations on the Westminster Parliament. This celebration of Westminster 'sovereignty' created, from the very beginning, a critical dissonance with the Union legal order. Speaking in the House of Lords in 1967, Lord Gardiner, the (then) Lord Chancellor, thus confessed (quoted in Murkens, 2018, p. 163):

> There is in theory no constitutional means available to us to make it certain that no future Parliament would enact legislation in conflict with [Union] law. It would, however, be unprofitable to speculate upon the academic possibility of a future Parliament enacting legislation expressly designed to have that effect. Some risk of inadvertent contradiction between United Kingdom legislation and [Union] law could not be ruled out; but, of course, we must remember that if we joined the [Union] we should be taking part in the preparation and enactment of all future [Union] law and our participation would reduce the likelihood of incompatibility.

The 'direct effect' and 'primacy' of European Union law – two supranational qualities pronounced by the European Court of Justice in the early 1960s – are here implicitly acknowledged; yet any 'real-existing' conflict with the British doctrine of parliamentary sovereignty is denied on the ground that all future Union laws could – presumably – be vetoed on the basis of the 1966 Luxembourg Compromise.

That this political safeguard would, however, not always work was soon discovered in the context of the Union's fishing policy. The 1972 Accession Treaty had here asked the Council, within six years following British accession, to 'determine conditions for fishing with a view to ensuring protection of the fishing grounds and conservation of the biological resources of the sea' (Treaty of Accession, 1972, Article 102). Yet the 1978 deadline had elapsed as a result of British obstinacy. The United Kingdom had in fact vetoed all legislative proposals in the Council, justifying its unilateralism by invoking the Luxembourg Accord. And eventually, this proved too much for the European Union. The Commission brought proceedings before the Court, which declared the conservation of biological resources of the sea to be an exclusive Union competence (Commission v. United Kingdom, 1981).

In order to maintain the appearance of British parliamentary sovereignty, a legal safeguard therefore seemed more promising: the European Communities Act 1972. Its Section 2(1) stated:

> All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as in accordance with the Treaties are without further enactment to be given legal effect or used in the United Kingdom shall be recognised and available in law, and be enforced, allowed and followed accordingly.

This legal safeguard extended the traditionally dualist position of the British legal order to European Union law. For instead of conceiving European law as an 'autonomous' legal order that directly applied within the United Kingdom *qua* membership of the European Union, the 1972 Act established the view that European law was derivative and subordinate to British parliamentary legislation. The provision has consequently been described as 'a missed opportunity to declare positively the fundamental nature of the constitutional change wrought by the Act' (Wicks, 2006, p. 145); and this 'sovereignist' view would be further reinforced by the United Kingdom's European Union Act 2011, which unambiguously stated:

> Directly applicable or directly effective EU law (that is, the rights, powers, liabilities, obligations, restrictions, remedies and procedures referred to in section 2(1) of the European Communities Act 1972) falls to be recognised and available in law in the United Kingdom only by virtue of that Act or where it is required to be recognised and available in law by virtue of any other Act (European Union Act 2011, s. 18).

This sovereignist perspective has, ironically, led to enormous judicial acrobatics in the past. The high mark of this concerted effort 'to preserve the formal veneer of Diceyan orthodoxy while undermining its substance' is the *Factortame* saga (Craig, 1991, p. 251).

This series of cases dealt, once more, with fishing rights: the appellant company had been incorporated under English law, but most of its shareholders were Spanish nationals. It had registered fishing vessels under the 1894 Merchant Shipping Act – a practice that allowed its Spanish shareholders to benefit from the fishing quota allocated to Great Britain under the Union's common fishing policy. This practice of 'quota hopping' was targeted by the 1988 Merchant Shipping Act. The 1988 Act limited the reregistration of all vessels to vessels that were British-owned and controlled from within the United Kingdom. But this nationality requirement violated the nondiscrimination principle on which the European internal market is founded, and Factortame had therefore challenged the compatibility of the 1988 Act with Union law.

According to the classic doctrine of parliamentary sovereignty, the 1988 Merchant Shipping Act ought – of course – to have prevailed over the earlier 1972 European Communities Act; yet the (then) House of Lords here famously held otherwise. But instead of embracing the federal idea that parliamentary sovereignty had been limited *qua* EU membership (Wade, 1996), the official view continued to insist that absolute – British – supremacy remained untouched. For instead of locating the supremacy of (earlier) European law over (later) Westminster legislation in the European legal order, the British view came to locate it in the (English) common law by introducing a distinction between 'ordinary' and 'constitutional' statutes (Thoburn v Sunderland City Council, 2003). This clearly un-Diceyan approach formally preserved the supremacy of British over European Union law.

7 | LEGAL DISSONANCES II: *MILLER* AND THE WITHDRAWAL PROCESS

This normative unease between the British and the Union legal orders resurfaced, perhaps not even for the last time, in *R (Miller) v Secretary of State for Exiting the European Union* (2017) on the grounds that a notification to the European Union required the *prior* consent of the British Parliament.

