Law and Critique Vol. VI no.1 [1995]

RABIES RIDES THE FAST TRAIN: TRANSNATIONAL INTERACTIONS IN POST-COLONIAL TIMES

by

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Introduction

The high-speed railway link, and the Channel Tunnel through which it rushes under the sea, have been declared at the forefront of technological progress and engineering expertise. As part of the Trans-European Network of transport, they dramatically encapsulate hopes for a new era of European economic integration and transnational political co-operation.[1] In the words of the French President Francois Mitterrand, "the Channel Tunnel ... is nothing less than a revolution in habits and practices; ... the whole of Community Europe will have one nervous system and no one country will be able indefinitely to run its economy, its society, its infrastructural development independently from the others."[2]

Despite these positive speculations, however, the Channel Tunnel dramatically highlights England's popular anxiety in being a member of the European Community (EC). Though the Channel Tunnel was officially inaugurated on 6 May 1994 and is in effect a *fait accompli,* information about the Tunnel, and the high-speed rail link joining London to Paris and Brussels, continue to pervade the media.[3] Such publicity ex-

* Department of Anthropology, University of Chicago. Research for this paper was supported by doctoral dissertation grants from the National Science Foundation (No. SES-9308604) and the Wenner-Gren Foundation for Anthropological Research. Special thanks to Peter Fitzpatrick and to Mathieu Deflem, Bernard Hibbitts and John Comaroff for comments on earlier drafts.

1 J. Viegas and U. Blum, "High Speed Railways in Europe", in D. Banister and J. Berechman, eds., *Transport in a Unified Europe* (Amsterdam: Elsevier Science Publishers B. V., 1993), 75-90.

2 I. Holliday, G. Marcou and R. Vickerman, *The Channel Tunnel: Public Policy, Regional Development and European Integration* (London: Belhaven Press, 1991), cited at 190.

3 On the French side, the rail link between Paris and Calais was completed as scheduled in early 1994. By contrast, English plans for the overland route, site of the London terminal, and construction of an international passenger

cites popular reactions which are by any standards out of proportion to the problems concerning the railway's actual route though the English county of Kent which lies between the coast and London, and its disruption to local Kentish residents and their claims to a rural environment. While these intrusions are certainly not trivial, they do not fully explain the widespread and seemingly irrational unease that embellishes the Channel Tunnel's impact with forecasts of terrorism, apocalyptic fires, and most dramatic of all, a sudden influx of the dreaded rabies disease.[4]

In the first section of this paper, I interpret rabies as a metaphor embodying distinct cultural meanings and messages.[5] Understanding the rabies phenomenon in this way is helpful in unraveling contradictory English reactions towards the EC. For the national excitement and apprehension about rabies and the fast train on which it supposedly rides is, I argue, inextricably linked to England's imperial history. Such imagery recalls both the glory of 19th century Britain and the fall of its colonial regime. Situating talk about rabies (and railways) in an historical context is one of many possible ways to locate a post-colonial legacy that lives on in the construction of English attitudes and identities. What I hope to show is how this legacy is also implicitly present in Britain's activities with other western nations and hence significant in the shaping of England's European future.

In the second section, I examine the meaning of transnationalism in an attempt to further explore the salient, but often unremarked upon, overlapping connections between post-colonialism and the forms of Europe's unfolding. Taking what Homi Bhabha calls "a post-colonial perspective" as my cue, I argue that it is not surprising that England is

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terminal at Ashford were still at discussion stages at the beginning of 1994. By June, the British government had announced a shortlist of consortia bidding to build the fast rail link. However, it is not anticipated that the fast rail will be completed before 2002. What is surprising is the British government's apparent lack of embarrassment for such extreme administrative, political and legal blundering, painfully highlighted by the French government's comparative efficiency.

4 In a national poll 2 months before the inauguration of the Channel Tunnel on 6 May 1994, the British population declared their unease with nearly 70% claiming that they would never travel in a car under the sea.

5 For a comprehensive and fascinating discussion of the use of metaphors, particularly as they relate to law, see B.J. Hibbitts, "Making Sense of Metaphors: Visuality, Aurality and the Reconfiguration of American Legal Discourse", *Cardozo Law Review* 16/1 (1995), in press.

caught between both acclaiming and fearing the intervention of Europe. The post-colonial perspective, according to Bhabha, emerges from "the colonial testimony of Third World countries and the discourse of 'minorities'."[6] What this perspective does is recognize the modern nation-state's pretensions towards universalism, given the state's fundamental need to posit itself as a rational, sovereign entity in contrast to an external other.[7] Being part of a European trans-nation expands England's economic and political opportunities. At the same time, England's post-colonial experiences counter this imagined amalgamation by positing multiple discourses and critical revisions that challenge the presumption of England's universal "hegemonic 'normality'."[8] In other words, locating post-colonial experiences occurring within the nation in a larger transnational landscape suggests that as a member of the EC, what is perceived to be at stake by many English people is the very identity of themselves as an enduring singular state entity.

