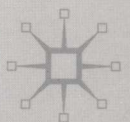
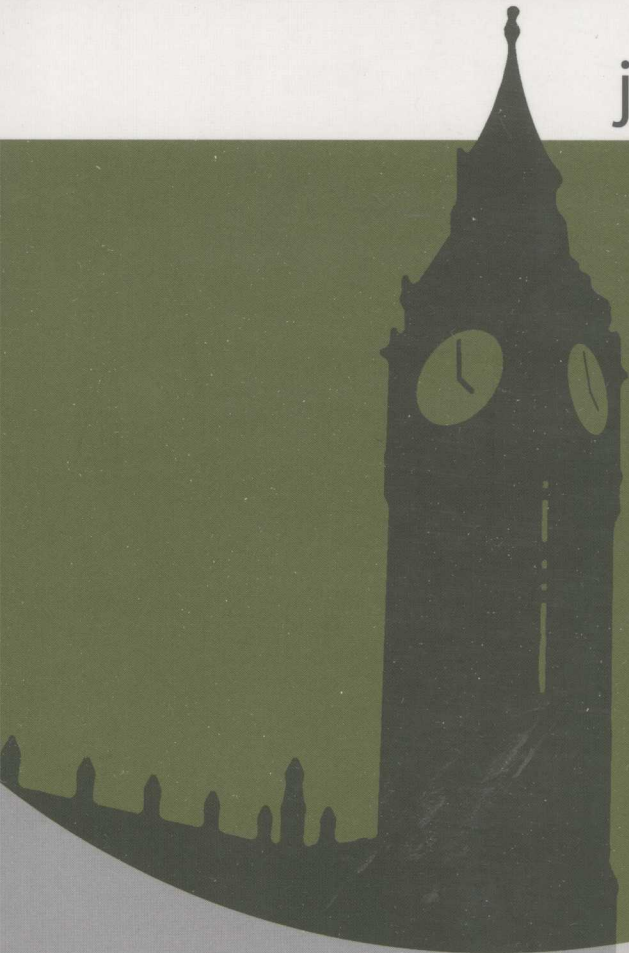


8th edition

palgrave macmillan law masters

constitutional and administrative law

john alder



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Eighth edition

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Preface

As in previous editions my aims are firstly to explain the main principles of United Kingdom constitutional law in the context of the political and legal values that influence their development and secondly to draw attention to the main controversies. I hope that the book will provide a self-contained text for those new to the subject and at least a starting point for more advanced students.

In this edition in order to reflect the increasing importance of external pressures on the constitution I have introduced a new chapter on international affairs. I have also added a final chapter on constitutional reform. Thanks to the generosity of the publishers I have been able to provide more detailed treatment of some key areas, including judicial review, human rights and the range of semi-accountable public bodies. I have expanded the discussion of cases and have tried to signpost the text in various ways, including clearer headings, boxes and cross-referencing to make it easier to follow particular issues through the book.

I have updated the book to keep abreast of the shifts in the importance of different aspects of the constitution, most notably in this edition parliamentary privilege and judicial review for errors of law and fact, both issues having recently revived after a dormant period. Some important constitutional reforms are currently in progress, notably the possibility of changes in the voting system and restrictions on the power of the Prime Minister to dissolve Parliament. In keeping with the spasmodic and pragmatic nature of constitutional change in the UK other reforms since the previous edition have been relatively trivial. Probably the most notable is the long-awaited enactment, albeit in vague terms, of the existing general principles governing the civil service. It remains unclear what a civil servant is. Further reform of the House of Lords is promised but as yet no details are available. The Supreme Court has now been functioning for over a year. It is more accessible than its predecessor, the House of Lords, but there is no reason to expect any dramatic changes in the nature of its constitutional jurisprudence. It seems however that to a greater extent than has traditionally been the case, the courts are talking in terms of grand general principles, perhaps derived from Oxbridge high tables, related to the liberal version of the rule of law.

There are three themes underlying the book. First there is that of executive domination of Parliament, lubricated by patronage and insider networks and lacking strong accountability mechanisms. Although to some extent mitigated by recent reforms, this remains the outstanding political feature of the constitution. The second, more legally oriented theme is the tension between parliamentary supremacy and the rule of law as applied by the courts. This centres on judicial review and the Human Rights Act 1998. A few judges and several commentators have expressed views challenging the traditional doctrine of parliamentary supremacy but the outcome of the cases still conforms to tradition. The adjustments required to accommodate for example the pressures of devolution and international relations have taken place in the political arena rather than the courts.

The third theme is the importance in a free society of keeping alive different points of view and not attempting to impose any particular orthodoxy on the people. This requires a stronger separation of powers than we have today. However it shows itself in the accommodations between courts, Parliament and the executive that are required by the Human Rights Act 1998 and in the preservation of parliamentary supremacy so that anything can be changed.

Part I concerns general principles. These include basic constitutional concepts and issues (Chapter 1), a broad account of the moral and political ideals that have influenced the constitution (Chapter 2) and the sources of the constitution (Chapter 3). Chapters 4 offers a brief overview of the history the constitution, emphasising significant periods. Chapter 5 provides an overview the main institutions of government, and the most important aspects are expanded in later chapters. Pervasive legal values and doctrines are considered in Chapters 6, 7 and 8.

Part II concerns international relationships. Chapter 9 explains the various ways in which international requirements are filtered into our domestic constitution, while Chapter 10 discusses the most important international influence, namely the EU, which is firmly anchored into domestic law.

Part III is concerned with the powers of the central government institutions and the relationship between them. Parts IV and V deal with the rights of the individual against government: in Part IV judicial review of government action, the core of administrative law, and in Part V human rights both generally and in relation to topics that particularly relate to the political freedoms that underpin democracy and the rule of law. These include freedom of expression and assembly, secrecy and national security.

I am grateful particularly to Rob Gibson at Palgrave Macmillan for his excellent advice and support. I am also grateful for the comments of anonymous reviewers of the previous editions. I have updated this edition on the basis of material available to me on 31 January 2010. Further updates can be found on the companion website: www.palgrave.com/law/alder8e

John Alder
March 2011

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