Restoring Constitutional Programme

Printable consolidated edition

Contents

- Editor’s note..1
- Programme index..1
- Part I - Common Law Constitution..1
- Part II - Restoring the House of Commons..16
- Part III - The New House of Lords..54
- Part IV - Taxation, Public Spending, and a Free Economy..65
- Appendix A - Cross-Document Control Note..77

Controlling formula

Principle in the Constitution. Machinery in Enabling Legislation. Practice in Standing Orders.

Controlling test

Does the proposal strengthen the citizen’s ability to supervise government through Parliament, make public power more visible and redressable, and preserve the common-law character of the settlement?

Part I - Common Law Constitution..1

Programme origin

This project began as I felt there was a need to restore Parliament to its primary constitutional work: supervising the executive, controlling supply, presenting grievances, and holding public power to account. This Constitution hopefully secures that restoration.

The modern constitutional problem has not usually come by tyranny, but by accumulation.

Statute has been used for power while liberty was left to ancient custom.

Introduction: Method and Purpose

This instrument does not invent new constitutional rights. It gathers, restates, and confirms the ancient and enduring principles already embedded in the constitutional statutes of this realm, including Magna Carta 1297, the Petition of Right 1628, the Habeas Corpus Act 1679, the

Coronation Oath Act 1688, the Bill of Rights 1689, the Claim of Right Act 1689, the Toleration Act 1689, the Act of Settlement 1701, the Acts of Union 1706–1707, and the Union with Ireland Act 1800.

Each Equal Free Person

The foundation of this Constitution is not the sovereignty of Parliament, nor the abstract sovereignty of a collective called “the People,” but the liberty and dignity of each equal free person under God and the Common Law.

Each equal free person possesses his own liberty, conscience, property, household, labour, and lawful associations. Civil society exists so that equal free persons may live together under settled law, mutual duty, public peace, and impartial justice.

Where this Constitution speaks of “the people,” it does not mean an abstract collective will standing above the citizen. It means the citizens of the Kingdom: each equal free person acting with others through lawful constitutional forms.

Parliament, ministers, courts, and public offices are trustees and servants of that settlement. They do not create the liberty of the citizen. They are instituted to secure it.

Constitutional Statutes, Procedure, and Amendment

This Constitution builds upon principles already recognised in modern public law. The courts have acknowledged that certain constitutional statutes occupy a special position in our law. They are not treated as ordinary Acts capable of being silently overridden by later inconsistent legislation. If Parliament intends to alter or abrogate such constitutional provisions, it must do so expressly and unmistakably.

This Constitution develops that principle into a clearer settlement. Ancient liberties, constitutional statutes, and the fundamental limits of public power should not depend upon accident, implication, administrative convenience, or legislative drift. They must either be preserved, or altered openly through the constitutional process.

This Constitution also establishes rules governing the manner and form by which certain future legislation may be validly enacted. These include rules concerning Money Bills, fiscal ceilings, constitutional Bills, the powers of the New House of Lords, and reference to the people. The Parliament Acts provide an important precedent for such a settlement: they altered the conditions under which legislation could be enacted without the consent of the House of Lords, and that constitutional machinery was later upheld by the courts.

This Constitution does not pretend to create an unamendable settlement by ordinary parliamentary enactment. A future Parliament may seek to repeal or replace it. That is the price of establishing the settlement through Parliament rather than by adopting a wholly new constitutional order based on enumerated powers, supermajority amendment rules, judicial supremacy, and referendum entrenchment. That alternative is a coherent constitutional model, but it is not this model.

The purpose of this Constitution is more modest and more rooted in the British tradition. It does not make constitutional change impossible. It makes constitutional change deliberate, express, visible, and politically accountable. No future government should be able to unmake the settlement by implication, administrative drift, treaty mechanism, delegated legislation, financial device, procedural shortcut, or accidental inconsistency. If Parliament wishes to alter the constitutional settlement, it must do so openly and by the constitutional process.

Authorities: Thoburn v Sunderland City Council [2002] EWHC 195 (Admin); Jackson v Attorney General [2005] UKHL 56.

The Legal Inheritance Carried Forward

By grounding this restatement in the language, substance, and constitutional purpose of the original statutes, the accumulated legal inheritance surrounding those statutes is carried forward. The courts' interpretation over centuries of "the law of the land" under Magna Carta, of the true cause of detention under the Habeas Corpus Act, and of excessive bail, excessive fines, and cruel and unusual punishments under the Bill of Rights, does not disappear. It attaches to this instrument as part of the same constitutional tradition.

This document therefore does not arrive without history. It arrives bearing the weight of common law precedent, parliamentary settlement, judicial interpretation, and constitutional commentary. Its purpose is not to sever the present from the past, but to gather what remains enduring and make it intelligible for the present age.

What Has Been Omitted

The source statutes contain provisions which were necessary or intelligible in their own time, but which do not state enduring constitutional principle: provisions concerning royal succession and dynasty, sectarian disability and religious test, obsolete offices and forms of proceeding, and circumstances no longer applicable.

Those provisions are not restated here. The principles underlying the constitutional statutes are restated instead: restraint of arbitrary power, government under law, liberty of the person, due process, justice without sale or delay, accountability of public officers, parliamentary consent to taxation, the independence of the courts, and the preservation of the ancient liberties of the citizen.

The Christian Constitutional Foundation

The laws of this Kingdom were formed within a Christian civilisation, and that is a matter of historical and constitutional fact. The common law did not emerge from a vacuum. Its presumptions of liberty, its insistence upon truth in proceedings, its concept of mercy alongside justice, its distrust of arbitrary power, and its requirement that ruler and subject alike answer before the same law developed within, and were shaped by, that inheritance.

This instrument acknowledges that inheritance because to omit it would misrepresent the character and origin of the law it restates. That acknowledgment imposes no theological requirement on any reader and diminishes the protection of no person. All persons within the realm, of whatever faith or none, have the full protection of the law and liberty of conscience.

The point is not to impose doctrine, but to state history truthfully. This Kingdom was constituted as a Christian realm, and its law reflects that constitution. It would be as eccentric to suppress that fact as to suppress the Roman law foundations of Scots private law.

Sovereignty and External Authority

This instrument also states the sovereign limits of external authority within the realm. Provisions concerning foreign states, international bodies, treaty organs, courts, corporations, foundations, forums, private associations, and other external powers are consolidated in Article 6, so that the constitutional position is stated once, plainly, and with full force.

The purpose is not hostility to foreign nations, lawful treaties, commerce, alliance, or friendship. It is to affirm that no external authority may exercise legislative, executive, judicial, fiscal, military, regulatory, or administrative power within this realm except through the lawful constitutional organs of the realm and subject to its law.

Structure of the Instrument

This instrument is cast as an Act of Parliament, consistent with the common law tradition that rights are declared and confirmed by Parliament rather than granted by it. Articles 1–5 address the rights of persons against arbitrary power. Article 6 addresses sovereignty and the limits of external authority. Articles 7–9 address Parliament, executive power, the armed forces, free elections, consent of the people, and the accountability of public officers. Articles 10–12 address the independence and authority of the courts, the preservation of ancient liberties, and constitutional supremacy. Article 13 addresses the Union, movement, and the laws of the realm.

- Article 1 — Government Under Law
- Article 2 — Consent to Taxation and Financial Stewardship
- Article 3 — Liberty of the Person and Habeas Corpus
- Article 4 — Due Process and Trial by Law
- Article 5 — Justice, Bail, Fines, and Punishment
- Article 6 — Sovereignty and the Limits of External Authority
- Article 7 — Parliament, the Executive, and the Armed Forces
- Article 8 — Free Parliament and Consent of the People
- Article 9 — Accountability of Public Officers
- Article 10 — Independence and Authority of the Courts
- Article 11 — Preservation of Ancient Liberties
- Article 12 — Constitutional Supremacy
- Article 13 — The Union, Movement, and the Laws of the Realm

Preamble

The citizens of this Kingdom, each equal free person, possess true, ancient and indubitable rights and liberties, not as grants from the Crown, Parliament, ministers, or courts, but as their Christian inheritance under God and the Common Law.

And whereas Parliament has in former times confirmed and declared those rights and liberties in various constitutional statutes, which declared principles necessary for the restraint of arbitrary power, the preservation of the law, and the liberty of the subject; the passage of time has meant that provisions concerned with sectarian disability, royal succession, dynasty, obsolete offices, forms of proceeding, or circumstances no longer applicable have caused the whole statutes themselves to tend into disuse;

This Act of Parliament gathers together and restates their enduring Christian principles for the present age; so that public power may be exercised only under law; so that Parliament may not be displaced by prerogative, executive convenience, administrative practice, or emergency pretext; and so that the liberty of the person may not be sold, denied, delayed, defeated, or removed beyond the protection of the courts.

Sources: MC.1; CO.1; CO.2; CO.3; BR.1; BR.3; AS.1; AS.4; PR.5; HC.7

Article 1 — Government Under Law

The state must prove its authority. The citizen need not prove his freedom.

1. The citizens of this Kingdom, each equal free person, possess true, ancient and indubitable rights and liberties, and all public power is held in trust for their protection.
2. All lawful authority in this Kingdom is a trust under God, and no Crown, Parliament, Minister, judge, officer, public body, or other power may exercise authority as though justice, mercy, truth, conscience, and the law of the land were subject merely to will, force, convenience, or command.
3. *The United Kingdom shall be governed according to law.*
4. No person or public authority, including the Crown, Ministers, officers of state, public bodies, courts, armed forces, police, local authorities, or any body exercising public power, is above the Law.
5. All powers of government are held in trust for the citizens of the Kingdom and may be exercised only for lawful public purposes.

Parliament is entrusted with public power for the public good.

Its authority is held in trust for the people and must be exercised for the peace, liberty, security, prosperity, justice, and good government of the Kingdom.

No House of Parliament, minister, department, public body, regulator, court, or officer of the state may treat public power as an instrument of party advantage, administrative convenience, sectional interest, private enrichment, ideological experiment, foreign influence, or domination over the citizen.

6. No delegation of public power shall sever the chain of constitutional accountability. Public power is held on trust. Delegation is permitted; orphan power is not. Every power exercised in the name of the state shall remain subject to lawful authority, ministerial responsibility, parliamentary supervision, and remedy for the citizen.
7. No prerogative, executive order, administrative instruction, emergency power, delegated authority, treaty, international agreement, foreign standard, external undertaking, or

private compact may suspend, dispense with, override, or displace the law except so far as expressly authorised by Parliament and subject to this Constitution.

Sources: CO.1; CO.2; CR.1; CR.2; AS.4; AS.5; BR.2.1; BR.2.2; BR.3; BR.4; PR.6

Article 2 — Consent to Taxation and Financial Stewardship

No promise without cost. No commitment without disclosure. No expenditure without authority. No public money without stewardship.

8. No tax, levy, charge, forced loan, benevolence, contribution, public imposition, or similar obligation may be imposed except by or under Act of Parliament.
9. No person shall be compelled to lend money, make contribution, render account, answer demand, or bear any like imposition for the Crown or any public authority except according to law.
10. No refusal or failure to comply with an unlawful demand, charge, imposition, or obligation shall justify imprisonment, penalty, harassment, exclusion from public rights, administrative detriment, or other disadvantage.
11. Every public imposition shall be necessary, proportionate, intelligible, and no more onerous than is reasonably required for the lawful public purpose for which it is imposed.
12. Public money is held on trust for the people. No Minister, officer, department, public body, or authority shall make a promise of public money, incur a public liability, seek supply, or present public expenditure to Parliament without lawful authority, honest disclosure of material cost and risk, and proper account to Parliament and to the public.
13. A constitutional fiscal ceiling shall be established for taxation, public expenditure, borrowing, public debt, guarantees, contingent liabilities, and such other public commitments as may affect the solvency and financial independence of the Realm.
14. The initial fiscal ceiling shall be settled only upon certified alternatives placed before Parliament and the people, and no such alternative shall be submitted unless certified as complete, intelligible, internally consistent, and capable of informed public judgment.
15. Any proposal to increase the fiscal ceiling after its initial settlement shall be stated, quantified, and certified according to law before it may be approved by both Houses or submitted to the people.
16. Where both Houses approve a certified proposal to increase the fiscal ceiling, the ceiling may be raised accordingly. Where the Houses disagree, the matter may be referred to the people by plebiscite, in which the choice shall be between the existing ceiling and the proposed higher ceiling.
17. A general election shall not be treated as authority to increase the fiscal ceiling unless the proposed increase was expressly stated and quantified in the manifesto of the party forming the Government, and the supporting figures and assumptions were certified before publication of that manifesto.
18. Such certified figures and assumptions shall be deemed legally adequate for all constitutional, parliamentary, electoral, and legal purposes; and no court or tribunal shall question the substance of such certification, save as to whether the certificate was issued by

the proper authority, identified the relevant fiscal proposal, and was issued at the required time.

19. No more than one increase of the fiscal ceiling shall be made during the life of a Parliament. Any second proposal to increase the ceiling during the same Parliament shall require dissolution and a general election before it may proceed.
20. Nothing in this Article prevents a Government from using the same constitutional procedure to reduce the fiscal ceiling. A reduced ceiling shall thereafter enjoy the same constitutional protection as the initial ceiling.
21. No Bill shall be certified as a Money Bill unless accompanied by a fiscal impact statement setting out its effect upon the constitutional fiscal ceiling. No Money Bill shall be certified, sent to the New House of Lords, or presented for Royal Assent under the Money Bill procedure where that statement shows that the Bill, whether alone or in combination with other Bills or measures already enacted or authorised, would exceed the fiscal ceiling, unless the ceiling has first been lawfully adjusted according to this Constitution.

Sources: PR.1; PR.2; BR.2.3; BR.4; AS.4

Article 3 — Liberty of the Person and Habeas Corpus

All people are equal under the law.

22. No person shall be arrested, imprisoned, detained, confined, transported, exiled, removed, or otherwise deprived of liberty except according to law.
23. Every detained person has the right to be informed promptly, in plain and intelligible terms, of the true legal cause of their detention.
24. Every detained person has the right to prompt access to a court for determination of the lawfulness of that detention.
25. The court shall have power to order any person or authority detaining, holding, transferring, or controlling the detained person to produce both the body of the detained person and the true legal cause of detention.
26. *If the detention is unlawful, the court shall order the detained person's release.*
27. No person released by order of a court shall be detained again for the same cause by colourable alteration of the warrant, accusation, description, place of detention, detaining authority, or legal pretext.
28. No person shall be removed, transferred, deported, rendered, extradited, delivered into foreign custody, or sent outside the jurisdiction, whether by domestic authority, foreign request, treaty, agreement, private arrangement, or other device, for the purpose or effect of avoiding the protection of the courts, the law of the land, or the rights and liberties declared in this Constitution; but nothing in this Article shall prevent lawful deportation, extradition, removal, or transfer carried out according to law and subject to the supervision of the courts.
29. No public authority shall conceal, obscure, misdescribe, delay, or withhold the true legal basis of any detention, nor frustrate access to the courts by administrative practice, emergency power, private contract, foreign arrangement, or any other device.

30. Any person or authority who knowingly frustrates habeas corpus, conceals the true cause of detention, refuses to produce the detained person, transfers a person to evade judicial supervision, or detains a person contrary to court order shall be answerable in law.

Sources: PR.5; HC.1; HC.2; HC.3; HC.4; HC.5; HC.6; HC.7; BR.4

Article 4 — Due Process and Trial by Law

Justice must be lawful, open, independent, timely, and accessible.

31. No person shall be condemned, punished, or deprived of life, liberty, property, office, livelihood, licence, status, or civil right except by due process of law.
32. No person shall be tried or punished by martial law, military commission, emergency tribunal, special commission, administrative authority, or extraordinary jurisdiction while the ordinary courts are open and capable of administering justice.
33. No court, commission, tribunal, authority, scheme, or proceeding may be created or used for the purpose or effect of evading the ordinary law of the land.
34. No grant, promise, seizure, restraint, forfeiture, disability, inhibition, fine, confiscation, or other burden or penalty shall be made or imposed before lawful conviction, judgment, or due process according to law.
35. Where immediate restraint is necessary to preserve life, liberty, property, evidence, or the due administration of justice, such restraint shall be authorised by a court, shall be temporary and proportionate, and shall continue no longer than justice requires.
36. No person shall be denied the protection of the ordinary courts by reason of prerogative, emergency, administrative convenience, delegated power, public policy, private contract, treaty, foreign arrangement, or any other device.

Sources: PR.4; PR.5; BR.2.9; HC.2; HC.3

Justice Shall Not Be Sold

Magna Carta declared that justice shall not be sold, denied, or delayed. A legal system in which an ordinary citizen cannot safely enforce his rights against a wealthy opponent has, in practical effect, sold justice to those able to bear the risk of litigation.

Access to law is not enough. The citizen must have access to justice without being ruined by the cost of seeking it.

37. In any proceedings, the recoverable costs of each party shall first be assessed according to the ordinary rules of reasonableness, proportionality, and proper conduct.
38. Once those figures have been settled, the lower of the parties' recoverable costs figures shall set the maximum recoverable costs award available to either side.
39. A party may spend what it chooses on its own representation, experts, advisers, and litigation strategy. But it may not recover from its opponent costs exceeding the maximum recoverable figure available to that opponent.
40. This rule shall not prevent the court from disallowing costs incurred unreasonably, dishonestly, vexatiously, abusively, or for an improper purpose. It prevents superior spending power from being converted into superior litigation risk.

41. The courts shall settle their forms, pleadings, directions, evidential requirements, hearings, enforcement procedures, and costs rules on the presumption that any litigant may be a litigant in person.
42. The individual litigant is not an inconvenience to the justice system. He is the reason the justice system exists. A system which requires professional representation for ordinary justice has ceased to be an ordinary system of justice.

Article 5 — Justice, Bail, Fines, and Punishment

Justice shall not be sold, denied, or delayed.

43. Excessive bail shall not be required of any person accused of any offence. In determining whether bail is excessive, the court shall have regard to the nature and gravity of the alleged offence, the circumstances and means of the accused, the risk of flight or interference with justice, and the presumption in favour of liberty pending trial.
44. No person remanded in custody pending trial shall be detained for longer than is necessary and proportionate to the legitimate purpose of that remand.
45. Excessive fines shall not be imposed. Every fine shall be proportionate to the gravity of the offence and to the means of the offender. No fine shall be imposed in an amount bearing no reasonable relation to the conduct it punishes, nor in an amount designed in substance to confiscate rather than penalise, save by lawful process for forfeiture or confiscation following conviction.
46. Cruel, unusual, degrading, or unlawful punishments shall not be inflicted. No punishment shall be imposed that is grossly disproportionate to the offence. Parliament, the courts, and all public authorities shall have regard to the standard here declared in making, construing, and applying any provision for punishment.
47. No person shall be punished for any act or omission that was not an offence at the time it was committed. No person shall be subjected to a penalty greater than that which was lawfully applicable at the time of the act or omission. Retrospective criminal liability and retrospective increase of punishment shall not be valid.
48. No person finally acquitted or convicted of an offence shall be tried again for the same offence arising from the same facts, save where a prior acquittal was obtained by fraud upon the court or where Parliament has made express and limited provision for retrial in cases of grave crime upon new and compelling evidence, consistently with due process of law.
49. Justice shall not be sold, denied, or delayed. No court, tribunal, minister, officer, public authority, or person exercising public power shall make the remedy due to any person conditional upon payment, administrative obstruction, unreasonable delay, or any device inconsistent with the free and equal administration of justice.
50. Fees, charges, rules of procedure, and requirements of form may be prescribed for the orderly administration of justice, but they shall not be used so as to prevent, defeat, or render illusory the right of any person to obtain a lawful remedy.

51. Any person or authority who imposes excessive bail, excessive fines, cruel, unusual, degrading, or unlawful punishments, or who sells, denies, or delays justice, shall be answerable according to law.

Sources: MC.3; BR.2.8; BR.2.9; PR.5; CO.2

Article 6 — Sovereignty and the Limits of External Authority

No foreign or external power may govern the people by the back door.