In the construction of the English national identity, law is, according to Anthony Carty amongst others, a particularly important dimension.[9] Hence the overall focus of this paper is to explore how EC law may be presenting alternative legal avenues and, inadvertently, sanctioning competing legal voices not contained by the state. This discussion, then, seeks to go beyond the more visible negotiations between people and law, and probe how transnational activities may be bringing into question how law, as embodied through the nation-state, represents a credible narrative of impartiality.[10] In turning to local-level responses to the Channel Tunnel in the county of Kent through which the high-speed rail link runs, what is fascinating is the extent these could be interpreted as responding to the breaking down of national narratives by and through the EC's "colonization." What I suggest is that as a result of the Channel Tunnel, there may be emerging in Kent, to borrow again from Bhabha, the conditions by which to establish a "hybrid location of cultural value." This expression refers to the porous quality of state entities and the transforma-

6 H. K. Bhabha, *The Location of Culture* (London: Routledge, 1994), 171.

7 *Supra* n.6, at 141.

8 *Supra* n.6, at 171.

9 A. Carty, "English Constitutional Law from a Postmodernist Perspective", in P. Fitzpatrick, ed., *Dangerous Supplements* (London: Pluto Press, 1991), 182-206. See also L. Colley, *Britons: Forging the Nation 1707-1837* (New Haven: Yale University Press, 1992).

10 See P. Fitzpatrick, *The Mythology of Modern Law* (London: Routledge, 1992).

tive potential in the crossing of cultural and political borders within a given location.[11] Critical to this emergent "hybridity", I argue, are the legal infrastructures through which Kent is being re-imagined as part of a primary European region rather than the peripheral "garden" county of England.

Rabies

Rabies, or in French *la rage*, has a unique and long history. Conjuring up images of other deadly diseases such as cancer and AIDS, rabies also evokes premodern imagery in its association with the mysterious affliction known as the bubonic plague. In the years since 1902 when rabies was eradicated from England, there have been periodic outbreaks, such as when 328 infected French dogs were brought back to England by returning soldiers after the First World War. Now British customs controls are rigorous, and quarantine laws are strict. Any animal coming into the country has to be isolated for 6 months. According to official records, there have been no deaths from rabies in Britain for over 60 years. This supports the claim that Britain today is one of the few countries in the world to be rabies-free.

Rabies is a terrifying disease. It is transmitted to humans by bites and scratches from rabid foxes, rats, bats, and more insidiously domestic dogs and cats. The disease attacks the central nervous system and salivary glands, leading to lunacy and seizures. In the perfunctory words of a publicity document on rabies published by Eurotunnel, the joint Anglo/French company in charge of the Channel Tunnel's construction, "Once clinical signs of the disease develop (convulsions, frothing of the mouth, hydrophobia or fear of water and hallucinations) there is no known cure and death is inevitable."[12] For an animal-loving population such as the English claim to be, images of warm and cuddly creatures being the carriers of death are powerful, potent and captivating. At the Eurotunnel Exhibition Center in Folkestone, which sells a vast range of gimmicks and promotional information about the Tunnel, the report about rabies is one of the biggest sellers. As seems to be the case with most things portending death, people are fascinated.

The British government has not been able to ignore the media hype

11 *Supra* n.6, at 173.

12 Eurotunnel Publications: E253, *Rabies and the Channel Tunnel* (London: The Channel Tunnel Group Ltd., 1990), 1.

about a possible rabies outbreak occurring in the wake of the Tunnel's construction. According to Mark Jones, a representative from the London and Essex International Quarantine Pound, the "main worry is that animals will slip in through that bloody tunnel or past lazy customs officials, although no one at the Ministry of Agriculture is admitting it."[13] Eurotunnel, not surprisingly, denies these risks. Its claim is that the Channel Tunnel provides just one more form of transport amongst many existing ones, and is no more likely to be used by animal smugglers than the enormous number of ferries, hovercraft, and planes that cross the Channel daily. Not satisfied with this argument, in 1987 the British government made Eurotunnel undertake that it would incorporate defence measures into the construction of the Tunnel. Despite much evidence that no animal would travel 30 kms along a dark, cold and foodless tunnel, a complex electronic system has been installed to catch any adventurous animals. According to a Eurotunnel document, this is comprised of:

- a security/perimeter fence, with animal proof mesh buried below ground, surrounding the terminals. There will be surveillance to detect the passage of animals at terminal entrances.
- a *high-security fence* around the tunnel portals, with animal-proof mesh buried below ground, and an environment at the portals which will be hostile to animals. In addition, there will be *round-the-clock surveillance*.
- *electrified barriers* at each end of the undersea sections of all three tunnels, preventing the passage of animals in the unlikely event that they have passed through the first two *lines of defence* (my italics).[14]

Despite conflicting reports about the Tunnel's involvement in a rabies epidemic, it is clear that the fast train will not pose a significant threat above that already existing. Animal smugglers can use the already existing boat and air cross-channel networks. And even the most daring, cunning and determined foxes and rats will find it difficult to travel 30 kms underground, and pass by "round-the-clock surveillance" and a "high-security" electrified fence. Ultimately, the scare is unsubstantiated and speculative. However, lying beneath the surface of the rabies debate is a more profound and deeper logic sustaining the bulk of English anxiety. In a political climate that makes open xenophobic attitudes intolerable, and nostalgia for a "lost" empire repugnant, I suggest another interpretation of the public obsession with rabies.

13 *London Student*, 24 Feb. 1994:10.

14 Eurotunnel Publications: M3, *Eurotunnel Information Paper: Rabies and the Channel Tunnel* (London: The Channel Tunnel Group Ltd., 1992), 1.

