

CONTENTS

<i>Acknowledgements</i>	xii
<i>Table of Cases</i>	xiii
<i>Table of Statutes</i>	xxi
 INTRODUCTION	 1
 1: THE QUESTION OF LOCAL GOVERNMENT	 9
The Tradition of Local Self-Government	11
The doctrine of the ancient constitution	12
Constitutional rights and administrative duties	14
Characteristics of local self-government	17
The Constitutional Heritage	19
The legal foundations of local government	20
Local institutions and the central State	23
Parliament and the localities	24
Local government and the courts	25
The idea of the State	26
The Reformation of Local Government	28
The political philosophy of the reformation	29
The new patchwork	31
The pursuit of efficiency	36
Central Control	39
Supervision by central departments	40
Judicial supervision	44
The characteristics of central control	50
Local Government in the Administrative State	52
The restructuring of local government functions	53
The reorganization of local government	55
Financing local government	58
Central-Local Government Relations	60
The legal framework	61
The conduct of central-local relations	69
The Triumph of Benthamism?	72
 2: CONTEMPORARY TRENDS	 78
The Modern Institution of Local Government	79
Formative characteristics of modern local government	80
The modern institution	82

Strains on the Institution	84
Pressures during the 1970s	85
The agenda for the 1980s	87
Financial Arrangements	88
Block grant and expenditure targets	89
Rate-capping and beyond	92
Charging the community?	93
Controls over capital expenditure	95
Local government finance in the 1990s	97
Functional Change	98
Public transport	99
Housing	100
Education	103
Direct provision of services	105
Institutional consequences of functional change	106
Accountability Mechanisms	108
The challenge	110
The structure of political accountability	111
Financial accountability	112
Administrative accountability	114
The role of the courts	116
Changing forms of accountability	117
Structural Reforms	117
Reorganization of metropolitan government	118
The local government review	119
The Status of Local Government	122
3: THE CHALLENGE OF MUNICIPAL SOCIALISM	125
Economic and Social Change	127
The Changing Nature of Labour Politics	129
Municipal Socialism and Central-Local Relations	132
Identifying Municipal Socialist Councils	136
Organizational Arrangements	137
The traditional pattern	137
The challenge	138
The committee system	140
Decentralization	144
The Widdicombe Inquiry	146
Statutory reforms	148
Organizational change	149

Statutory Powers	151
Redistributive policies	151
Economic development	153
Community groups	156
Information, publicity and campaigning activities	157
Forward funding	161
Local control of policing	165
Tightening the <i>ultra vires</i> regime	169
Institutional Power	170
Ownership	172
Employment	175
Procurement	177
Investment	182
Non-Compliance	183
Civil defence	184
Rate-making in Liverpool, 1983/84	185
Rate-making and rate-capping	187
Liverpool revisited: deficit budgeting	194
Evaluation	196
Conclusions	199
 4: FIDUCIARY DUTY IN PUBLIC LAW	 203
The Origins of the Fiduciary Concept	206
The Nature of the Fiduciary Obligation	213
The Rationale for the Fiduciary Concept	217
Parliament's power of the purse	218
Economic theories of local public finance	219
A political economy of local government	222
A modern rationale for the fiduciary concept?	226
Reactivation of the Fiduciary Concept	229
Fiduciary Duty and Urban Public Transport Policy	237
Public transport policy in the metropolitan areas	238
Public transport policy in London	243
Central government action	245
Fiduciary Duty and Local Expenditure Policies	247
Counting costs in Camden	247
Dealing with the Diplock dictum	250
Whither the Fiduciary Concept?	256
Procedural reforms in judicial review	256
Reform of local government finance	258
Conclusions	259

5: OF TAPERS, TARGETS AND CAPS: CENTRAL CONTROLS OVER LOCAL EXPENDITURE	263
The Block Grant Mechanism	267
The origins of the block grant mechanism	267
The characteristics of the block grant mechanism	269
Discretion and constraint in grant distribution	272
The Transition to Block Grant	273
Expenditure Targets in the Courts	277
Targets and breach of statutory duty	278
Targets, principles and fairness	281
Principles, rationality and the courts	290
After Targets	290
Capping windfall gains	291
Challenging expenditure determinations	292
The rate support grant process for 1987/88	294
Hoist with their own petard?	297
Rate Limitation: From Targets to Caps	299
The scheme of the Rates Act 1984	300
Judicial review as a surrogate redetermination process	301
GRE, caps and rationality	305
Rate-capping and the courts	307
Charge-Capping	307
The introduction of the poll tax	307
Challenging charge-capping	309
Towards Universal Capping	313
Conclusions	318
 6: INNOVATIVE FINANCING IN LOCAL GOVERNMENT	 322
Trends in Local Government Finance	323
Techniques of Creative Accounting	325
The Problems of Creative Accounting	329
The Legality of Creative Accounting Techniques	331
Central Government Action	333
Local Government and the Banks	336
Local Authorities and the Swaps Market	339
The Hammersmith Litigation	344
The legal issues	346
The Divisional Court	347

The Court of Appeal	348
The House of Lords	349
A critique	350
The Case for Retrospective Legislation	355
Unravelling Swaps Transactions	357
Law in the Conduct of Local Government Business	359
Conclusions	362
 7: THE JURIDIFICATION OF CENTRAL-LOCAL GOVERNMENT RELATIONS	 364
Reflections on Politics, Law and Governance	369
The conduct of modern politics	371
The culture of the common law	374
The character of the British constitution	377
Rationalization and governance	378
Parliament and Central-Local Government Relations	382
Consultation	384
Parliamentary procedures	387
The style of local government legislation	390
Parliament and the poll tax	394
Norms of rule-making	397
The Judiciary and Central-Local Government Relations	399
The public law jurisdiction	400
Public law jurisprudence	410
Legality and Locality	416
 <i>Index</i>	 421