52. No foreign state, international organisation, court, corporation, foundation, forum, treaty body, private association, or other external power shall exercise legislative, executive, judicial, fiscal, military, regulatory, or administrative authority within this Kingdom except according to the law of the land as preserved and declared by this Constitution, subject to Parliament, and with the informed consent of the people.
53. No judgment, ruling, standard, direction, obligation, or requirement of any external body shall bind the courts, Parliament, ministers, public authorities, or people of this Kingdom so far as it is contrary to this Constitution or to the law of the land as preserved and declared by it.
54. No tax, levy, charge, contribution, public imposition, public expenditure, financial obligation, regulatory burden, or other burden upon the people shall arise from any treaty, international agreement, foreign standard, external undertaking, regulatory alignment, compact, or arrangement with any foreign state, international organisation, court, corporation, foundation, forum, treaty body, private association, or other external power, except by or under Act of Parliament, subject to the law of the land as preserved and declared by this Constitution, and with the informed consent of the people.
55. No treaty, international agreement, foreign standard, external undertaking, regulatory alignment, compact, arrangement, or other external obligation shall transfer, suspend, or diminish the constitutional authority of Parliament, the independence of the courts, the liberties of the people, or the law of the land, except by express constitutional amendment made in accordance with this Constitution.
56. No minister, officer, public authority, court, tribunal, corporation, foundation, private association, or other person exercising public power shall give effect within this Kingdom to any external authority otherwise than according to the law of the land as preserved and declared by this Constitution.
57. Nothing in this Article shall prevent Parliament from entering into lawful treaties, alliances, commercial agreements, mutual recognition arrangements, or other international agreements under its constitutional authority, provided that no such treaty or agreement shall have domestic force except according to the law of the land as preserved and declared by this Constitution.
58. Foreign affairs remain the responsibility of ministers answerable to Parliament. Ordinary treaties, agreements, protocols, and arrangements concerned with trade, defence cooperation, extradition, travel, fisheries, scientific cooperation, mutual recognition, and

other ordinary matters of international relations may continue in the normal way, subject to parliamentary scrutiny and this Constitution.

59. The constitutional threshold is crossed where any treaty, agreement, protocol, court, treaty body, regulator, forum, framework, guidance system, or external arrangement confers legislative, executive, judicial, fiscal, military, regulatory, or administrative authority over the Kingdom or its people to any individual or body outside the United Kingdom.
60. At that point the matter is no longer merely foreign policy. It is constitutional alteration and shall proceed under the constitutional procedure governing the second chamber and the consent of the people.

Sources: BR.3; BR.4; AS.4; AS.5; CR.1; CR.2; US.1; UI.1

Article 7 — Parliament, the Executive, and the Armed Forces

Necessity may justify temporary power; it must never become permanent abuse.

61. The Crown, Ministers, or the executive shall not suspend, dispense with, alter, or set aside the law, or the execution of the law, except according to law, subject to Parliament, and subject to this Constitution.
62. Delegated legislation shall not be the ordinary means of governing the country. Primary legislation is the rule; delegation is an exceptional concession. No delegated power shall be exercised beyond the scope granted by the parent Act. No subordinate instrument shall amend, suspend, repeal, or evade any constitutional statute or protected constitutional provision, alter the fiscal ceiling, impose substantial new taxation, create serious criminal offences, confer or extend emergency powers, or diminish the life, liberty, property, livelihood, rights, duties, liabilities, or constitutional position of the citizen, save where Parliament has made express, narrow, and constitutionally lawful provision.
63. Parliament shall not be asked to vote supply, approve borrowing, or authorise public commitments on information that is incomplete, materially misleading, or that omits principal liabilities, contingent obligations, or known fiscal risks.
64. No public money shall be raised, spent, diverted, pledged, or appropriated by prerogative, executive act, administrative practice, foreign undertaking, or private compact, except by or under Act of Parliament, subject to Parliament's continuing supervision, and subject to this Constitution.
65. A standing army or permanent armed force shall not be raised, kept, enlarged, deployed within the Kingdom, or maintained in time of peace except by or under Act of Parliament, with the consent and continuing supervision of Parliament, and subject to this Constitution.
66. The armed forces shall remain subject to civil authority, the law of the land, and this Constitution.
67. No person shall be subjected to martial law, military jurisdiction, quartering, requisition, or military burden within the Kingdom except according to law, authorised by Parliament, and subject to the courts.
68. The United Kingdom shall not be committed to war, armed conflict, foreign deployment, treaty obligation, defence guarantee, military compact, or the defence of territories or

interests not belonging to the United Kingdom, except with the consent of Parliament, subject to this Constitution, and, where the obligations of the realm are materially altered, to the informed consent of the people.

69. Nothing in this Article shall prevent necessary and immediate defensive action in case of invasion, attack, insurrection, or imminent danger; but Parliament shall be summoned or informed without delay, and any continuing action shall require its consent.

Sources: BR.2.1; BR.2.2; BR.2.3; BR.2.5; PR.3; PR.4; AS.2; BR.4

Article 8 — Free Parliament and Consent of the People

Parliament exists not merely to pass laws, but to supervise power.

70. *Elections to Parliament shall be free.*
71. No public authority shall interfere with the lawful election of Members of Parliament.
72. Freedom of speech, debate, and proceedings in Parliament shall not be questioned or impeached in any court or place outside Parliament.
73. The people have the right to petition Parliament, the Crown, Ministers, and public authorities for redress of grievances.
74. No person shall be prosecuted, punished, harassed, or disadvantaged for lawful petitioning.
75. Parliament shall meet frequently enough to redress grievances, scrutinise government, supply public money, and maintain the laws.
76. Parliament's primary constitutional function is the scrutiny of the executive, the control of supply, the redress of grievances of the people, and the maintenance of the law. Legislation shall be necessary, proportionate and intelligible. The time and procedure of Parliament shall be organised so that its supervisory function is not displaced at the convenience of the executive.
77. No Minister, Parliament, public authority, treaty, agreement, compact, external undertaking, or delegated power shall transfer, surrender, suspend, or materially diminish the constitutional authority of Parliament, the jurisdiction of the courts, the territory of the Kingdom, the command of the armed forces, the rights and liberties of the people, or the enduring self-government of the realm, except according to this Constitution and with the informed consent of the people.
78. No Parliament may bind its successors, extend its own term, alter the franchise, postpone a general election, or change the composition of Parliament except according to this Constitution and with the informed consent of the people.
79. Where disagreement between the House of Commons and the New House of Lords concerns ordinary legislation, Commons primacy may operate according to law after due delay and second consideration. Where disagreement concerns constitutional legislation, alteration of the fiscal ceiling, electoral law, the duration or composition of Parliament, emergency powers, treaty subordination, ancient liberties, or other fundamental matters, no one House shall prevail by unilateral override; both Houses shall agree or the people shall be consulted according to law.

Sources: BR.2.4; BR.2.6; BR.2.7; BR.2.10; BR.3; BR.4; AS.4

Article 9 — Accountability of Public Officers

No authority without accountability.

80. Every Minister, officer, servant, contractor, agent, or body exercising public power shall be accountable according to law.
81. No public body exercising statutory powers, spending public money, or performing functions on behalf of the Crown shall be treated as constitutionally independent of ministerial accountability. Every such body shall be answerable through a named minister who shall be responsible to Parliament for its conduct. Operational independence shall not become constitutional independence.
82. Parliamentary privilege protects the Member as a member of Parliament. It shall not shield the Minister in office from personal accountability for deliberate unlawfulness, serious breach of duty, or corrupt or dishonest conduct in the exercise of executive power.
83. Every person entrusted with public office holds that office as a duty of service, and shall be answerable for the faithful discharge thereof according to law, conscience, truth, and the justice and mercy required of Christian government.
84. Obedience to superior instruction shall not excuse unlawful imprisonment, unlawful seizure, unlawful taxation, unlawful punishment, or deliberate evasion of the courts.
85. Any public officer who knowingly frustrates habeas corpus, conceals the true cause of detention, transfers a person to evade judicial supervision, or detains a person contrary to court order shall be personally answerable in law.
86. No pardon, indemnity, internal policy, administrative scheme, or public immunity shall prevent Parliament from impeaching or otherwise holding public officers to account for abuse of public power.
87. Remedies for unlawful action by public authorities shall be real, accessible, timely, and proportionate to the wrong suffered.
88. Where a public authority interferes with the liberty, property, livelihood, lawful activity, status, licence, benefit, or protected interest of any person, the burden of proof shall lie upon that authority to prove the lawful authority, necessity, proportionality, fairness, and factual basis of its action. No court or tribunal shall presume the correctness of executive action merely because it is asserted by a public authority.

The state must prove its authority. The citizen need not prove his freedom.

Sources: CO.1; CO.2; PR.6; HC.4; AS.3; AS.5; CR.3; MC.3

Article 10 — Independence and Authority of the Courts

No person shall be denied the protection of the courts.

89. The courts shall be independent of the Crown, Ministers, Parliament, public authorities, private power, foreign power, and popular pressure.
90. The courts shall have jurisdiction to determine whether public power has been lawfully exercised.

91. No person shall be denied the protection of the courts by reason of prerogative, emergency, administrative convenience, delegated power, public policy, private contract, treaty, foreign arrangement, or any other device.
92. Nothing in this Article shall prevent the courts from considering foreign law, international law, comparative authority, treaty obligations, arbitral awards, or foreign judgments where it is lawful and just to do so, provided always that such material shall not displace this Constitution or the law of the land.
93. In exercising their jurisdiction, the courts shall interpret Acts, regulations, treaties, public powers, and administrative acts consistently with this Constitution and with the inherited rights and liberties preserved by Article 11.
94. The courts shall have power to grant such remedy as is necessary to preserve their jurisdiction, protect the rights and liberties of the people, and prevent the evasion of justice by foreign arrangement, private compact, administrative device, or external authority.

Sources: PR.4; HC.2; HC.3; HC.7; BR.4; AS.4

Article 11 — Preservation of Ancient Liberties

Our ancient rights and liberties are not government concessions.

95. The ancient and inalienable rights and liberties of the people are here preserved, including the freedom of lawful speech and expression, the freedom of peaceful assembly, the privacy of home, person, papers, and effects, the right to hold and enjoy property unencumbered, and the quiet enjoyment of lawful life, work, home, family, conscience, and association.
96. The Christian inheritance of this Kingdom, including the moral duties of truth, mercy, justice, conscience, charity, restraint of power, protection of the weak, sanctity of promise, and the equal answerability of ruler and subject before law, shall be recognised as part of the ancient constitutional inheritance of the Realm. The said Christian inheritance of this Kingdom shall be maintained in justice, mercy, truth, conscience, charity, peace, and restraint of power; and all peaceable persons, whether of the Christian religion or of any other lawful faith, shall have the protection of the law, liberty of conscience, and quiet exercise of their religion, so far as the same stands with public peace, good order, and the ancient and inalienable rights and liberties of the people.
97. The naming of particular rights, liberties, franchises, or protections in this Constitution shall not be taken to deny, diminish, disparage, or exhaust the ancient and indubitable rights and liberties of the people.
98. The ancient statutes, laws, customs, and judgments of the realm shall be read consistently with this Constitution so far as they declare, secure, or preserve the liberty of the subject and restrain arbitrary power.
99. No Act, regulation, treaty, public power, administrative act, foreign arrangement, private compact, or other device shall be presumed to abrogate, diminish, encumber, or burden the ancient and indubitable rights and liberties of the people unless such effect is expressed clearly, lawfully, constitutionally, and consistently with this Constitution.

Sources: MC.1; CO.1; CO.2; CO.3; TO.1; BR.3; AS.1; AS.4; PR.5; BR.4

Article 12 — Constitutional Supremacy

This Constitution is a restatement of those inalienable rights and freedoms.

100. No Act, regulation, order, prerogative act, treaty, foreign arrangement, administrative decision, public act, private compact, or other device shall be valid to the extent that it destroys, defeats, or substantially impairs the rights, liberties, and restraints declared in this Constitution.
101. Parliament may legislate within this Constitution, but may not abolish the rule of law, habeas corpus, free elections, parliamentary accountability, judicial independence, the lawful jurisdiction of the courts, or the fundamental liberty of the person.
102. Emergency powers shall be temporary, proportionate, reviewable by Parliament, subject to the courts, and subject to this Constitution.
103. The state may act quickly in a crisis, but it may not use crisis as a second constitution.
104. No emergency, treaty, foreign arrangement, administrative necessity, public policy, private compact, or other device shall authorise permanent arbitrary government.
105. This Constitution is declared to be a permanent part of the constitutional settlement of the Kingdom. It shall not be abolished, repealed, suspended, or substantially displaced except in accordance with the procedure for Constitutional Bills and with the approval of the people in a plebiscite.
106. This Constitution shall not be amended, repealed in whole or in part, or materially diminished except by an Act expressly so providing, which Act shall identify the specific provision to be amended or repealed and the grounds for that amendment, and which shall be subject to the constitutional provisions governing the second chamber and the consent of the people.

Sources: BR.2.1; BR.2.2; BR.3; BR.4; AS.4; AS.5; HC.2; HC.7

Article 13 — The Union, Movement, and the Laws of the Realm

This precious stone set in the silver sea.

107. The Union of the Kingdom shall be maintained as a lawful union of peoples, laws, courts, customs, liberties, and ancient inheritances, and not as a device for extinguishing the lawful rights of any part thereof.
108. One Parliament may legislate for the whole Kingdom, but no part of the Kingdom shall be deprived of its ancient laws, courts, customs, franchises, institutions, or civil rights except by clear Act of Parliament, consistently with this Constitution, and for the evident utility of the people thereby affected.
109. The laws, courts, and institutions of each part of the Kingdom shall continue in their lawful authority, so far as they are consistent with this Constitution and with the rights and liberties herein declared.
110. No uniformity of administration, regulation, taxation, policy, public convenience, foreign undertaking, or executive design shall be sufficient reason to overthrow ancient local law, private right, court, custom, franchise, property, or liberty.

111. Where laws are made common throughout the Kingdom, they shall be made for the better securing of justice, peace, liberty, and good government, and not for the enlargement of arbitrary power.
112. No alteration touching private right, property, inheritance, lawful calling, local court, ancient custom, or civil liberty shall be presumed from general words, but shall require plain words and shall be construed strictly in favour of the subject.
113. The subjects of every part of the Kingdom shall have free passage, commerce, residence, settlement, trade, employment, and lawful intercourse throughout the whole Realm, and shall not be treated as aliens, strangers, foreigners, or persons under disability in any part thereof.
114. No internal frontier, licence, passport, permit, toll, inhibition, exclusion, registry, administrative condition, or other impediment shall be imposed upon the lawful movement, residence, calling, trade, or intercourse of the people within the Kingdom, except by clear Act of Parliament, according to law, consistently with this Constitution, and where plainly necessary for the peace, safety, health, or justice of the Realm.
115. Nothing in this Article shall prevent lawful restraint by order of a court, lawful quarantine, the protection of private property, the prevention of crime, or such temporary and proportionate measures as are necessary for the due administration of justice.

Sources: US.1; US.2; US.3; US.4; US.5; UI.1; UI.2; MC.2; MC.3; AS.4

Closing Declaration

The rights and liberties declared in this Constitution are not gifts from Parliament, but the ancient inheritance of the people, confirmed and restated by Parliament and held in trust by every minister, officer, court and public authority. They are here preserved so that government may remain under law, public power may remain answerable, and the people may remain free.

Part II - Restoring the House of Commons

Commons Reform

Programme origin

I did not begin with a desire to write a constitution for its own sake. It began with a practical constitutional observation: the House of Commons has become too much the machine by which government supervises the citizen, and too little the means by which the citizen supervises government. The purpose of this programme is to restore Parliament's primary constitutional work: scrutiny of executive power, control of public money, presentation of grievances, supervision of public bodies, and maintenance of the law. The Constitution has been produced to try to secure that restoration.

The modern constitutional problem has not come by deliberate tyranny, but by accumulation.

Statute has been used to increase power while liberty has been left to ancient custom.

1. Introduction: From Supervising the Citizen to Supervising Government

The House of Commons was not originally conceived as a machine for governing the citizen. Its older constitutional purpose was to represent the people, control supply, present grievances, restrain arbitrary power, and hold the King's ministers to account. It existed not to make government omnipresent, but to prevent government becoming overmighty.

That older understanding rested partly upon law, partly upon custom, and partly upon a constitutional temper that is now much weakened. For a long time the British constitution depended upon a form of public self-restraint. Ministers, judges, civil servants, Members of Parliament, and public officers were expected to understand that not every power which could technically be exercised ought to be exercised. Parliament was legally sovereign, but it was not expected to behave as though every inherited liberty, institution, practice, and restraint were merely raw material for political experiment.

That was the old gentlemen's agreement of the constitution. It was never perfect. It excluded too many people, concealed too many abuses, and often relied too heavily upon class, habit, and deference. But it did contain one important assumption: public power should be restrained by inherited law, constitutional convention, personal honour, parliamentary accountability, and fear of public disgrace.

That assumption has largely broken down.

During the twentieth century, and especially in the later twentieth and early twenty-first centuries, Parliament has been transformed. The growth of the administrative state, the expansion of delegated legislation, membership of the EEC and later the European Union, the rise of regulatory government, judicial and constitutional innovation, and the centralist ambitions of modern party government all changed the practical character of the House of Commons. Under Tony Blair in particular, Britain saw a deliberate programme of constitutional alteration: devolution, the Human Rights Act, reform of the House of Lords, changes to the office of Lord Chancellor, new public bodies, new legal frameworks, and a more managerial view of government itself.

Some of those reforms were presented as modernisation. Some were intended to disperse power. Some may have been supported by honourable motives. But taken together with the wider growth of statute, regulation, treaty obligation, judicial review, public administration, and permanent bureaucracy, they contributed to a profound constitutional change. The old restraints weakened, while the machinery of government grew stronger.

The result is that the House of Commons now too often serves as the instrument by which government extends its reach. It passes laws, authorises spending, creates bodies, grants powers, imposes duties, approves regulations, and responds to each failure or scandal with yet another scheme, offence, target, regulator, strategy, commissioner, or code. The citizen is supervised in ever greater detail, while the machinery doing the supervising is itself too rarely brought under serious, sustained, practical control.

These papers begin from the opposite proposition.

The modern constitutional problem has not usually come by tyranny, but by accumulation.

The Commons has become the machine by which government supervises the citizen. It should become once again the means by which the citizen supervises government.

This does not require a presidential system, proportional coalition politics, or the abolition of the Crown. It requires a restoration of parliamentary government in its older and better sense: ministers answerable to the Commons, the Commons answerable to the people, public money controlled by representatives, public power subject to scrutiny, and the citizen protected from arbitrary administration.

The task is not merely to rearrange institutions. It is to change what Parliament does every day.

A restored House of Commons would spend less time producing new laws and more time examining whether existing powers are lawful, necessary, proportionate, affordable, comprehensible, and just. It would treat legislation as a serious constitutional act, not as the normal measure of political energy. It would control expenditure rather than merely announce it. It would require every public body exercising public power to be answerable through a named minister. It would make committees the working engine of scrutiny. It would insist that where the state has power over the citizen, the citizen must have real redress against the state.

The purpose of this Green Paper is therefore simple: to set out how the House of Commons can be restored from a legislative factory into the nation's board of accountability.

Less bossing the people about. More minding the shop.

2. The Constitutional Purpose of the House of Commons

The House of Commons did not become important because it was a general committee for improving society. It became important because the executive could not govern indefinitely without money, and the raising of money required consent.

That is the root of the Commons' constitutional power. Before Parliament became a modern legislature, before party manifestos, select committees, television debates, regulatory agencies, and professional politics, there was the central question of supply. Could the ruler tax the realm without consent, or must he come before the representatives of the people and answer for his conduct?

From Magna Carta onwards, the English constitution developed around the principle that taxation could not simply be treated as the ruler's private resource. Magna Carta spoke of the common council of the realm, not the later House of Commons, but the constitutional seed was there. Extraordinary taxation required consent. The King's revenue was therefore not merely a financial matter. It was the practical limit upon executive power.

