

Optimising the UK and Commonwealth Constitutions

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This article summarises prior articles on modernising the UK constitution. It also discusses how Commonwealth constitutions can be modernised in tandem with that of the UK.

1. INTRODUCTION

Prior articles have considered the UK Constitution¹ from a legal perspective.² They have concluded that the same does not need to be replaced as such. However, the UK Constitution (including government) is clinically obese and it needs to be greatly slimmed down. Further, there is a high degree of opacity (confusion) and - with things like quangos - there is, almost, no accountability to Parliament. That said, the *Westminster model of government does work*.³ And - in these days of increasing dictatorship around the world - it is essential that the UK and the Commonwealth fight to preserve democracy and the rule of law. They can do this - by modernising their constitutions in a mutually beneficial process. Thus, the tenor of this article is a positive one. The UK should modernise its constitution. So should Commonwealth countries. Also, the Commonwealth should expand greatly over the next few years, to increase from 56 countries⁴ to, at least, 86 countries, comprising c. 3bn people, being nations who are interested in:

- Democracy;
- Freedom of speech;
- The rule of law;
- Free trade;
- Reducing bureaucracy and State control.

Thus, this article summarises what should be excised from the UK constitution. Also, how the UK can work - with the British territories (domestic and overseas)⁵ and the Commonwealth - to become a major force for good in the world. Including the now, urgent, need to re-forest and to clean up the environment.

2. HISTORICAL BACKGROUND TO A CONSTITUTION ACT

As evidenced in previous articles, the UK constitution has developed in a crab-like and hesitant fashion. Like the development of the common law, from which much of it derived. In respect of this:

- Anglo-Saxon law was scant and scarcely necessary for a small agricultural population spread out over England almost all of whom were illiterate with a low life expectancy. It was only after England was united under one king in AD 928⁶ that a national criminal law (the king's '*peace*') began to develop;⁷

¹ See fns 20-26. The nature of the UK constitution, once all obsolete material is excluded, is considered in GS McBain, *Modernising the Constitution: A Constitution Act* (2022) International Law Research ('ILR'), vol 11, no 1, pp 259-325. For the Crown Estate, see GS McBain, *Modernising the Constitution: Crown Estate and Sovereign's Private Estate* (2023), ILR, vol 12, no 1, pp 1-50.

² The author is not interested in the political perspective; this is for others to consider. Further, it is asserted that 90% of all constitutional reform is likely to be non-contentious. Most of it involves removing redundant legislation or obsolete Crown prerogatives.

³ The problem with constitutional systems like that of France is that too much power is given to one person (the President). So too, the US model - with the result that the Supreme Court and other courts become heavily politicised and judges, then, make (effectively) political decisions but pretend that they are legal ones.

⁴ Togo and Gabon have just joined.

⁵ The domestic territories comprise Jersey, Guernsey and the Isle of Man. For the 14 British Overseas Territories ('BOT'), see 6.

⁶ The king was Athelstan (AD 924-39).

⁷ For the development of the king's criminal jurisdiction, see GS McBain, *Modernising the Law: Breaches of the Peace and Justices of the Peace* (2015) Journal of Politics and Law, vol 8, no 3, pp 158-222.

- A bigger impetus for change was the invasion of William the Conqueror (1066-87), the duke of Normandy, and his assertion of title to all England. Thereafter, there was a period of (effectively) military rule and dynastic succession. There was challenge to the same in the period 1135-54⁸ and, more so, in the rising of the barons in the reign of Henry III (1216-72). Also, the emergence of a Parliament (including commoners, from c. 1285) from out of the *Magnum Concilium* (great council) which William I (1066-87) had established;⁹
- With Parliament came the acceptance (legally) that legislation (generally)¹⁰ could only be effected by the sovereign sitting on his throne in Parliament¹¹ - in assembly with his lords and commons - assenting to laws presented to all of them. Hence, there developed the concept of the 'Crown' as distinct from that of the 'sovereign'. Also, by the time of Edward II (1307-27) - there arose legal recognition of the inability of sovereigns to be able to *alienate Crown (royal) lands*¹² - as well as other *royal regalia*¹³ - without the agreement of Parliament (i.e. the Crown in Parliament). Thus, the role of the sovereign as ruler (*rex regnans*) - a corporation sole - became, legally, distinct, from that of the sovereign wearing his crown (the crown, *le corone*) sitting as head of the legislative body (Parliament) - a corporation aggregate, comprising the sovereign, commoners and lords.

While this is interesting history, it is of little importance in modern times in the UK and, even more so, to Commonwealth countries. *Why?*

- Well, leaving aside the endless power struggles between Parliament and the sovereign - ones in which the king's courts (increasingly) arbitrated on - with the execution of Charles I (1625-49), the outcome was a decisive victory for Parliament. It became the supreme organ of government, to which both the sovereign and the courts (the king's courts) became subject;
- This remains the position today. And, such has never been disputed since the 'Glorious Revolution' of 1688. Thereafter, the power and the prerogatives of the sovereign have progressively diminished, evidenced by major events such as in 1717 when George I (1714-27) determined that he would no longer sit in his 'Cabinet' (i.e. sit as head of the smaller privy council comprising his intimate advisers) since his ministers were now accountable to Parliament.¹⁴ And, in the time of Queen Victoria, her acceptance that her power over government was only a formal one, not executive.¹⁵

As it is, today, the role of the sovereign is almost wholly formal. Thus, the sovereign is both chosen by Parliament and subject to the same.¹⁶ Further, out of the 182 or so Crown prerogatives still existing the sovereign only now exercises executive power in respect of 2 or so.¹⁷ Thus, (happily) - since 1688 - there has been a peaceful transition to a situation where *the sovereign reigns, but does not rule*. That is, legally, his (or her) role is a formal (a titular) - not an executive - one. This has proved to be a (very) effective form of democratic government since it has achieved a considerable degree of stability with the:

- supremacy of Parliament, acting as legislator;
- the courts interpreting the laws issued by Parliament;
- the sovereign as a formal (titular) head of State.¹⁸

⁸ With the death of Henry I (1100-1035) there was a civil war between Matilda (his daughter) and Stephen (1135-54) (his nephew) as to who would succeed. This only ended when it was agreed that Henry II (1154-89, the son of Matilda) would succeed. Stephen on the latter's death. However, in this reign, both clerics and lawyers began to formulate the role of the sovereign and under what terms he ruled. This included whether the sovereign could alienate royal land and *regalia*. Also, the circumstances in which a sovereign could be forced to abdicate (resign). See generally, J Bradbury, *Stephen and Matilda* (rep 2009, The History Press). Also, CJ Nederman (translator and editor, *Policraticus* (1159)(the first complete work of English political theory, it dealt, in part, with kingship).

⁹ William's great council was based on the Anglo-Saxon *witan gemote* (the council (assembly) of wise men). However, likely, William's great council (*magnum concilium*) included few commoners. Whether the Anglo-Saxon version did so, is uncertain. However, the assent of the people (the 'folk') seems to have been present - certainly in the case of major assemblies. See generally, texts cited in the article in fn 1 (*Crown Estate*), p 2, fns 4& 5.

¹⁰ It was still possible for the sovereign to enact legislation alone, in the form of *ordinances* (also, called *assizes*) and, later, called *proclamations*. However, by the 17th century, caselaw established that such could not create new law. Today, proclamations are of a formal nature only. They are not necessary and they should be abolished.

¹¹ Parliament has always tended to be associated with a building in the palace of Westminster (as today). Yet, in early times, it did sit elsewhere in England.

¹² Various, later termed, the Crown (or royal) estate or demesne (latin, *dominicium*).

¹³ e.g. crown jewels and royal robes, the king's treasure (i.e. the treasury, the *fisc*), royal seals, weapons (swords), royal transport *etc.*

¹⁴ See the article in n 24, p 74.

