When examining the recent evolution of the Constitution, it is argued that the UK has become more ‘legal’ as opposed to ‘political’. The last twenty years has seen a growth in legislation and case law, particularly that of the Supreme Court, regulating aspects of the UK constitution. This chapter investigates this claim. It argues that, whilst we can point to a growth in both legislation and case law, when we look at the case law more closely we can see that the courts balance an array of factors when determining how far to control executive actions. These factors include an analysis of the relative institutional features and constitutional role of the legislature, the executive and the courts. This evidence, in turn, questions the traditional understanding of the separation of powers as a hidden component of the UK constitution. It is not the case that courts merely balance the rule of law and parliamentary sovereignty in order to determine how far to control executive actions. Rather, the courts
determine how to make this balance through the lens of the separation of powers, evaluating institutional and constitutional features. In doing so, they are upholding necessary checks and balances in the UK constitution.