Rabies, for many English people, represents a form of invasion.[15] Its current absence in Britain, then, helps reinforce the nation's unique superiority, both in military and cultural respects. This absence of disease upholds the virtues of a rational and law abiding citizenry, as well as the country's ability to legally control its ports and borders. Sovereign law, an essential ingredient in the make-up of the English identity, is sustained. And it is law which allows Britain to structure its defensive stand against the deadly disease that, according to media publicity, is being fuelled by unrestrained "third world" migrations into Europe and particularly into France, and is now creeping westwards towards England. In the words of the official Eurotunnel publication on rabies, the disease runs "virtually unchecked" in foreign (post-colonial) countries.[16] In India alone, an estimated 20,000 people die annually from rabies. In Europe over the past 12 years, 36 people have died (although 10 of these people contacted the disease in Africa or in the Far East). The implicit messages are that rabies is associated with "developing" countries and ethnic peoples, and, despite a EC scheme to stamp out the disease, it is unlikely rabies will ever be fully eradicated.

What the threat of rabies excites, then, is the sense that Britain must remain vigilant. Unable to impose round-the-clock surveillance and erect electric fences against incoming "foreigners", rabies provides an acceptably neutral explanation for the maintenance and reinforcement of border controls. Rabies makes customs enforcement critical, and spatial boundaries of inclusion and exclusion essential. The political and social body of England requires protection. By implication, there is a temporal logic operating that suggests society should stay as it is in order to withstand the invasion of a contagious, anomalous and lawless force.[17] Change — at least towards that of a more open and borderless Europe — is denounced at the same time that the EC makes claims to such change as the basis for its existence.

15 The last invasion of England occurred in 1066, and the country's historical independence is strongly defended and constantly evoked in the national imagination. So unlike other European nations whose borders have been the subject of constant friction and in many cases have geographically shifted over time, the thought of potential invasion carries intense and particular meaning in England.

16 Eurotunnel E253, *supra* , n.12, at 3.

17 Implicitly, Britain should remain steadfast as a united, homogenous, "white" nation.

What makes rabies a particularly powerful metaphor is its difference from all other viruses. Unlike AIDS which is peculiar to contemporary society, rabies represents the unexpected returning of a premodern "black death" that alienates and objectifies by physically transforming the victim into raving, frothing, lunacy.[18] Still, there are connections between the diseases. According to a local rector in Rochester, Kent, rabies presents real concerns but, he says, these are exaggerated. Rather:

> The Channel Tunnel is a violation of our island integrity — a rape. Building it was a triumph of power and money over ordinary people and the English countryside. People think it might give us rabies in the same way as a rape victim might catch AIDS. I suspect something like this is happening at the psychological level.[19]

Rabies and AIDS, unlike cancer, are both caused by an invasion of an "infectious agent that comes from the outside."[20] In this way, as Susan Sontag notes, descriptions of epidemics become conflated with ideas of otherness, providing an explanation for why "xenophobic propaganda has always depicted immigrants as bearers of disease."[21] "[T]here is a link between imagining disease and imagining foreignness ... Part of the centuries-old conception of Europe as a privileged cultural entity is that it is a place which is colonized by lethal diseases coming from elsewhere."[22] Jean Baudrillard adds a twist to this perceived threat of external invasion. Baudrillard is primarily concerned with AIDS in his writing about the viral and virulent excesses involved in current society's "endless process of self-reproduction."[23] Nonetheless, Baudrillard offers greater insight into the seemingly irrational terrors evoked by the threat of rabies by highlighting the insidious and imminent forces of "radical otherness" and disorder now emerging from within. In an insightful discussion about the impact of the colonized, Baudrillard writes:

> It lies in their power to destabilize Western rule ... It is now becoming clear that *everything* we once thought dead and buried, everything we thought left behind for ever by the ineluctable march of universal progress, is not dead at all, but on the contrary likely to return — not as some archaic or nostalgic ves-

18 S. Sontag, *AIDS and its Metaphors* (New York: Farrar, Straus and Giroux, 1989), 45.

19 Personal correspondence, 16 March 1994.

20 Sontag, *supra* n.18, at 17, 47-50.

21 Sontag, *supra* n.18, at 62.

22 Sontag, *supra* n.18, at 50.

23 J. Baudrillard, *The Transparency of Evil* (London: Verso, 1993).

> tige (all our indefatigable museumification notwithstanding), but with a vehemence and a virulence that are modern in every sense — and to reach to the very heart of our ultra-sophisticated but ultra-vulnerable systems, which it will easily convulse from within without mounting a frontal attack.[24]

Terror of the "enemies within" is heightened at a time when the mythological sense of being British has lost some of its vitality, and the country is culturally and politically fragmenting.[25] The influx of post-colonial peoples since the 1950s and 1960s has been instrumental in developing two general versions of Britishness, which in a way reflect two different trajectories of modernity; the first is regressive, conservative, and based on the presumption of a stable unified culture; the second is motivated by the tense, and at times bloody, overlapping of cultural histories and traditions, which in their link to class and ethnicity, challenge the very notion of British homogeneity.[26] While the repeated success of the Conservative Party suggests the dominance of the regressive type of British identity, its vulnerability is highlighted by increasing minority dissidence. In such a volatile and distrustful political and social environment, it is hardly surprising that in the fight against rabies, the British government required three lines of defence and an electrified fence to be built inside the Tunnel, and, moreover, that a large number of the English public refuse to believe this to be adequate.[27]

Railways

While fear of rabies can be viewed as representing English peoples' heightened sensibility of the internal disintegration of their own nation, does the high-speed rail link on which rabies supposedly rides modify this interpretation?

