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# Revolt or Revolution: the Constitutional Boundaries of the European Community

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## Main text

"This book is a Ph.D. thesis defended in May 1995 at the European University Institute in Florence, and somewhat amended" (p. vii), completed on "Easter Monday 1996". A portentous date, at least in the Irish context. The relatively rapid and extreme changes in the nature of constitutional law in Ireland since 1916 must be seen as reflecting an important leitmotif of this work, namely, the radical transformation in the function and focus of European nation state constitutions in the second half of this century. But rather than adopt a celebratory approach in this regard, this book's mission is to explore the possible end point of the legal phenomenon that is the influence and impact of Community law on national constitutional law. The "revolt or revolution" of the title refer to Phelan's thesis that the relationship between constitutional orders in the Community has reached a confrontational stage, such that a radical reaction is inevitable. He focuses on French and Irish constitutional law to demonstrate the level of conflict that he asserts is evident.

There is a significant exclusion clause in the introductory chapter, where it is claimed that "wider perspectives" on the subject will not form part of the argument and the focus will be on a formalist, "order approach". This, it is hoped, will lead to "the most neutral approach" towards the problems raised by the integration of legal orders necessitated by the development of Community law. This is far from being a simplistic statement and the position is thoroughly explained and justified. Nonetheless, deliberately to avoid broader, relevant arguments and debates in the interests of a fully formal approach is both a difficult and limiting position to adopt. Phelan is comfortable in going against trends towards multidisciplinary or wider theoretical perspectives, but it is not consistently clear that the work would have suffered detrimentally from some input of this nature.

"National constitutional law is at breaking point" (p. 10) because of the relationship it has been forced into with Community law, and they are fundamentally at odds with each other. The argument is developed first with the largest part of the book devoted to an analysis of European Community law and its public international law dimensions. While there is comprehensive treatment here of constitutional aspects of Community law, some of the discussion lacks an expansive perspective (for example the section on the Treaty as Constitution). Part III and IV deal respectively with French and Irish Constitutional law. It is in these

sections that this work displays the thorough, in-depth and stimulating appreciation of the heart of constitutional law in the Community, if indeed one can say that such a law exists, for that is precisely what Phelan is seeking to disprove. The next section on Conflicts represents the summit of his argument and, as one would expect, deals with many provocative and debatable issues.

The essence of this book would obviously have benefited from more analysis of German constitutional law, where, perhaps, the revolt or revolution is already underway. But this does not detract from what is an impressive and serious engagement with the state of constitutional laws in the Community. One minor weakness resides in the presentation of the arguments with numbered paragraphs throughout which, together with the direct, terse tone of the writing, makes for a somewhat heavy going, intense register.

The future of Community and Union law lies in the mediation of the constitutional relationship between the different legal orders encompassed by the umbrella of integration. This is an intelligent and thought-provoking book which is a significant contribution to the literature on the subject.