

# *Contents*

|                               |     |
|-------------------------------|-----|
| <i>Acknowledgements</i> ..... | vii |
|-------------------------------|-----|

|   |     |
|---|-----|
| 1. Introduction .....   | 1   |
| The 'Vow'.....  | 1   |
| Constitutional Perceptions.....                                     | 4   |
| PART I: The Written Constitutional Tradition                        |     |
| 2. Before Magna Carta: Early Law Codes and Charters .....           | 23  |
| The Ethelbert Law Code.....   | 23  |
| Anglo-Saxon Codes After Ethelbert.....                              | 30  |
| Post-Conquest Texts .....   | 35  |
| 3. Magna Carta: The Life, Death and Afterlife of a Text.....        | 38  |
| The Magna Carta Moment .....  | 39  |
| The 1215 Text.....  | 45  |
| Magna Carta After 1215 .....  | 51  |
| The Global Status of Magna Carta .....                              | 57  |
| 4. Revolutionary Century .....                                      | 63  |
| The Petition of Right 1628.....                                     | 68  |
| Blueprints: The Army and the Levellers.....                         | 70  |
| Constitutions Under Cromwell.....                                   | 73  |
| The Bill of Rights 1689 .....                                       | 82  |
| The Act of Settlement 1701: Alternative Constitutional Model? ..... | 87  |
| 5. Union and Parliament .....                                       | 92  |
| The Creation of a Union .....                                       | 92  |
| Great Britain and Ireland .....                                     | 100 |
| Albert Venn Dicey and Parliamentary Sovereignty .....               | 103 |
| The Parliament Act 1911 .....                                       | 109 |
| PART II: A System in Turmoil  |     |
| 6. The Dynamic Constitution .....                                   | 119 |
| Constitution and Society.....                                       | 121 |
| Parliament .....  | 130 |
| The Civil Service .....   | 133 |
| The Process of Change .....   | 135 |

|   |     |
|---|-----|
| 7. European Integration and its Consequences.....                 | 143 |
| European Integration and the UK Constitution .....                | 144 |
| The European Communities Act 1972.....                            | 150 |
| The Rise of the Referendum: 1975 to the Present .....             | 153 |
| The Fracturing of Collective Responsibility .....                 | 157 |
| 8. The Multination State.....                                     | 162 |
| Devolution and its Implications .....                             | 163 |
| England Left Behind.....  | 173 |
| Local Government in England.....                                  | 176 |
| The English Question .....  | 178 |
| 9. The Rule of Law, Human Rights and Constitutional Conflict..... | 183 |
| The Rule of Law in the United Kingdom.....                        | 184 |
| The Human Rights Act.....   | 187 |
| Protected Rights, their Limitations and their Impact .....        | 191 |
| A Clash of Models .....   | 197 |
| 10. Direction of Travel.....                                      | 201 |
| Codifying Convention and Limiting the Royal Prerogative.....      | 201 |
| A New Model?.....   | 209 |
| A Written Constitution: Proposals and Drafts .....                | 212 |
| Practical Steps: Gordon Brown and Beyond.....                     | 215 |
| PART III: A Constitution for the United Kingdom                   |     |
| 11. Advocating and Creating a Written Constitution.....           | 225 |
| The Positive Case for a Written Constitution .....                | 226 |
| The Negative Case for a Written Constitution .....                | 238 |
| Creating a Constitution.....                                      | 246 |
| Preparatory Steps and Composition of a Convention .....           | 247 |
| Remit, Working Methods and Ratification of the Text .....         | 252 |
| 12. The Constitution.....   | 258 |
| Presentation, Writing Style and Preamble.....                     | 259 |
| A Federal Union.....  | 261 |
| The UK Executive .....  | 264 |
| Parliament After Sovereignty .....                                | 271 |
| The Composition of Parliament.....                                | 271 |
| Electing Parliament .....   | 272 |
| Parliament and Accountability .....                               | 273 |
| Fundamental Rights .....  | 276 |
| The Courts, the Legal System and Constitutional Review .....      | 278 |
| Changing the Constitution .....                                   | 281 |
| 13. Conclusion .....  | 285 |
| Index .....   | 292 |