

PREFACE

This collection of essays is the fruit of three international expert meetings held in Groningen, Amsterdam and most recently in Rome. These meetings brought together scholars from a variety of disciplines to examine the problem of the future of the European constitution by studying its past and to examine the concept of a European constitution in the perspective of European citizenship and its interpretation by the Court of Justice of the European Union (as it is now called).

The publication of this book is both timely and highly relevant to the debate about constitutionalism in the context of the European Union. The expert meeting in Rome (March 2009) took place against the background of the rejection of the Constitution for Europe by Dutch and French voters – for a variety of reasons not necessarily wholly related to the Constitution itself – and the resurrection of many of the substantive ideas of that Constitution, shorn of its symbols and overtones, in the Treaty of Lisbon. At the time of the meeting the fate of that Treaty was uncertain, but it has now become the mother of the reborn European Union. The Treaty of Lisbon itself was unreadable, as it amended the existing treaties, and numerous corrigenda had to be published in the various languages. Fortunately a consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union has been published, along with the Charter of Fundamental Rights of the European Union in issue C 83 of the Official Journal of the European Union on 30 March 2010. Those treaties now operate as the constitutional charter of the European Union and have introduced significant streamlining of decision-making and mechanisms which should promote the identity of the European Union on the world stage if the political will is there to use the mechanisms effectively.

At the same time, however, these treaties remain relatively cumbersome instruments which fail to capture the hearts and minds of citizens of the Union in the way that, for example the United States Constitution still succeeds in doing. Perhaps this is inevitable: the Treaties do far more than a Constitution does. But there is as yet no love affair between the Citizens of the European Union and their constitutional charter, despite the fact that the development of Citizenship of the Union as a modest political step in addition to citizenship of the individual Member States has been turned in the hands of the Court of Justice into a dynamic promoter of integration and purveyor of rights for the individual. As so often, the Court is ahead of the political elite in seeing and using the dynamics of integration

in a manner that benefits the proverbial man or woman on the Clapham omnibus or monsieur Jardin and Frau Brunhilde. It is perhaps high time that the Citizens of the Union began to love their Court of Justice, even if, or precisely because it leads the development of law and points the way forward for the citizenry: not merely for the engaged few, but for all the citizens of the Member States *Civus Europeus sum*. Just as an American may consider herself a Texan or a New Yorker first, and an American second, Citizens of the Union may consider themselves say British or Dutch or Italian or Czech first, and Europeans second, but the realisation that European Citizenship has enlarged their rights does not yet seem to have sunk in. Reading this book should remedy that problem.

This book starts from a historical perspective, demonstrating how lessons from the past are relevant for today – as Jakob Burkhardt put it: *Historia vitae magister* – and then goes on in a series of dynamic and closely reasoned analyses to consider constitutionalism and citizenship in the light of the case-law of the Court. It offers real – and certainly not uncritical – vision, and it deserves to be read not only by scholars but by all those interested in European integration, whether politicians, historians, political scientists, lawyers, members of the chattering classes, or the general public. I have enjoyed reading the essays in this book and commend it most warmly to a wide audience. I hope that its various messages will be heeded and that it will advance the debate on European integration.

Laurence W. GORMLEY

*Professor of European Law & Jean Monnet Professor,
University of Groningen*