

[Ghasted flabbers and smacked gobs](#) [1]

Written by [Tim Worstall](#) [2] | Sunday 9 December 2007



Various people are being uncomplimentary about the latest ideas for the abolition of freedom detention without trial as announced: constitutionally illiterate for [example](#) [3] :

Proposals to extend the limit for pre-charge detention to 42 days are "constitutionally illiterate" as well as dangerous, critics warned yesterday, because proper parliamentary scrutiny would confuse the roles of MPs and judges.

The former attorney general, