ADDRESS BY MICHEL GAUDET

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I shall devote this last speech of the Institute to trying to point out some of the main common features of the legal pattern of the three European Communities. I am perfectly aware that, by doing so, I will not add anything to the extensive knowledge of the European Communities that the foregoing speeches have given you. Right from the start, Prof. Eric STEIN has, by his comprehensive talk and by his precise answers, made you familiar with the legal structure of the European Community. My aim will be to submit to you a few remarks as to the special legal conditions under which European integration is developing and as to the legal methods adopted by the six countries to achieve this integration.

If I appear to be very systematic in doing so, I would ask you to excuse me, not only on the grounds that I am a Frenchman, but on account of the very task that the program of this Institute has laid upon my shoulders.

The whole legal system of the European Community is based on the agreement of the Member States to submit to common rules and to transfer part of their powers to common Institutions.

Such an agreement must seem very familiar to the lawyers of the United States. But to look for a close transposition of the U.S. federal system in the legal system of the Community would be misleading.

The sociological context of the American Federation and that of the European Community are entirely different. Even when recalling the early period of the American Union, fundamental differences appear. By and large, one language, one faith, one sovereign and one law created such unity that, hadn't they found in the British Crown one ennemy the Thirteen Colonies might have become a British Dominion. On the contrary, the European Community assembles today six separate nations, where four different languages are officially used and six different States are fully developed. Moreover, history, that has made the American States more and more united during the past two centuries, has made the member countries of the European Community more and more divided up to the last fifteen years. Within these countries, different problems have arisen and had to be dealt with; different policies have been led which have resulted in different structures, both economic and political. Even the industrial revolution, though affecting the six countries, has not drawn them nearer since it has developed in separate markets and made those countries fierce competitors when not enemies.

This situation has far-reaching consequences for the legal systems of the European Community. To an European lawyer two of them are peculiarly striking in comparison with the legal system of U.S. The European Community has not found the support of unity of law within the member countries; neither has it been able to achieve, as yet anyhow, a federal State.

1) Indeed, the existence of "common law" in the U.S. does not mean that a single law is applied throughout the nation. Statutory law has become more and more important in each State. In the field of "common law" itself, the Erie Railroad decision seems to have rejected since 1938 the long discussed theory of a "federal general common law", through which Justice Story had perhaps dreamt that "common law" may be some day unified in the U.S. But it seems fair to assume that the adoption of "common law" by all the American States (with the famous exception of Louisiana for which I feel as a Frenchman partly responsible) has promoted throughout the whole nation the reference to the same basic legal principles, the use of the same legal methods, and a continuous comparison of the law in the different States, greatly helped in the last years by the Restatement of the Law and the State Annotations.

No such support is available for the legal system of the European Community. The present Member States have much in common, it is true. The six Member States are countries of "Civil Law"; their Codes, mostly identical at the time of Napoleon, are still much alike in some fields. But their separate evolution during a century and a half of highly important political and economic events has led to important modifications of the Napoleon Codes in most countries, and to the replacement of these Codes by new ones in Germany and Italy. Legal principles are still basically the same, but legal texts differ, and not only on account of the languages. Legal methods and procedures are often different.

Matters have been made worse by the enormous increase of economic legislation during the present century. Whereas in the United States this legislation is mainly federal and therefore single, each member country of the European Community has developed its own economic conceptions and its own legal rules and public organizations. Comparison is difficult therefore, and even contacts between lawyers of the six countries have been scarce during long

periods. As a result, the adoption and application of common rules in the European Community requires preliminary explanations and mutual concessions which have been spared to the American Union ever since it was envisaged.

2) The sociological reasons briefly recalled above have also prevented the Governments of the Member States from setting up a real federal State. They have transferred powers in the field of economy; they have not given away their rights of sovereignty as regards for instance foreign policy (except for commercial matters), army, police, finance, welfare, and so on. The hard core of political power remains vested in the six nations and not in the Community, contrary to what happens in a federal State. This does not prevent to make use within the Community of some federal techniques. But it does prevent to make use of those federal techniques which are based on the exercise of the national sovereignty by the Federal State, such as the direct enforcement of decisions by the federal authorities or the recognition of a full faith and credit clause.

The legal system of the European Community is therefore founded on the fact that the Member States, remaining presently sovereign in the political field, have transferred limited powers in the field of economy, in order to achieve specified objectives with well defined means.

To start uniting these States, where various languages are used, different laws applied and national sovereignties to a large extent untouched, original methods have been necessary. It wouldn't be fair to judge them by comparison with the achievements of the American Federation. They must be understood and appreciated in relation to the specific problems and situation of Europe. In this light, the legal innovations accepted already by the six

countries may be considered as the first steps of a revolutionary change in the methods of international partnership.

THE COMBINATION OF COMMON RULES AND COMMON INSTITUTIONS

The agreement of the Member States to submit to common rules within the economic field of competence of the Community is at first sight the application of a classical method, even if, as in the present case, the expression "common rules" is not applied to mere administrative regulations but also to binding provisions in matters generally decided upon by legislative acts. Almost daily, independent States commit themselves to reciprocal obligations that fall under the usual principles of international law. And in the economic field such international organizations as G.A.T.T. (General Agreement on Tariffs and Trade) or O.E.E.C. (Organization for European Economic Cooperation) have already shown the vast possibilities of this method.

But then, why should the Member States also transfer powers to common Institutions ? Economy is nowadays an essential and wide field of action for the Governments, the most important perhaps. Except in unions and federations of States, a transfer of power has never been done before on a broad scale in that matter. Why does it prove necessary for the European Community ? Because in joining the European Community, the Member States have not only accepted to submit to common economic rules, they have also agreed to rule jointly their economies, or a very significant part of it. They have not decided a mere cooperation; they have accepted integration, with its political meaning. And this could not be done without transferring powers to common Institutions for different purposes.

1) The common rules must be applied and enforced on an equal basis throughout the Community. How could the rules of fair competition for instance be interpreted and carried on separately by the national Governments without producing differences that would raise suspicion, discrimination and possibly retorsion ?

2) In the economic field anyhow, the transfer of a mere executive power is not enough. The common rules can not provide in detail for action in any economic situation likely to arise. A continuous analysis is necessary, appreciations have to be made, action must be decided and carried on in relation with the circumstances. In this action, the views of the national governments are bound to be different, since the balance of interests differs from one country to another. A policy-making power must be transferred to politically controlled common Institutions.

This policy-making power is all the more necessary that the Community shall, as such, assume international commitments. How in the field of competence of the Community could international obligations be negotiated and become binding, how could the Community as such be represented at the non-member States or in the international organizations, unless by common Institutions ?

3) The common rules can not all be set up right from the start. New economic situations arise - experience has shown that the economic situation changes between the negotiations of a Treaty and its entry into force - ; new problems appear as the provisions of the Treaty go into application. These provisions must be completed and clarified as experience goes on. A Treaty amendment can not be negotiated and adopted by the national Parliaments each time. A rule-making power must be transferred to the common Institutions in order to implement the principles and achieve the objectives established in the Treaties.

4) Moreover, the rules of the Treaties can not even be set up once for all. Experience may call not only for implementation but for adjustment of the Treaties. The rule-making power of the common institutions will then become really a reviewing power, which must of course be expressly provided for in the Treaty, and does not apply to those provisions that are regarded as fundamental and can only be modified through a new Treaty.

Indeed, executive, policy-making, rule-making and reviewing powers have been granted within the European Community to the common Institutions which Prof. Eric STEIN has described in his masterly speech.

The combination of common rules and of common institutions applied to broad basic economic fields is the originality of the legal system of the European Community. It is the legal means of integration, as opposed on the one hand to mere trade agreements between sovereign nations that are not prepared to go further than diplomatic compromise - or lack of compromise -, and on the other hand to a Federal Constitution.

