I thank the Lords of the Committee for the opportunity to comment. My background is that of a lay person who has researched the constitutional settlement of the Glorious Revolution 1688. I have made a presentation of my findings which has been shown in Westminster and Strasbourg as well as several public meetings. The late Leolin Price CBE QC reviewed my work and kindly wrote this foreword for it:

“I am happy to recommend John Bingley’s paper to all who are interested in the proper functioning of our constitution; in the role and power of our parliament and government; and in our historical protections against abuses of power by government and its servants and by quasi-governmental organisations and their servants.

What John Bingley has written so well and with such learning does not compel the reader to agree with his conclusions but it will make the reader well informed and stimulate serious questions about what ought to be our reaction to all unprincipled proposals to change our constitution and the rights and remedies which are part of our heritage and identity.

Leolin Price CBE QC.”

The Late Norris McWhirter said that it was "I who had laid the fundamental Constitution most clear"

Response to questions

I find your position to be entirely at odds with the Constitution of the United Kingdom.

Let me start by addressing Questions 1. and 2.

The essential characteristic of the Union is that it cannot be dissolved without dismantling the kingdom itself:-

The Declaration of Rights commands

"...and that the sole and full exercise of regal power be only in, and executed by the said Prince of Orange, in the names of the said Prince and Princess, during their joint lives; and after their deceases, the said Crown and royal dignity of the said Kingdoms and dominions be to be to the heirs of the body of the said Princess; and for default of such issue to the Princess of Anne of Denmark and the heirs of her body; and for default of such issue to the heirs of the body of the said Prince of Orange."

The Act of Settlement transmitted this responsibility and limitation in its entirety to the House of Hanover and thus Windsor as do the Acts of Union 1707 and the oath of office which entrench it and the duty stemming from it.

Therefore, it becomes necessary to analyse the limitations of the Crown to ascertain the boundary of Parliament’s power to ensure this is complied with before proceeding any further.
The brief of the consultation has not acknowledged the breaches of the Constitution under which devolution proposals are legally invalid. Therefore I am making no direct comment on some questions, as the importance of what is written below overrides them.

Your Question 9. asks if the current constitution is able to provide a stable foundation for the devolutionary settlement? And what changes might be required.

You appear to be exploring means to effect several Parliaments to come into existence to supplant the Parliament of Great Britain. Or to create potentates within the system of governance.

I believe that technically to peruse this to independence is tantamount to treason. Our constitution does not empower the Crown or its Parliament to destroy or diminish its own omnipotence.

Sir Robert Megarry V-C Manuel V Attorney General 1983 (C.A.)

“As a matter of law the courts of England recognise Parliament as being omnipotent in all save the power to destroy its own omnipotence.”

The sovereignty of parliament cannot extend to breach the limitations of the Crown. The Crown has undertaken to govern reign-long in accordance with the constitutional laws that provide its limitation. That is an entrenched position that cannot be overcome by any parliamentary meddling or devices.

The Crown has undertaken and is bound to use the utmost of its powers to achieve this end. The utmost of the Crown's Powers include the refusal of Royal Assent and force of arms. All officers and Ministers whatsoever are bound to owe true allegiance and to abide by the law. The extant rules of law prohibit devolution of Great Britain. The Crown cannot assent to any diminution thereof and indeed is compelled to refuse all contrary measures by the laws of our constitution.

The Crown is currently legally obliged reign-long to refuse to countenance measures which detract from the "true intent of the enactments that secure the Protestant religion to the throne". The Act of Union with England 1707 ch7 being one such act states:

"..to Establish the Protestant Religion and Presbyterian Church Government within this Kingdom has past in this Session of Parliament an Act entitled Act for securing of the Protestant Religion and Presbyterian Church Government which by the Tenor thereof is appointed to be insert in any Act ratifying the Treaty and expressly declared to be a fundamentall and essentiall Condition of the said Treaty or Union in all time coming."

This text proves that the Act of Union is an enactment securing the Protestant religion to the Crown. It is therefore becomes an obligation upon the Crown to fulfil the true intent of this enactment/treaty reign long to the utmost of the Crown's Powers.

This Act commands and requires:-
That the Two Kingdoms of Scotland and England shall upon the first day of May next ensuing the date hereof and forever after be United into One Kingdom by the Name of Great Britain

That the United Kingdom of Great Britain be Represented by one and the same Parliament to be stiled the Parliament of Great Britain.

Her Majesty took her Accession Declaration Oath on the 8 February 1952. From that moment forward the Act of Union was again re-entrenched reign long. Her Majesty's Coronation Oath has contracted the Crown To Govern only in accordance with the law.

Parliament may not and specifically constitutionally does not hold the power to enact that which might violate the Constitutional contract which limits the Crown.

Should the people of Scotland ask for their independence then the parliament of the United Kingdom would have to consult with the people of Great Britain to discover if it is desired to disband the kingdom. In the unlikely event that such a situation could be brought to exist the Crown would have to Abdicate, its Parliament would cease and a new settlement would need to be found and engaged.

We have a wonderful constitution which must be observed.

I would be pleased to expand upon this as required.
I, ELIZABETH
do solemnly and sincerely in
the presence of God profess,
testify, and declare that I am
a faithful Protestant, and that
I will, according to the true
intent of the enactments
which secure the Protestant
succession to the Throne,
uphold and maintain the
said enactments to the best of
my powers according to law.

2 October 2015