A ruler who can raise money at will can maintain armies, reward favourites, multiply offices, pursue wars, and govern without restraint. A ruler who must ask for supply must face questions, complaints, conditions, and scrutiny. Control of taxation was therefore control of government.

That was the fundamental power which Parliament developed. The Commons became the guardian of supply because it represented those who paid. It could grant money, refuse money, delay money, attach grievances to money, and require ministers to justify the uses to which public funds were put. The great constitutional struggles of the seventeenth century were not remote technical disputes. They concerned the central issue of whether the executive could finance itself without Parliament.

Ship money made that issue plain. If the King could raise revenue by prerogative, outside the ordinary consent of Parliament, he possessed an independent stream of power. He could govern without coming to the representatives of the realm. The dispute was therefore not only about a tax. It was about whether the executive could escape the discipline of parliamentary supply.

The Civil War, the Restoration struggles, and the Revolution Settlement under William and Mary all formed part of the same constitutional movement. The Crown was not abolished. Britain did not become a republic. Instead, constitutional monarchy took shape: the Crown remained, but arbitrary government was restrained; ministers could govern, but taxation and standing armies required parliamentary authority; and the liberties of the subject were declared against executive abuse.

This history matters because it shows what the House of Commons was for. Its first purpose was not to provide a convenient majority for the government of the day. Its first purpose was to make government answerable.

The Commons therefore has four older constitutional duties.

First, it controls supply. Government should not be able to tax, borrow, or spend without parliamentary authority. This is not a formality. It is the Commons' chief weapon against executive overreach.

Second, it presents grievances. The people's representatives should bring before government the injuries, injustices, abuses, burdens, and failures suffered by the citizen. Historically, grievance and supply belonged together: before money was granted, wrongs could be raised.

Third, it scrutinises administration. Ministers, departments, officers, agencies, regulators, contractors, and public bodies should be examined by Parliament because they exercise power in the name of the Crown and over the people.

Fourth, it legislates where necessary. Law-making is a grave constitutional act, not a measure of political activity. The Commons should make law to preserve order, secure liberty, restrain wrongdoing, authorise necessary public action, and remedy real defects. It should not treat every social, economic, moral, or administrative problem as an invitation to expand the statute book.

The modern constitution has inverted much of this. The government now normally controls the Commons timetable. It initiates almost all taxation and expenditure. It commands the majority. It drafts the legislation. It creates the public bodies. It grants the powers. It proposes the regulations. It then relies upon party discipline to carry them through.

The result is that the Commons too often acts less as the restraint upon executive power and more as the channel through which executive power flows.

This paper's purpose is to correct that inversion. The Commons must again become the place where government is made answerable before it is made more powerful. Its daily work should be scrutiny before expansion, supply before spending, grievance before legislation, and accountability before authority.

The constitutional purpose of the House of Commons is therefore simple:

to ensure that government cannot take the people's money, restrict the people's liberty, or exercise power over the people without being made answerable to the people's representatives.

3. How Parliament Became a Machine for Government Expansion

The House of Commons acquired its authority in order to restrain government. Yet the modern House of Commons too often operates as the means by which government expands. This is one of the central inversions of the British constitution.

The old question was whether the King could govern without Parliament. The modern question is whether the executive can govern through Parliament without being meaningfully restrained by Parliament.

This change did not happen all at once. The Crown was restrained in 1689, but not extinguished. For a long time afterwards the monarch remained an active constitutional force. Even in the reign of Queen Victoria, the Crown could still exercise real influence over ministers, appointments, diplomacy, military affairs, and the general direction of government. The older constitution therefore depended upon a visible distinction between Crown and Parliament. The Crown embodied the executive; Parliament granted supply, presented grievances, made law, and restrained arbitrary power.

As the monarchy became increasingly ceremonial, the practical executive did not disappear. It migrated into Cabinet government and then increasingly into the office of Prime Minister. In the Hanoverian period, the Prime Minister was often the King's principal parliamentary manager: the minister able to secure supply, manage the Commons, distribute patronage, hold together factions, and make royal government possible through Parliament. Over time that relationship was reversed. The Prime Minister ceased to be chiefly the Crown's instrument for managing Parliament and became the head of the effective executive, commanding Parliament through party majority and discipline.

The nineteenth century brought the next great stage of parliamentary reform. The franchise was widened. Representation was altered. Rotten boroughs were swept away. The secret ballot weakened intimidation and patronage. Parliament became, in important respects, more representative of the nation it claimed to speak for.

But representation and restraint are not the same thing. A wider franchise gave more citizens a voice in choosing Parliament, but it did not by itself prevent government becoming more administrative, more statutory, and more executive in operation. During the same broad period the state became more active, more technical, and more dependent upon rules made under powers granted by Parliament. The Rules Publication Act 1893 marked the regularisation of Statutory Rules and Orders. The significance is constitutional rather than technical: Parliament was increasingly authorising ministers and departments to make the detailed rules by which the citizen was governed.

The great watershed, however, was the Second World War. Under Churchill, Britain rightly mobilised the whole nation for survival. In such circumstances, extraordinary state powers were not merely convenient but necessary. The wartime government directed labour, controlled production, rationed food and fuel, regulated prices, issued permits, planned industry, managed imports, and organised national life on a scale previously unknown.

The wartime state was born from necessity. The post-war state turned necessity into method. The war was followed by a Socialist government for which many of the instruments of wartime direction were exactly suited to its political purpose. Controls over production, prices, housing, materials, imports, fuel, labour, building, consumption, and public administration did not appear merely as alien wartime remnants. They became the machinery through which reconstruction, nationalisation, welfare policy, planning, and economic management could be pursued.

However, the purpose of this section is not to give a blow-by-blow account of parliamentary procedure. We are not concerned here with the fine distinctions between one class of instrument, order, rule, regulation, code, circular, licence, or administrative direction and another. Those distinctions matter to specialists, but they are not the central constitutional point.

The central point is simpler. The main constituents of the modern administrative state emerged from the post-war settlement. The wartime state had demonstrated that government could direct national life in extraordinary detail. The post-war state retained much of that machinery and adapted it to peacetime purposes: planning, welfare, nationalisation, housing, health, education, economic management, regulation, subsidy, licensing, public bodies, and departmental rule-making.

The House of Commons did not cease to exist. Nor did Britain cease to be a parliamentary democracy. But Parliament increasingly became the means by which the administrative state was authorised, funded, extended, and normalised. It approved the powers, voted the money, created the bodies, enacted the schemes, and supplied democratic legitimacy to an executive and administrative machine that became ever harder for Parliament itself to supervise.

This changed the meaning of legislation. Law-making was once a serious constitutional act: the means by which enduring rules were declared, public powers authorised, wrongs remedied, and liberties protected. Modern government increasingly treats law-making as ordinary political activity. A minister announces a Bill to show action. A department proposes new powers to solve an administrative problem. A scandal produces a new regulator. A failure produces a new duty. A campaign produces a new offence. A crisis produces emergency powers which later become normal. Public anxiety is answered with statute.

In this way, Parliament becomes a law factory. The difficulty is not merely that too many laws are passed. It is that Parliament's attention is drawn towards the creation of new powers and away from the examination of powers already granted. A Commons chamber occupied with new legislation has less time to ask whether existing legislation works. A Parliament absorbed by ministerial announcements has less time to examine departmental failure. A House consumed by new offences, duties, targets, and schemes has less time to hear grievances from citizens damaged by public administration.

The citizen experiences the result as law. The business owner, farmer, motorist, landlord, parent, parish council, charity, school, doctor, pensioner, or taxpayer is not much comforted by the distinction between an Act, a regulation, a code, a licence condition, or official guidance backed by enforcement. What matters to the citizen is that public power has arrived with instructions, penalties, costs, inspections, duties, and demands.

This is how the Commons becomes the machine by which government supervises the citizen: not usually by tyranny, but by accumulation. Each measure may be defended as reasonable. Each rule may have a policy justification. Each regulator may have a purpose. Each department may claim necessity. Each power may be said to apply only in defined circumstances. But the combined effect is a state that watches, directs, licences, taxes, records, inspects, manages, and disciplines ever more of ordinary life.

At the same time, accountability becomes more diffuse. When something goes wrong, responsibility is passed between ministers, departments, agencies, regulators, contractors, ombudsmen, local authorities, and independent bodies. The citizen is told to complain internally, then to an adjudicator, then to an ombudsman, then perhaps to a tribunal, and finally, if he can afford it, to the courts. The machinery of power is extensive; the machinery of redress is often narrow, slow, ineffective and ultimately expensive.

This is the opposite of the constitutional promise of the House of Commons. The Commons was not meant to be merely the doorway through which new public powers enter the life of the citizen. It was meant to be the place where those powers are questioned, limited, justified, funded only with consent, and answered for when misused.

We can therefore identify the growth of legislative and administrative government as a constitutional problem, not merely an administrative inconvenience. The issue is not whether modern society requires laws. Of course it does. The issue is whether Parliament has lost the habit of asking a prior question: should government be doing this at all?

The executive once sought to escape Parliament. The modern executive governs through Parliament. The task is to make Parliament a restraint upon government again.

4. The Encroachment of Statute Law and the European Layer

The post-war settlement did not merely create new policies; it created the machinery of modern administrative government. The next stage was the steady encroachment of statute law into areas of life that had once been governed largely by common law, custom, private ordering, local discretion, professional judgment, and ordinary liberty.

I am not opposed to statute law as such, but statute-law systems and common-law systems are different constitutional methods, each with strengths and weaknesses. A statute-law system can work where it has the structures proper to it: a clear written constitution, defined competences, separation of powers, entrenched rights, limits on executive authority, judicial review within a settled constitutional order, and democratic control over the making of law.

The problem is not statute law. The problem is constitutional muddle.

In the UK, statute law has been used for power while liberty was left to ancient custom.

Britain inherited a common-law constitution in which liberty was presumed, power required authority, precedent mattered, Parliament controlled supply, ministers were answerable, and government was restrained by custom, law, and convention. Onto that settlement were added statutory schemes, administrative rule-making, European legal supremacy, regulatory bodies, rights instruments, devolution arrangements, and managerial government. The result was not a clean statute-law constitution, nor a restored common-law constitution, but an unstable mixture of the two.

Common law and statute law can coexist in particular fields, but as constitutional systems they rest upon different assumptions. A common-law constitution begins with liberty and limits power unless law clearly authorises it. A statute-law constitution begins with a written allocation of powers and protects liberty by defined constitutional rules. What does not work is to import the machinery of statute-law government while retaining the loose conventions of an older common-law constitution.

The difference can be seen in ordinary life. Under a common-law instinct, the citizen may generally do what is not prohibited. The burden lies on authority to show why liberty must be restrained. Under an overgrown administrative system, the practical assumption is often reversed: the citizen, business, consumer, farmer, or professional waits for a rule, licence, scheme, permission, category, guidance note, or official approval before acting.

This is why statute-law systems require enumerated rights. If government is organised through written powers, statutory codes, administrative schemes, and public-law competences, then the citizen's liberties must also be written, protected, and placed beyond ordinary administrative convenience. Without that structure, statute-law government becomes dangerously one-sided. Public power is written down, multiplied, organised, staffed, funded, and enforced; but liberty remains dependent upon convention, interpretation, discretion, or political goodwill. That is the worst of both worlds: statute for power, custom for liberty.

EEC membership mattered because it introduced a further and more profound layer. On 1 January 1973 the United Kingdom entered the European Economic Community under the European Communities Act 1972. The public presentation was largely economic: access to markets, trade, prosperity, and Britain's place in Europe. But constitutionally the change was far greater. The United Kingdom was not merely joining a trading bloc. It was entering a different legal system, a statute-law system.

From that point, in areas covered by Community law, the highest practical authority was no longer the House of Lords acting within the ordinary common-law constitution, but the European Court of Justice interpreting the Treaties and the law made under them. Domestic courts were required to give effect to directly effective Community law, and later cases confirmed that domestic legislation could be disapplied where it conflicted with European law.

This did not abolish the common law, nor did it mean that every question of domestic law went to Luxembourg. But it did introduce a superior legal order within its field: treaty-based, statute-mediated, purposive in method, and ultimately interpreted by a court outside the United Kingdom's own constitutional structure. The common law remained, but it was no longer supreme wherever European law applied.

The significance was not fully explained to the electorate. Many voters were told, in effect, that Britain was joining a common market. Far less attention was given to the constitutional fact that, wherever Community law applied, British law would operate under an external legal authority. The full practical effect emerged gradually, but the constitutional threshold was crossed at entry.

This is not an anti-European argument. A federal statute-law union, if honestly proposed and democratically accepted, would require a proper federal constitution: a clear division of powers, a modern bill of rights, defined limits on central authority, genuine democratic control over the executive, and a legislature with real power over law, money, and administration. The difficulty with the European Union was that federal-style powers developed without a clear federal settlement and without sufficient candour about the intended destination.

EEC and later EU membership therefore prepared the ground for the next stage of constitutional change. It accustomed Britain to a statute-law and administrative model in which detailed rules, external obligations, judicial interpretation, regulatory schemes, and rights-based legal concepts increasingly displaced older common-law assumptions.

By the time Tony Blair came to office, much of the older constitutional instinct had already been weakened. The idea that Britain possessed a distinctive common-law settlement, resting upon parliamentary accountability, ministerial responsibility, inherited liberties, and restraint by convention, had lost much of its practical force. Government was increasingly understood as a process of managed reform through statute, public bodies, legal frameworks, regulators, rights instruments, and administrative design.

It would be unfair to say that Blair arrived in a perfectly functioning constitutional order and simply damaged it. By the late twentieth century, many people understood that constitutional reform was needed. The old settlement no longer worked as well as its defenders liked to pretend. It depended too heavily on convention, restraint, inherited habits, ministerial honour, parliamentary culture, and the assumption that those in office would observe limits because those limits were understood. As those assumptions weakened, the constitution became vulnerable.

The Blair government responded to real defects. Excessive centralisation, secrecy, weak regional representation, an unreformed House of Lords, limited access to official information, and inadequate protection for certain rights were not imaginary problems. There was a genuine public appetite for modernisation, openness, and accountability.

The difficulty was that the reforms were not made within a coherent constitutional design. They were introduced as individual improvements, each with its own justification, but without a settled account of the constitution as a whole. Devolution altered the unitary state. The Human Rights Act altered the relationship between courts, Parliament, ministers, and citizens. Reform of the House of Lords altered the revising chamber without settling its final purpose. Changes to the office of Lord Chancellor affected the old fusion of legal, judicial, and political authority. New public bodies, regulators, duties, standards, and rights-based frameworks further dispersed power.

Some of these reforms had merit. Some answered genuine weaknesses. But taken together, they moved Britain further away from its inherited common-law settlement without replacing it with a properly designed statute-law constitution. The result was neither one thing nor the other: more written rights, but not a full bill of rights entrenched in a clear constitution; more judicial power, but not a fully separated constitutional court; more devolved power, but not a settled federal structure; more public bodies, but not stronger ministerial accountability; more legal process, but not always more practical redress for the citizen.

This is why the Blair reforms matter in this argument. They were not simply wrong because they changed the constitution. The constitution did need repair. The mistake was trying to repair a common-law constitution with fragments of a statute-law constitution, without adopting the safeguards of either.

For the United Kingdom, I think that the more natural path is not to construct an entirely new statute-law state from first principles, but to recover and modernise the common-law settlement: government under law, Parliament as restraint, ministers answerable for public power, liberty as the ordinary condition of the citizen, and statute used sparingly to authorise what is necessary rather than continuously to redesign society.

Article 1 connection

Article 1 of my Common Law Constitution is the constitutional answer to this diagnosis. “The state must prove its authority. The citizen need not prove his freedom.”

5. Legislative Restraint and Executive Supervision

A larger executive needs more supervision, not more legislation.

The post-war settlement did not merely create new policies. It created the machinery of modern administrative government.

The wartime state had shown that government could direct national life in extraordinary detail. In war, that was necessary. Labour, production, food, fuel, prices, imports, housing, transport, and industry all became matters of national direction. The citizen accepted a degree of state control which would have been unthinkable in normal times, because national survival required it.

But the machinery did not disappear when the emergency ended. After 1945, the same habit of administrative direction was adapted to peace: reconstruction, welfare, nationalisation, planning, housing, health, subsidy, licensing, public boards, economic management, and departmental rule-making. The state did not simply become larger. It became more administrative.

The Statutory Instruments Act 1946 belongs to that story. It replaced the older system of Statutory Rules and Orders with the modern machinery of Statutory Instruments. That technical change should not be overstated, but neither should it be ignored. It formed part of a wider constitutional movement in which government increasingly acted not only through Acts of Parliament, but through rules, orders, regulations, schemes, codes, licences, directions, and delegated powers made under Acts.

Parliament still passed the parent legislation. Parliament still authorised the powers. But more and more of the practical detail by which the citizen was governed came afterwards, through executive rule-making. The citizen experienced those rules as law, but Parliament had often examined only the outline.

The figures show the change.

Evidence box: Acts became larger while executive rule-making expanded

UK Legislation – sample years

Year	Pages of acts	Number of acts	Avg. pages per act	Statutory instruments
1950	720	50	14.4	2144
1955	540	49	11.0	2007
1960	850	66	12.9	2495
1965	1340	83	16.1	2201
1970	1110	58	19.1	2044
1975	2060	83	24.8	2251
1980	2110	68	31.0	2051
1985	2380	76	31.3	2080
1990	2390	46	52.0	2667
1995	3000	54	55.6	3345
2000	3865	45	85.9	3424
2005	2712	24	113.0	3599
2006	4609	55	83.8	3509

Source note: pages and Acts from House of Commons Library briefing RP09-69, Parliamentary Trends, Table 2, as compiled in the working spreadsheet; Statutory Instrument figures added in the working spreadsheet. Figures are used here as an illustrative trend rather than a complete annual series.

The constitutional point is plain. Parliament did not stop legislating. Nor did the number of Acts simply explode. Instead, Acts became longer, denser, more technical, and more enabling, while the executive produced thousands of instruments beneath them.

Post-war and modern comparisons of legislation show the same pattern: not merely more law, but longer Acts, more detailed statutory schemes, and a heavy reliance on Statutory Instruments. The constitutional problem is therefore not only the number of measures passed, but the growth in volume, reach, and administrative consequence.

This is the real story of legislative government. Parliament carries on passing Acts much as it has done for generations. Meanwhile, the executive governs through Statutory Instruments, agencies, regulators, codes, schemes, licences, guidance, conditions, and enforcement systems. The Commons has not switched its focus from creating the administrative machine to supervising it. It continues to feed the machine with powers, duties, money, and bodies, but has not developed a matching system for managing, auditing, restraining, and correcting what it has created.

At the same time, the executive state has spread beyond the traditional department. Modern government now acts through departments, executive agencies, non-ministerial departments, regulators, non-departmental public bodies, commissioners, ombudsmen, inspectorates, funding bodies, public corporations, statutory authorities, contractors, and arm’s-length bodies. Some deliver services. Some distribute money. Some regulate. Some inspect. Some enforce.

Some advise. Some adjudicate complaints. Some issue guidance which is not formally law but is treated in practice as compulsory.

The growth of executive government is therefore not adequately measured by Civil Service headcount alone. Civil Service numbers may rise and fall, but the more important constitutional change is the dispersal of public power. The citizen may now be governed, licensed, investigated, inspected, funded, sanctioned, assessed, regulated, or refused by bodies which are not ordinary government departments, yet which exercise public power under authority granted by Parliament.

Many of the most important bodies through which the citizen now encounters the state did not exist in anything like their present form fifty years ago. NHS England, Ofwat, Ofgem, Ofcom, the Environment Agency, Natural England, Ofsted, the Care Quality Commission, the Competition and Markets Authority, the Financial Conduct Authority, the Information Commissioner, the Electoral Commission, Homes England, UK Research and Innovation, the Rural Payments Agency, and many others are products of the later administrative state. Some replaced predecessor functions, but the modern pattern is unmistakable: public power has spread outward from departments into a vast arm's-length executive machine.

This creates a serious constitutional problem. The House of Commons has authorised that machine, funded it, empowered it, and extended it, but has not developed a matching machinery of supervision.

Modern Parliament still spends too much of its time making more law. Ministers bring forward Bills. Departments ask for wider powers. Regulators ask for larger remits. Scandals produce new offences. Administrative failures produce new duties. Public anxiety produces new schemes. Each measure may be defended as useful, limited, or necessary. But the cumulative effect is continuous expansion.

The answer to every failure of government should not be another Act, another duty, another offence, another regulator, another target, another strategy, or another statutory body. Often the proper answer is scrutiny. Who was responsible? What power was used? What money was spent? What harm was done? What warning signs were missed? What remedy was available to the citizen? Which minister answered for it? Which committee examined it? Why did Parliament not know sooner?

A larger executive needs more supervision, not more legislation.

This paper does not propose weak government. Nor does it propose that Parliament should never legislate. A free country requires law. Statute is necessary to authorise public expenditure, define public offices, restrain wrongdoing, protect the vulnerable, maintain order, collect taxation, regulate genuinely dangerous activity, and provide remedies where the common law is insufficient.

But statute should not be treated as the normal language of government ambition. Legislation is a grave constitutional act. Every Act changes the relationship between citizen and state. Every new public power must be justified. Every new burden on the citizen, business, farmer, charity, school, doctor, parent, landlord, employer, or parish council must be necessary, proportionate, intelligible, affordable, enforceable, and subject to redress.

The Commons should therefore recover the habit of legislative restraint.

The first question for any proposed law should be: why is this law needed at all?

That question should be asked to ensure that the reason is not merely departmental convenience, campaign pressure, media demand, party loyalty, or ministerial desire to appear active. Parliament should not only ask whether the purpose of a Bill is attractive. It should ask whether existing law is already sufficient. It should ask whether the proposed powers are properly focused, whether the drafting is clear, whether enforcement will be fair, whether citizens can afford to comply, and whether remedies exist when the state gets it wrong.

The aim is not narrower powers, but refocused powers. Executive Government should have the powers it genuinely needs, directed to proper public purposes, bounded by law, supervised by Parliament, answerable through ministers, and matched by real redress. Powers should not sprawl into general administrative convenience. They should be clear enough for Parliament to understand, citizens to obey, courts to interpret, and ministers to defend.

The Commons should be especially wary of framework legislation. Modern Bills often set out broad intentions while leaving the practical detail to ministers, departments, regulators, or Statutory Instruments. This allows governments to obtain parliamentary approval for a policy while postponing the real rules until later. Broad delegated powers, Henry VIII clauses, skeleton Bills, and vague duties to "have regard to" ministerial priorities should be treated as constitutional danger signs.

Where Parliament grants power, it should know what power it is granting, who will exercise it, against whom, under what safeguards, and with what remedies.

Every Bill should therefore be accompanied by a serious constitutional statement. This should not be a token ministerial certificate. It should answer plain questions. What problem does the Bill address? Why is existing law insufficient? What new powers are created? What public bodies are empowered? What burdens are imposed? What delegated powers are granted? What costs fall on the citizen? What rights of appeal or redress exist? What provisions expire unless renewed? Which parliamentary committee will review the Act after implementation?

There should also be a presumption against permanent law for temporary problems. Emergency powers should expire unless expressly renewed. Experimental schemes should be time-limited. Major regulatory powers should be reviewed. New criminal offences should be justified against existing offences. Public bodies created by statute should be subject to periodic parliamentary examination. Where a law has failed, Parliament should repeal or amend it rather than simply adding another layer.

The state may act quickly in a crisis, but it may not use crisis as a second constitution.

Legislative time should be more limited. A government should not be judged by the number of Bills it passes. A Parliament drowning in legislation has less time to scrutinise administration, examine expenditure, hear grievances, audit public bodies, and hold ministers to account. Fewer legislative days should therefore be matched by more scrutiny days. Fewer new schemes should be matched by more examination of existing schemes. Fewer broad powers should be matched by clearer accountability.

This would change the daily culture of Parliament. Ministers would know that new powers require serious justification. Departments would know that broad regulation-making powers will be resisted. Regulators would know that Parliament will not automatically enlarge their remit. Public bodies would know that their performance will be examined. Citizens would know that the Commons sees liberty as the starting point, not the residue left after regulation.

This paper's aim is not a do-nothing Parliament. It is a Parliament that understands the difference between necessary law and political law-making.

The House of Commons should make fewer laws, examine them more carefully, delegate less casually, review them more rigorously, and supervise the executive more continuously. It should treat statute as a tool of constitutional necessity, not as the ordinary expression of government activity.

The test should be simple:

No new power without necessity. No public burden without justification. No enforcement without redress.

6. The Proper Constitutional Role of Government

A constitutional test for public power

Before Parliament grants power, money, or authority to the executive, it should ask a prior question: is this properly a function of government?

This question is not the same as asking whether a policy is popular, compassionate, efficient, modern, or well intentioned. Nor is it the same as asking whether the public would like government to do more. The constitutional question is prior to the policy question. It asks whether the use of public power is necessary, whether it belongs properly to government, and what safeguards must accompany it if Parliament decides to authorise it.

The genuinely irreducible functions of the state are fewer than modern governments usually admit.

The clearest is defence. Defence cannot be privatised without contradiction. A private army capable of defending a territory is, in substance, a state. The defence of the realm therefore belongs to government because only government can exercise it legitimately on behalf of the political community as a whole.

The second is the monopoly of legitimate force. Courts, police, prisons, and the machinery of binding legal authority cannot safely be reduced to voluntary private arrangements. A system of dispute resolution which the losing party may simply decline to obey is not a system of final justice. Someone must have the final word, backed by lawful coercive authority. If that power is fragmented among private bodies, the result is not liberty but feudalism.

From defence and lawful coercive authority follows the third function: sovereignty and foreign affairs. Only the state can represent the people as a political community, make treaties, enter alliances, recognise other states, conduct diplomacy, and bear responsibility in international law.

A fourth irreducible function is maintaining the conditions for free competition. In a capitalist economy, the state should not normally be a player in the market, but it must be the referee. A market cannot reliably protect itself against monopoly once monopoly is established, because the monopolist can begin to control the rules of the game. The state must therefore prevent any private actor from owning the pitch.

These are the core constitutional functions of government: defence, lawful force, sovereignty, and the maintenance of fair conditions for economic and perhaps civil life.

Many other things may be done by government, but they are not irreducible in the same way. Healthcare, education, infrastructure, welfare, housing, culture, transport, and economic development may in principle be provided by markets, families, churches, charities, professions, mutual associations, local communities, or private enterprise. Whether government should provide, fund, regulate, guarantee, or supplement them is a legitimate policy question. But it is not the same kind of constitutional question.

Irreducible state functions

This is not an argument for or against any particular size of state. I am not here deciding whether healthcare should be public or private, whether welfare should be larger or smaller, whether infrastructure should be national or local, or whether particular services should be delivered by government, market, charity, family, profession, or community.

Those are political and policy questions. They belong to democratic debate.

The constitutional question is different. It asks what only government can do, what government may choose to do, and what safeguards are required when government moves beyond its irreducible functions into the management, funding, regulation, or direction of wider social and economic life.

My concern is not that government sometimes acts beyond defence, justice, sovereignty, and market order. Modern government plainly does, and the electorate may want it to do so. The concern is that when government takes on wider managerial functions, Parliament must consciously authorise them, fund them, supervise them, and provide redress when they harm the citizen.

The distinction is therefore not between large government and small government. It is between constitutional government and unmanaged government.

Whatever Parliament chooses to make the state responsible for, the Commons must remain capable of holding that responsibility to account.

This paper therefore distinguishes between what only government can do and what government has chosen to do. The first category requires firm constitutional authority. The second requires constant parliamentary supervision.

The larger the second category becomes, the more important Commons supervision becomes. If Parliament allows government to move beyond its irreducible functions into welfare, health, education, infrastructure, housing, subsidy, regulation, industrial strategy, cultural policy, and economic management, then Parliament must also supervise the powers, money, bodies, duties, schemes, and consequences that follow.

A larger executive needs more supervision, not more legislation.

The Constitution should not become a list of positive government duties. The Constitution is to government what legislation is to citizens: it defines prohibited acts and limits of authority. What is not prohibited remains politically open.

7. The Commons as the Nation’s Supervisory Board

The House of Commons cannot properly supervise the executive unless the executive is organised in a form capable of supervision.

This paper uses the phrase “the nation’s supervisory board” deliberately. Parliament is not a company, the people are not shareholders in the commercial sense, and government is not a private business. But the language is useful because it makes the constitutional problem visible. In any serious organisation, those who exercise executive power must be supervised by those to whom they are answerable. The same discipline should apply with even greater force to the public sector, because it spends money raised by compulsion and exercises powers backed by law.

Public power is held on trust. Delegation is permitted. Orphan power is not.

Modern government acts through departments, agencies, regulators, inspectorates, grant-making bodies, public corporations, commissioners, ombudsmen, contractors, statutory authorities and arm’s-length bodies. Some deliver services. Some regulate. Some enforce. Some distribute money. Some make decisions affecting rights, property, liberty, livelihoods, businesses and obligations. The problem is not that such bodies exist. The problem is that responsibility for them is often unclear, dispersed, partial, or practically invisible.

Every public function should therefore have a clear constitutional owner; in almost all cases, this should be a government minister. If a body exercises public power, spends public money, regulates citizens, imposes obligations, grants or refuses permissions, distributes funds, investigates, enforces, inspects, adjudicates, licenses, cancels, suspends, or otherwise affects rights and livelihoods, it must be clear who owns the power, who accounts for the money, who supervises the body, what its lawful purpose is, what risks it carries, what complaints it receives, what redress it provides, and which government minister answers when something fails.

There should be no orphan children in the constitution.

This paper therefore proposes a Public Trust Governance-type model for executive government. Every ministerial department should publish a Departmental Family Map showing every body within its sphere of responsibility. This should include executive agencies, non-departmental public bodies, non-ministerial departments, regulators, commissioners, inspectorates, ombudsmen, grant-making bodies, public corporations, statutory offices, contractors exercising public functions, and any other authority exercising public power or spending public money.

For each body, the map should identify its legal basis, public purpose, powers, responsible minister, accounting officer, budget, staff numbers, reporting line, complaints route, redress route, principal risks, and any protected function. Of course, this is not to suggest that none of this is already happening. Some of it is. But the quality varies greatly between departments, and there is little consistency in how things are done.

The purpose is not bureaucratic tidiness. The purpose is constitutional visibility.

This paper also rejects the loose use of “independence” where it obscures responsibility. Some functions do need protection. A minister should not improperly direct an individual prosecution, adjudication, audit finding, ombudsman decision, inspection report, licensing case, or scientific conclusion. But protected judgment must not become independent irresponsibility. A body may have a protected function while still remaining answerable for accounts, governance, appointments, service standards, risk management, complaints, redress, legal costs, performance, and use of public money.

Each department should have a strengthened Departmental Supervisory Board responsible for the governance of the department and its whole public-body family. This would not replace ministerial responsibility. It would make ministerial responsibility real. The board should ensure that the department knows what bodies belong to it, what powers they exercise, what money they spend, what risks they carry, what complaints they receive, what failures have occurred, what redress has been provided, and what corrective action is required.

No minister, board, or Commons committee can supervise an unlimited flat list of public bodies. As a normal rule, no department should present more than a dozen major public-body groups to its Commons committee without explaining why a wider structure is necessary. A structure that is too wide becomes unmanageable; a structure that is too deep conceals responsibility.

Public body → reporting group → Departmental Supervisory Board → minister and accounting officer → Commons departmental committee → House of Commons → people.

The Commons departmental committee should not manage the department. Its task is to supervise whether the structure is lawful, solvent, intelligible, effective, accountable, and capable of correcting failure. Each committee should receive standardised reports: Departmental Family Maps, annual governance returns, management accounts, consolidated accounts, risk reports, serious incident reports, audit findings, major procurement and grant reports, enforcement data, complaints data, redress and compensation data, litigation and legal costs data, and ministerial statements of corrective action.

This would move Parliament from occasional scandal management to continuous supervision.

The state already has many of the necessary tools: ministerial responsibility, departmental boards, accounting officers, select committees, public accounts, audit, public finance rules, and the Nolan principles of public life. The reform would connect them into a visible constitutional chain.

The principle is simple:

No public power without ownership.
No ownership without reporting.
No reporting without accounts.
No failure without redress.

8. Financial Stewardship and the Chancellor as Finance Director

The House of Commons cannot control public money properly unless government itself is subject to financial discipline before money reaches Parliament.

In any serious organisation, the finance function is not merely a bookkeeper. It is a guardian of solvency, risk, propriety, commitments, cash, liabilities and future exposure. It asks whether money exists, whether the expenditure is authorised, whether the commitment is affordable, whether the risk is understood, whether the figures are honest, and whether the organisation is living within its means.

Government should be no different.

The Chancellor of the Exchequer should therefore be understood not merely as a political tax-and-spend minister, but as the finance director of the executive. His duty is not simply to fund the promises of the Prime Minister, colleagues, departments, agencies and public bodies. His duty is to protect the financial integrity of government as a whole.

This does not mean the Chancellor should govern the country alone, nor that Treasury control should become a substitute for parliamentary control. The Chancellor is not a president, and the Treasury is not Parliament. But before public money is requested, promised, borrowed, allocated, guaranteed or spent, there must be a serious internal discipline within the executive.

This paper therefore proposes that financial stewardship should be treated as a constitutional duty of government.

Every department should have clear financial responsibility. Every minister should know the cost, authority, risk, liability and purpose of the schemes under his control. Every accounting officer should be able to certify regularity, propriety, value for money and feasibility. Every department should produce usable management accounts. Every major commitment should be visible. Every significant liability should be recorded. Every public body within the departmental family should be included in the financial picture.

The Chancellor should stand at the centre of this system as the executive's chief financial steward.

He should ensure that departments do not treat public money as ownerless money; that spending commitments are not hidden in agencies, public bodies, long contracts, guarantees, schemes, off-balance-sheet devices, unfunded promises, or optimistic assumptions; that the cost of regulation and enforcement is not ignored merely because it falls on citizens or businesses rather than departmental budgets; and that Parliament is not asked to vote supply on incomplete, misleading or unusable information.

The Treasury should therefore be required to present the Commons with a clear annual statement of the financial condition of government. That statement should not be limited to headline taxation, borrowing and spending. It should include the principal commitments, contingent liabilities, long-term obligations, guarantees, major procurement risks, compensation exposures, litigation risks, write-offs, fraud losses, departmental overspends, ministerial directions, and major pressures within the public-body system.

The question should not be merely, "Can the government announce this?" The question should be, "Can the government afford this, account for this, justify this, and carry the risk of this honestly before Parliament and the public?"

This matters because the executive has a natural tendency to spend now and explain later. Ministers gain credit for promises, programmes, grants, new bodies, compensation schemes, subsidies, targets and interventions. The costs often fall later, elsewhere, or invisibly. A government may promise with one hand, borrow with another, regulate with a third, and leave the final bill to future taxpayers.

That is not stewardship. It is political consumption on public credit.

This paper is not arguing for any fixed level of public spending. A democratic Parliament may choose higher spending or lower spending. It may choose a larger state or a smaller state. Those are political choices. The constitutional point is that whatever level of spending is chosen, it must be honestly authorised, properly accounted for, financially disciplined, answerable to the Commons, and visible to the public.

Public money is not the government's money. It is the people's money, taken by law and held on trust for lawful public purposes. The Chancellor should be guardian of that trust within government; the Commons should be guardian of that trust over government; and the taxpayer should be able to see how that trust is being kept.

The Chancellor should therefore have a duty to say no where expenditure is unaffordable, unlawful, unsupported by proper authority, unsupported by evidence, or dangerous to the financial integrity of the state. He should also have a duty to say clearly when spending is being authorised despite serious risk, so that Parliament can see what is being done.

Financial stewardship also requires control of commitments before they become unavoidable. Governments increasingly bind the future through long contracts, guarantees, public-private arrangements, statutory entitlements, subsidies, international obligations, procurement frameworks, regulatory schemes and compensation promises. These may not always appear as immediate expenditure, but they are real claims on the public.

The Commons should not discover them only when escape is impossible.

This paper would therefore require departments and the Treasury to report material commitments early and clearly. A spending promise should not be treated as responsible simply because the bill does not fall this year. A liability should not be treated as harmless because it is contingent. A scheme should not be treated as cheap because its costs fall on citizens, businesses, councils, regulators or future taxpayers.

The Chancellor should be guardian of that trust within government. The Commons should be guardian of that trust over government.

Together, they should ensure that the executive cannot behave as a spendthrift monarch with Parliament reduced to paying the bills.

The principle is simple:

No promise without cost.

No commitment without disclosure.

No expenditure without authority.

No public money without stewardship.

Departmental Family Maps and financial visibility

The Chancellor's stewardship duty depends on visibility across the whole departmental family. Departments cannot present their finances honestly if agencies, regulators, public bodies, contracts, guarantees, liabilities and delegated spending are hidden outside the main account. Departmental Family Maps are therefore not merely administrative tools. They are part of the financial constitution of government, allowing the Chancellor, the Commons and the taxpayer to see where power, money, risk and responsibility actually lie.

This section gives practical effect to Article 2 of the Common Law Constitution. Any later Fiscal Framework may add detailed limits, but the constitutional foundation is honest authority, disclosure, stewardship, parliamentary answerability and public visibility.

9. Reclaiming Commons Time

The House of Commons cannot become the nation's supervisory board unless it controls enough of its own time to do the job.

At present, too much parliamentary time is organised around the needs of government. The executive controls the legislative programme, dominates the timetable, announces policy, introduces Bills, drafts delegated powers, commands the payroll vote, and often treats parliamentary scrutiny as an obstacle to be managed rather than as the central purpose of representative government.

This has inverted the old constitutional settlement. Parliament once controlled supply and presented grievances before granting money. The executive could not govern indefinitely without Parliament. Today the executive largely decides what Parliament discusses, when it discusses it, how long it discusses it for, and what information is made available before decisions are taken.

This paper proposes a different settlement. The Commons should divide its work clearly between legislation and supervision.

Legislation is necessary, but it should not consume the House. A healthy Parliament is not one that passes the largest number of laws. It is one that ensures government is lawful, competent, economical, accountable, and capable of correcting failure. The test of a good Commons is not how many new powers it has created, but how well it has supervised the powers already granted.

A protected scrutiny calendar

The first reform should be a protected scrutiny calendar. A defined part of each parliamentary year should be reserved for supervisory work: departmental hearings, public-body reviews, accounts, estimates, statutory instruments, complaints and redress, audit findings, regulator performance, major procurement, ministerial directions, failures of administration, and review of existing laws.

These days should not be treated as spare parliamentary time, to be swallowed by urgent legislation, party manoeuvre, or government convenience. They should be the constitutional working days of the Commons.

A stricter legislative calendar

The second reform should be a stricter legislative calendar. Government should, of course, still be able to introduce Bills, but legislative time should be subsidiary to scrutiny. New laws should not be the automatic answer to every situation.

Before a Bill receives time, ministers should carefully consider why existing law is insufficient, what new powers are being created, what burdens will fall on citizens or businesses, which bodies will administer or enforce the law, what delegated powers are requested, what redress exists, and which Commons committee will review the Act after implementation. Skeleton and omnibus Bills should both be discouraged, and reliance on Statutory Instruments should be substantially curtailed.

Proper control of delegated legislation

The third reform should be to return delegated legislation to its proper constitutional place. Statutory Instruments and other delegated instruments should not be the normal means by which the country is governed. Primary legislation is the rule. Delegation is an exceptional concession.

This follows from ministerial responsibility. If every office, agency, regulator, inspectorate and public body is tied back to a named minister, the minister should not be able to avoid Parliament by claiming that the matter is merely departmental, technical, urgent, or administrative. If the measure changes the law governing the citizen, it should be placed before Parliament as law.

Delegated legislation may remain for commencement, prescribed forms, appointed days, purely internal administrative arrangements, and technical schedules whose legal effect has been fully specified in the parent Act. It should not create substantial new obligations, impose serious penalties, alter rights, restrict liberties, interfere with property, change taxation, confer emergency powers, or alter the constitutional relationship between citizen and state.

The burden should lie on the minister to justify delegation. Delegated law is an exceptional concession, not the normal machinery of government.

The New House of Lords should be under no constitutional duty, convention, or presumption to approve delegated legislation. Where delegated legislation is rejected by the New House of Lords, the instrument should fail. If the matter is important enough to govern the citizen, the responsible minister may bring forward primary legislation and ask Parliament to enact it in the ordinary way.

Ministers may administer Acts. They may not manufacture Acts.

Post-legislative review

The fourth reform should be systematic post-legislative review. Parliament should not pass Acts and then forget them. Every significant Act should identify the committee responsible for reviewing its operation.

The review should examine whether the Act achieved its stated purpose, what costs it imposed, what delegated powers were used, what enforcement action followed, what complaints arose, what litigation resulted, what errors occurred, and whether the Act should be amended, consolidated, simplified, sunsetted, or repealed. This would change the culture of law-making. Ministers would know that the House would not merely vote on the promise, but later examine the result.

The modern grievance

The fifth reform should be to restore the connection between grievance and supply. Complaints, ombudsman findings, tribunal losses, judicial review defeats, compensation payments, enforcement errors, administrative delays, and legal costs incurred against citizens should all be treated as constitutional evidence. They show where public power is failing.

Each departmental committee should receive annual complaints and redress data from the department and its public-body family. It should examine complaints received, complaints upheld, average time to resolve, compensation paid, court and tribunal losses, ombudsman findings, legal costs spent fighting citizens, and whether citizens were able to recover their costs when the state was wrong.

This is not administrative trivia. It is the modern form of the ancient grievance.

Stronger committee powers and support

The sixth reform should be stronger committee powers and support. A Commons committee cannot supervise a department properly if it lacks time, staff, expertise, documents, accounts, or power to require answers.

Committees should be supported by financial analysts, auditors, lawyers, statisticians, investigators, procurement specialists and administrative experts. They should be able to require documents, summon responsible officers, call regulators and public bodies, follow money through contracts and grant schemes, and require ministers to respond formally to findings. The aim is not to turn MPs into civil servants. It is to make Parliament a serious customer of information.

Annual departmental accountability sessions

The seventh reform should be annual departmental accountability sessions. Every department should face a structured annual hearing before its Commons committee. The minister and accounting officer should answer for the department's annual report, accounts, public bodies, major risks, failures, complaints, redress, statutory instruments, procurement, grants, ministerial directions and implementation of previous committee recommendations. The committee should then report to the House.

This would turn scrutiny from a series of disconnected inquiries into a regular constitutional discipline.

This paper's aim is not to make Parliament busier for its own sake. The Commons is already busy. The problem is that it is often busy with the wrong work. It spends too much energy on passing new powers and too little on supervising the powers already in existence.

The House of Commons does not need to become noisier. It needs to become more serious.

A restored Commons would have fewer theatrical announcements and more sustained examination; fewer laws made in haste and more laws reviewed after experience; fewer powers granted without thought and more powers traced to their consequences; fewer public bodies operating in fog and more ministers made to answer for the machinery of government.

Legislative time should be more limited.
Scrutiny time should be protected.
Executive power should be continuously supervised.

10. Committees as the Working Machinery of Accountability

If the House of Commons is to supervise government seriously, the work cannot be done mainly by set-piece debates in the Chamber.

The Chamber matters. It is the public forum of the nation. It is where ministers answer urgent questions, where major matters are debated, where legislation is approved, where confidence is tested, and where the government is confronted before the country. But the detailed supervision of the modern executive cannot be done by speeches alone.

Modern government is too large, too technical, too continuous, and too dispersed for occasional debate to be enough. Departments spend billions, run schemes, issue guidance, sign contracts, administer benefits, regulate industries, enforce standards, manage risks, and act through public bodies whose work rarely reaches the floor of the House unless something has already gone badly wrong.

The real working machinery of parliamentary accountability must therefore be the committee system.

This paper proposes that every major department should have a strengthened Commons departmental committee responsible for supervising the whole departmental family. Its task should not be to manage the department. Ministers govern; officials administer; public bodies perform their lawful functions. The committee's task is to supervise, examine, challenge, report, and require answers.

A committee should ask the questions that ordinary debate often misses. What powers does the department exercise? What bodies act under it? What money has it spent? What did it achieve? What risks were known? What warnings were ignored? What complaints were made? What redress was provided? What legal costs were incurred? What statutory instruments were used? What contracts were signed? What grants were awarded? What failures occurred? What has been corrected? Which minister is responsible?

Each departmental committee should therefore become a permanent board of accountability for its department. It should receive regular accounts, risk reports, audit findings, complaints data, redress data, serious incident reports, public-body reviews, procurement reports, ministerial directions, and implementation updates. It should not wait for scandal. It should examine government as a matter of routine.

Committees should have guaranteed access to information, serious specialist support, the power to follow money and public authority through the whole departmental family, and a disciplined system for following up recommendations. The purpose is not to replace political judgment with technocracy. It is to give elected representatives the tools needed to ask informed questions.

A restored Commons would therefore shift weight from performance politics to practical accountability. The Chamber would remain the public forum of national debate. Committees would become the workshop of constitutional supervision.

The Chamber should confront government. Committees should examine government. The Commons should require government to answer.

11. Control of Money: Supply, Accounts and Public Expenditure

The oldest practical power of the House of Commons is the control of money.

The constitutional struggle between Crown and Parliament was not an abstract argument about procedure. It was about whether the executive could raise and spend money without the consent of the people's representatives. Magna Carta, the Petition of Right, the struggle over ship money, the Civil War, the Bill of Rights, and the settlement of constitutional monarchy all turned, in one form or another, on the same question: who controls the money?

The answer was supposed to be Parliament.

No taxation without consent. No standing army without parliamentary authority. No government without supply.

But the modern constitution has inverted this settlement. Parliament has become both purse-keeper and spendthrift monarch. It grants money on a vast scale, authorises departments, funds agencies, creates entitlements, supports regulators, approves schemes, underwrites liabilities, and permits long chains of public expenditure. Yet once money has been voted, the Commons too often loses sight of where it goes, who spends it, what it achieves, what risks it creates, and what harm it causes when wrongly used.

Control of supply must therefore mean more than voting money at the beginning. It must mean following money to the end.

This paper proposes that the Commons recover its financial function as a continuous constitutional discipline. Parliament should not merely ask whether expenditure was authorised. It should ask whether it was lawful, proper, economical, effective, intelligible, accountable, and capable of correction.

Every department should therefore account annually for the whole departmental family: core department, agencies, regulators, public bodies, grant schemes, procurement, contractors exercising public functions, public corporations, special funds, liabilities, guarantees, and delegated spending. Public money should not disappear into administrative fog.

The basic questions should be simple:

Who authorised the spending?
Under what legal power?
Which minister owns it?
Which accounting officer is responsible?
Which body spent it?
What was it meant to achieve?
What did it actually achieve?
What risks were known?

What waste occurred?
What complaints arose?
What redress was paid?
What liabilities remain?

A private business that did not know where its money had gone would not survive. A charity that could not account for funds entrusted to it would face serious consequences. A small parish council is expected to keep accounts, minute decisions, justify expenditure, and submit to audit. There is no reason why central government should be held to a lower standard than the businesses, charities, councils and citizens it regulates.

Indeed, the standard should be higher. Government spends money raised by compulsion. Tax is not a voluntary subscription. It is taken from the citizen by law. That gives public expenditure a moral and constitutional character different from private spending. Waste is not merely inefficiency. Unlawful or reckless expenditure is a misuse of compulsory power.

The Commons should therefore reconnect supply with scrutiny.

Each departmental committee should receive regular financial information in a usable form: monthly or quarterly management accounts, annual consolidated accounts for the departmental family, major procurement reports, grant reports, liabilities, write-offs, fraud losses, compensation payments, litigation costs, ministerial directions, audit findings, and significant changes in financial risk. These reports should be written for parliamentary supervision, not buried in technical documents intelligible only to specialists.

The Public Accounts Committee and the National Audit Office already perform vital work. This proposal would not weaken them. It would make their discipline central to the whole Commons. Departmental committees should work alongside the Public Accounts Committee, using audit findings to examine ministers, accounting officers, public bodies and contractors. Financial accountability should not be a specialist corner of parliamentary life. It should be one of the central purposes of the House.

Control of money must also include control of commitments. Governments often bind the future through long contracts, guarantees, schemes, liabilities, compensation arrangements, public-private partnerships, subsidies, procurement frameworks, international undertakings, and statutory entitlements. Parliament should not discover these obligations only after they have become unavoidable. Departments should report material future commitments clearly, so that the Commons can see not only what has been spent, but what has already been promised.

The same applies to failure. When public money is wasted, when contracts collapse, when fraud is tolerated, when compensation is paid, when enforcement is unlawful, when litigation is pursued against citizens, or when a department requires a ministerial direction because expenditure is doubtful, the matter should return to the Commons committee responsible for that department. The question should not be lost in administrative process. It should be made visible.

This would restore the ancient link between grievance and supply. The Commons should not vote money while ignoring the grievances caused by the machinery that money funds. If a department spends public money enforcing unjustly, regulating incompetently, delaying unlawfully, or fighting citizens who were right, that is not merely a service failure. It is a constitutional failure.

This proposal is not austerity by another name. It is not an argument for any predetermined level of public spending. A democratic Parliament may choose high spending or low spending, generous provision or limited provision, public delivery or private delivery. Those are political choices.

The constitutional point is different: whatever government spends, Parliament must be able to see it, trace it, test it, and hold someone responsible for it.

The House of Commons was not created to become the executive's cheque-signing machine. It exists to ensure that government cannot take money from the people and then spend it beyond effective control.

The principle is simple:

No taxation without consent.
No expenditure without account.
No public money without public responsibility.

This Commons primacy over money is preserved by the New Lords settlement. The Commons remains the House of supply and ordinary public finance. The safeguard is not a rival money House, but the constitutional fiscal ceiling: within the ceiling, the Commons governs; beyond the ceiling, both Houses must agree or the people decide.

12. Grievance, Redress and the Citizen

The House of Commons was never meant only to vote money and pass laws. It was also the place where grievances against power could be brought before the nation.

That older function has been neglected. Modern citizens are often told that if a public body harms them, delays them, overcharges them, wrongly enforces against them, refuses them, licenses them, penalises them, investigates them, or destroys their livelihood, they must first complain to the body itself, then to an internal review, then perhaps to an ombudsman or adjudicator with limited powers, and finally, if they can afford it, to court.

For many citizens, that is not redress. It is exhaustion.

The modern state has become very good at exercising power and very poor at correcting itself. Departments, agencies, regulators, local authorities, inspectors, tax authorities, grant bodies, licensing bodies, enforcement bodies and ombudsmen may all have complaints procedures, but procedure is not the same as remedy. A complaint that takes years, changes nothing, pays nothing, admits nothing, and leaves the citizen to bear the loss is not justice.

The principle is simple:

No public power without real redress.

Where the state has power over the citizen, the citizen must have an effective means of correction when that power is misused. This is especially important where public bodies can act first and prove later: freezing assets, imposing penalties, cancelling licences, withholding payments, stopping grants, seizing property, closing businesses, issuing notices, publishing adverse findings, or taking enforcement action before the citizen has had a practical chance to defend himself.

The greater the coercive power, the stronger the redress should be.

Redress should not depend on whether the citizen is rich enough to bring judicial review or brave enough to fight a department funded by the taxpayer. The state should not be able to spend public money defending its own mistakes while the citizen risks ruin to prove that he was right. A constitutional system that requires the citizen to defeat the state in expensive litigation before obtaining justice is not a fair system of redress. It is a test of endurance.

The law should always recognise the unequal strength of the parties. A citizen, family, farm, small business, charity, or local community is rarely equal in power to a government department, regulator, agency, council, inspectorate, tax authority, or publicly funded enforcement body.

The state has lawyers, officials, records, statutory powers, enforcement machinery, institutional memory, public funding, and time. The citizen often has limited money, limited knowledge, limited documents, limited energy, and one life being disrupted while the process unfolds. Even when the citizen is right, the struggle itself may destroy the thing he is trying to save.

A fair system of redress must therefore take account of that imbalance. It should not require the individual to fight the state on equal terms when the terms are plainly unequal. Where public authority is used against the citizen, the burden should be on the state to act lawfully, explain itself clearly, correct error promptly, and avoid using delay, cost, complexity, or procedural exhaustion as weapons.

The stronger party should carry the heavier duty.

This paper therefore proposes that Parliament should treat grievance and redress as central evidence of government performance.

Every department and public-body family should report annually on complaints and remedies. The relevant Commons committee should examine complaints received, complaints upheld, average time to resolve, compensation paid, ombudsman findings, tribunal losses, court defeats, enforcement errors, unlawful decisions, maladministration findings, legal costs spent resisting citizens, and whether citizens recovered their costs when the state was wrong.

This information should not be buried in scattered reports. It should be presented to Parliament in a standard form. The Commons should be able to see which departments correct mistakes quickly, which bodies fight citizens for years, which regulators over-enforce, which schemes generate repeated injustice, which ombudsmen lack teeth, and which laws create recurring grievances.

A restored Commons should ask not only, “Was the department within budget?” but also, “Did the department use power justly?”

That question changes the culture of government. It reminds ministers and officials that administration is not an abstract machine. Every wrongful decision has a human consequence: a business closed, a home lost, a benefit withheld, a licence removed, a reputation damaged, a farm payment delayed, a pension miscalculated, a family broken, a livelihood destroyed.

Public bodies must therefore be expected to correct error promptly and fairly. Where the state has made a serious mistake, it should admit it. Where it has caused loss, it should compensate it. Where it has acted unlawfully, it should reverse the decision. Where it has imposed costs on a citizen wrongly, it should pay them. Where it has used enforcement powers recklessly, Parliament should know.

The aim is not to encourage endless litigation or to make public administration timid. Government must be able to act. Regulators must regulate. Tax must be collected. Dangerous conduct must be stopped. Fraud must be pursued. Public money must be protected. But lawful firmness is not the same as administrative impunity.

Operational independence should never mean remedial immunity.

Some functions may need protected judgment. Ministers should not improperly direct individual prosecutions, tribunal decisions, audit findings, ombudsman conclusions, inspection reports, licensing cases, or scientific judgments. But no public body should be independent of accountability for delay, cost, error, governance, complaints, compensation, service standards, legal expenditure, or failure to correct injustice.

The Commons should also examine whether existing redress routes are affordable, timely, intelligible, and effective. A remedy that arrives after the citizen is ruined is not a remedy. A complaints system that merely asks the offending body whether it thinks it acted properly is not independent redress. An ombudsman without effective power to secure correction may become only a constitutional figleaf. A court route that costs more than the loss suffered is not practical justice.

Every exercise of public power should be matched by a visible route of appeal, complaint, correction, compensation, and parliamentary reporting. When Parliament creates a power, it should ask at the same time: what happens if this power is used wrongly?

That question should be built into legislation. Every Bill creating enforcement powers, regulatory powers, licensing powers, inspection powers, penalties, sanctions, grant conditions, or coercive administrative action should include a redress statement. Ministers should explain how citizens may challenge decisions, how quickly complaints must be handled, what compensation is available, who pays costs when the state is wrong, and which committee will review the operation of the scheme.

This would restore the ancient connection between grievance and representation. The citizen should not be left alone before the administrative state. The Commons should be the institution through which repeated grievances are seen, measured, investigated, and corrected.

A Parliament that passes laws but ignores the grievances those laws create is not supervising government. It is merely empowering it.

The principle is simple:

No public power without real redress.
No enforcement without correction.
No state mistake without remedy.

13. Ministers, Responsibility and Executive Office

Parliamentary privilege must remain. Members of Parliament must be free to speak, vote, question, debate and represent constituents in parliamentary proceedings without fear of legal action. Without that protection, Parliament could not hold power to account.

But ministerial office is not the same as parliamentary speech.

A minister exercising executive power is not merely taking part in debate. He is directing administration, spending public money, approving regulations, making appointments, signing instruments, authorising enforcement, issuing guidance, taking decisions, and affecting the rights, property, liberty, livelihoods and obligations of citizens.

That distinction matters.

Parliament has imposed personal duties on many people entrusted with other people's affairs. Company directors, charity trustees, lawyers, accountants, doctors, public officers, councillors and many others are expected to act with propriety, reasonable care, honesty, loyalty, conflict avoidance, lawful authority, and respect for the purposes of their office.

It cannot be equitable for Parliament to set standards for others while ministers exercise greater powers under lower personal duties.

Taking ministerial office is a choice. It is a choice made willingly, and often for ambition, advancement, reputation, influence, or personal political gain. A minister is not conscripted into office. He accepts power, status, salary, staff, authority, and command over public resources.

The public is therefore entitled to expect high standards of competence, professionalism, honesty, diligence and care.

This paper therefore proposes that ministerial office should carry clear duties in the exercise of executive power. These duties should not punish honest policy failure, ordinary political judgment, good-faith error, or decisions taken lawfully after proper process. Government must be able to govern. Ministers must be able to choose between difficult options.

But where a minister knowingly, recklessly, dishonestly, or with gross negligence misuses public power, acts outside lawful authority, ignores material warnings, misleads Parliament or public auditors, conceals serious risk, acts in conflict of interest, protects institutional wrongdoing, or causes serious public loss or injustice, personal responsibility should follow.

The relevant standard should be serious breach, not mere disagreement.

Possible consequences should include parliamentary censure, loss of ministerial severance, disqualification from ministerial office, loss of public indemnity, personal costs orders, contribution to public loss, civil liability in serious cases, and criminal liability where the ordinary criminal law is engaged.

This is not an argument for making ministers timid or for converting political disagreement into legal action. It is an argument for the ordinary principle that public power should be exercised with care, honesty, lawful authority and personal responsibility. Those who accept the privileges of executive office should accept the duties that go with them.

Ministerial responsibility should not be a phrase used only when the press demands a resignation. It should be a working constitutional standard. A minister should know that he is responsible not only for announcing policy, but for the lawful, competent and honest use of the machinery through which that policy is carried out.

The principle is simple:

Parliamentary privilege protects the Member as a member of Parliament.
It shall not shield the Minister in office from personal accountability for deliberate unlawfulness, serious breach of duty, or corrupt or dishonest conduct in the exercise of executive power.
Those who accept power must accept responsibility.

14. The Nolan Principles as Tests of Government Design

The standards of public life should not be treated merely as personal aspirations. They should also be used as tests of government design.

The Seven Nolan Principles — selflessness, integrity, objectivity, accountability, openness, honesty and leadership — are already accepted as the standards expected of those who hold public office. This paper does not need to invent new ethical language for public life. The words already exist. The failure is that they are too often applied to individuals while the structures around them are allowed to remain opaque, evasive, fragmented, and unaccountable.

A system can defeat virtue. Even honourable people struggle to act well inside structures that hide responsibility, obscure information, reward evasion, punish candour, bury complaints, diffuse blame, and separate power from consequence. This paper therefore proposes that the Nolan Principles should be applied not only to office-holders, but to departments, public bodies, procedures, reporting lines, complaints systems, financial controls, regulatory structures, and ministerial responsibility.

Selflessness requires public power to be exercised for public purposes, not for party advantage, administrative convenience, institutional self-protection, patronage, lobbying pressure, private advancement, or the comfort of officials. A public body that exists primarily to preserve itself has lost sight of its purpose.

Integrity requires conflicts of interest, lobbying capture, revolving-door influence, improper obligations, hidden relationships, procurement conflicts, regulatory capture, and personal advantage to be declared, examined and resolved. It is not enough for individuals to say they acted properly. The structure must make improper influence difficult, visible, and correctable.

Objectivity requires significant decisions to be made by reference to evidence, lawful criteria, fairness, merit, and recorded reasons. Public bodies should not be able to act on unpublished preferences, fashionable assumptions, political pressure, institutional habit, or unexplained discretion. Where a citizen is refused, penalised, licensed, inspected, investigated, funded, or sanctioned, the reasons should be intelligible.

Accountability requires every public function to have a ministerial owner, an accounting officer, a reporting line, a Commons committee, a complaints route, and a redress route. A structure that hides responsibility cannot satisfy accountability. If no one can say who is answerable, the system is defective.

Openness requires departments to publish the information needed for supervision: departmental family maps, governance returns, accounts, risks, serious incidents, complaints data, redress data, ministerial directions, audit findings, and the use of delegated powers. Openness does not mean publishing everything regardless of security, privacy, or lawful confidentiality. It means that secrecy must be justified, not assumed.

Honesty requires ministers, departments and public bodies not to mislead Parliament, courts, auditors, inspectors, ombudsmen, committees or citizens. It also requires serious errors to be corrected once known. A government that quietly allows a false impression to continue is not acting honestly merely because no single sentence can be prosecuted as a lie.

Leadership requires ministers and senior officials to uphold these standards across the whole departmental family. A minister should not be permitted to claim credit for policy while denying responsibility for the machinery through which that policy is carried out. Leadership is not press management. It is stewardship of public power.

These principles should become practical tests for Parliament.

When a department reports to its Commons committee, the committee should be able to ask: Does this structure serve the public interest? Are conflicts visible? Are decisions evidence-based? Is someone answerable? Is enough information published? Have errors been corrected? Has the minister led the department towards higher standards, or merely defended it from criticism?

When Parliament considers a Bill, it should ask the same questions. Does the proposed law create powers without accountability? Does it allow discretion without reasons? Does it create enforcement without redress? Does it permit hidden influence? Does it add bodies to the constitution without a clear ministerial owner? Does it make government more open, or more obscure?

When a public body fails, the Nolan Principles should help identify whether the failure was merely individual or structural. Was the failure caused by a bad decision, or by a system that made bad decisions likely? Were warnings ignored? Were complaints buried? Were conflicts tolerated? Were reasons withheld? Were ministers shielded? Was responsibility passed around until it disappeared?

This paper's use of Nolan is therefore not ornamental. It is constitutional. The principles of public life should be built into the machinery of public power.

This also gives Parliament a common language for scrutiny. Instead of treating every scandal as a separate outrage, the Commons should ask which public principle failed and what structural correction is needed. If accountability failed, who must now own the power? If openness failed, what must now be published? If integrity failed, what conflicts must now be prevented? If honesty failed, who allowed Parliament or the citizen to be misled? If leadership failed, why did the minister not correct the system?

The Nolan Principles were designed for public life. They should be applied to public power.

The principle is simple:

Standards should not merely decorate public office.
They should govern the design of public authority.

15. First Past the Post, Strong Government, and Parliamentary Government

This paper does not propose to turn Britain into a presidential republic, nor to weaken government for the sake of permanent paralysis.

The British constitution has traditionally worked through parliamentary government. Ministers govern because they command the confidence of the House of Commons. The Prime Minister is not a president elected directly by the people. He is the first minister of a parliamentary administration, exercising executive power only while able to maintain the confidence of the Commons.

That distinction matters.

In a presidential system, the executive may claim a separate personal mandate from the legislature. In the British system, the executive is supposed to be drawn from Parliament, answerable to Parliament, funded by Parliament, and removable by Parliament. Government is strong because it can command a majority in the Commons. It is legitimate because that majority rests on parliamentary confidence. It is restrained because Parliament is supposed to supervise it.

First past the post has usually reinforced this model. It tends to produce clear results, single-party government, and administrations capable of acting without constant coalition bargaining. This paper is not arguing for or against electoral reform. That is a separate question. The point here is constitutional: if first past the post gives Britain strong government, it must not also produce a weak Parliament.

A strong executive requires stronger scrutiny, not weaker scrutiny.

The danger is that a large Commons majority can blur the distinction between Parliament and government. When the executive controls the timetable, commands the payroll vote, dominates legislation, controls information, and treats its majority as permission to govern with little resistance, parliamentary government begins to resemble elective executive rule. The Prime Minister is then spoken of as though he had a personal national mandate, while the Commons is treated as the instrument through which that mandate is delivered.

That is not the British constitution.

The people elect Members of Parliament. The Commons sustains or dismisses governments. Ministers hold office because they can answer to the House. The Prime Minister is first among ministers, not a temporary monarch, elected president, or personal embodiment of the national will.

Constitutional monarchy helps preserve this distinction. Executive authority is exercised in the name of the Crown, but the Crown is not a personal political actor. The Monarch does not govern day by day, does not lead a party, does not claim an electoral mandate, and does not stand above Parliament as a competing democratic authority. This prevents the executive from being personalised in the way a presidency is personalised.

The danger in modern Britain is not that the Monarch governs too much. It is that the Prime Minister increasingly appears to govern as though the majority in the Commons were a personal mandate rather than a continuing relationship of confidence and accountability.

This paper therefore rejects presidentialism in both form and habit.

It rejects the idea that the Prime Minister should be treated as a directly elected national executive. It rejects the habit of treating general elections as personal contests between would-be presidents. It rejects the notion that a parliamentary majority should reduce the Commons to an electoral college which installs a government and then submits to it until the next election.

A parliamentary majority gives a government the right to govern. It does not give it the right to escape supervision.

This is why strong scrutiny is not a threat to strong government. It is the condition that makes strong government constitutionally safe. A government with a majority should be able to pass necessary laws, raise supply, conduct foreign affairs, administer the state, and act decisively where action is required. But it should also have to explain itself, account for expenditure, justify delegated powers, answer for public bodies, correct injustice, publish information, and submit to committee supervision.

The alternative is not strong government. It is unchecked government.

This paper's reforms are therefore designed to preserve the strengths of parliamentary government while correcting its modern weakness. First past the post may produce decisive government. Constitutional monarchy prevents the executive from becoming a separate elected presidency. The Commons must then provide the missing discipline: continuous scrutiny of the executive by the representatives of the people.

This is why this paper does not seek to move executive power outside Parliament. The answer to executive dominance is not to create a presidential office with a separate mandate. Nor is it to turn the Monarch back into a governing authority. The answer is to restore the Commons to its proper function.

Government should remain parliamentary. Ministers should remain answerable to the House. The Prime Minister should remain first minister, not president. The Crown should remain constitutional, not partisan. The Commons should remain the place where supply is granted, grievances are heard, laws are scrutinised, public money is followed, and executive power is made to answer.

The principle is simple:

First past the post may give Britain strong government.

It must not give Britain weak Parliament.

The Prime Minister is not a president.

The Commons is not the executive's servant.

16. Implementation: From Green Paper to Constitutional Reform

This paper's reforms should be implemented through a constitutional package rather than scattered administrative changes. The Constitution should state the principles; Enabling Legislation should supply the machinery; Standing Orders should provide the parliamentary working detail.

The Commons Reform identifies the practical reforms needed to restore Parliament's supervisory function. The Common Law Constitution secures the principles. The House of Lords Reform Paper provides the longer-view chamber needed for constitutional restraint. The Tax and Economics Paper develops the policy framework within those limits.

Implementation should proceed in stages. First, the origin and purpose of the programme should be stated consistently across the documents. Second, the Common Law Constitution and House of Lords Reform should proceed together, so that the Constitution does not accidentally entrench the unreformed second chamber. Third, Commons Standing Orders and Enabling Legislation should protect scrutiny time, strengthen committees, regulate delegated legislation, require Departmental Family Maps, and make public money and redress visible.

Fourth, executive financial stewardship should be implemented through Treasury duties, departmental accounts, accounting officer responsibilities, and public reporting. Fifth, the burden-of-proof and redress reforms should be given practical effect in courts, tribunals, ombudsmen and complaints systems. Sixth, the programme should be reviewed against the controlling test: does it strengthen the citizen's ability to supervise government through Parliament?

Principle in the Constitution. Machinery in Enabling Legislation. Practice in Standing Orders.

17. Conclusion: Restoring the Commons

This Green Paper began with a simple proposition: the House of Commons has become too much the machine by which government supervises the citizen, and too little the means by which the citizen supervises government.

This paper proposes to reverse that settlement.

This does not require Parliament to abandon its history. It requires Parliament to recover it. The Commons became central to the constitution because government could not raise money indefinitely without consent, because grievances could be brought before supply, because ministers had to answer, and because arbitrary power had to be restrained by law.

The modern state is vastly larger, more technical, more expensive and more intrusive than the government of earlier centuries. It acts through departments, agencies, regulators, inspectors, public bodies, statutory schemes, delegated legislation, contracts, guidance, grants, licences, penalties, databases, ombudsmen and enforcement powers.

Much of this may be necessary. Some of it may be beneficial. Some of it may be demanded by the electorate. The argument is not for or against any predetermined size of state. It is constitutional.

If government is larger, Parliament must be stronger. If public power is more dispersed, responsibility must be clearer. If more money is taken from the citizen, expenditure must be more visible. If more decisions are made by administrative bodies, redress must be more effective. If more law is made through delegated powers, scrutiny must be more serious. If ministers command the machinery of the state, ministerial responsibility must be real.

A larger executive needs more supervision, not more legislation.

This paper therefore proposes a House of Commons refocused on its constitutional purpose: controlling supply, presenting grievances, supervising administration, limiting unnecessary law, examining delegated power, following public money, requiring redress, and making ministers answer for the executive machine they command.

The Commons should not run the government day by day. Ministers must govern. Officials must administer. Courts must judge. Regulators must perform lawful functions. Professional judgment must sometimes be protected from improper political interference.

But no public power should be constitutionally orphaned. No public money should disappear into administrative fog. No public body should be too independent to account for its failures. No citizen should be left alone before the state without practical remedy. No minister should enjoy power without responsibility.

The practical reforms proposed in this paper are restorative rather than revolutionary:

legislative time should be limited and scrutiny time protected;

every new law should justify its necessity, powers, burdens, delegated authority and redress;

statutory instruments should be treated as a central part of executive supervision;

every department should account for its whole public-body family;

Commons committees should become the working machinery of accountability;

public expenditure should be traced from authorisation to outcome;

complaints, court defeats, ombudsman findings, compensation and legal costs should be treated as constitutional evidence;

ministerial office should carry real duties in the exercise of executive power;

the Nolan Principles should be applied to structures, not merely speeches;

strong government should be matched by strong scrutiny.

None of this weakens democracy. It strengthens it.

Democracy is not merely the right to vote every few years for a party that then commands the machinery of government with little effective supervision. Democracy also requires continuous answerability: visible power, traceable money, lawful administration, honest reporting, effective redress, and ministers who must explain what has been done in the name of the people.

The House of Commons does not need to become noisier. It needs to become more serious.

It should be less a theatre of government announcements and more a boardroom of national accountability. Less a factory for new powers and more a workshop for examining the powers already granted. Less a servant of the executive timetable and more the guardian of the people’s consent.

The old constitutional question was whether the King could tax and govern without Parliament.

The modern question is whether the executive can tax, spend, regulate, direct, enforce, delegate and administer through Parliament while escaping serious supervision by Parliament.

The answer is no.

The Commons should not be a rubber stamp for the Crown in its modern executive form. It should be the institution through which public power is made visible, public money is accounted for, public grievance is heard, and public authority is restrained by law.

The proposal can be stated plainly:

No new power without necessity.

No public burden without justification.

No taxation without consent.

No expenditure without account.

No public body without ownership.

No enforcement without redress.

No ministerial power without responsibility.

The Commons should not merely authorise government.

It should mind the shop.

Part III - The New House of Lords

1. Purpose

This paper proposes replacing the present House of Lords with a fully elected second chamber: the New House of Lords.

The purpose of this reform is to create a constitutional chamber with democratic legitimacy, long-term perspective, and clear authority to scrutinise government, restrain executive overreach, improve legislation, and refer great unresolved questions back to the people.

This paper begins from the principle that Parliament exists to serve each equal free person under God and the Common Law. Parliament is not sovereign over the citizen. No temporary Commons majority should be able to govern without constitutional restraint.

2. The Case for Change

The present House of Lords performs useful revising and scrutinising functions, but because it is unelected it must remain subordinate to the elected House of Commons. It may advise, warn, amend, and delay, but it cannot claim an equal democratic mandate.

That changes if the second chamber is elected.

A fully elected second chamber should not merely inherit the limited status of the present House of Lords. Once elected, it would possess democratic legitimacy of its own. It should therefore have a defined constitutional role and meaningful powers.

However, it should not become a rival government. The House of Commons should remain the chamber from which the Government is formed. The New House of Lords should instead become the chamber of longer perspectives, constitutional concern and gathered wisdom.

The Commons should govern.
The New House of Lords should scrutinise.
The equal free person remains the point of the Constitution.

3. Executive Dominance and Mid-Term Accountability

One weakness of the current system is the long gap between general elections.

A government with a large Commons majority can govern for several years while ignoring public concern, parliamentary criticism, poor administration, broken promises, and changing national circumstances. Once elected, a government may treat its majority as a blank cheque.

This danger is increased because the Government controls the Commons timetable, legislative programme, party discipline, and much of the parliamentary machinery. Parliament can become less a check on the executive and more an instrument of it.

4. Composition

Each member of this proposed new chamber should represent an area made up of two parliamentary constituencies. This would produce a chamber half the size of the House of Commons while keeping members rooted in recognisable local areas.

Members should serve ten-year terms, with half of the chamber elected every five years.

Elections to the New House of Lords should take place between Commons general elections, creating regular mid-term democratic accountability.

This system would give the chamber democratic legitimacy, independence, local connection, and long-term perspective.

5. Ten-Year Terms

Members of the New House of Lords should serve ten-year terms.

The House of Commons is necessarily shaped by short electoral cycles, party discipline, media pressure, manifesto commitments, ministerial ambition, and immediate public controversy. This is unavoidable in a chamber that forms the Government.

The second chamber should have a different character.

A ten-year term would allow members to take a longer view. They would be better placed to consider the long-term consequences of legislation, constitutional change, public debt, war powers, civil liberties, national infrastructure, demographic change, family policy, national sovereignty, and the moral direction of the country.

The Commons would express the immediate political mandate.
The New House of Lords would express a slower, more reflective mandate.

The purpose is to add constitutional memory, experience, restraint, and statesmanship to national decision-making.

6. Minimum Age

Candidates for the New House of Lords should be at least 55 years old at the time of first election.

This requirement is intended to shape the character of the chamber. The New House of Lords should not become a second House of Commons, a training ground for party careerists, or a stepping stone to ministerial ambition.

It should be a chamber of maturity, experience, independence, and long-term judgment.

A minimum age of 55 would encourage the election of people who have already lived, worked, built, failed, served, and learned before entering national constitutional office.

The chamber should draw on people with substantial experience in business, farming, family life, public service, law, medicine, education, the armed forces, local government, trade, engineering, scholarship, charity, industry, and community leadership.

There should be no automatic upper age limit. If voters wish to elect or re-elect an older candidate who is still able to serve effectively, that should be their right.

7. Separation from the House of Commons

Sitting Members of Parliament should not be eligible to stand for election to the New House of Lords.

Former MPs should be eligible to stand, but only after a clear break from the Commons. A former MP should be required to spend at least two years out of the House of Commons before standing for the New House of Lords.

This cooling-off period would act as a democratic leveller. It would prevent immediate transfer from one chamber to the other, reduce party patronage, weaken automatic entitlement, and allow voters to judge former MPs as ordinary candidates rather than sitting office-holders.

8. Relationship with the House of Commons

The House of Commons should remain the primary political chamber.

It should continue to determine who forms the Government. Confidence, supply, taxation, and the ordinary machinery of government should remain primarily matters for the Commons.

The Commons should be the chamber of government.
The New House of Lords should be the chamber of constitutional accountability.

This separation prevents the second chamber from becoming either a rival government or a powerless revising body.

9. Constitutional Role

Its principal duties should be to:

continue to scrutinise legislation passed by the Commons;

examine whether Bills are necessary, proportionate, intelligible, and constitutional;

protect civil liberties and fundamental rights;

review emergency powers;

examine treaty commitments and questions of national sovereignty;

scrutinise major public appointments;

review the work of regulators and public bodies;

examine long-term constitutional and moral questions;

act as a mid-term democratic check on the Government;

refer important unresolved questions back to the people where necessary.

The New Lords exists to provide the longer constitutional view within Parliament. Among its leading duties will be examining whether legislation, delegated powers, public expenditure, treaty obligations, institutional reform, and changes to the machinery of government are consistent with the constitutional settlement and the rights and liberties declared within it.

Emergency powers may be necessary to meet real and immediate danger, but they must remain temporary, specific, proportionate, reviewable, and incapable of becoming a permanent method of government. The state may act quickly in a crisis, but it may not use crisis as a second constitution.

It is not principally a constitutional court. It does not govern. It does not compete with the Commons. It serves as the parliamentary chamber of constitutional memory, restraint and review.

10. Foreign Affairs and the Constitutional Threshold

Foreign affairs remain the responsibility of ministers answerable to Parliament. The making of ordinary treaties, agreements, protocols, and arrangements concerned with trade, defence cooperation, extradition, travel, fisheries, scientific cooperation, mutual recognition, and other ordinary matters of international relations may continue in the normal way, subject to parliamentary scrutiny and this Constitution.

The constitutional threshold is stated in Article 6 of the Common Law Constitution. Where that threshold is crossed, the matter is no longer merely foreign policy but constitutional alteration.

At that point the matter is no longer merely foreign policy. It is constitutional alteration. It must therefore proceed under the constitutional procedure, requiring the approval of both Houses and, where the Houses disagree or sovereignty is materially transferred, reference to the people.

11. The Parliament Acts and the New Settlement

The Parliament Acts solved the problem of their day. They restrained the absolute veto of an unelected hereditary chamber while preserving the ability of an elected Government to govern through the House of Commons.

The Parliament Act 1911 was not framed as the final settlement for a constitution with an elected second chamber. It expressly contemplated the later substitution of the House of Lords by a Second Chamber constituted on a popular rather than hereditary basis, and recognised that the powers of that new chamber would then have to be limited and defined.

The Restore proposals should therefore be understood as the fulfilment, not the repudiation, of the Parliament Act 1911. The Parliament Acts are amended according to their own original logic: Commons primacy for ordinary government, Money Bill protection within the fiscal ceiling, and reference to the people where two elected Houses disagree over matters of sufficient public or constitutional importance.

The Parliament Acts solved 1911. Restore completes the promise left unfinished in 1911.

12. Certification of Bills

The Parliament Act procedure shall be retained only in defined cases and shall no longer operate as a general Commons override.

Money Bills shall continue to be certified by the Speaker of the House of Commons in accordance with the existing Money Bill procedure, subject to the additional requirement that the Bill is accompanied by a fiscal impact statement and does not breach the constitutional fiscal ceiling.

A Bill said to give effect to a manifesto pledge shall be certified by the Speaker of the House of Commons before it may proceed under the manifesto procedure. There shall be a presumption that a Bill is not a Manifesto Bill unless the pledge was clear, specific, prominent, and plainly put before the electorate at the general election. A Bill shall not be certified as a Manifesto Bill if it is encumbered with substantial provisions not fairly contained within that pledge.

Before Second Reading, the Speaker of the House in which a Bill is introduced shall certify whether the Bill is a Constitutional Bill. A Bill contains protected constitutional subject matter if any clause, schedule, amendment, provision, or part of it enacts, amends, modifies, suspends, disapplies, overrides, or repeals any constitutional provision, or confers power upon any person or body to do any of those things. A single provision relating to protected constitutional subject matter in a Bill of any length shall make the whole Bill a Constitutional Bill, regardless of its title, principal purpose, other contents, or inclusion in an election manifesto.

Protected constitutional subject matter shall take precedence over every other legislative classification. No Bill containing such matter may be treated as a Manifesto Bill, General Bill, Money Bill, or other ordinary measure for the purpose of avoiding the Constitutional Bill procedure. An election may authorise a Government to propose constitutional change; it cannot authorise the Government to bypass the Constitution while changing or repealing it.