Railways are symbolic of a national heritage and hold a special place in the English imagination.[28] In no other country would you find the

24 Baudrillard, *supra* n.23, at 137-138.

25 S. Hall, *The Hard Road to Renewal* (London: Verso, 1988), 8.

26 See for instance, I. Chambers, *Border Dialogues: Journeys in Postmodernity* (London: Routledge, 1990); P. Gilroy, *There Ain't No Black in the Union Jack* (Chicago: University of Chicago Press, 1991); H. S. Mirza, *Young, Female and Black* (London: Routledge, 1992).

27 See for a discussion of plagues and epidemics as signs of political and moral decline, Sontag, *supra* n.18, at 54.

28 See for instance O.S. Nock, *The Railways of Britain: Past and Present* (London: B. T. Batsford Ltd., 1947), v.

number of hobbyists spending hour after hour train "spotting", outlaying enormous expenditure on Hornby model railways, or participating in amateur clubs that maintain old engines and run steam-train rides. One only has to walk into almost any bookshop and see the abundance of literature on railway history in order to realize the extent of this national interest.[29]

Within Britain, railways played a dramatic role by functionally and symbolically altering the relationships between cities. By 1848, one could travel by rail the length of the nation from Edinburgh to London. The reduction of travel times between towns and places led to an "enormous shrinkage in the national space" and instrumentally united the British nation.[30] As railways developed and transformed the "whole surface of the land," it visually brought home to the wider population the impact of the industrial revolution.[31] With that came capitalism's accompanying ideology of individualism which fundamentally disrupted the rural, and in a sense still feudal, social fabric.[32] "The railway was the embodiment of the new equalitarian civilization of the towns."[33]

Particularly in country areas, the coming of the railway was often met

29 The special fascination of trains has attracted theoretical discussion. As Foucault has pointed out, "a train is an extraordinary bundle of relations because it is something through which one goes, it is also something by means of which one can go from one point to another, and then it is also something that goes by", M. Foucault, "Of Other Spaces", *Diacritics* 16/1 (1986), 22-27, at 23-24. Michel de Certeau likens the train to a form of incarceration. As the rail carriage hurtles along passing through abstract spaces and illegible frontiers, the travelling individual leaves behind his/her proper place and in a sense is suspended in time, separated from reality. The train "not only divides spectators and beings, but also connects them; it is a mobile symbol between them, a tireless shifter, producing changes in the relationships between immobile elements", M. de Certeau, *The Practise of Everyday Life* (Berkeley: University of California Press, 1984), 111-114, at 113.

30 N. Thrift, "Transport and Communication 1730-1914", in R.A. Dodgshon and R. A. Butlin, eds., *An Historical Geography of England and Wales* (London: Academic Press, 1990, 2nd ed.), 453-486, at 463. See also J.R. Kellett, *The Impact of Railways on Victorian Cities* (London: Routledge & Kegan Paul, 1969); N. Faith, *The World the Railways Made* (New York: Carroll & Graf Publishers Inc., 1990), at 58-70; W. Schivelbusch, *The Railway Journey: The Industrialization of Time and Space in the 19th Century* (Berkeley: The University of California Press, 1986).

31 C. Barman, *Early British Railways* (Harmondworth: Penguin, 1950), 9.

32 Faith, *supra* n.30, at 59.

33 Barman, *supra* n.31, at 26.

with violent and bitter opposition.[34] In arguments that are strongly reminiscent of today's local reactions against the high-speed rail link to London, it was claimed that the new railway lines would carve up the fields like a knife and "brutally amputate every hill on their way."[35] Against public objection, the railway engineers and entrepreneurs stood firm. Apart from satisfying private investors, they saw their mission as one of improving the visual landscape. In 1837, the historian Arthur Freeling wrote that these engineering projects were things that "in their moral influence must affect the happiness and comfort of millions yet unborn."[36] According to another critic, the engineer's "will to conquest appears to be dominated by a deep 'sense of moral obligation to put the conquered territory to productive use.'"[37]

This moral overlay helped rationalize the extension of rail across Britain throughout the 19th century, and introduce it to its wider empire. Perceived as a feat of universal progress, rail represented a revolution in international transport necessary to bring the rest of the world within European reach. The railway was the agent and primary generator of Britain's informal colonial expansion by helping to stake out Britain's imperial territories, opening up its colonial markets and resources, and promoting investment and immigration.[38] Providing the means for both overseas integration and territorial annexation, it could be reasonably argued that railways were critical in shaping the colonial-metropole relationship in almost every colonial context.[39]

In this way, railways integrally affected the internal politics of Britain. As has been pointed out, railroads were as much a part of the nation's development as they were of empire-building.[40] Analogous to the way Britain's internal railroads altered the distance between town and country, and hence the spatial organization of work, leisure, and domesticity, Britain's overseas railroads affected the spatial relations

34 Faith, *supra* n.30, at 35-57.

35 Barman, *supra* n.31, at 25.

36 Cited in Barman, *supra* n.31, at 35.

37 Cited in Barman, *supra* n.31, at 35.

38 R.E. Robinson, "Introduction: Railway Imperialism", in C.B. Davis and K.E. Wilburn, eds., *Railway Imperialism* (New York: Greenwood Press, 1991), 1-6, at 2.

39 See generally the essays in C.B. Davis and K.E. Wilburn, eds., *Railway Imperialism* (New York: Greenwood Press, 1991).

40 Robinson, *supra* n.38, at 4.

between the imperial power and its peripheral colonies. For as much as railways were a feature of Britain's 19th century colonial expansion, they were also in a large way responsible for the empire's eventual demise. For instance, in the 1890s, Cecil Rhodes built rail lines northwards from South Africa in a bid to extend British colonial territories and consolidate the Cape Colony's control over the Boer republics. However, once these lines were established, they quickly became the focus of the colonial state's claim for independent power. The intricacies of railway politics are very complicated. For my purposes here, it is suffice to say that the Southern Rhodesian colony, which increasingly had legal control over the mineral resources of the region and the British South Africa [Rail] Company, "had more with which to bargain against the metropolis."[41] This quickened a shift in the balance of power between the imperial metropole and peripheral colony. "The railways proved crucial not only in the creation of the empire and efforts to maintain it, but also in shaping the successor states that replaced it."[42] Railways, then, provided a catalyst through which to mobilize anti-English sentiment and resistance.

This brief discussion of Britain's imperial railway experiences suggests how the rabies metaphor may be embellished by the image of the fast train on which it rides. As suggested above, the somewhat irrational public fear of rabies can be interpreted as embodying the English people's heightened sensibility of the internal disintegration of their own nation. At the same time, the rabies fascination sustains the need for the island state's legal defence against external intervention. Thus the rabies scare expresses disillusionment in the establishing of ethnic harmony, which is intimately tied to England's future open borders with mainland Europe. What the image of the fast train does is to intensify this fear. By alluding to England's rail heritage, the fast train evokes memories of the railway's capacity to carve up the countryside, alter relations of distance between cities, towns and villages, and ultimately centralize the industrial nation. But in the fast train's linking London to Paris and Brussels, these evocations of a national past are fundamentally distorted. New ground networks emphasise a theme of connection that is distinctly different, yet reminiscent, of Britain's expansionist imperial history. This longer historical perspective provides the background to English anxiety in the

41 W.T. Hanes, "Railway Politics and Imperialism in Central Africa 1889-1953", in C.B. Dávis and K.E. Wilburn, eds., *Railway Imperialism* (New York: Greenwood Press, 1991), 41-70, at 65.

42 Hanes, *supra* n.41, at 44.

Tunnel railway's potential to generate transnational territorial integration. In the context of Europe's transport network and the penetration of the island nation, the fast train materially highlights a turning point in the shifting spatial relations between the Community's central Brussels capital and an increasingly peripheral England.

Transnationalism

The fast train in Europe brings to the fore the issue of transnationalism, which is often interpreted as heralding the breakdown of the nation-state. Against this, I suggest that somewhat paradoxically, transnationalism, which marks forces moving beyond and geographically transcending state boundaries, at the same time affirms that ideas of nation-state and national borders exist, and, to the extent that they can be transcended, are fixed. Transnationalism draws its meaning from, and so intrinsically reifies, a modernist theory of nation-building. In short, nationalism and transnationalism are distinct but aligned processes.

This is not to argue, however, that the increasing scale of transnationalism does not pose particular problems and issues. Rather, my concern is in exploring the intersections between law and transnational activities, where the reification of modernist conceptions as they relate to law become overtly problematic. In this way I want to consider a presumption often made in transnational studies, which is that legal systems, while responding and adapting to new pressures, are nonetheless holistic, coherent, and state-bound. Transnational activity raises jurisdictional issues of cross-border legality. But in connecting new legal configurations such as immigration and trade-mark legislation, I suggest that what also needs to be explored is the very authority of law through which these new connections are made. Since transnationalism involves not only a confrontation of the nation-state with external forces, but also a confrontation of those external forces with the internal diversities within any one nation-state, how may transnational activities pose new questions about the nature of law, its sources of legitimation, its power of inclusion and exclusion, and its ready conflation with particularized territories?

A brief examination of the creation of the nation-state in the 19th century suggests parallels with current transnational formations. The rise of the modern nation-state was essentially an imperialist project, requiring the idea of a distant other to consolidate internal state divisions. No country better exemplifies this need than Britain, where the "protective shield of empire" was critical. The otherness of Europe, and even more so

the colonial other, came to be popularized and domesticated, forming a central ideological force in smoothing over internal political and cultural divisions and shaping everyday conceptions in the production of an authentic "British" community.[43] Following this argument, transnationalism can be interpreted as a neo-imperialist process, requiring as much as any form of nationalism an abstracted other through which to define itself as a coherent force. But in contrast with nationalism's location within the nation, what is interesting is that in the trans-nation, there is a greater willingness to acknowledge the integral presence of the other within.[44] Hans Mangus Enzensberger, in an essay entitled "Reluctant Eurocentrism", discusses this converse position:

> ... if a cultural other is no longer available, then we can just produce our own savages; technological freaks, political freaks, psychic freaks, cultural freaks, moral freaks, religious freaks. Confusion, unrest, ungovernability are our only chance. Disunity makes us strong. From now on we have to rely on our own resources. No Tahiti is in sight, no Sierra Maestre, no Sioux and no Long March. Should there be such a thing as a saving idea, then we'll have to discover it for ourselves.[45]

The European Community is a conspicuous example of both trans-state formation and the potential of transnational "ungovernability". Driven by the need to redefine faltering member-state economies, national resources are being united in order that Europe may become a viable world power. In this way the EC embodies a new ambitious phase of global integration and co-operation. According to Charles Tilly, as seen from Eurasia, there have been numerous waves of political and economic globalization since the 10th century. Today's phase of globalization is certainly not the same as its historical predecessors, with technology and speed of communications characterizing its distinct difference. Nonetheless, there are parallels between today's globalization and that experienced in the past century, which resulted in the rise of the modern

43 H.K. Bhabha, "The Other Question: Difference, Discrimination and the Discourse of Colonialism", in F. Barker, P. Hulme, M. Iverson and D. Loxley, eds., *Literature, Politics and Theory* (London: Methuen, 1986), 148-172, at 153-156. See also Colley, *supra* n.9.

44 See P. Fitzpatrick, "'We know what it is when you do not ask us': Nationalism as Racism", in P. Fitzpatrick, ed., *Nationalism, Racism and the Rule of Law* (Aldershot: Darmouth, 1995), forthcoming.

45 M. Enzensberger, *Political Crumbs* (London and New York: Verso, 1990), 32-33.

nation-state in conjunction with "a rush for empire."[46]

These historical parallels become more concrete in the context of the EC's fast train network. In the discussion above, it was pointed out that in the second half of the 19th century, Britain quickly realized the capacity of railways to extend its colonial empire. Railways were used for the purposes of territorial annexation, primarily by imposing lines of integration on often fragmented and diverse conquered communities. In the context of the Channel Tunnel fast train, there is a clear sense that a transnational rail network is vital to enhance European integration. Francois Mitterrand's words that the Tunnel symbolizes that "the whole of Community Europe will have one nervous system," and that no one country will be able to run independently from the others, is a strong reminder of the hopes of an interconnected transport system.

Drawing upon insights from its post-colonial heritage, what England most fears about this transport linking, and hence weakening of its national borders, is not a sudden influx of the rabies disease. Rather, the greatest anxiety for the English people and the British government is that the train, what de Certeau called that "tireless shifter" in the production of relational change,[47] will alter spatial relations and the balance of power between the island nation and mainland Europe. And in this transitional reshuffling, there exists the possibility that the train will facilitate new political discourses and focus critical revisions of the significance of national governments to control their transport and economy. Already the high-speed rail link, institutionalized through English, French and EC law, contests the presumption of England's legal autonomy within its island-bound jurisdiction.

Kent

In recent years there have been dramatic changes in Kent, the English county most immediately affected by the building of the Channel Tunnel and the high-speed rail link. Many natural features of the Kentish landscape have been permanently obliterated or marred. Road traffic has increased enormously. Noise and pollution are emerging as

46 C. Tilly, *Globalization Threatens Labor's Rights*. Center for Studies of Social Change, Working Paper No. 182 (New York: New School for Social Research, 1994), 1. See also with respect to the neo-imperial implications of global processes, Fitzpatrick, *supra* n.44.

47 de Certeau, *supra* n.29, at 113.

significant social problems. Unemployment has risen, and an estimated 10,000 Dover ferrymen will lose their jobs by the end of the decade. The list of problems associated with the Channel Tunnel goes on and on.

Running across the breadth of dissatisfaction amongst Kentish communities, there is a general sense of disillusionment in the current Tory government and its outmoded nationalist sentiments. Many people believe that under Margaret Thatcher's leadership, the government acted unjustly by failing to hear local voices and consult Kent opinions. This was highlighted in 1986 when the government chose to push through *The Channel Tunnel Hybrid Bill* which denied Kent residents the right to demand a Public Inquiry into the need for the Channel Tunnel.[48] Residents were only allowed to raise objections concerning the Tunnel's implementation, not its existence. But despite the House of Commons Select Committee receiving a record 4,866 petitions, these objections were cursorily heard in 6 days. Public reaction to this treatment was strong, with groups such as ACTS (Against Channel Tunnel Schemes) stating in its press release entitled "Breakdown of British Democracy" that "As Mrs. Thatcher becomes progressively like Hitler, her bullies become like the Gestapo."[49] Representative of numerous letters to local papers, Arthur Percival wrote "[t]he Select Committee is in danger of going down in history as a monument of flagrant injustice," and it should "call for a full inquiry where ordinary people's voices can be heard and not stifled."[50] These views were endorsed at the level of local government, and groups such as the Dover Chamber of Commerce offered free legal representation to residents in an action before the European Court of Human Rights against what it believed was an irresponsible British government.[51]

It appears that the building of the Channel Tunnel has imposed a wedge of discontent and division between the government and Kent residents. Arguably, a sense of Kentish identity has been strengthened as a result of the perceived neglect by the rest of the country from within, and attack by mainland Europe from without. Of course, more detailed study is needed to substantiate this claim. Nonetheless, a strong sense of locality and place as well as concern for the environment pervades local

48 See Holliday et al, *supra* n.2, at 39-41; also D. Hunt, *The Tunnel: The Story of the Channel Tunnel 1802-1994* (Worcestershire: Images Publishing (Malvern) Ltd., 1994), 182-184.

49 *Kentish Gazette*, 10th October 1986.

50 *Kentish Gazette*, 3rd October 1986.

51 *The Times*, 16 September 1986.

Kentish communities, intensified by people's first-hand experiences of disruption. The leader of the Canterbury Conservation Volunteers, a local environmental group, supports this interpretation. "In the past few years", she writes, "there has certainly been an explosion of public interest in conservation issues, and I'm sure the Channel Tunnel has played its part in convincing local people that they have to do something before the Kent Countryside gets swallowed up ... The development generated by the Tunnel will be a major catalyst to this trend."[52]

At the same time, EC intrusion has opened up new economic and political opportunities for Kent that bring to mind de Certeau's musing about the train as a mobile symbol both separating and connecting people.[53] Known historically as the "Garden of England", Kent has long enjoyed the reputation of being a "sleepy" and peripheral agricultural peninsula. This has now been modified by Kent County Council declaring an additional title for Kent as the "Gateway to Europe". There are increasing attempts through private businesses, tourism, education schemes, cultural links, twinning of cities, and student exchanges to establish new connections with mainland Europe.

Yet it is Kent County Council's local government activities that most stand out. Not only does it have an office in Brussels, but it has been instrumental in establishing what is called the Euroregion, which is an institutional framework that facilities trans-frontier cooperation primarily concerned with managing the high-speed link between Kent, Nord-Pas de Calais, Flanders, Wallonia and Brussels Capital. Importantly, the Euroregion has independent legal status which eases collaboration between the French and Belgian legal systems, but also gives Kent a measure of autonomy from central government.[54] This has been heightened by the Euroregion attracting 35 million pounds in regional funds. Whether this will help increase a sense of Kentish identity along the lines of established Scottish and Welsh nationalisms is highly unlikely. But it is important to note that the infrastructural possibilities for a heightened awareness of Kent as a new form of regional entity not categorized as

52 Personal correspondence, 19th January 1994.

53 de Certeau, *supra* n.29, at 113.

54 See M.T. Sinclair and S.J. Page, "The Euroregion: A New Framework for Tourism and Regional Development", *Regional Studies* 27/5 (1993), 475-483; S. Martin and G. Pearce, "European Regional Development Strategies: Strengthening Meso-Government in the UK?", *Regional Studies* 27/7 (1993), 681-696.

English nor contained by the state do exist.[55] Kent county stands somewhat independently from the rest of Britain as part of a frontier region with France and Belgium and as a co-recipient of Community funds. In extending the natural coastal borders through EC law, Kent County Council has reconfigured its spatial territory and the local county's political, economic, and social positioning.

In the short term, the Channel Tunnel and the high-speed railway link have certainly highlighted England's legal deficiencies and administrative bungling in governing the railway's impact. In the long term, the greater issue may be that the train heralds alternative visions of egalitarianism and justice promulgated through legal procedures such as France's higher land compensation payments to affected property owners, and the EC's more stringent enforcement of environmental regulations. More directly, Kent's participation in the Euroregion presents an alternative and arguably more accessible channel for local government control and legal reform. The exciting but disquieting potential for these transnational visions is that they may undermine the English law's "mythic foundations" from within, by calling into question and resisting its claims for being neutral, impersonal and universal.[56]

Legal Jurisdictions

Fear of the idea of a more integrated Europe reflects the English peoples' fear for the country itself. And nowhere is this anxiety so well articulated as in the context of law and the issue of national legal sovereignty. The EC represents a new and superior legal order binding its member-states. Where Community law applies it has, notes Mary Robinson, the President of Ireland, in effect brought into the national English system "a written constitution through the European back-door."[57] She goes on to say that "in recent years there has been a realization that there must also be a possibility of different groups using the wider European framework, but using it in a way that penetrates right down to the local level. ... I

55 See E. Darian-Smith, "Law in Place: Legal Mediations of National Identity and State Territory in Europe", in P. Fitzpatrick, ed., *Nationalism, Racism and the Rule of Law* (Aldershot: Darmouth, 1995). With respect to changes occurring in Scotland, see D. McCrone, "Regionalism and Constitutional Change in Scotland", *Regional Studies* 27/6 (1993), 507-572.

56 See Fitzpatrick, *supra* n.10.

57 M. Robinson, "A Question of Law: The European Legacy", in R. Kearney, ed., *Visions of Europe* (Dublin: Wolfhound Press, 1992), 133-143, at 138.

think there is a very strong movement at European level for more regional and local taking of decisions."[58]

The EC's constitutional challenge dislodges the ideology of England's legal autonomy. Importantly, Europe creates an increasingly powerful legal forum through which Scottish, Welsh, Irish as well as other, less territorially defined nationalisms may reform their relative positioning and significance inside and outside Britain. Neal Ascherson, a Scottish journalist and author, noted that "Europe is somehow a way of Scotland getting into the world."[59] Thus in shaking up legal relations within the country, the EC also introduces new moments of cultural and political opportunity. Fragmented groups within Britain, can, in particular circumstances, now make direct appeal to Brussels and sidestep the centralized hierarchy of state power. Admittedly, these appeals are somewhat limited. Nonetheless, the break-up of Britain by its multinational elements envisaged by Tom Nairn in the late 1970s is now supplemented by other forces of fragmentation.[60] Regionalism as a substitute for ethno-nationalism is increasingly being exploited through the EC's regional and structural fund schemes, alongside the potential of the principle of subsidiarity and new institutions such as the European Committee of Regions.[61] It is these localized spatial reconfigurations of transnational activity, which both sub-divide and extend the borders of England, that disrupt a modernist reading of law and legal meaning.