This combination of common rules and common institutions raises problems akin to federalism as regards balance of powers between the Member States and the common Institutions. They may be solved in different ways as the experience of the European Community has already shown.

The Coal and Steel Community has been negotiated in 1950, five years after the end of World War II. Mutual fear and suspicion were still very fresh in the peoples' minds. On the other hand, each European country was seeking economic recovery through different methods, some supposed to be very liberal and some less. National governments were all inclined to be cautious in surrending their sovereign powers to common Institutions in which sat their ex-enemies and the policy of which could not be foreseen.

For these reasons, the European Coal and Steel Community Treaty, provides for :

1) a limited field of jurisdiction, which even as regards coal and steel leaves out important matters such as wages or commercial policy, and

2) for detailed rules and guarantees, which reduce the scope of policy-making, rule-making and reviewing powers transferred to the common Institutions. Under those limitations, the Member-States have agreed to vest almost all the transferred powers directly in an independent body, the High Authority, which appears as a strong common executive. But most of policy-making and rule-making decisions of the High Authority require the previous consultation - and in the important issues the previous consent, sometimes unanimous - of the Council of Ministers.

The combination of rules and powers is different in the Rome Treaty establishing in 1957 the European Economic Community. Mutual confidence had grown. The experience of the Coal and Steel Community had shown both that a common policy was possible and useful, and that economic integration could only be carried on successfully if applied to the whole economy. This meant that the guarantees of the Member States should reside less in rules impossible to lay down in the Treaty than in the institutional pattern of the Community. Therefore, in the E.E.C. Treaty, a vast field of jurisdiction includes almost the whole economy of the Member-States; very broad policy-making powers are transferred in such matters as commercial policy, agricultural policy, transportation policy; the common institutions are entitled to establish common rules in order to implement most of the provisions of the Treaty; they can occasionally make decisions completing and in a limited scope modifying the Treaty.

The relative lack of rules in the Treaty and the broad transferred powers call for action by strong political institutions. As long as no real federal government has been set up, the political responsibility lies mainly with the national governments. Therefore, while the executive powers are transferred to the Commission, the main policy-making, rule-making and reviewing powers are vested in the Council of Ministers in which sit members of the Governments. But the common interest is always taken into consideration. The independent Commission has the initiative and participates in the making of all important decisions; the Parliamentary Assembly participates in the making of all important regulations or directives to be set up by the common Institutions; and the Council of Ministers is or will be entitled to make most of its decisions under a majority rule in order to avoid veto by a Member State against what is considered by the Commission and the majority to be the interest of the Community.

When comparing how the powers are vested in the common institutions, one might think that the legal system of the European Coal and Steel Community, where decisions are made by the High Authority, is nearer to a federal system than that of the European Economic Community, where decisions are made by the Council. But when considering the extent of the field of jurisdiction and of the powers transferred to the common institutions, the opposite is true. This confirms that only an analysis of the combination of common rules and of the transferred powers of the common institutions can give a fair understanding of the European Community.

In the light of this combination of rules and powers, the recent developments of the European Community through the Rome Treaties are decidedly a big step forward towards unity, widening the field in which common rules are applied and transferring stronger powers to the common institutions.

These remarks explain the peculiar drafting of the Treaties. It has been already noticed by Prof. Stein that your federal Constitution establishes the federal institutions, defines their mutual relationship and their jurisdiction with respect to the States, provides legal protection for States and individuals, but does not set up rules for substantive policies, which are laid down in federal statutes. It has also been noticed by Mr. Verloren van Themaat that the rules of competition of the Common Market might be easier to interpret and apply if they had been stated in three basic articles, instead of sixty which have to be combined. It must be remembered that the national governments, remaining politically responsible to their people, have sought to limit the powers transferred to the common Institutions.

They have done it with a remarkable flexibility. For each matter concerned, the Treaties define the field of competence of the Community, limit the scope of transferred powers and provide for a procedure. Thus the national governments, which would have not accepted an unlimited transfer of powers in economic matters as a whole, have gone as far as they could in each matter towards common rules and common powers. More flexibility still has been reached by the voting rules, a unanimous consent of the Council of Ministers during the first years being often automatically replacedby a majority vote later on. This flexibility, the result of a pragmatic approach, is certainly one of the main features of the legal system of the European Community. It may perhaps have other applications in cases where a transition from national sovereignty towards integration proves necessary.

It does lead though to a rather complicated and weak institutional machinery. New steps towards a simpler and stronger pattern of common government require a shift of political power from the national governments towards the common institutions.

In this light, the direct election of the European Parliamentary Assembly by the peoples of the Community might be an issue of great significance. Such an Assembly, elected on a European political platform to get home a European policy, may have enough weight to be allocated more powers, both for controlling the Executive bodies and in the law-making process. The political responsibility in European matters would no more lie eventually with the national governments only.

With this view in mind, it should be reminded that the Treaties have provided that the Parliamentary Assembly, actually composed of members of the national Parliaments, will make proposals for its own direct election by the peoples of the Community. A special working group has been created within the Assembly, six months or so ago. Led by a Belgian Senator, M. Dehousse, this committee has been going around the six capitals and meeting in each Member State the official circles and the political parties, with a view to draft an agreement which could be first adopted by the Assembly as a whole, and then submitted as a proposal of this Assembly to the six Member States. The final word indeed will be up to the six governments and even to the six parliaments, who must approve the agreement proposed by the Assembly. Most probably, during a transitional period, a part of the members of the European Assembly will remain members chosen by and among the national parliaments, the other part being directly elected by the peoples. It is very important, in order to make sure that this European Assembly has political strength, that leaders of the different political parties in each country sit in the Assembly, and these leaders might hesitate to abandon their traditional and well known work in the national parliaments, to run for the European elections and sit exclusively in the European Assembly. The transitional period, as well as the compatibility between the national and the European representation, will help the formation of a strong political European Assembly. It may be hoped that the Assembly will be able to discuss the report of the

working group next Spring. Then things will be made public and a proposal might be made to the Governments before the end of this year.

ENSURING EXECUTION OF THE COMMUNITY LAW

Whatever combination of rules and powers is adopted, the result is that common binding rules are established, whether by the Treaty itself or by acts of the common institutions. As has previously been explained, these may be self-executing regulations or decisions; or also directives which bind the Member-States to which they are addressed as to the result to be achieved, while leaving to national Governments or agencies a competence as to forms and means to be used. The common rules, as a whole, form the Community law. Through which systems is execution of the Community law ensured within the Community ?

1) Execution by Member States relies on a few principles laid down in the Treaties.

The main one is the duty for each Member State to take all general or particular measures which are appropriate for ensuring the carrying out of the obligations arising out of the Treaty or resulting from the acts of the common institutions. This is the basis of the whole legal system, and a Member State could not fail to fulfil this fundamental duty without questioning the very existence of the Community.

But, each Member State cannot be the final judge of its own obligations under the Community law. A special system has been set up by the Treaty to settle disputes on this matter, and the Member States have undertaken not to submit a dispute concerning the interpretation or application of the Treaty to any method of settlement other than those provided for in the Treaty. This provision precludes the Member States from going

before the International Court of Justice in The Hague. Under the Treaty, the Court of Justice of the Community is indeed competent, and rules supreme as far as such disputes are concerned. The Commission and each Member State can refer to the Court of the Community any alleged infringement of the obligations under Community law by a Member State.

It shall be observed that when a Member State intends to institute proceedings before the Court of the Community against another, the matter must first be referred to the Commission which must give a reasoned opinion within a period of three months. Thus, a dispute between Member States may be settled by the Commission without it being necessary to refer to the Court. And if it does go to the Court, the views of the Commission, speaking for the common interest of the Community, will be taken into account as well as the views of the Member States involved in the dispute. Up to now, no Member State has ever instituted such proceedings.

It shall also be observed that when the Commission considers that a Member State has failed to fulfil one of its obligations, it must first address a reasoned opinion to this Member State and lay down a reasonable period to comply with the terms of this opinion. This procedure of a previous reasoned opinion, given after requiring the Member States to submit its comments, has proved already successful. It may be noticed that under the European Coal and Steel Community Treaty, the same result is achieved by a somewhat different, and less friendly, procedure: the High Authority, after requiring the Member State to submit its comments, states in a decision that this Member State has failed to fulfil one of its obligations and lays down a period to comply. The Member State can then attack the decision of the High Authority before the Court of the Community. This procedure has also proved successful, at least for providing the Court with cases and the lawyers with extra-work !

If the Court of Justice finds that a Member State has indeed failed to fulfil any of its obligations under the Community law, the State must take the measures required for implementation of the judgment of the Court. If the Member State fails to take these measures, the Community has no means to enforce the Community law. In some cases, retorsion measures may be taken by the common institutions, or with their authorization by the other Member States, to correct the consequences of the failure. This provision, somewhat theoretical, exists in the European Coal and Steel Treaty, but has not been reproduced in the Rome Treaties. In reality, failing to comply with a decision of the Court stating its obligations under the Treaty is highly improbable on the part of the Member States which have been and are generally conscious of their legal obligations. A failure would then mean that a Member State is questioning the "affectio societatis" without which the Community can not live, and would therefore raise a basic political problem. When drafting the Treaty, the Member States have considered that such a situation could be handled between them on a political and not on a legal basis.

2) Execution of the Community law by persons and enterprises within the Community do not raise the same problems. They must observe :

i) the self-executing provisions of the Treaty;

ii) the provisions of the regulations issued by the common Institutions, which are all binding in every respect and directly applicable in each Member State in the same way as a national law;

as well as

iii) the decisions addressed to them. While the regulations are published in the Official Journal of the Community, the decisions are notified to the addressees and take effect upon such notification.

If individuals or enterprises fail to comply with their obligations under the Community law, penalties may be imposed upon them. These penalties should be the same throughout the Community when the same infringements are committed. But penal law remains a matter of the competence of the Member States and is applied in each State by the national Courts. No uniformity can be reached through penal law. The European Coal and Steel Community Treaty has therefore empowered the High Authority to apply pecuniary sanctions or daily penalty payments within limits set up in the Treaty. The person or enterprise concerned must be previously required to submit its comments. The decisions imposing penalties may be referred to the general jurisdiction of the Court, thus entitled to annul the decision or modify the penalty. Special penalties have been provided for, as has been explained by Mr. Vogelaar, in EURATOM Treaty. The EUROPEAN ECONOMIC COMMUNITY Treaty does not institute itself penalties, but they will be provided for, whenever necessary, in the regulations issued by the common institutions.

A special system of enforcement of pecuniary obligations is provided for. It will apply to enforcement of the above-mentioned penalties, but also to enforcement of the decisions of the Court. As already noticed, the Community has no means of its own for enforcing such decisions. The Treaties have therefore stipulated that forced execution shall be automatically ensured by the Member States. The writ of execution shall be served by the Member States without other formality than the verification of the authenticity of the decision issued by the common institutions. No previous review of this decision can be made by any authority of the Member States.

This special system which has proved successful on several occasions in Coal and Steel matters is typical of the Community. The common institutions are the mind, deciding on the basis of common interest. The Member States are the arm, bound to give full recognition to the common decisions, as to their own national decisions.

The binding effect of the Community law upon Member States and upon the private persons or enterprises call for a judicial control. Two main problems arise :

1) First, the rules set up in the Treaties themselves have been accepted by national Governments and Parliaments. Their adoption has followed the same procedures and offer the same guarantees as national law. This is not the case for the rules issued by the common institutions. These should be binding only as far as the limitations and guarantees established in the Treaties have been observed. Issued by virtue of transferred powers, they can not exceed the frontiers or ignore the conditions set to the transfer of powers.

Though the definition of these limits and conditions is a job of great political significance, the Member States have agreed that all disputes arising on this matter should be referred to the Court of Justice of the Community, empowered to take final decisions. It should be reminded that the members of the Court serve full time and have to leave aside any occupation that is considered by the Court itself or by the Council of Ministers as incompatible with their activity as judges of the European Community. They are anyhow kept busy by this activity. On first January 1960, the Court of Justice which, as you know, is a single court for the three Communities, has been referred to for 150 cases, out of which 137 concerned the Coal and Steel Community, and 4 only concerning the Economic Community. These figures should not raise doubts as to the legality of the decisions of the High Authority. Indeed, out of 48 decisions which have been given by the Court on Coal and Steel matters on last January 1st, 40 have been given in favor of the High Authority. The reason of the higher number of cases regarding the Coal and Steel Community is that this Community is in operation since eight years, whereas the two other Communities are still very young.

It must be stressed that the Court of the Community does not give opinions, save in exceptional occasions related to international agreements to be concluded by the Communities or by the Member States or to reviewing of the Coal and Steel Treaty. As a rule, the Court, same as the U.S. Supreme Court, judges the cases put before it. Therefore, the common institutions must first issue their rules. But any of the binding acts issued by the High Authority, the Commissions or the Councils of Ministers, can be sued before the Court for annulation if this particular act is thought to have been taken against the provisions of the Treaties. By annulling the act or part of it, or by rejecting the claim, the Court decides on the limits and conditions of the transfer of powers granted to the common institutions. The reasonings of the Court are therefore extremely significant for the checks and balances of the European Community.

This system can not be applied if the common institutions have issued no acts. Inaction may nevertheless prove to be contrary to the Treaties. The common Institutions may therefore be required to act, and the Court of Justice may be referred to if they have not complied within a period of two months.

On account of the political meaning of the decisions of the Court, claims against the acts issued by the common institutions can, as a rule, only be raised before the Court by the Member States or the common Institutions. Two large excertions are provided for. On the one hand, an individual or an enterprise can always sue before the Court a decision of a common institution addressed to it, directly or indirectly. On the other hand, individuals or enterprises can at any time allege the inapplicability of a regulation of a common institution when this regulation is invoked against them in legal proceedings. But in this case, the regulation, if found contrary to the Treaty, will not be declared nul and void; it will only be inapplicable in the case concerned.

2) The second specific problem of judicial control arising within the Community relates to unity of interpretation of the Community law. Being binding and self-executing, the rules provided for in the Treaty, as well as in the regulations and decisions of the common institutions, must be applied throughout the Community by the national Courts. This means that each national court is going to interpret the Community law in its own way. Even if these courts are bound themselves in their own State by the decisions of the National Supreme Court, at least six interpretations of the Community law might co-exist within the Community. To avoid such legal insecurity, as well as contradictory judgments which might lead to national discriminations, the Treaties have set up the following principles, somewhat differently applied in the EUROPEAN COAL AND STEEL COMMUNITY Treaty and in the ROME Treaties.

When a question relating to interpretation of Community law, or to the validity of acts issued by a common institution, is raised in legal proceedings before a national Court, the Court of the Community is competent to pronounce upon this question by a preliminary decision. If the national Court considers that its judgments depend on the answer to this question, it may request the Court of the Community to give a preliminary decision. If it does not make this request, and that the question of interpretation or validity of Community law is really essential for the case involved, an appeal will be brought most probably before the National Supreme Court. And the National Supreme Court is bound by the Treaties to request a preliminary decision from the Court of the Community. At this last stage of judicial control by national Courts, the Court of the Community must be referred to and give the final decision on the question of Community law.

Better perhaps than any other field, the organization of a judicial control of the Community law shows how the absence of a federal State weakens the legal system of the Community. Where are the Judiciary Acts organizing federal jurisdictions competent to deal with all cases involving federal law ? Where is the procedure of removal, entitling the defendant or the Attorney General to bring before the federal Courts any matter referred to a State Court in which federal law is believed to be involved ? More still, where is article VI paragraph 2 of U.S. Constitution ensuring before all Courts, whether national or federal, the absolute supremacy of federal law on the laws and constitutions of the States ? No doubt the lawyer would willingly accept that political decisions could enable him to forge such legal instruments.

