

CONTENTS

<i>Table of Cases</i>	xi
<i>Table of Treaties and Conventions</i>	xlvi
1 INTRODUCTION	1
<i>Paul Craig and Gráinne de Búrca</i>	
2 INTEGRATION, DEMOCRACY, AND LEGITIMACY	13
<i>Paul Craig</i>	
A. Neofunctionalism, the Legitimacy of Outcomes and the Limits of Democracy	14
B. Liberal Intergovernmentalism, Collective Action, and the Logic of Public Choice	17
C. Multi-level Governance, New Institutionalism, and the Complexity of Decision-making	21
D. Rational Choice Institutionalism, Constructivism, and the Contested Domain	26
E. Democracy Deficit, Premise, and Argument	28
F. Evaluation, National, and International Comparison	31
G. Evaluation, Prioritization, and Consequence	33
H. Conclusion	40
3 INSTITUTIONS, POWER, AND INSTITUTIONAL BALANCE	41
<i>Paul Craig</i>	
A. Rome to the Single European Act: Initial Disposition, Development and Change	43
B. From the SEA to Nice: Clarification, Contestation, and Complexity	54
C. The Constitutional Treaty to the Lisbon Treaty: Legislative and Executive Authority	72
D. Conclusion	83
4 POWERS AND PROCEDURES IN THE EU CONSTITUTION: LEGAL BASES AND THE COURT	85
<i>Kieran St Clair Bradley</i>	
A. Introduction: 'It is a Constitution We Are Expounding'	85
B. Legal Basis Case Law: From Negligé to Straitjacket	89
C. The Internal Market: Not 'Unlimited'	94
D. The Last Chance Saloon: 'Necessary and Proper' Powers	100
E. Conclusions: The Judicial Province	104

5	INDEPENDENT AGENCIES	111
	<i>Martin Shapiro</i>	
6	THE EUROPEAN COURT OF JUSTICE	121
	<i>Alec Stone Sweet</i>	
	A. Constitutional Judicial Review	122
	B. The Court and Integration	131
	C. The Court and EU Governance	144
7	THE EUROPEAN UNION FROM MAASTRICHT TO LISBON: INSTITUTIONAL AND LEGAL UNITY OUT OF THE SHADOWS	155
	<i>Deirdre M Curtin and Ige F Dekker</i>	
	A. Institutional Sedimentation	155
	B. The European Union as an International Organization	157
	C. Institutional Legal Practices of the European Union	174
	D. Conclusion	184
8	EU ENLARGEMENT	187
	<i>Christophe Hillion</i>	
	A. First Generation of EU Enlargement Rules: Applying and Clarifying the Treaty Procedure	188
	B. Second Generation of Enlargement Rules: From Enlargement Procedure to Enlargement Policy	193
	C. Third Generation of EU Enlargement Rules: Preserving the Integration Momentum?	200
	D. Conclusion	215
9	EXTERNAL RELATIONS AND EXTERNAL COMPETENCE OF THE EUROPEAN UNION: THE EMERGENCE OF AN INTEGRATED POLICY	217
	<i>Marise Cremona</i>	
	A. Introduction	217
	B. Internal Policies and External Powers	219
	C. Exclusive, Shared and Complementary Competence	244
	D. The Emergence of an International Identity for the EU	260
10	EU JUSTICE AND HOME AFFAIRS LAW (NON-CIVIL)	269
	<i>Steve Peers</i>	
	A. Introduction	269
	B. Institutional Evolution	269
	C. Policy Evolution	279
	D. Conclusions	297
11	CIVIL JUSTICE—A NEWCOMER AND AN UNSTOPPABLE WAVE?	299
	<i>Eva Storskrubb</i>	
	A. Introduction	299
	B. Background	300

C. Institutional and Political Evolution	302
D. Legislative Framework	309
E. Themes	318
F. Conclusion	321
12 DIRECT EFFECT, PRIMACY, AND THE NATURE OF THE LEGAL ORDER	323
<i>Bruno de Witte</i>	
A. The Foundation Years	324
B. Evolution of the Direct Effect Doctrine	329
C. Evolution of the Primacy Doctrine	340
D. The Reception of the Doctrines at the National Level	346
E. Constitutional Reservations	350
F. The Role of Primacy and Direct Effect in the European Integration Process	358
G. The Nature of the Legal Order	361
13 PRELIMINARY RULINGS AND EU LEGAL INTEGRATION: EVOLUTION AND STASIS	363
<i>Thomas de la Mare and Catherine Donnelly</i>	
A. Introduction	363
B. Diversification and Consolidation	365
C. The Valve Analogy	365
D. Perspectives on a Multi-Functioning Procedure	376
E. Consequences of the Current Scheme of Preliminary Rulings	387
F. Evolving out of Stasis	393
14 THE VICISSITUDES OF LIFE AT THE COALFACE: REMEDIES AND PROCEDURES FOR ENFORCING UNION LAW BEFORE THE NATIONAL COURTS	407
<i>Michael Dougan</i>	
A. Introduction	407
B. The 'Core Narrative' on National Remedies	408
C. Beyond and Besides the 'Core Narrative' on National Remedies	421
D. Concluding Remarks	437
15 THREE PHASES IN THE EVOLUTION OF EU ADMINISTRATIVE LAW	439
<i>Carol Harlow</i>	
A. Introduction	439
B. Phase 1: Building Blocks	444
C. Phase 2: Consolidation and Change	450
D. Phase 3: Post-Lisbon Challenges	455
E. Conclusions: Towards Pluralism?	463

16 THE EVOLUTION OF EU HUMAN RIGHTS LAW	465
<i>Gráinne de Búrca</i>	
A. Introduction	465
B. Phase 1: The Background and Drafting of the European Political Community Treaty 1952–1953	467
C. Phase 2: From the Rome Treaty to the Maastricht Treaty: The Disappearance of Human Rights from the EC Treaty Framework and their Return	475
D. Phase 3: From the Maastricht to the Lisbon Treaty: The Emergence of an EU Constitutional Framework for Human Rights Protection	480
E. Comparing the EU Constitutional Framework for Human Rights Protection as Drafted in the 1950s and Today	483
F. Conclusion	495
17 FREE MOVEMENT OF PERSONS AND SERVICES	499
<i>Siofra O'Leary</i>	
A. Introduction	499
B. Changing Patterns of EU Migration	502
C. The Objectives of EU Law on the Free Movement of Persons and Services	505
D. Legislative Transformation	508
E. Who's Who?—Delimiting the Parameters of the Free Movement of Persons and Services	526
F. Reassessing the Place and Scope of the Provisions on the Free Movement of Persons	534
G. Conclusions	544
18 FREE MOVEMENT OF CAPITAL: EVOLUTION AS A NON-LINEAR PROCESS	547
<i>Jukka Snell</i>	
A. The Development of the Freedom	548
B. The Notion of Restriction	554
C. The External Dimension	564
D. Conclusion	573
19 CITIZENSHIP: CONTRASTING DYNAMICS AT THE INTERFACE OF INTEGRATION AND CONSTITUTIONALISM	575
<i>Jo Shaw</i>	
A. Introduction	575
B. Key Questions in (EU) Citizenship Studies	578
C. Citizenship, Free Movement, and the 'Old' Constitutionalism of the European Union	584
D. Citizenship: Lost in Transition from 'Old' to 'New' Constitutionalism	597
E. Citizenship's Future: Integrative or Constitutive?	608

20 THE PRINCIPLE OF EQUAL TREATMENT: WIDENING AND DEEPENING	611
<i>Mark Bell</i>	
A. Introduction	611
B. Widening the Principle of Equal Treatment	612
C. Deepening the Principle of Equal Treatment	625
D. Widening and Deepening Reconsidered	638
21 EU 'SOCIAL' POLICY: FROM EMPLOYMENT LAW TO LABOUR MARKET REFORM	641
<i>Catherine Barnard</i>	
A. Introduction	641
B. The Traditional Story of the Development of EU Social Policy	642
C. The Role of the Court of Justice	662
D. The Battle for the Future Soul of Social Policy	676
E. Conclusions	685
22 EMU—INTEGRATION AND DIFFERENTIATION: METAPHOR FOR EUROPEAN UNION	687
<i>Francis Snyder</i>	
A. Introduction	687
B. Origins and Evolution: 1950–2000	688
C. EMU—From Nice to Lisbon: 2000–2010	700
D. Conclusion	715
23 COMPETITION LAW MODERNIZATION: AN EVOLUTIONARY TALE?	717
<i>Imelda Maher</i>	
A. Competition Policy: a Policy Apart?	718
B. Evolution	720
C. The Evolution of Competition Law and Policy	723
D. Modernization	727
E. Conclusion	740
24 THE COMING OF AGE OF EU REGULATION OF NETWORK INDUSTRIES AND SERVICES OF GENERAL ECONOMIC INTEREST	743
<i>Leigh Hancher and Pierre Larouche</i>	
A. Introduction	743
B. Substantive Law	745
C. Institutions	766
D. Conclusion	779
25 EU FINANCIAL REGULATION: FEDERALIZATION, CRISIS MANAGEMENT, AND LAW REFORM	783
<i>Takis Tridimas</i>	
A. Five Phases in the Development of Financial Law	784
B. The Financial Services Action Plan and the Lamfalussy Process	785

C. Trends and Features of the Harmonization Programme	789
D. The Post-Crisis Phase	795
E. Conclusion	803
26 THE MULTI-LEVEL GOVERNANCE OF CLIMATE CHANGE	805
<i>Joanne Scott</i>	
A. Introduction	805
B. Emissions Trading	807
C. Carbon Dioxide Emissions from Passenger Cars (and the EU's Free Movement Rules)	824
D. Renewable Energy: Sustainability Criteria for Biofuels	828
E. Conclusion	834
27 CONSUMER POLICY	837
<i>Stephen Weatherill</i>	
A. Introduction	837
B. Market Integration and Consumer Policy	838
C. The Consumer before the Court	840
D. Legislative Competence	844
E. Harmonization Policy	846
F. Directives in the Area of Consumer Protection	851
G. Is this Really Consumer Policy?	861
H. The Commission's Review of Contract Law	863
I. Conclusion	866
28 THE EVOLUTION OF CULTURAL POLICY IN THE EUROPEAN UNION	869
<i>Rachael Craufurd Smith</i>	
A. The Conception of Culture in EU Law	872
B. The Court of Justice and Domestic Cultural Policy	875
C. EU Legislative and Financial Measures: An Indirect Cultural Impact	883
D. The Development of an Explicit EU Cultural Policy	889
E. Conclusion	894
<i>Index</i>	897