But how does this argument correlate with my earlier claim that nationalism and transnationalism should be considered not as opposed political processes, but rather interconnected and mutually sustaining? In

58 Robinson, *supra* n.57, at 139.

59 N. Ascherson, "Nations and Regions", in R. Kearney, ed., *Visions of Europe* (Dublin: Wolfhound Press, 1992), 13-22, at 20.

60 T. Nairn, *The Break-Up of Britain: Crisis and Neo-Nationalism* (London: Verso, 1977); see also J. Anderson, "Nationalisms in a Disunited Kingdom", in J. Mohan, ed., *The Political Geography of Contemporary Britain* (London: Macmillian, 1989), 35-50.

61 See for instance, H.W. Armstrong, "Subsidiarity and the Operation of European Community Regional Policy in Britain", *Regional Studies* 27/6 (1993), 575-606; C. Harvie, "English Regionalism: The Dog that Never Barked", in B. Crick, ed., *National Identities: The Constitution of the United Kingdom* (Oxford: Blackwell, 1991), 105-118; R. Kearney, "Postmodernity, Nationalism and Ireland", *History of European Ideas* 16/1-3 (1993), 147-155; D. Marquand, "Nations, Regions and Europe", in B. Crick, ed., *National Identities: The Constitution of the United Kingdom* (Oxford: Blackwell, 1991), 25-37.

pointing to how the nation-state is undergoing internal and external transnational challenges, I do not mean to suggest that as an institution it is on the way out. On the contrary, the heady cry of the nation-state's demise is now being revised and countered, particularly in Europe.[62] Rather, what I argue is that it is not appropriate to analyze national versus transnational processes as if they are distinct, opposing, and mutually exclusive. Nor is it appropriate to presume that law is coherent, holistic and state-bound. In the very connectedness of nationalism and transnationalism what should be recognized are the complex political and cultural shifts that underlie the contradictions of the coexisting endurance and vulnerability of law as an expression of national unity. In other words, that the state may well continue to override all other political structures is not questioned in my argument. But what is, however, is how the state may be able to maintain that position despite co-existing nationalisms and regional ventures both within and outside its borders that increasingly make use of multiple sources of legal legitimation. In short, strategies both endorsing and resisting transnationalism, and through such strategies the reflexive modification of what constitutes a legal system and legal sovereignty, may increasingly have to be recognized as problematizing our understandings of law.

Conclusion

In this discussion, I have treated the perceived threat of rabies, and the fast railway on which rabies rides, as a powerful and complex metaphor. Its central significance is its representation of an insidious disease that will infect the English island, and herald in speedy change in the form of a European transport invasion. I have argued that underpinning the metaphor's potency is the continuing significance of England's post-colonial heritage. Particularly important is the understanding that railways both promoted the rise of the British empire, and its eventual demise.

Reacting against and through this post-colonial legacy, what many English people fear is that the EC's high-speed rail link will "colonize" the nation, and alter its spatial, legal and political relations with Europe. This means a national subordination to EC law, and more importantly, suggests the internal fragmentation and reconstitution of what is defined

62 See A.S. Milward, *The European Rescue of the Nation-State* (London: Routledge, 1992).

as England as against mainland Europe. In the county of Kent, the completion of the Channel Tunnel and early construction on the high-speed rail link to London have generated legal changes. In particular, the Kent County Council's involvement in the control of the Tunnel through the creation of the Euroregion uniting it with Nord-Pas de Calais, Flanders, Wallonia and Brussels Capital points to the development of more accessible channels for local government control and legal reform through the EC. What I have stressed is that infrastructural possibilities do already exist for heightening awareness of Kent as a new form of regional entity not categorized as English or contained by the state. In sum, the Tunnel and rail link are practically illustrating an instance of the wider jurisdictional limitations of English law.

The historical parallels between an imperial Britain and a transnational Europe are illuminating and insightful. While the two entities cannot be equated, like Britain, the EC today is primarily an economic and commercial venture, with fluid, vulnerable and contested borders. Like Britain, the EC seeks to consolidate multiple nationalisms, not so much through internal cohesion, as through imposing a single institutional frame, legal system, and citizenry that creates exclusivity against the rest of the world. Unfortunately, the EC, like Britain, has not fully reconciled the promise of modernity to transcend cultural differences with its failure to do so. And so the EC may in the future have to cope with painful conflicts that accompany an institutionalization of democracy without either populist consensus or territorial solidity. Perhaps, as has often been argued, there are no easy solutions, and cultural and political struggles at the level of state, region, and city are inevitable in Europe. If this is the case, it is no wonder that the British government and many English people do not view the Channel Tunnel, symbolic of the EC's neo-imperialist integration and territorial annexation, with the same amount of optimism as their European counterparts. England's post-colonial legacy is forever present, and suggests the ominous internal presence of further social fragmentation. Rabies riding the fast train may be useful as an interpretative metaphor, but it represents real fears of impending radical change.