¹⁵ See the article in n 21, pp 131-2.

¹⁶ This is evidenced by the fact that Parliament (since 1688) can choose who should be sovereign (thus, in 1688, Parliament determined that James II (1685-8) had abdicated by fleeing the country and that William of Orange and his wife, Mary (the daughter of James II) should be joint sovereigns).

¹⁷ See the article in fn 1, pp 301-6 (*Constitution Act*).

¹⁸ The fact that the sovereign is a titular head of state (and titular head of the armed forces) is a very useful bulwark against dictatorships, since dictators (civil and military) always seize these roles, to obtain and retain power.

3. REMOVING HISTORICAL DETRITUS

Given the reality that the sovereign, today, is only a formal head of state, it is pointless retaining legal material of a historical nature which reflects the opposite. This only confuses everyone. It, also, obfuscates the fact that the sovereign, the Crown and the courts are subject to the legislative authority - and oversight - of Parliament.

Further, there are problems of understanding how the UK constitution is framed in that - due to historical anomaly - the roles of 'Cabinet' and the 'Prime Minister' are not, presently, recognised in legislation. Further, the law - by way of legal fiction - inaccurately presumes that the sovereign appoints, pays and employs ministers, civil servants, members of the armed forces *etc* when this is not so.¹⁹ None of this is remotely helpful - both in the UK and - even more so - in Commonwealth countries. However, clearing away the dust of ages and having the law refer to present *realities*, is relatively easy. All constitutional legislation - and all non-obsolete Crown prerogatives - can (without difficulty) be consolidated into just 6 pieces of legislation *viz.* a:

- (a) Crown Act;²⁰
- (b) Parliament Act;²¹
- (c) Courts Act;²²
- (d) Government Act²³ (including material on quangos);²⁴
- (e) British Territories and Foreign Relations Act;²⁵
- (f) Armed Forces Act.²⁶

The material in (a), (b) and (e)²⁷ could, then, be consolidated into one **Constitution Act** of less than 100 sections.²⁸ As for the remainder of the above,²⁹ these Acts could, also, be consolidated into a Constitution Act. However, since these are likely to be amended more often, it would seem best to leave them as they are.

In the case of *Commonwealth countries*, in this process, they should excise all *colonial legislation* (which is now very dated). Also, abolish all *Crown prerogatives* - save in those Commonwealth countries which wish to retain the sovereign as Head of State (see 5).

In conclusion, to ensure accountability to Parliament, the UK should consolidate all constitutional legislation - as well as any Crown prerogatives which need to be retained - into 6 Acts. Then, 4 (or less), including a Constitution Act. This would consolidate:

- c. 300 general Acts (or, rather, bits of Acts) into the 6 Acts referred to above;
- abolish all Crown prerogatives, retaining only a few that should apply to the sovereign.³⁰

Commonwealth countries should undertake a similar process.

4. SCOTLAND, WALES & NORTHERN IRELAND

As for the various parts of the UK:

(a) Scotland

Scotland has its own Parliament which was established pursuant to the Scotland Act 1998. Scotland's constitutional position is laid down in various pieces of legislation (see *Appendix A*). These should now be consolidated (with the exception of the Union with Scotland Act 1706)³¹ into one Scotland Act. In respect of this:

- There is much material in the Scotland Acts 1998, 2012 and 2016 which is not *constitutional*. Thus, it should be moved to domestic Scots legislation (where required);
- There is also material which is *obsolete*, which should be excised;

¹⁹ It was so when the sovereign was given a civil list (money) by Parliament to pay his advisers, judges *etc*. For the transition to Parliament (the Crown in right of Parliament) taking over this role, see McBain, n 1 (article on the *Crown Estate*), pp 41-4.

²⁰ GS McBain, *Modernising the Constitution - A Crown Act*, (2021) International Law Research ('ILR') (2021), vol 10, no 1, pp 13-100.

²¹ *Ibid*, *Modernising the Constitution - A Parliament Act* (2021) ILR, *Ibid*, pp 101-184.

²² *Ibid*, *Modernising the Constitution - A Courts Act* (2022) ILR, *Ibid*, pp 195-248.

²³ *Ibid*, *Modernising the Constitution - Quangos* (2022) ILR, vol 11, no 1, pp 1-61.

²⁴ *Ibid*, *Modernising the Constitution - A Government Act* (2022) ILR, *Ibid*, pp 62-116.

²⁵ *Ibid*, *Modernising the Constitution - British Territories and Foreign Relations Act: Parts 1 & 2* (2022) ILR, *Ibid*, pp 117-62 & 163-96.

²⁶ *Ibid*, *Modernising the Constitution - An Armed Forces Act* (2022) ILR, *Ibid*, pp 197-258.

²⁷ In part, that is - the material on British territories.

²⁸ See the article referred to in fn 1 (*Constitution Act*).

²⁹ i.e. (c), (e) (insofar as it covers foreign relations) and (f).

³⁰ See the article in fn 1 (*Constitution Act*). Also, the article in fn 20.

³¹ This Act contains material which may still be politically sensitive. Thus, for the present, it seems best to leave it as it is (or to attach it to a consolidation Act as a schedule without making any major amendments).

- There is much UK material relating to Scotland which is *pre-1998* (i.e. before the Scotland Act 1998). Thus, it should be replaced (to the extent required) by domestic legislation.

The result would be one Scotland Act dealing with constitutional matters.

(b) Wales & Northern Ireland

The Welsh Parliament (formerly, the Welsh Assembly) was established pursuant to the Government of Wales Act 1998. Thus - as in the case of Scotland - all constitutional legislation (see *Appendix B*) should be consolidated into one Wales Act (removing obsolete material; also material which should be in Welsh domestic legislation). As for the remainder, this should be consolidated into one (or more) Wales consolidation Acts, to ensure easier access for lawyers and others (also, making it more up to date). As for Northern Ireland ('NI'), the position should be the same as with Scotland and Wales, see *Appendix C*.

In conclusion, all constitutional material for Scotland, Wales and Ireland should be consolidated into (relatively short) Scotland, Wales and NI Acts - with the remainder being consolidated into a consolidation Act(s), obsolete material being excised.

5. COMMONWEALTH - SOVEREIGN AS HEAD OF STATE

There are 15 Commonwealth countries which, presently, have the sovereign as their head of State (those marked with an * are in the Caribbean): *viz.*

Canada	Australia	NZ	Antigua & Barbuda *	Bahamas *
Belize	Grenada	Jamaica*	Papua New Guinea	St Lucia *
Solomon Is	St Kitts & Nevis *	St Vincent & Grenadines *	Turks & Caicos *	UK

Whether these countries retain the sovereign (or not) as head of state is, legally, of little materiality since the role of the same is purely formal in any case. Thus, doubtless - in due course - some (or all) will do so.³² What is important is that such remain members of the Commonwealth, both for their benefit and that of the UK, see 17.

In conclusion, whether Commonwealth countries retain the sovereign as head of state is of little importance. The more important thing for such countries is for them to remain within the Commonwealth.

6. BRITISH TERRITORIES

The UK has various domestic territories ('BDT') *viz.* Guernsey, Jersey and the Isle of Man. There are, also, 14 overseas territories ('BOT'). These comprise the following, together with their populations (those marked with an * being located in the Caribbean):³³

• Anguilla *	15k
• Bermuda	71k
• British Antarctic Territory (BAT)	No permanent population
• British Indian Ocean Territory (BIOT)	No permanent population
• British Virgin Islands (BVI)*	35k
• Cayman Islands*	66k
• Falkland Islands	3.3k
• Gibraltar	32k
• Montserrat*	5k
• Pitcairn Islands	c.45
• St Helena, Ascension & Tristan da Cunha	4.4k
• South Georgia & South Sandwich Islands	No permanent population
• SBA ³⁴ of Acrotiri & Dhekelia	c.18k
• Turks & Caicos Islands *	56k

As previously noted,³⁵ much of the legislation (and common law) governing the relationship between the UK and BDT and BOT is antiquated. Thus, it should be modernised and re-stated in a *British Territories and Foreign Relations Act*. Also, these territories should be encouraged to consolidate any legislation (including SIs) which they have, see 8.