In its *Miller* judgment, the United Kingdom Supreme Court was faced with two contradictory features of the – unwritten – British constitution. According to a first principle, 'ministers generally enjoy a power freely to enter into and to terminate treaties without recourse to Parliament'; whereas, in accordance with a second principle, 'ministers are not normally entitled to exercise any power they might otherwise have if it results in a change in UK domestic law' unless authorized by a parliamentary statute (R (Miller) v Secretary of State for Exiting the European Union, 2017, para. 5). These two principles can only be harmoniously combined in a classic dualist legal order, as any changes introduced by international treaties 'outside' the United Kingdom will – theoretically – have no legal effects 'inside' the domestic legal order; and the Supreme Court consequently started out as follows:

> There is little case law on the power to terminate or withdraw from treaties, but, as a matter of both logic and practical necessity, it must be part of the treaty-making prerogative. (…) Subject to any restrictions imposed by primary legislation, the general rule is that the power to make or unmake treaties is exercisable without legislative authority and that the exercise of that power is not reviewable by the courts (…) This principle rests on the so-called dualist theory, which is based on the proposition that international law and domestic law operate in independent spheres. The prerogative power to make treaties depends on two related propositions. The first is that treaties between sovereign states have effect in international law and are not governed by the domestic law of any state (…) The second proposition is that, although they are binding on the United Kingdom in international law, treaties are not part of UK law and give rise to no legal rights or obligations in domestic law. (R (Miller) v Secretary of State for Exiting the European Union, 2017, paras. 54–55)

But did this dualist reasoning apply to European Union law? In a judgement full of internal contradictions and intellectual gaps, the Supreme Court struggled to find a convincing answer that cut the Gordian knot created by the traditional – dualist – British and the modern – monist – Union legal order. When discussing the effect of Union law in the United Kingdom, this is what the Supreme Court had to say (emphasis added):

> In one sense, of course, it can be said that the 1972 [European Community Accession] Act is the source of EU law, in that, without that Act, EU law would have no domestic status. *But in a more fundamental sense and, we consider, a more realistic sense, where EU law applies in the United Kingdom, it is the EU institutions which are the relevant source of that law. The legislative institutions of the EU can create or abrogate rules of law which will then apply*

> *domestically, without the specific sanction of any UK institution* … In our view, then, although the 1972 Act gives effect to EU law, it is not itself the originating source of that law. It is … the 'conduit pipe' by which EU law is introduced into UK domestic law. So long as the 1972 Act remains in force, its effect is to constitute *EU law an independent and overriding source of domestic law* … The 1972 Act effectively operates as a partial transfer of law-making powers, or an assignment of legislative competences, by Parliament to the EU law-making institutions (so long as Parliament wills it). (R (Miller) v Secretary of State for Exiting the European Union, 2017, paras. 61, 65 and 68)

The 1972 Act was here portrayed as a 'conduit pipe' or 'bridge' that allowed directly applicable EU law into the British legal order without the need for a *specific* act of transposition into British law. On the basis of this monist position, Union law was expressly recognized as an 'independent' source of law and expressly placed above 'ordinary' parliamentary legislation. And it was only this – monist – view that allowed the Court to argue that a withdrawal from the European Union would constitute 'a fundamental change which justifies the conclusion that *prerogative powers cannot be invoked to withdraw from the EU Treaties*' (R (Miller) v Secretary of State for Exiting the European Union, 2017, para. 83 – emphasis added). Importantly, *Miller* showed once more the conceptual irritations and legal dissonances that EU law provoked in the UK constitutional order.

8 | CONCLUSION

From the very start, Britain's feelings towards European integration were complex. An imperial and global power at the end of the Second World War, its economic and ideological commitments often differed fundamentally from those in 'Europe'; and it therefore should have come as no surprise that the kind invitation to join the Schuman Plan was rejected.

Britain's later decision to join the 'common market' in the early 1970s was predominantly of an economic nature; and its profound doubts towards any 'federal' or 'political' union remained a recurring theme throughout its membership. In later years, Britain's critical attitude towards transfers of legislative powers to the European Union thus found numerous expressions in a wide range of 'opt-outs'. They gave the United Kingdom, in the words of the British government, a unique place within the Union: 'No other country has the same special status in the EU' (HM Government, 2016, para. 2.10).

And yet, even this halfway house 'inside' and 'outside' the European Union could not prevent a British referendum in which the majority of British citizens decided to opt out of Union membership altogether. Triggering the 'withdrawal' procedure of Article 50 TEU, the reasons quoted for leaving were the wish of the British people to restore 'national self-determination' and to become again a fully sovereign state in the international sphere (UK Prime Minister, 2017).

These two wishes were rooted in the core doctrine of the British political imagination: parliamentary sovereignty. This doctrine was, as we saw in earlier sections, chiefly responsible for a number of irreconcilable dissonances between the British and the Union legal orders. For the federal doctrines of direct effect and supremacy simply cannot be accommodated in a strictly dualist legal order. And while not discussed in this article, the same conceptual dissonance between the British 'national' and the European 'supranational' view can be found in relation to the political concept of democracy. For a country that cannot 'conceive' democracy outside the nation state must reject all supranational decision-making as intrinsically undemocratic.

ENDNOTES

1. This piece is a significantly shortened and revised version of Chapter 20 of Schütze (2021).
2. See also Camps (1964, p. 48): 'It was generally accepted uncritically and as an article of faith that the United Kingdom should not join a supranational organization and could not join a customs union, partly because of its arrangements with the Commonwealth and partly because the British, like the Six, were always very conscious of the pressure towards political union inherent in a customs union'.
3. I am grateful to Anne Deighton for having pointed me to this wonderful 'British' treasure.
4. During the 1970s and 1980s, the Conservative Party was seen as the 'party of Europe'. This becomes even clearer if it is recalled that during much of the 1980s, the Labour Party's official policy was committed to a withdrawal from the Union, see: Geddes (2013).
5. However, unlike France, Britain lost this battle as, surprisingly, the Council called for a majority vote to break the deadlock – a move that signalled the beginning of the end of the Luxembourg Compromise. A similar episode of British obstructionism would recur in 1996 in response to the ban on British beef following the BSE crisis.
6. Protocol 'On certain Provisions relating to the United Kingdom of Great Britain and Northern Ireland' (1992b, Preamble 1): 'Recognizing that the United Kingdom shall not be obliged or committed to move to the third stage of Economic and Monetary Union without a separate decision to do so by its government and Parliament'.

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