Where the Speaker of the other House disputes a failure to certify a Bill as constitutional, the two Speakers shall confer and attempt to agree the proper classification. If they agree that the Bill is constitutional, it shall thereafter proceed only as a Constitutional Bill.

If the two Speakers cannot agree, either Speaker may, within four weeks after the disagreement has been formally recorded, refer the question to the Supreme Court. The Court shall determine only whether the Bill or any provision of it relates to protected constitutional subject matter, having regard to its legal purpose and effect, including whether it modifies, or confers power to modify, the constitutional settlement. The Court shall not consider or express any opinion upon the political merits, wisdom, necessity, desirability, or policy of the Bill or of any provision contained within it.

Until a disputed classification has been agreed by the Speakers, or any reference has been withdrawn or determined by the Supreme Court, the Bill shall not proceed under any procedure capable of overriding either House or avoiding the safeguards applicable to Constitutional Bills.

The Court is used for this narrow purpose because the question concerns the nature and operation of the common-law constitution, upon which the judiciary possesses particular institutional knowledge and expertise. The mechanism draws upon the established pre-enactment referral procedures in section 33 of the Scotland Act 1998 and sections 111A and 111B of the Government of Wales Act 2006, while confining the Court strictly to the question of classification.

No House should be sole judge in its own constitutional cause.

13. Money Bills and the Fiscal Ceiling

The House of Commons should remain the money House. It should continue to grant supply, authorise taxation, sustain or dismiss Governments, and determine ordinary spending priorities within the constitutional fiscal ceiling.

The existing Money Bill machinery should substantially remain. A Money Bill should continue to be certified by the Speaker of the House of Commons, and the Speaker's certificate should remain conclusive. The New House of Lords should not become a rival money House.

A Money Bill sent to the New House of Lords must be accompanied by a fiscal impact statement setting out its expected effect on taxation, expenditure, borrowing, public debt, guarantees, contingent liabilities, and the remaining headroom under the constitutional fiscal ceiling.

The Speaker shall not certify a Bill as a Money Bill where that statement shows that the Bill, whether alone or in combination with other Bills or measures already enacted or authorised, would exceed the fiscal ceiling.

In such a case, the Bill may proceed only after the fiscal ceiling has first been lawfully adjusted in accordance with the constitutional procedure for fiscal alteration.

Commons controls money within the ceiling. The ceiling controls Commons beyond it.

14. Clear Manifesto Bills and General Public Bills

Section 2 of the Parliament Act procedure should no longer apply to any Public Bill merely because it has been passed twice by the House of Commons. It should be limited to Bills giving effect to clear, specific and prominent manifesto commitments upon which the Government was elected, and only where the Bill is not encumbered with substantial matters outside that commitment.

This brings section 2 into line with the proper Salisbury principle. A Government should be able to enact what the people clearly authorised. It should not be able to use Commons override to pass measures which were vague, hidden, implied, post-election, or wrapped together with unrelated provisions.

A General Bill shall ordinarily become law only after being passed by the House of Commons, approved by the New House of Lords, and receiving Royal Assent.

Where the New House of Lords rejects a General Bill, the House of Commons may, consistently with the returning-Bill principle embodied in the Parliament Acts 1911 and 1949, pass the same or a substantially unchanged Bill again in a later Session.

If the New House of Lords rejects that returning Bill for a second time, each House shall hold a recorded National Reference Resolution. The Resolution shall be decided as a free vote, without party whipping and without being treated as a question of confidence.

The National Reference Resolution shall ask only whether the question raised by the Bill is of sufficient national importance that the Bill should be referred to the people by plebiscite. The vote shall concern the question of reference alone and shall not reopen the detailed merits or wording of the Bill.

15. Constitutional Bills

A Constitutional Bill may be introduced in either House and shall otherwise pass through the ordinary legislative stages in each House.

Every Constitutional Bill shall be committed to a Committee of the Whole House in both Houses. Constitutional change is the responsibility of Parliament as a whole and shall not be delegated to a small committee selected by party managers.

The ordinary Commons override procedure shall not apply to Bills altering the Constitution, the composition or powers of either House of Parliament, the franchise, electoral law, constituency boundaries, the conduct of elections, the maximum term of Parliament, the independence or jurisdiction of the courts, the constitutional fiscal ceiling, emergency powers, treaty subordination, national sovereignty, ancient liberties, due process, trial by jury, habeas corpus, freedom of speech, freedom of religion, property rights, or the right of effective redress against public power.

The classification rule is intended to ensure that constitutional issues are identified before introduction. A Government that includes even one constitutional provision in an otherwise ordinary Bill must accept that the whole Bill will receive constitutional scrutiny.

Apart from the mandatory Committee of the Whole House in each House, a Constitutional Bill shall follow the same returning-Bill, second-rejection, National Reference Resolution, and plebiscite procedure as a General Bill.

A Constitutional Bill may therefore be passed by the originating House, rejected by the other House, passed again in identical form by the originating House in a later Session, and rejected a second time by the other House. Both Houses shall then hold recorded free votes on the National Reference Resolution.

No manifesto commitment, electoral mandate, confidence vote, declaration of urgency, or other political claim shall alter that procedure. A proposal to enact, amend, suspend, disapply, override, or repeal the Constitution remains constitutional in character however clearly it appeared in a manifesto.

Constitutional legislation remains legislation, but it carries consequences so serious that every member of both Houses must have the opportunity to take part in its detailed scrutiny.

16. Deadlock, Second Rejection, and Reference to the People

The new settlement should avoid both paralysis and domination. It should not create a second governing chamber, but neither should it allow a temporary majority in either House to be mistaken for the settled will of the nation.

For a General Bill, the returning-Bill procedure develops the traditional principle embodied in the Parliament Acts 1911 and 1949. The House of Commons must pass the Bill again in a later Session, and the New House of Lords must reject it twice, before any exceptional procedure becomes available.

For a Constitutional Bill introduced in either House, the same sequence applies: the originating House must pass the identical Bill again in a later Session, and the other House must reject it twice. The only additional legislative requirement is that the Bill must have been considered by a Committee of the Whole House in both Houses.

After the second rejection, both Houses shall vote independently on the short National Reference Resolution. The Resolution shall be decided as a recorded free vote, without party whipping and without being treated as a question of confidence. It shall ask only whether the question raised by the Bill is of sufficient national importance that the Bill should be referred to the people by plebiscite.

The vote shall concern the question of reference alone and shall not reopen the detailed merits or wording of the Bill. Parliament is thereby given one final opportunity to settle the matter without a public vote, and neither House may force a plebiscite unilaterally.

If both Houses approve the National Reference Resolution, the Bill shall be submitted to the people by plebiscite. The Bill submitted to the people must be identical in every detail to the Bill rejected for the second time. No amendment, addition, omission, supplementary provision, ministerial modification, or alternative text shall be permitted after that rejection.

If the people approve the Bill, that identical Bill shall proceed for Royal Assent. If the people reject it, the Bill shall fall.

If the originating House approves the National Reference Resolution but the House that rejected the Bill does not, the rejecting House shall be taken to have yielded, and the identical Bill rejected for the second time shall proceed for Royal Assent.

If the originating House does not approve the National Reference Resolution, the Bill shall fall, irrespective of the vote in the other House.

Plebiscite is a constitutional safety valve, not a routine stage of legislation. It is available only where both Houses independently conclude that Parliament has reached the limit of its authority on a matter of exceptional national importance.

Ordinary disagreement normally ends in Parliament. Only exceptional disagreement, affirmed by both Houses, ends in popular decision.

17. Delegated Legislation and the Administrative State

Delegated legislation must be put back in its proper constitutional place.

The administrative state exists to carry out the law, not to make law in its own right. Ministers, departments, regulators, agencies, inspectorates, and public bodies may administer Acts of Parliament. They may not use delegated powers as a routine means of governing the citizen without primary legislation.

Where a minister requires legal power to affect the citizen, impose duties, restrict liberty, interfere with property, create offences, levy money, alter eligibility, confer enforcement powers, or change the legal position of any person, the minister shall bring forward primary legislation.

Delegated instruments may remain only for matters which do not alter the substantive rights, duties, liabilities, liberties, property, livelihood, or constitutional position of the citizen: commencement, prescribed forms, appointed days, purely internal administrative arrangements, and technical schedules whose legal effect has been fully specified in the parent Act.

The New House of Lords shall be under no constitutional duty, convention, or presumption to approve delegated legislation. Delegated legislation is not manifesto legislation, not primary legislation, and not protected by Commons primacy.

Where delegated legislation is rejected by the New House of Lords, the instrument shall fail. If the Government considers the matter sufficiently important, the responsible minister may bring forward primary legislation and ask Parliament to enact it in the ordinary way.

Ministers may administer Acts. They may not manufacture Acts.

18. Christian Heritage

This paper recognises the historic importance of the Lords Spiritual and the Christian foundations of the United Kingdom's constitutional order.

However, if the second chamber is reformed into a fully elected New House of Lords, unelected religious office-holders should not retain voting legislative power. A chamber whose authority rests on election must not contain unelected members with equal voting rights.

This paper therefore proposes that a limited number of senior Christian prelates should have the right to attend and speak in the New House of Lords, but not the right to vote.

This could include the Archbishops of Canterbury and York, the Moderator of the Church of Scotland, and senior representatives of the Churches in Wales and Northern Ireland.

Their role would be to offer moral, spiritual, historical, and constitutional reflection, particularly on legislation affecting life, conscience, family, religious liberty, education, civil society, and the moral foundations of law.

They would not be legislators. They would not be able to block, amend, or pass laws. Their influence would depend on the force of their argument, not on institutional power.

This preserves Christian witness without creating an unelected religious authority.

19. Christian Heritage and Equal Citizenship

This paper affirms equal citizenship for people of all faiths and none.

Members of every religious tradition, and those of no religious faith, should be free to vote, stand for election, speak in public debate, form associations, influence policy, and serve in Parliament through the ordinary democratic process.

The proposed speaking rights for senior Christian prelates are not intended to give Christians superior political rights. Christians, like everyone else, would exercise legislative power through elected representatives.

The purpose of retaining a limited formal Christian presence is different. It recognises the historic Christian inheritance of the United Kingdom: its monarchy, Parliament, common law tradition, moral vocabulary, parish life, universities, charities, schools, public ceremonies, and constitutional development.

The principle is:

equal citizenship for all; formal recognition of Christian constitutional heritage; no unelected religious voting power.

20. Summary of the Proposal

This paper proposes:

replacing the present House of Lords with a fully elected New House of Lords;

electing one member for every two parliamentary constituencies;

giving members ten-year terms, with half elected every five years;

holding New Lords elections between Commons general elections as mid-term democratic accountability;

setting a minimum first-election age of 55 and imposing no automatic upper age limit;

requiring separation from the House of Commons, including a cooling-off period for former MPs;

retaining the Commons as the chamber from which Government is formed;

making the New House of Lords an elected constitutional chamber rather than a rival government;

retaining Money Bill primacy for the Commons, subject to the constitutional fiscal ceiling;

limiting the section 2 Parliament Act procedure to clear manifesto Bills not encumbered with unrelated matter;

excluding constitutional Bills from Commons-only override;

requiring, after the second rejection of a returning General Bill, recorded free votes in both Houses on a National Reference Resolution, with a plebiscite only where both Houses independently approve reference;

giving senior Christian prelates the right to attend and speak, but not vote;

affirming equal citizenship for people of all faiths and none;

preserving Christian constitutional heritage without creating unelected religious rule.

Reforms to the House of Commons and the New Lords concern the Parliament of the United Kingdom. Devolved assemblies do not hold authority over the composition, powers or procedures of either House, and cannot opt out of Westminster parliamentary reform while remaining represented in the House of Commons. The separate question of England's lack of its own devolved chamber is recognised but left for another day.

21. Core Principle

It should be an elected constitutional chamber.

Its purpose should be to restrain executive overreach, improve legislation, provide mid-term accountability, protect the constitutional settlement, bring wisdom and experience into national decision-making, and return the greatest questions to the people.

The Commons should govern.
The New House of Lords should scrutinise.
The equal free person remains the point of the Constitution.

Part IV - Taxation, Public Spending, and a Free Economy

A Restoring Policy Paper

1. Purpose

This paper believes that economic policy must serve a free, responsible, and widely prosperous society.

The purpose of taxation is to fund necessary public goods, not to feed an endlessly expanding state. The purpose of the market is to allow people to work, trade, own, build, save, invest, employ, and provide goods and services to one another. The purpose of government is to maintain fair conditions for that activity, not to create monopolies, protect favoured corporations, or turn citizens into dependants.

Economic Policy and Practical Application

The economic proposals in this paper are included as illustrative examples of the practical outworking of the programme's principles.

They show how the constitutional duties of public good, lawful authority, financial stewardship, liberty, property, market fairness, and effective redress might be applied in the fields of taxation, spending, public finance, monopoly power, market concentration, public-office enrichment, and capital ownership.

They are not to be treated as entrenched constitutional provisions unless expressly incorporated into the Constitution itself. They may be amended, refined, replaced, or developed through ordinary democratic government, provided they remain within the constitutional settlement.

The purpose is to show that constitutional restoration is not abstract. It has practical consequences for how power, money, markets, and public office are governed.

This paper's economic approach is therefore:

pro-market, pro-enterprise, pro-ownership, anti-rentier, anti-monopoly, and anti-corporatist.

The goal is a country in which ordinary people can acquire capital, build businesses, own homes, trade freely, and become economically active citizens.

2. Financial Stewardship and Constitutional Control of Public Money

This paper now proposes a constitutional fiscal ceiling for taxation, public spending, borrowing, debt, guarantees, contingent liabilities, and other public commitments affecting the solvency and financial independence of the realm. The purpose is not to prevent democratic government from choosing priorities, but to require those choices to be made within known limits, on honest figures, and with the consent of Parliament and the people.

Public money is held on trust for the people. No Minister, department, public body, or authority should make promises of public money, incur public liabilities, seek supply, or present expenditure to Parliament without lawful authority, honest disclosure of material cost and risk, and proper account to Parliament and to the public.

This reflects Article 2 of the Common Law Constitution. The principle is not that every fiscal question must be settled by a formula. The principle is that no government should be able to hide the true cost of its promises, shift liabilities out of sight, or obtain supply from Parliament on incomplete or misleading information.

No promise without cost. No commitment without disclosure. No expenditure without authority. No public money without stewardship.

Parliament chooses priorities; the people control the purse.

3. Democratic Choice Over Spending Priorities

This paper's purpose is not merely to restrain public spending. It is to restore democratic choice over how public money is used.

If taxation, spending, borrowing and public liabilities are constitutionally disciplined and honestly disclosed, political parties can no longer win votes by making unlimited spending promises while leaving the cost obscure. Instead, they must publish clear plans showing how they would allocate public funds and account for their choices.

At the ballot box, voters would then have a real choice between competing public priorities.

One party might choose to spend more on defence, another on health, another on tax relief, another on debt reduction, another on local government, infrastructure, policing, education, or support for families. But each would have to show what it would reduce, postpone, reform, or abandon in order to fund those choices.

This would make elections more honest. It would also make governments easier to hold to account. Voters could compare published spending plans with actual spending decisions and judge whether politicians had honoured their mandate.

Democratic government should mean choosing priorities within known limits, not handing politicians a blank cheque.

4. Constitutional Fiscal Limits and Democratic Reset

The object of this section is not to control annual spending decisions. Governments remain free to spend less than the ceiling. Its purpose is to establish that the taxpayer's resources are finite and that government may not continually enlarge its claim upon them as though public money were limitless. The fiscal ceiling is therefore a constitutional maximum, not a spending target.

The initial fiscal ceiling must not be set by the same government that wishes to spend against it. It should be founded by a public constitutional process, not invented by Treasury convenience or party advantage.

A cross-party Fiscal Royal Commission should be established to recommend three alternative fiscal settlements: High, Middle and Low. Each settlement should state proposed limits for taxation, public expenditure, annual borrowing, accumulated public debt, guarantees, contingent liabilities, off-balance-sheet commitments, and such other public obligations as may affect national solvency or financial independence.

The Commission should publish the figures, assumptions, consequences, risks, and trade-offs of each settlement in plain form. It should certify that each settlement is complete, intelligible, internally consistent, and capable of informed public judgment.

The House of Commons and the New House of Lords should then seek to agree which two of the three certified settlements shall be submitted to the people. The choice may be High and Middle, Middle and Low, or High and Low. No three-option plebiscite should be held, because the winning fiscal settlement must command direct majority consent.

If the two Houses fail to agree which two settlements should be submitted, the Commission should certify which two of the three settlements provide the clearest, fairest and most substantial choice for the electorate, giving reasons. The Commission frames the fallback choice; it does not choose the settlement.

The people should then choose between the two certified settlements by plebiscite. The settlement approved by the people becomes the initial constitutional fiscal ceiling.

Experts prepare the range. Parliament frames the choice. The people settle the limit.

Once the initial ceiling has been adopted, a Government may propose to increase it. The Treasury Committee of the House of Commons should examine the figures and assumptions put forward by Ministers and certify whether they are complete, intelligible, internally consistent, and capable of informed public judgment.

The Treasury Committee should not approve, amend, or reject the policy. Its role is to confirm that the numbers add up and that Parliament and the public are not being asked to decide in the dark.

If both Houses approve the certified proposal, the ceiling should be raised accordingly. An increase made necessary by exceptional circumstances should pass by agreement. A politically contested increase should face the people.

If either House withholds approval, the proposal may be submitted to the people by plebiscite. The question should be binary: the current ceiling or the proposed higher ceiling. The people should not be offered a confused range of alternatives after the initial settlement has already been made.

No more than one increase of the fiscal ceiling should be made during the life of a Parliament. A second proposal to increase the ceiling during the same Parliament should require dissolution and a general election before it may proceed.

A general election may count as the required popular approval for an increase in the fiscal ceiling, but only where the party forming the Government published in its manifesto a clear commitment to increase the ceiling, stating the existing ceiling, the proposed higher ceiling, the amount and duration of the increase, and the fiscal consequences thereof; and only where the Treasury Committee certified before publication of that manifesto that the figures and assumptions supporting the proposal were complete, intelligible, internally consistent, and capable of informed public judgment.

Such certification should not constitute approval of the policy, but only certification of the figures and assumptions placed before the electorate. Where such certification has been given before manifesto publication, such certified figures and assumptions shall be deemed legally adequate for all constitutional, parliamentary, electoral and legal purposes.

No court or tribunal should question the substance of such certification, save as to whether the certificate was issued by the Treasury Committee, whether it identified the relevant fiscal proposal, and whether it was issued before publication of the manifesto. No Government should be able to rely upon a general election as authority to increase the fiscal ceiling where the proposed increase was not expressly stated, quantified, and certified before publication of the manifesto.

These provisions are framed in terms of increasing the fiscal ceiling because their principal purpose is to place constitutional restraint upon the long-term expansion of the state's claim upon the taxpayer. Nothing in this Part, however, prevents a Government from using the same constitutional procedure to reduce the fiscal ceiling should it conclude that a permanently smaller state ought itself to become the new constitutional settlement. A reduced ceiling shall thereafter enjoy the same constitutional protection as the original ceiling.

Money Bills and the fiscal ceiling

A Money Bill sent to the New House of Lords must be accompanied by a fiscal impact statement setting out its expected effect on taxation, expenditure, borrowing, public debt, guarantees, contingent liabilities, and the remaining headroom under the constitutional fiscal ceiling.

The Speaker shall not certify a Bill as a Money Bill where that statement shows that the Bill, whether alone or in combination with other Bills or measures already enacted or authorised, would exceed the fiscal ceiling.

In such a case, the Bill may proceed only after the fiscal ceiling has first been lawfully adjusted in accordance with the constitutional procedure for fiscal alteration.

This preserves Commons primacy over ordinary supply while preventing the Money Bill procedure from being used to breach, evade, suspend, or alter the constitutional fiscal settlement.

Within the ceiling, the Commons governs. Beyond the ceiling, both Houses must agree. If they disagree, the people decide.

Commons controls the purse. New Lords guards the ceiling. People hold the key.

5. Tax Simplicity and Public Sector Efficiency

Modern taxation is deliberately spread across income, consumption, employment, savings, property, business, fuel, insurance, duties, levies, fees, and hidden compliance costs. The effect is to extract the maximum amount of money from the public with the minimum amount of visible resistance.

This is costly, inefficient, and bad for democratic accountability.

A constitutional duty of financial stewardship would create a powerful incentive for government to simplify the tax system. At present, the cost of tax complexity is widely dispersed. It is borne by taxpayers, businesses, accountants, lawyers, HMRC, the courts, and the wider economy.

Under these proposals, the cost of collecting tax and administering public finance should become visible as part of the public account. A complex tax system would no longer be a hidden burden. It would become a visible failure of public administration.

Government would therefore have a strong incentive to reduce the number of taxes, simplify tax rules, lower compliance costs, reduce avoidance opportunities, and make collection as cheap and automatic as possible.

The same principle should apply across the public sector. Public money is not an unlimited resource. Every pound wasted on bureaucracy, duplication, poor procurement, administrative complexity, or failed schemes is a pound taken away from services the public actually value.

This paper believes the public sector must pursue efficiency with the same seriousness normally required of the private sector.

The purpose of taxation is to fund public goods, not to feed administrative complexity.

6. Fair and Progressive Taxation

This paper believes taxation should be fair, progressive, simple, and economically sensible.

Those with greater economic capacity should make a greater contribution to the common good. But the present tax system places too much burden on earned income, employment, enterprise, production, and ordinary household spending.

A country should not discourage people from earning, building, trading, saving, employing, or producing useful goods and services.

This paper therefore supports a gradual shift in taxation away from work, employment, enterprise, production, and everyday spending, and towards unearned gains and economic advantages that arise from scarcity, monopoly, planning decisions, land value, speculation, inherited privilege, regulatory protection, or public investment.

Where private wealth is created by public action or community growth, it is reasonable that part of that gain should return to the public. Roads, schools, transport links, planning permissions, public services, and local economic activity can all increase private land and asset values.

Taxation should recognise the distinction between value created by personal effort and value created by society as a whole.

The direction of travel is to tax what is taken from the common stock rather than what is created by individual effort.

The public principle is:

tax work less; tax unearned privilege more.

The purpose is not to punish success. It is to reward genuine work and enterprise while ensuring that those who benefit from public investment, monopoly, scarcity, and privilege make a fair contribution to the common purse.

Tax should fall less on what citizens create and more on what privilege extracts.

7. Public Office and Private Enrichment

This paper believes that public office must not become a route to private enrichment.

There has always been an element of patronage, self-interest, and personal advantage in politics. Historically, however, national politics was often dominated by those who were already privately wealthy. That system had many faults, but political office was not usually presented as an ordinary career ladder by which a person could begin with little private wealth and emerge as a multimillionaire.

Modern politics has changed. Increasingly, individuals study politics, enter party machines, become advisers, MPs, ministers, regulators, or public officials, and then acquire substantial wealth through influence, access, consultancy, lobbying, speaking fees, book deals, directorships, foundations, contracts, or insider knowledge.

This damages public trust. It creates the appearance, and sometimes the reality, that public office is being used as a route to private gain.

This paper believes that politics must be restored as public service. Those who hold public power should be able to live decently, receive proper salaries, and build ordinary savings. But they should not be able to use public office as a means of unexplained enrichment.

The precise mechanism requires further development, but the principle is clear:

No one should become mysteriously rich from public office.

Office-holders should be subject to strong transparency rules, asset declarations, conflict-of-interest controls, restrictions on lobbying and post-office enrichment, and effective sanctions for concealed gains arising from public power.

8. Broad Capital Ownership

This paper has a free market capitalist principle.

Private property, enterprise, trade, profit, saving, investment, and competition are essential to prosperity and freedom. A healthy economy is not built by the state directing every activity, but by millions of individuals, families, firms, farms, trades, and associations making their own decisions, taking risks, serving customers, and building wealth.

However, capitalism must not become a closed game in which only those who already possess capital can meaningfully participate.

The purpose of a free market should be to allow ordinary people to acquire, build, and use capital so that they can become economically active citizens. Capital should not be confined to large corporations, inherited wealth, banks, asset managers, monopolies, or politically connected interests.

This paper therefore supports an economy in which people can start businesses, own homes, buy land, save, invest, acquire tools, build productive assets, employ others, and pass something on to the next generation.

The aim is not state socialism, and it is not crony capitalism. It is a property-owning, enterprise-owning, capital-owning democracy.

Economic freedom means more than the right to work for wages. It means the realistic opportunity to acquire capital and take part in the economic game as an owner, builder, producer, and investor.

Capitalism should not mean rule by existing capital. It should mean broad access to capital.

9. A Nation of Shopkeepers

Napoleon is said to have described Britain disparagingly as a "nation of shopkeepers." This paper accepts the phrase, but rejects the insult.

A nation of shopkeepers is a nation of people who make their living by providing goods and services to one another. It is a nation of enterprise, trade, thrift, independence, usefulness, and mutual obligation.

This is the moral heart of a free economy. Prosperity is not created primarily by government direction, corporate monopoly, financial engineering, or bureaucratic schemes. It is created by people finding needs and meeting them; by farmers, builders, shopkeepers, manufacturers, hauliers, engineers, professionals, tradesmen, inventors, landlords, tenants, customers, savers, and investors making voluntary exchanges.

This paper believes Britain should recover this spirit.

The economy should not be arranged around passive dependence on the state, nor around dominance by global corporations. It should be arranged so that ordinary people can earn, trade, own, save, invest, build, employ, and pass something on.

A healthy economy is one in which millions of people are economically active, not merely as consumers or employees, but as owners, producers, traders, and citizens.

This paper takes “a nation of shopkeepers” as a compliment: a nation of practical people making money honestly by serving one another.

A nation of shopkeepers — not a nation of dependants or monopolies.

10. Against New Mercantilism

This paper supports free market capitalism, but rejects the new mercantilism.

A free market is not the same thing as a market dominated by a small number of corporations, banks, funds, regulators, and politically connected interests. When government policy, regulation, planning rules, procurement systems, banking rules, and compliance costs favour large organisations over ordinary citizens and smaller businesses, the result is not capitalism. It is state-assisted monopoly.

This paper opposes this new mercantilism.

In a healthy economy, people should be able to acquire capital, buy homes, start businesses, rent property, employ others, and build independent livelihoods. Government should not create systems in which only large corporations and global financial institutions can afford to comply, borrow, build, buy, or operate.

The housing market is a clear example of this danger. Banking regulation can make it harder for first-time buyers to obtain mortgages, while large institutional investors can access capital more easily. Over-regulation of private landlords can drive smaller property owners out of the rental market, reducing personal ownership and leaving more space for large corporate landlords and investment funds.

The result is a distorted market in which ordinary families, small landlords, local builders, and first-time buyers are squeezed, while large financial institutions are well placed to acquire assets at scale.

This paper believes policy should be judged by a simple test:

Does it widen ownership and opportunity, or does it concentrate ownership and power?

State-assisted monopoly is not free enterprise.

11. Transitional De-Concentration of Captured Markets

This paper believes that free markets require open entry, real competition, and dispersed economic power.

Where markets have become dominated by a small number of mega-firms, market forces alone may no longer be sufficient to restore competition. In such cases, simply removing regulation and waiting may only strengthen the incumbents who already control the field.

This problem is not limited to supermarkets. Similar concentration can be seen in accountancy, law, consultancy, banking, technology, procurement, audit, logistics, finance, insurance, housebuilding, and other sectors where scale, regulation, professional rules, government contracts, and compliance costs have entrenched large incumbents.

In such markets, the largest firms often benefit from a corporatist or neo-mercantilist structure. Regulation intended to protect the public can become a barrier to entry. Government procurement can favour only firms large enough to satisfy complex bidding requirements. Professional rules can entrench existing players. Compliance costs can be absorbed by global firms but crush smaller competitors.

This paper therefore supports transitional de-concentration measures in sectors where excessive concentration has damaged competition, public accountability, local enterprise, or national resilience.

These measures should not be designed to punish success or impose permanent state control. They should be designed to reduce the harm caused by corporatism and monopoly until genuine market forces can operate again.

Possible measures may include:

limits on market share;

restrictions on conflicts of interest;

breaking up vertically integrated services;

preventing firms from auditing companies to which they also sell consultancy;

reserving parts of public procurement for smaller firms;

simplifying regulation for new entrants;

requiring dominant firms to divest where their scale prevents fair competition.

The principle is that government intervention should be used sparingly, but firmly, where government-created or government-protected concentration has already made normal competition impossible.

The aim is to restore the market, not replace it.

These anti-monopoly proposals are not attacks on property. They are proportionate regulations of market power designed to preserve free competition, local enterprise, consumer choice, and economic independence. The right to hold and enjoy property does not include a right to use accumulated market power to prevent others from entering, trading or competing.

The right to property is not the right to monopoly power.

12. Grocery Retail and Supermarket Concentration

The grocery sector illustrates the problem of excessive concentration.

The major supermarket groups have developed into a complex monopoly supported by planning policy, regulatory structure, buying power, national logistics, land control, and government-created barriers to entry.

This paper does not oppose large supermarkets as such. Large stores can serve a useful purpose. They allow families to make substantial savings on a weekly or monthly "big shop", offer wide choice, and preserve some of the economies of scale that make food cheaper.

The problem is not the existence of large stores. The problem is excessive concentration of ownership and market power.

This paper suggests a cap on supermarket groups, such as limiting a group to around 500 stores. This would preserve the benefit of the big-shop model while preventing any one company from dominating the national grocery market.

Alongside this, smaller and regional chains should be able to operate networks of local shops. A chain of 500 corner shops is very different from a chain of 500 megastores. It supports local access, local employment, walkable communities, and more varied retail ownership, while still giving the operator enough buying power to offer attractive prices.

Some upper limit on total retail floor area may also be needed to prevent technical compliance with a store-number cap while still accumulating excessive market power.

The aim is a mixed grocery market: large stores for bulk value, smaller stores for convenience and localism, regional chains for competition, and independent retailers for diversity and resilience.

The goal is not smallness for its own sake. The goal is scale without monopoly, competition without domination, and consumer savings without corporate capture of the food system.

Economies of scale, but on a broader ownership base.

13. Platform Monopolies and Digital Marketplaces

The problem of monopoly is no longer confined to physical shops, banks, utilities, or supermarkets. Some of the most powerful monopolies now exist as digital platforms.

Amazon is the clearest example. It is not merely a retailer. It is also a marketplace, logistics network, advertising platform, data system, cloud infrastructure provider, payment intermediary, search engine, and gatekeeper between producers and consumers.

This creates a structural problem. A business selling through Amazon may also be competing against Amazon. A producer may depend on Amazon's marketplace, storage, delivery, rankings, reviews, advertising, and payment systems, while Amazon controls the rules of access.

In a healthy free market, Amazon should have major competitors. The question this paper asks is why there is no serious British equivalent: no Nile, no Thames, no national or regional marketplace with comparable reach.

The answer is not simply that Amazon is efficient. It is that scale, data, logistics, capital, regulation, consumer habit, and network effects create barriers so large that normal market entry becomes extremely difficult.

This paper does not believe that successful companies should be punished merely for being successful. A company such as Amazon has succeeded because it offers convenience, scale, logistics, choice, and customer service that many consumers value.

The proper role of government is not to penalise success, but to ensure that markets remain open to fair competition.

Where large foreign platform companies benefit from structural advantages created by their home environment, government should examine whether British firms are competing on a level playing field. These advantages may include access to deeper capital markets, larger domestic scale, favourable tax structures, data advantages, logistics networks, cloud infrastructure, procurement relationships, regulatory asymmetry, or network effects established before competitors can respond.

A British competitor should not be expected to defeat a global platform giant while also carrying higher compliance costs, weaker capital access, fragmented infrastructure, and no national strategy for digital market entry.

This paper therefore supports a pro-competition role for government: identifying structural barriers, reducing unnecessary regulatory burdens on domestic entrants, supporting shared infrastructure where appropriate, ensuring fair platform rules, improving access to growth capital, and preventing dominant platforms from using their control of marketplaces to suppress future competitors.

Government should not choose permanent winners. But it should ensure that British enterprise is not forced to compete on a tilted field created by foreign scale, regulatory imbalance, and monopoly infrastructure.

Government should not pick winners, but it should stop incumbents owning the racetrack.

14. Summary of the Proposal

This paper proposes:

constitutional financial stewardship over taxation, spending, borrowing, liabilities and public accounts;

public spending plans published with honest disclosure of costs, risks, trade-offs and liabilities;

a constitutional fiscal ceiling founded by Royal Commission, parliamentary selection, and popular choice;

a constitutional mechanism for increasing that ceiling only with the approval of both Houses or of the people;

an optional route by which a Government may reduce the ceiling and give a smaller fiscal settlement the same constitutional protection;

a manifesto-mandate route only where the proposed increase is expressly stated, quantified, and certified before manifesto publication;

genuine voter choice over spending priorities;

simpler taxation and lower collection costs;

a progressive tax system that burdens work less and unearned privilege more;

stronger safeguards against private enrichment from public office;

broad access to capital and ownership;

a property-owning, enterprise-owning, capital-owning democracy;

opposition to state-assisted monopoly and new mercantilism;

transitional de-concentration in captured sectors;

a mixed grocery market with scale but without monopoly;

fair competition against global platform giants;

a pro-market state that restores competition rather than replacing it.

15. Core Principle

This paper believes in free market capitalism, but not corporatism.

The market should be open to ordinary people, small firms, families, farms, trades, professions, local businesses, regional companies, and national enterprises. It should not be captured by a narrow alliance of government, regulators, global corporations, banks, asset managers, and professional monopolies.

Taxation should be honest, limited, progressive, and simple.
Public spending should be constitutionally controlled.
Borrowing should not hide the cost of government.
Work and enterprise should be rewarded.
Unearned privilege should make a fair contribution.
Ownership should be widened.
Monopoly should be restrained.
Government should restore the market, not replace it.

The aim is a nation of citizens with capital, enterprise, responsibility, and independence.

A nation of shopkeepers — not a nation of dependants or monopolies.

Appendix A - Cross-Document Control Note

Purpose of this note

Origin of the programme

I did not begin with a desire to write a constitution for its own sake. It began with a practical constitutional observation: the House of Commons has become too much the machine by which government supervises the citizen, and too little the means by which the citizen supervises government. The purpose of this programme is to restore Parliament's primary constitutional work: scrutiny of executive power, control of public money, presentation of grievances, supervision of public bodies, and maintenance of the law. The Constitution exists to secure that restoration.

Central diagnosis

Statute has been used for power while liberty was left to ancient custom. The modern constitutional problem has not usually come by tyranny, but by accumulation.

Constitutional method

The Constitution is to government what legislation is to citizens: it defines prohibited acts and limits of authority. What is not prohibited remains politically open. The Constitution should not become a programme for government.

Public power

Public power is held on trust for the public good. Parliament is entrusted with public power for the peace, liberty, security, prosperity, justice, and good government of the Kingdom. Delegation is permitted. Orphan power is not. Operational independence may protect particular judgments. It must never abolish accountability, reporting, audit or redress.

Foundational theory: each equal free person

The programme does not rest upon the abstract sovereignty of a collective called "the People." It rests upon the liberty and dignity of each equal free person under God and the Common Law. Where the programme speaks of the people, it means the citizens of the Kingdom, each possessing rights and duties, acting together through lawful constitutional forms. Parliament, ministers, courts, and public offices are trustees and servants of that settlement.

Redress

The state must prove its authority. The citizen need not prove his freedom. Where public authority interferes with liberty, property, livelihood, lawful activity, status, licence, benefit or protected interest, the burden of proof lies on the authority. No public right is real unless the citizen can afford to enforce it.

Justice shall not be sold. In any proceedings, once each party's recoverable costs have been assessed according to the ordinary rules, the lower recoverable costs figure should set the maximum recoverable costs award available to either side. Court procedure should be settled on the presumption that any litigant may be a litigant in person.

Financial stewardship

Public money is not the government’s money. It is the people’s money, taken by law and held on trust for lawful public purposes. The Chancellor should be guardian of that trust within government; the Commons should be guardian of that trust over government; and the taxpayer should be able to see how that trust is being kept. Money Bills remain a matter of Commons primacy only within the constitutional fiscal ceiling.

New Lords

The New Lords provides the longer constitutional view within Parliament. It is not principally a constitutional court; it does not govern; it does not compete with the Commons. It is the parliamentary chamber of constitutional memory, restraint and review. It completes the promise left unfinished by the Parliament Act 1911 by defining the powers of an elected second chamber.

Deadlock

The Parliament Acts solved the problem of their day and should be amended to reflect the new settlement with an elected second chamber. Money Bills remain subject to Commons primacy within the fiscal ceiling. Clear manifesto Bills may proceed under a narrowed Parliament Act procedure. For an ordinary General Bill, the returning-Bill principle of the Parliament Acts 1911 and 1949 is preserved: the Commons may pass the same or a substantially unchanged Bill again in a later Session. After a second rejection, both Houses hold recorded free votes on a National Reference Resolution. A plebiscite occurs only if both Houses independently approve reference. If the Commons approves reference but the New Lords does not, the New Lords yields; if the Commons does not approve reference, the Bill falls. Any Bill put to the people must be identical in every detail to the Bill rejected by the New Lords for the second time. Constitutional Bills may originate in either House and follow the same returning-Bill, second-rejection, National Reference Resolution, and plebiscite procedure as General Bills, with the additional requirement that they be considered by a Committee of the Whole House in both Houses. Private Bills, provisional order Bills and delegated legislation are not subject to Parliament Act override. Delegated legislation is not protected by Commons primacy and the New House of Lords is under no duty to approve it; if rejected, it fails unless replaced by primary legislation.

Delegated legislation

Primary legislation is the rule. Delegated legislation is an exceptional concession for machinery, commencement and technical administration, not a routine method of governing the citizen. If a matter substantially affects life, liberty, property, livelihood, rights, duties, liabilities or constitutional position, it should be brought to Parliament as primary legislation.

Foreign affairs

Ordinary foreign affairs and lawful treaties remain the responsibility of ministers answerable to Parliament. The constitutional threshold governing any transfer of authority outside the United Kingdom is stated in Article 6 of the Common Law Constitution and applied in Part III, section 10.

Emergency powers

Emergency powers may permit the state to act quickly in a crisis, but crisis must not become a second constitution.

ECHR and HRA

The ECHR and Human Rights Act are enumerated-rights instruments. This paper proceeds from common-law principles: ancient liberties, government under law, freedom unless lawfully restrained, and remedies against unlawful power.

Devolution

Commons and Lords reform concern the Parliament of the United Kingdom. Devolved assemblies cannot opt out of Westminster reform while remaining represented in the House of Commons. The application of the Common Law Constitution to devolved institutions and devolved matters is a separate question. England's lack of its own devolved chamber is recognised but left for another day.

Constitutional statutes, manner and form, and amendment

The programme builds upon the existing doctrine that constitutional statutes are not silently displaced by implication, while recognising that procedural rules concerning Money Bills, fiscal ceilings, New Lords consent, and popular reference are a more ambitious manner-and-form settlement. The Constitution does not pretend to be unamendable. It makes constitutional change deliberate, express, visible, and politically accountable, rather than accidental, implied, administrative, or hidden.

Economic policy and practical application

The economic proposals in Part IV are illustrative examples of the practical outworking of the programme's principles. They are not entrenched constitutional provisions unless expressly incorporated into the Constitution itself. They may be amended, refined, replaced, or developed by ordinary democratic government, provided they remain within the constitutional settlement.

Implementation formula

Principle in the Constitution. Machinery in Enabling Legislation. Practice in Standing Orders.

Test for future amendments

Any proposed amendment should be tested by asking whether it strengthens the citizen's ability to supervise government through Parliament; makes public power more visible, lawful, accountable and redressable; preserves the common-law character of the settlement; belongs in the Constitution rather than Enabling Legislation; and preserves the founding diagnosis that statute has been used for power while liberty was left to ancient custom.