³² Caribbean countries now have their own appeal courts (Caribbean Court of Justice, East Caribbean Court of Appeal). Thus, it seems sensible for appeals to go to them and not to the Judicial Committee of the Privy Council in London, since local judges in the former will have a greater comprehension of the fact situation (and legal context) behind the appeal.

³³ Fn 32 also applies to Caribbean BOT.

³⁴ i.e. sovereign base areas.

³⁵ See the article in fn 25.

In conclusion, legislation relating to the British territories (domestic and overseas) should be modernised and consolidated.

7. CONCLUSION - CONSTITUTIONAL LEGISLATION

There would be huge benefit (legally) in the UK, British Territories and Commonwealth countries consolidating their constitutional legislation (and abolishing all Crown prerogatives, save where required). This would not be difficult and the UK should be the first to undertake this - since it would, then, be easier for British territories, and Commonwealth countries, to follow a similar format.

In conclusion, the UK, British territories and the Commonwealth should modernise, and consolidate, their constitutional legislation.

8. CONSOLIDATING GENERAL LEGISLATION

As with constitutional legislation, the position in respect of general Acts of Parliament and Statutory Instruments (SI's) is similar. Far too many! That is, far too many for any lawyer, judge, civil servant, business or any member of the general public, to comprehend with any degree of specificity. The result is that a vast amount of public money is wasted reviewing the same (as well as the caselaw that originates from this veritable mountain of legislation). However, the whole lot could be easily consolidated within 2 years, if there was the political will. The position is as follows:

- **SIs**. At present, there are c 30,000-35,000 SIs (the latter figure includes SIs of a *local* nature).³⁶ This is patently absurd. Not least, since a large number have relatively few sections. Or, they are spent (including commencement SI). Further, access to SIs is limited by the fact that the government website (www.legislation.gov.uk) only records those *post-1980*. *The solution is simple*. Have ministries reduce the no from an absurd 30-35k down to 1k within 18mths - by consolidation (30 to 1). Then, this number of 1k could (easily) be reduced to some 100 SI's (with up to 800ss). This would be of huge benefit to all lawyers;³⁷
- **General Acts**. At present, there are c. 2666 general Acts of Parliament extant, dating from the earliest (1267) up until the end of 2020.³⁸ Yet, large numbers of the same have less than 15ss. Or, they comprise amending legislation. *The solution is simple*. Have the relevant ministries responsible for them reduce the no from 2666 general Acts to c.75 general Acts within 2 years (the government, also, making time for their enactment).

The result of this would be that lawyers *etc* would no longer be faced with ridiculously large volumes of legislation (primary and secondary). Instead they would be faced with (as from 2020):

- c. 100 SIs; and
- c. 75 general Acts.

More especially - to prevent this disastrous situation ever happening again - this consolidated legislation should be allocated to specific ministries which are, then, held responsible for such. Further, legislation should provide that all:

- SIs must be consolidated every 5 years; and
- general legislation, every 7 years.

In this way, all legislation is kept up to date. For British territories and Commonwealth countries the same principle should be agreed. That is, to consolidate their legislation in a similar manner. A beneficial effect of this would include a great increase in trade, *inter se*. It would, also, enable tax legislation to be harmonised more easily. And, for unnecessary regulatory regimes to be excised.³⁹ In the case of those Commonwealth countries which have a civil code system, the same principle should be followed.

In conclusion, the UK should consolidate its legislation (i.e. general Acts and SI's) since the present volume is gargantuan and conducive to the loss of vast amounts of time and money by the State. The same process should be implemented in all British territories and Commonwealth countries, following the example of the UK.

9. MINISTRIES & CABINET

(a) Historical Background

As to the origin of ministries and cabinet:

³⁶ A list of the current SI is supplied in the annual Butterworth's paperback, an *Index to the Statutory Instruments*, part of their Statutory Instruments publication.

³⁷ The benefit for lawyers is, also, that definitions, then, match up. And, that acronyms can be used.

³⁸ It is best not to consolidate very recent legislation. A list of extant general Acts up to 2020 is supplied in the annual Butterworth's paperback, *Consolidated Index* (including alphabetical and chronological lists), part of their Halsbury, *Statutes*. See also the government website, www.legislation.gov.uk.

³⁹ It may be noted that the UK is hugely over regulated, the result of civil servants (including lawyers) having nothing else to do.

- Even in Anglo-Saxon times, the king had advisers (the '*witan*') which, besides judges and great barons, including those skilled in the art of government. They were his servants, later, to be called in 17th century England '*ministers*' (from the French, '*ministre*', a '*servant*'),⁴⁰
- These servants, *post*-1066, assembled before the king in his palace at Westminster in a body called the '*curia regis*' (the king's council - also, called the royal council or court). This body, by the 13th century, slimmed down to become the '*privy council*' ('*privy*' meaning small);
- Further, by the reign of Charles II (1660-85), the privy council was replaced by the '*Cabinet*' - a French word signifying an inner chamber (since a more select group of the privy council used to meet with Charles II in a room off from the privy council chamber);
- The privy council has survived until today. However, since the time of Charles II, it has become of less and less significance. Today, it comprises an obese body of 700 worthies who never meet save for 3-4 persons who '*rubber stamp*' legal documents prepared by ministries or the Cabinet office - with the sovereign '*nodding*' approval (i.e. assenting in a formal fashion).⁴¹ There is something farcical about this since the sovereign does not read these documents. Further, she does not sit with her privy council members (this, indicating that her role is not an executive one).⁴²

A previous article has indicated that the *privy council* should be abolished since it is not accountable to Parliament in the same way the Cabinet is. Also, given that its role is purely formal now. As for Cabinet and ministers - up until 1717 - these advisers (ministers) were very much the servants of the sovereign. Not least, because he paid them from out of his civil list (i.e. money granted to the sovereign by Parliament since he did not have the financial resources himself). However, in that year George I (1714-27) decided that they were no longer '*his*' ministers. Rather, they were accountable to Parliament. Thus, he no longer sat in Cabinet and his place as sovereign - in order to govern as well as to exercise his Crown prerogatives - was taken by a Prime Minister ('*PM*') who, later, reported to him the outcome of Cabinet meetings (this, also, is now purely formal).⁴³

(b) Present Situation

This is all interesting legal history. However, today, the reality is that the sovereign no longer exercises an executive role. Only, a formal one. And the privy council is obsolete. Also, ministers (and Cabinet) are subject to Parliament (i.e. to the Crown in right of Parliament)⁴⁴ not to the sovereign. The legal problem, also, is that neither the role of PM nor the Cabinet is recognised in legislation. Thus, both for the UK (and for Commonwealth countries) what is needed is a *Government Act*. One which:

- sets out the position of the Cabinet, the PM and ministers in modern, intelligible, terms;
- abolishes the privy council and other sinecures;
- sets out the role of the Civil Service (the '*servants to the servants*').

In the case of Commonwealth countries and BOT, the sovereign is represented (in her privy council role) by governors (and lieutenant governors).⁴⁵ These, also, are now obsolete - performing, in most cases, only ceremonial functions. Further, the titles of ministries (and ministers) both in the UK and the Commonwealth are, often, prolix and confusing. In a global market place they are unhelpful. They should be very short and simple. Not least, to enable UK and Commonwealth ministers to immediately identify their counterparts. For a suggestion, see *Appendix D*.

(c) Board Structure for Ministries

Ministries, also, lack a proper legal structure. This was alright when, in olden times, there were only a handful of ministers (advisers) with a few assistants to help them, such as in the 18th century. Today, this is absurd when the Civil Service comprises tens of thousands of persons. Thus:

- Every ministry should be a corporation aggregate in law (and every minister a corporation sole);⁴⁶
- Every ministry should have a board of directors - with the minister as the CEO;

⁴⁰ See generally, article in fn 24, pp 74-80.

⁴¹ See the article in fn 24, pp 81-4.

⁴² Why the sovereign does not sit down at meetings of the privy council is that she accepts that the executive head of the same is now the President of the Privy Council and not herself. The same applies with regard to the Cabinet (which the sovereign no longer attends) and Parliament where the sovereign attends and sits and assents but, since 1707, such assent is purely formal (which is why the need for royal assent should be abolished). See also n 21 (*Parliament*), pp 136-7.

⁴³ At first, the PM reported to the sovereign as to the Crown prerogatives which he exercised on the sovereign's behalf, for the sovereign to, then, approve the same. However, at least since the time of Victoria (1837-1902), the approval of the sovereign has been purely formal and if the same did not meet the PM (or if she were to refuse to give formal approval) it would be irrelevant.

⁴⁴ This curious expression means the same as the '*Crown in Parliament*' and '*Parliament*'. For its derivation, see n 1 (article on the *Crown Estate*), p 13.

⁴⁵ See article in fn 25, pp 126-7.

⁴⁶ Legislation provides that some ministers are corporations sole (eg. Minister of Works Act 1942, s 5) but not all.

- Each board should have no more than 9 members (including the CEO) and 7 divisions - unless Cabinet (or the Cabinet Office, the 'CO') decides otherwise. This, to prevent the boards of directors becoming over large;
- The permanent secretary of the ministry should be the secretary.

Thus, the chain of command becomes, legally, clear. Cabinet tells the CO what it wants done (a Cabinet minute would be a useful way of recording this). The CO, then, informs (and oversees) the relevant ministry. The CEO and board confirm the instructions of the CO and instruct the permanent secretary (who is responsible for the civil servants under him) to carry out their orders (obviously, if the permanent secretary fails to do so, then - like any employee - he (she) should be dismissed). The other members of the board should be the heads of divisions of the ministry, as well as other experts. The Ministry boards should, also, oversee the modernisation of the few pieces of *legislation* for which they are responsible (see **8**). Also, the few *quangos* (now, public corporations) for which they are responsible (see **10**). An example may be given:

- The Culture Ministry should have a board of 9, with the Culture Minister as the CEO and the permanent secretary as the secretary;
- It should, also, have 8 divisions⁴⁷ dealing with: (a) English museums, libraries galleries & theatres; (b) communications (telecom, tv); (c) English national heritage; (d) sports; (e) charities; (f) gambling; (g) English tourism; (h) other (i.e. human resources, infrastructure, goods and services and finance);
- Since those in (a), (b) (for any film institute) and (c) should all be run by charities - and (d) run by private companies (in respect of TV) and (e) by a Charities Commission, the ministry will have only an *oversight role*. So too, with any public corporations which it oversees (such as the Lottery Commission and a Treasure & Cultural Relics Commission). Thus, the size of the ministry need not be large at all (and any infrastructure, goods and services would be very small. For example, 1 building to house the Culture ministry);
- Further, all functions should be devolved to Scotland, Wales and NI in respect of (a)-(g) (who also have responsibility for finance of the same in their territories).

If this approach were adopted, all ministries would be much smaller and manageable.

(d) London

London is a very expensive capital. The result is that civil servants (who are not paid huge salaries for the most part) are forced to live in a very expensive place or to spend a lot of time travelling into London. These conveniences should be obviated. It, obviously, makes good *common* and *business* sense for ministries to be devolved - to the greatest extent possible - and for employees who deal with England to be located in less expensive parts of the country, save for those ministries for which it is essential that they remain in London (at least, in part).

- For example, for the Culture Ministry, this could be wholly devolved to a less expensive part of England (including the board of the same);
- For others - such as the Ministry of Defence ('MOD') for example, it would be essential for, at least, some more senior civil servants (and officers) to remain in London. However, other parts of the MOD could be devolved to outside London.

Devolving ministries (where appropriate) would, also, save much money since government buildings could be sold off where surplus (and any need to lease buildings in London to house civil servants reduced).

(e) Conclusion

The UK needs a *Government Act*⁴⁸ to set out the structure of government. It would deal with the role and nature of ministries, Cabinet and cabinet offices as well as that of civil servants. It need not be at all complicated (or lengthy). It could be replicated by British territories and the Commonwealth. Further, the privy council could be abolished and its powers transferred. Also, there would be a devolution of ministerial functions (save for constitutional ones) and of all *quangos* that only relate to Scotland, Wales and Northern Ireland. Moreover, ministry buildings and employees would not be in London - save where really required. This would save huge sums of money for the taxpayer and simplify things, with greater legal accountability resulting.

In conclusion, the UK (and the Commonwealth) needs a Government Act to set out the modern constitutional position. Further, obsolete bodies and functions should be dispensed with - including the privy council and governors (lieutenant governors) in the case of British territories. This will streamline the system and make it more workable. Thus, at most, there would be c. 16-18 ministries with boards (the minister being the CEO) which meet weekly. And, ministry buildings and civil servants would be located outside London - unless essential.

⁴⁷ The Culture Ministry would need more divisions than other ministries given the disparate nature of the subject matter they deal with.

⁴⁸ For this see the article in fn 24.

10. QUANGOS

Quangos ('*quasi-autonomous government bodies*') are the death knell of good government. Most were established in the 1960's as offshoots of ministries.⁴⁹ However, they have grown - like Japanese knotweed - both in the UK and the Commonwealth. The problem is that they (effectively) eviscerate ministries, stripping them of their functions and decision making - making ministries almost empty shells, possessing less and less executive power. More particularly, quangos are (invariably) unaccountable to Parliament because they have no legal structure in most cases.⁵⁰ Indeed, it seems clear that the UK government does not know how many quangos exist. Probably, there are some c. 550 quangos which dispose of c. £220bn of public money annually. Thus, their existence, and accountability, is a major issue. The solution is simple - both in the UK and the Commonwealth:

- Abolish all quangos and have only 60 or so public corporations;
- No new quangos should be created without the permission of Cabinet (or the Cabinet Office).

As for these *public corporations*, they should have a board structure. One which is the same for all of them. That is, as with ministries, they should have no more than 9 directors (including the CEO).⁵¹ And, no more than (say) 7 divisions. They should have no civil servants involved in them. Thus, they should be quite independent of government. And, self-financing in most instances. These public corporations should submit annual accounts (and any requests for funding) to the ministry allocated to oversight them. To give an example, quangos which are likely to be retained as public corporations are things such as the:

<u>PC</u>	<u>Oversighting Ministry</u>
Bank of England	Treasury
British Council	Foreign Office
Network Rail [English Rail]	Transport
National Archives	Culture
Land Registry	Environment

All these should have boards as set out above. Most should be self-financing to a greater (or lesser) degree. The CEOs of these boards of public corporations should sit on the ministry board. Then, there is a clear legal chain of command and responsibility. And, the taxpayer will be able to see much more easily as to how his/her money is spent. At present, the position is less clear than mud. The same should apply to all British territories and Commonwealth countries. They, also, should abolish all quangos.

- Finally, all these public corporations should, in most instances, be called a '*Commission*' - this word indicating to all and sundry that these public corporations are *separate* from government (and not an internal committee within a ministry - whether with independent members or not).⁵²

In conclusion, the UK, all British territories and Commonwealth countries should agree to abolish all quangos and - instead - retain only a (very) limited number of public corporations, all of which should satisfy the prerequisites stated above (to prevent them becoming unduly large or packed with civil servants).

11. REGULATORS

Both in the UK and the Commonwealth there have arisen regulators. Especially, after the privatisation of various utilities in the 1980's (gas, water, telecoms *etc*). These regulators regulate, in particular, private companies in markets where - if not regulated - there is a (marked) tendency for them to abuse the recipients of their services, by means of malpractice and scams. For example, regulators of utilities (gas, electricity, water, telecoms). At present, there are:

- Far too many regulators (some 62 or more);⁵³
- Other bodies such as ombudsmen, tribunals and courts covering the same ground.

Also, most of the above are too slow and have no '*teeth*'. The result is that they take too long to stamp out malpractices (many of which verge on completely dishonest behaviour). Thus, regulators should all be combined and placed in one building(s). And, they should become *super-regulators* with far greater powers to stamp out malpractice, scams and dishonesty. Thus:

- All complaints against regulated bodies should go to the Super Regulator(s);

⁴⁹ Ibid, fn 23.

⁵⁰ Some quangos are bodies corporate (aggregate) created by Crown grant or they are created by legislation. However, many are not. Legally, this is inappropriate when huge sums of taxpayers' money are involved.

⁵¹ 9 directors may be too much for public corporations; thus, perhaps 7.

⁵² An internal ministry advisory body should be called a '*Committee*'. And, where all its members are external advisers, it should be called an '*Independent Committee*' (if so, only the secretary should be a civil servant).

⁵³ See the article in fn 23, pp 10-12.

- Super-regulators should report to Parliament every 6 months, indicating examples of malpractice;⁵⁴
- Super-regulators should have the power to issue Malpractice Notices binding on all regulated bodies;
- Failure to obey Malpractice Notices should result in a punitive fine. And, for the CEOs (or directors) of regulated bodies being summoned before the bar of Parliament;⁵⁵
- All regulated bodies must publish, in their annual a/c's, the number of complaints against them (on a monthly basis) as well as the number unresolved within a stipulated timeframe.⁵⁶ Also, the type of complaint;
- The Super-regulator should employ professional lawyers. They should hear the complaint and the reply of the regulated body within designated timetables. These lawyers should, also, have the legal power to issue damages up to £500 against the regulated body;
- Any appeal in respect of a regulated body should be to a Tribunal. One which has the same powers and function as the above, but can award damages for a sum greater than £500;
- Ombudsmen should be abolished;
- All regulated bodies should be required by law to exercise *uberrimae fidei* (utmost good faith) when dealing with their customers.

If the above were done, the number of complaints against regulated bodies would (likely) drop by 85% in 6 months as regulated bodies got their act together.

In conclusion, the UK, all British territories and Commonwealth countries should agree to establish regulators in markets which are conducive to malpractices, frauds and scams. Further, all complaints should go the super-regulators who have power to stamp out malpractices by issuing mandatory Malpractice Notices.

12. ABOLISHING OTHER OBSOLETE BODIES

When considering the UK constitution, there are various bodies which are no longer required. They should be abolished. Thus:

- **House of Lords (HL)**. This evolved from the Norman period in which William I (1066-87) assembled his 1500 tenants-in-chief (to whom he had allocated land in return for military services) to advise him (these included clerics who has been allocated large areas of land). However - given the numbers involved - any meetings of the *magnum concilium* became more rare and, soon, they were reduced to the (more regular meetings) of a smaller number of persons (the *curia regis*). As it is, the *rationale* for the assembly of the lords (the great military barons and clerics) ended by 1660 with the abolition of military tenures by the Tenures Abolition Act 1660. Thus, the HL, today, has little legal purpose. Further, it is generally accepted as being clinically obese in terms of numbers (even by the Speaker of the same). Since its former legal purpose has ended, the HL is no longer required. Thus, consideration should be given to its abolition (or to its being slimmed down);
- **Palatinates**. These (comprising the county palatinates of Durham, Lancaster and Chester) are obsolete.⁵⁷ They should be abolished (such will not affect the duchies, see below);
- **Crown Estate**. This body holds certain property, land and regalia. It is said (in confusing legal technical terms) to be owned by the '*sovereign in right of the Crown*' (or, some variant of this wording). This, legally, means '*Parliament*.' Thus, to makes matters more intelligible – the Crown Estate should be re-named the '*National Estate*' (or the '*Parliamentary Estate*'). It should hold title to all royal parks and palaces as well as to the duchies of Lancaster⁵⁸ and Cornwall and all *regalia* (crown jewels, royal collections, royal carriages etc). Also, all the foreshore of the UK as well as the '*fundi*' (beds) of public navigable rivers.⁵⁹

In the case of the first two of the above, these bodies are unnecessary and they should be abolished - to make the '*architecture*' of the UK constitution and government more streamlined. In the case of the Commonwealth, consideration should be given to the abolition of all upper houses and the establishment of a public corporation such as the Crown Estate to hold national assets. Not least, to prevent them from being dissipated by dishonest presidents and politicians.

In conclusion, the UK, British territories and Commonwealth countries should abolish any constitutional bodies which are now redundant.

⁵⁴ This, to enable Parliament to punish (criminally) scams, dishonesty *etc* by tailored legislation.

⁵⁵ The CEOs of errant organisations should be called before Parliament which should have the power to fine them *personally* for failing to suppress or punish malpractices.

⁵⁶ A common trick of errant utilities is for the company to delay as much as possible in handling the matter, in the hope that the complainant will go away.

⁵⁷ See article referred to in fn 20, pp 27-8.

⁵⁸ This duchy has no real prerogatives franchised to it left. Therefore, consideration should be given to its abolition, see article in fn 20 (*The Crown*), p 54.

⁵⁹ See article referred to in fn 1 (*Crown Estate*).

13. CONCLUSION - CONSTITUTIONAL STRUCTURE

All the above is, actually, not at all complicated. Further, it can be (easily) achieved within 2-3 years and, in many cases, without the need for legislation.⁶⁰ The root problem is that our government structure (architecture) is clinically obese and - in some parts - unaccountable to Parliament. This undermines democracy. The optimal government structure for the UK and the Commonwealth should be (in order to maximise legal clarity and accountability) as follows (in descending order):

Parliament	
Cabinet (inc. PM's office and Cabinet Office)(c. 16-20 persons)	
Ministries (c 16-18) - each responsible for:	
1-10 general Acts	(see 8)
1-15 SI	(ibid)
oversighting 1-10 PCs	(see 10)
Public Corporations ('PCs') (c. 50 inc c. 20 Regulators) ⁶¹	

In conclusion, in the case of the UK, consideration should be given to abolishing the following: the HL, the privy council (*obs*), counties palatine (*obs*), sinecures (*obs*). Also, all quangos (with a few being retained as public corporations). Further, there should be a reduction in the number of general Acts and SI which, presently, is a major source of cost to the taxpayer without any concomitant benefit (see **8**). As for the 'chain of command' and legal accountability, a *Government Act* should indicate that the process is:

- Cabinet tells the CO what it wants done (perhaps, by a Cabinet Minute);
- the CO, then, instructs the relevant ministry to act (and oversees performance);
- then, the board of that ministry instructs its civil servants to undertake the work.

Besides, these bodies, two other important bodies should be considered in the context of *central government*. The armed forces. And, the emergency services.

14. ARMED FORCES & EMERGENCY SERVICES

(a) Armed Forces

The armed forces, in Anglo-Saxon times, were under the direct control of the sovereign. This was essential since the primary function of these early leaders was to lead his troops into battle (and to pay the consequence if he failed). However, the last sovereign to lead his soldiers into battle was in 1743. Today, the sovereign is only formally C-in-C of the armed forces.

- As with other ministries, it is suggested the MOD has a board structure - with the Defence Minister as the CEO and the armed forces chiefs on that board, as well as the permanent secretary to the MOD;⁶²
- Further - as with other ministries - that the MOD board has no more than 9 directors (inc the CEO). And, no more than 7 divisions - this, to cut out surplusage and maintain a tight chain of command.

In the case of Commonwealth countries, a similar board structure is worthy of consideration.

(b) Emergency Services

The emergency services comprise the *police, fire and rescue* and *ambulance*. Today - given modern electronic communication and the need to get to the scene as quickly as possible - it is suggested the optimal legal structure (in terms of legal accountability) is to:⁶³

- Combine all of these bodies into 1 Emergency Services, for each of England, Scotland, Wales and NI;⁶⁴
- Each Emergency Services would have a board (the relevant minister being the CEO) with the directors including the chiefs of police, fire and ambulance. As to actual geographical divisions, 7 regions (or less) would seem optimal.

The great merit of such a unified body is that employees could move from one service to another easily.

In the case of Commonwealth countries, combined Emergency Services seem worthy of consideration.

15. COURTS

The English court system is Victorian and wholly out of date. It is not fit for purpose. In particular, it provides (very) slow - and inefficient - delivery in both the criminal and (as importantly) the civil fields. However, it can be easily modernised by cutting out obsolete courts and consolidating the remainder. Thus:

⁶⁰ Most quangos can now be abolished without the need for legislation. The privy council could be abolished by the sovereign issuing a royal warrant under the sign manual, or by legislation.

⁶¹ As noted in **11**, these regulators could be further consolidated into 1 (or more) Super-regulators.

⁶² See article in n 24, p 89. Also, article in n 26.

⁶³ Ibid.

⁶⁴ In the case of England, given the huge no of police forces (41), this may take 2 stages.

- All obsolete courts should be abolished;
- The Judicial C-ee of the Privy Council should be abolished and merged into the Supreme Court;⁶⁵
- The Court Martial Court of Appeal should be abolished and merged into the Court of Appeal;
- The Crown Court should be merged into the High Court (and become the criminal division of the same);
- The County Court should be merged into the High Court;⁶⁶
- The Magistrates Courts' should be professionalized and merged into the High Court.⁶⁷

The effect would be to create a 3 tier system. This is exactly what law firms want - since they make their money these days through throughput (not by drawing things out as long as possible). It is, also, what the parties to litigation want - a swift decision. In the case of Commonwealth countries, a similar approach should be adopted. That is, streamlining the court system and reducing the number of court tiers.

In conclusion, the UK court system should be streamlined since it is antiquated and not fit for purpose at present.

16. LOCAL GOVERNMENT

The system of local government, at present, is chaotic, without rhyme or reason.⁶⁸ It is also, clinically, obese. There are, simply too many councils - such that they waste much of their time having to liaise with other councils. Further, the nomenclature used to describe them is confusing to everyone.⁶⁹ Thus, they should be reduced in number. Further, proof that this does work - without losing democracy and accountability, is evidenced by the present 9 Combined Authorities existing in England (these achieve, also, economies of scale). Thus, numbers of UK councils should be reduced – perhaps, as follows:

	<u>Present No</u>	<u>Optimal No</u>
Scotland	32 (all unitary)	16 ⁷⁰
Wales	22 (ibid)	c. 6 ⁷¹
NI	11(district)	c. 5 ⁷²
England	343(mixture)	Reduce by 50% at least ⁷³

The means of achieving this is simple; councils should be allowed to choose who to merge with, if contiguous. Also, enabling, in the case of England and Wales, more than one council to merge (i.e. all to become Combined Authorities, with some exceptions).⁷⁴

In conclusion, there needs to be a dramatic reduction in the number of councils, to make them more effective and to avoid excessive bureaucracy. Also, everything should be called 'council', to simplify things.

17. EXPANDING THE COMMONWEALTH

The Commonwealth is a great '*hidden*' asset which has not been developed to date by the UK and the Commonwealth. It is, also, an effective vehicle to promote free trade, democracy and the rule of law around the world as well as to thwart increasingly aggressive dictatorships - such as those of Russia and China. To achieve this, the following is suggested:

(a) Expand Commonwealth Greatly

At present, the Commonwealth comprises 56 countries, containing c. 2.5 bn people. Over the next 2-3 years, it should expand at an annual rate of 10 countries or more, to get up to 86 countries. The Commonwealth should re-state (and simplify) its pre-requisites for membership as follows, emphasising adherence by applicants to:

- Democracy
- the Rule of Law
- the English language (as a unifying language)

⁶⁵ This was proposed in Victorian times and, in hindsight, it would have been a good idea.

⁶⁶ This can be considered after the above is effected.

⁶⁷ Ibid.

⁶⁸ See the article in fn 24, pp 87-9.

⁶⁹ Councils in the UK are called by a range of bewildering titles such as: *county, district, town, borough, city, metropolitan, unitary, first tier, second tier, combined authorities* as well as – for smaller councils – *parish, village, neighbourhood and community*. This is all unnecessary. They should all be called *councils*.

⁷⁰ Scotland, also, has c. 1369 community council areas (with 1129 active community councils). These should be halved, by merger.

⁷¹ Wales has 730 community and town councils. These should be halved, by merger.

⁷² NI has no community councils.

⁷³ England also has c. 10,000 community councils. This number should be halved (in part, by combining with larger councils).

⁷⁴ The 32 London boroughs should be halved, by merger (and the term '*borough*' dispensed with). The two *sui generis* councils should be preserved (i.e. the City of London Corporation and the Isles of Scilly council).

- Free Trade

The Commonwealth should invite new members regardless of whether they were formerly part of the British empire. It should invite the following to become new members (they have a combined total population of c. 405m):

Japan (126m)	Netherlands (17m)	Morocco (37m)
South Korea (51m)	Sweden (10m)	Ukraine (43m)
Chile (9m)	Finland (5m)	Portugal (10m)
Iceland (361k)	Denmark (5m)	Jordan (10m)
Switzerland (8m)	Poland (38m)	Austria (9m)
Liechtenstein (38k)	Panama (4m)	Oman (5m)
Norway (5m)	Costa Rica (5m)	Bahrain (1.5m)
Estonia (1m)	Latvia (2m)	Lithuania (3)

The Commonwealth should, also, invite various Francophone countries to join - now that Togo and Gabon have joined. Indeed, most African countries should become members of the Commonwealth, as a bulwark against dictatorship in the 21st century. Finally, all British territories (domestic and foreign, this comprising the 14 BOT and Jersey. Guernsey and the Isle of Man) should become Commonwealth members. This will help them to expand trade contacts.

(b) Free Trade

In the past, the Commonwealth has not accentuated its trade dimension. Yet, this has enormous potential. The Commonwealth should agree to:

- adopt an electronic format to evidence the transfer of all goods and services between members;
- the format to be in English;
- develop similar commercial laws;
- abolish all tariffs between all Commonwealth members.

In this way, the Commonwealth will become a global economic power.

In conclusion, Commonwealth countries should enter into a common Free Trade Agreement (FTA).

(c) Prisoners/Illegal Immigrants

The Commonwealth should adopt a common agreement that all foreign prisoners - after the imposition of a prison sentence by a court - are immediately returned to their home country, to complete their sentence (and they are banned from the country where they have committed the criminal offence). This to prevent the taxpayers of Commonwealth countries bearing the (often, extensive) prison costs of housing foreign prisoners while they serve their sentence. Further, there should be a common agreement on the repatriation of illegal immigrants to their country of origin. Both should, also, lose the passport of the country of detention if they have dual (or more) passports.

In conclusion, Commonwealth countries should enter into a common Repatriation Agreement.

(d) Dictatorships Convention

With the arising of increasingly aggressive dictatorships around the world, in order to protect democracy, the Commonwealth (as well as the USA, the EU and G7 countries) should ratify a Dictatorships Convention. This, to limit greatly trade with such countries. Also, to permit the seizure of the assets of dictators (civil and military) in Convention countries, without recompense.⁷⁵ The truth seems clear. If democratic countries refused to trade with such countries, the dictators leading them would soon fall from power.

In conclusion, Commonwealth countries should ratify a Dictatorships Convention.

(e) Environment Agreement

The destruction of the environment is one of the great concerns of our time. Huge sums should be allocated to pay those without work in Commonwealth countries to help re-forest their countries (especially, in Africa). This can be achieved if the Commonwealth 'bulks up' to at least 86 countries (and 17 British territories) and they can reach a common accord as to how to remedy the environment.

In conclusion, Commonwealth countries should enter into a common Environment Agreement.

18. CONCLUSION - UK

The UK should become a major global player, together with the Commonwealth, on the world stage, including in the area of trade. To do this, the UK needs to modernise its constitution, removing a huge amount of deadwood.

⁷⁵ Because dictators do not trust their own people, they secrete their wealth (and family members) in Western countries, the very countries which they inveigh against in their own country. This should be prevented and all such wealth should be confiscated, without recompense.

Commonwealth countries should do likewise. In the case of the UK, this is not difficult. Indeed, all constitutional reforms referred to in prior articles, may be summarised in the following 10 points:

1. **HL.** Abolish (on a free vote). Or, remove: (a) CoE clerics; (b) hereditaries; (c) those over 70 (or over 75). Only a few lines of legal text are needed.
2. **Privy Council.** It is only formal now. Abolish. Or, transfer its powers to the ministries and the Cabinet Office ('CO'). This would ensure legal accountability (there is none at present). Only a few lines of legal text are needed.
3. **Constitution.** There should be 6 Acts (the first 2 (or, possibly 3), later, being consolidated into 1):
 - Crown Act;
 - Parliament Act;
 - Government Act;
 - Courts Act;
 - Armed Forces Act;
 - British Territories & Foreign Affairs Act.

All Crown prerogatives should be abolished - the few needed being put in legislation.

4. **Ministries:**
 - Legislation suggests the need for an *Energy Ministry* and a *Legal Ministry*.
 - The Dept of Business should incorporate the Dept for Int. Trade and the Export Credit Dept.
 - The titles of ministries and ministers should be short (and, all called 'ministries' and 'ministers').
 - All sinecures should be abolished.
 - Counties palatine should be abolished. Also, (possibly) the duchy of Lancaster.
 - The above could be dealt with in a **Government Act**. It should, also, stipulate the roles of the PM and Cabinet.
5. **Quangos.** All should be abolished. Not least, since most are legally unaccountable. There should only be c.60 public corporations (PCs) which are standalone (i.e. with a board, and no civil servants needed).
6. **Legislation.** All ministries should take responsibility for all SI's and general legislation. As to these:
 - **SI's.** They should be reduced to 1000 in 3 tranches (6 months for each): (a) *pre*-1980; (b) up to 2000; and (c) *post*-2000 - to 1000 SIs (or less, consolidating 30 into 1 each time). Then, a further consolidation from 1000 SI to 100 (or 800ss max). Also, legislation should provide for all SI's to be consolidated every 5 years.
 - **General Legislation.** Some 2666 general Acts as at 2020 should be consolidated to c. 75. The CO should agree the names of the consolidating Acts with ministries (each Act up to 800ss). Consolidation would be (easily) achievable in 3 years. Also, legislation should provide for all general legislation to be consolidated every 7 years.
7. **Emergency Service.** There should be:
 - 1 Emergency Service (police, fire, ambulance) for Scotland (c. 36k), NI (12k) and Wales (12k).
 - for England, there should be 1 Police Service, 1 Fire & Rescue and 6 NHS regions (inc. ambulance).
8. **Local Councils.** There are far too many. The number throughout the UK should be halved by merger - to enable councils to acquire more local power. Also, to operate more efficiently.
9. **Devolution.** All quangos and the Crown Estate should be devolved, where possible. Also, all older UK (non-constitutional) legislation relating to Wales and Scotland should pass to the same (removing this material from the UK statute book). All functions of the 'Big 3' quangos (NHS, Highways England & Network Rail) should be wholly devolved, where possible.
10. **Divestment.** All commercial activities of ministries, quangos, the Crown Estate and local councils should be disposed of. Also, all peripheral matters (art collections, holdings in ports, airports, companies *etc*).

Finally, there should be an annual wall chart of the '*UK Government*'. And - each year - each ministry should issue a (cheap) Handbook which contains data on the ministry (inc. the texts of general Acts and SIs for which it is responsible). Then, everyone is the wiser.

19. **CONCLUSION - COMMONWEALTH**

The enormous potential of the Commonwealth has been scarcely developed. Now is the time. Thus the UK and other Commonwealth countries, at their next meeting, should agree to undertake the following to:

- Invite more countries to join the Commonwealth.
- Re-state the Commonwealth principles. Also, simplify the pre-requisites for membership.
- Agree to modernise, and consolidate, their *constitutional legislation* (including a Government Act).
- Agree to consolidate their *general legislation*. And, to do so every 7 years (for primary) and every 5 years (for secondary) legislation.
- Enter into a Dictatorships Convention.
- Agree to a common Free Trade Agreement (no tariffs, quotas on a reducing annual basis).
- Agree to a common Repatriation Agreement (re foreign prisoners & illegal immigrants).

- Agree to a common Environment Agreement.

Appendix A - Scots Legislation

(a) Constitutional

	<u>No of Sections</u>
Union with Scotland Act 1706 ⁷⁶	14 ⁷⁷
Union with Scotland (Amendment) Act 1707	Redundant ⁷⁸
Scotland Act 1998	120
Scotland Act 2012	13
Scotland Act 2016	50
Scottish Parliament (Constituencies) Act 2004 (<i>amends</i>)	

(b) Other

Episcopal Church (Scotland) Act 1864	2
<i>Episcopal Church (Scotland) Act 1964 (amends)</i>	
<i>Referendums (Scotland and Wales) Act 1997(spent)</i>	
Crime and Punishment (Scotland) Act 1997 (<i>amends</i>)	15
<i>Criminal Justice (Scotland) Act 1963</i>	
Criminal Law (Consolidation) (Scotland) Act 1995	40
Criminal Procedure (Consequential Provisions)(Scotland) Act 1995	2
Criminal Procedure (Scotland) Act 1995	350
Children (Scotland) Act 1995	50
Marriage (Scotland) Act 1956	1
Planning (Consequential Provisions) (Scotland) Act 1997	1
Prisoners and Criminal Proceedings (Scotland) Act 1993	43
Prisons (Scotland) Act 1989	50
Proceeds of Crime (Scotland) Act 1995	20
Social Work (Scotland) Act 1968	60
Tourism (Overseas Promotion) (Scotland) Act 1984	2
Town and Country Planning (Scotland) Act 1997	300
<i>Mental Health (Scotland) Act 1984</i>	2
Sheriffs Courts (Scotland) Act 1971	4

[All of (b) is *pre*-1998 and should now be in Acts of the Scots Parliament, where required].

Appendix B – Welsh Legislation

(a) Wales Acts

Wales Act 2014	19
Wales Act 2017	68
Government of Wales Act 1998	179
Government of Wales Act 2006	155
Welsh Language Act 1993	25

(b) Development Agency

Welsh Development Agency Act 1975	15
Welsh Development Agency Act 1977	(<i>amends 1975 Act</i>)

(c) Local Government

Local Government Byelaws (Wales) Act 2012	20
Local Government (Democracy) (Wales) Act 2013	70
Local Government (Wales) Act 1994	65
Local Government (Wales) Act 2015	45

(d) Welsh Church

Welsh Church Act 1914	30
<i>Welsh Church (Amendment) Act 1938</i>	
Welsh Church (Burial Grounds) Act 1945	5
Welsh Church (Temporalities) Act 1919	5

(e) Marriage

Marriage (Wales) Act 1986	1
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⁷⁶ The Scots counterpart is the Union with England Act 1707.