But no doubt either that as yet the lawyer is grateful for the considerable steps taken by sovereign nations to pave the way for a coherent if not perfect legal system within the Community. Far different from a federal State, the Community is also far beyond the usual methods of international law. And how indeed could a real and lasting European unity develop by these methods, without any Community law, and without a transfer of powers entitling common institutions to implement or make the law and ensure unity of its interpretation ?

COMMUNITY LAW AND NATIONAL LAWS

The agreement of the Member States to make these steps should not be understated. It is all the more significant that it implies already a great influence of Community law and common institutions on national laws. In the field of public law, the Member States are bound to change gradually many of the national rules to comply with the Community law, whether it be in tariffs,

right of establishment, organization of the agricultural markets, or in rules of competition, health and safety, etc. But the impact of Community law extends also to national private law; under the anti-trust provisions at least, some contracts, valid up to then, become nul and void; corporation law is or will be affected. Even national penal law is modified through the provisions of Euratom Treaty stipulating that a breach of the secrecy obligations set in that Treaty is subject, as regards substance and jurisdiction, to the provision of the Member States, municipal law concerning the endangering of its own security or concerning the disclosure of professional secrets.

The influence of Community law on national constitutional law of the Member States is particularly striking. Belgium and Luxembourg have been led to modify or start modifying their constitution in order to comply with their obligations under the Community law. From now on, Member States may be obliged, without decision of their national Parliaments, by international agreements concluded by the Community in the field of commercial policy. National legislation may be modified by regulations issued by the common institutions without previous decision of the national Parliaments. The Italian government has been empowered for a limited period to make decisions in the legislative field in order to comply with the obligations of the Treaty. The shift of power from the national Parliaments to the common institutions is so great that, while accepting ratification of the Rome Treaty, Germany has issued special rules for its application. The German Parliament has bound the Government to keep it informed of any regulations issued by the Council of Ministers, no agreement of the German Government in the Council being given previous to this information when the proposed regulation implies a modification of the German law.

The whole legal systems of the six Countries has been started to move by the Community. National law is or will be slowly modified towards harmonization with the law of the other Member States. And in each Member State is and will be applied, besides national law, a Community law, more and more important as the action of the common institutions will develop.

CONCLUSION

The peculiar legal system of the Community is rather unusual. It works through international law, as well as with federal techniques. It combines self-executive Community law, and action of the Member States to fulfil their obligations. Scholars have been discussing warmly its legal nature, ever since the Coal and Steel Community started.

Considered from the realistic point of view that law is made of experience and not of theory, these academic disputes are not so important after all. When a young child grows, the whole family discusses whether it is the very image of his father or the living portrait of his dear mother. And each one is probably right because the child does walk like his father but does smile like his mother; and each one is probably wrong because who can tell what the grown-up is going to be like ? But the child doesn't care because he knows that his job is not to be alike but to live. The job of the European Community is to live, and the Community is doing it.

What is important is that, uniting in the Community, European countries are at work trying to solve by new legal methods their ancient and irritating, when not tragic, problems.

European integration is a big step towards enduring unity. It is also a big step towards new applications of the rule of law in international relationship. It needed legal creativeness. There has been plenty to meet the political requirements. This should make us confident that by a joint effort lawyers will be able to meet all political requirements aiming at a peaceful society.

What is also important is that European integration is a constantly moving and improving process. The field of the European Community is gradually widening; the transferred powers are getting more important; political responsibility is shifting gradually from each national government to the common institutions. At the same time, action in the outer world is increasingly important; Mr. Rey has told you about that. The European Community has to be a moving process because it is starting a change. And the most efficient change is that the people of Europe begin to look at their common future instead of gazing exclusively at their national past.

I believe this to be very hopeful when we are all facing the challenges of the 60's. We will have to face them together, by joint action. This most succesful Institute has been a contribution towards such action, for which we feel very grateful.