⁷⁷ Arts 3, 19, 20 & 21 are redundant.

⁷⁸ Deals with JPs (should be in an Act of the Scots Parliament, if required).

Marriage (Wales) Act 2010	5
Marriage (Wales and Monmouthshire) Act 1962	2
(f) Health	
Health (Wales) Act 2003	8
<i>National Health Service Finance (Wales) Act 2014 (amends)</i>	
National Health Service (Wales) Act 2006	200
<i>Nurse Staffing Levels (Wales) 2016 (amends)</i>	
Public Health (Wales) Act 2017	120
(g) Transport	
Active Travel (Wales) Act 2013	13
Transport (Wales) Act 2006	15
(h) Education	
Education (Wales) Act 2014	47
Higher Education (Wales) Act 2015	57
Qualifications Wales Act 2015	57
School Standards and Organisation (Wales) Act 2013	95
Further and Higher Education (Governance and Information) (Wales) Act 2014	7
(i) Housing	
Renting Homes (Fees etc) Wales Act 2019	28
Renting Homes (Wales) Act 2016	255
Housing (Wales) Act 2014	140
Regulation of Social Landlords (Wales) Act 2018	16
Abolition of the Right to Buy and Associated Rights (Wales) Act 2018	10
(j) Other	
Additional Learning Needs and Education Tribunal (Wales) Act 2018	90
Commissioner for Older People (Wales) Act 2006	28
Control of Horses (Wales) Act 2014	24
Well being of Future Generations (Wales) Act 2015	54
Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015	24
Tax Collection and Management (Wales) Act 2016	190
Agricultural Sector (Wales) Act 2014	16
Land Transaction Tax and Anti-Avoidance of Devolved Taxes (Wales) Act 2017	78
Landfill Disposals Tax (Wales) Act 2017	95
Environment (Wales) Act 2016	86
Childcare Funding (Wales) Act 2019	10
Children's Commissioner for Wales Act 2001	6
Development of Rural Wales Act 1967	2
Food Hygiene Rating (Wales) Act 2013	25
Historic Environment (Wales) Act 2016	40
Human Transplantation (Wales) Act 2013	18
Import of Live Fish (England and Wales) Act 1980	4
<i>Mobile Homes (Wales) Act 2013 (amends)</i>	
<i>National Assembly for Wales (Official Languages) Act 2012 (amends)</i>	
Planning (Wales) Act 2015	55
Public Audit (Wales) Act 2004	40
Public Audit (Wales) Act 2013	30
Public Health (Minimum Price for Alcohol) (Wales) Act 2018	30
Public Services Ombudsmen (Wales) Act 2005	38
Public Services Ombudsmen (Wales) Act 2019	75
<i>Referendums (Scotland and Wales) Act 1997(spent)</i>	
Regulation and Inspection of Social Care (Wales) Act 2016	185
Social Services and well-being (Wales) Act 2014	195
Tourism (Overseas Promotion) (Wales) Act 1992	2
Trade Union (Wales) Act 2017	2

[Material in (b) and (d) is *pre* the Government of Wales Act 1998 and it should now be consolidated with all the remainder into 1 Wales (Consolidation) Act].

Appendix C - NI Legislation

(a) Constitutional Acts

Yelverton's Act (Ireland) Act 1781	3
Poyning's Law 1495	1

Union with Ireland Act 1800 ⁷⁹	7
Northern Ireland Act 1947	3
Northern Ireland Act 1962	2
Northern Ireland Act 1998	120
<i>Northern Ireland Act 2009 (amends)</i>	
NI Decommissioning Act 1997	10
<i>NI Decommissioning (Amendment) Act 2002</i>	
NI Assembly Disqualification Act 1975	5
<i>NI Assembly Elections Act 2003 (spent ?)</i>	
<i>NI Assembly (Elections and Periods of Suspension) Act 2003 (spent ?)</i>	
NI Assembly Members' (Pay) Act 2018	1
NI Constitution Act 1973	4
NI (Emergency Provisions) Act 1973	3
NI (Emergency Provisions)(Amendment) Act 1975	4
NI (Executive Formation etc) Act 2019	12
<i>NI (St Andrews Agreement) Act 2006 (amends)</i>	
<i>NI (St Andrews Agreement) Act 2007 (amends)</i>	
NI (Stormont Agreement and Implementation Plan) Act 2016	6
<i>NI (Temporary Provisions) Act 1972 (spent ?)</i>	
NI Ministerial Appointments and Regional Rates Act 2017	1
NI (Misc Provs) Act 1928	2
NI (Misc Provs) Act 1932	1
NI (Misc Provs) Act 1945	1
NI (Misc (Provs) Act 2006 (amends)	12
NI (Misc Provs) Act 2014	4
NI (Monitoring Commission etc) Act 2003	4
NI (Location of Victims' Remains) Act 1999	6
Elections (NI) Act 1985, s 3 (spent ?)	
NI (Ministers, Election and Petition of Concern) Act 2022	6
Elected Authorities (NI) Act 1989	7
Public Processions (NI) Act 1998	17

(b) Others

NI (Loans) Act 1975	3
NI (Sentences) Act 1998	18
NI (Welfare Reform) Act 2015	2
Terrorism (NI) Act 2006	3
Corporation Tax (NI) Act 2015	4
Criminal Appeal (NI) Act 1980	45
Electoral Fraud (NI) Act 2002 (amends)	
Police (NI) Act 1998	37
Police (NI) Act 2000	60
National Trust (NI) Act 2007	3
Judicature (NI) Act 1978	90
Justice and Security (NI) Act 2007	40
Justice (NI) Act 2004	5

Appendix D - Optimal Structures of Government

<u>Title</u>	<u>Ministry or Office</u>	
Prime Minister (& Civil Service Minister)		
Finance Minister	Finance Ministry	+ (some)
Foreign Minister	Foreign & Commonwealth Ministry	+ (some)
Home Office Minister	Home Ministry	+ (some)
Justice Minister	Justice Ministry	+ (some)
Defence Minister	Defence Ministry	+ (some)
<i>Energy Minister</i>	<i>Energy Ministry</i> ⁸⁰	+ (some)
Trade Minister	Trade Ministry ⁸¹	+ (some)
<i>Scotland, Wales & NI Minister</i>	<i>Scotland, Wales & NI Ministry</i> ⁸²	+ (some)
<i>Attorney-General</i>	<i>Legal Ministry</i> ⁸³	+ (some)
Health Minister	Health Ministry	+ and \$
Employment Minister	Employment Ministry	+ and \$
Education Minister	Education Ministry	+ and \$

⁷⁹ The Irish counterpart is the Act of Union (Ireland) Act 1800.

⁸⁰ This would be a new ministry.

⁸¹ The Export Credit Dept and Dept for Int Trade would be merged into it.

⁸² i.e. these offices merged into one ministry.

⁸³ i.e. merge various government *legal* departments into one ministry (or merge some into the Justice Ministry)

Environment Minister	Environment Ministry	+ and \$
Local Government Minister	Local Government Ministry	+ and \$
Transport Minister	Transport Ministry	+ and \$
Culture Minister	Culture Ministry	+ and \$
<i>Leader of the House of Lords</i>	<i>Office of Leader of the House of Lords</i> ⁸⁴	

Total: 16

+ It is suggested it move out of London - since no compelling reason otherwise and would save costs.

\$ - It is suggested it be devolved - since no compelling reason otherwise and would save costs

In conclusion, only the Cabinet (inc. PM and Cabinet Office) need remain in London as well as core parts of the:

- Finance
- Foreign
- Home Office
- Justice
- Defence
- Trade
- Scotland, Wales and NI; and
- Legal,

ministries.

The rest should be devolved and (in the case of England) the ministry should be located outside London.

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⁸⁴ For the abolition of the HL, see 12.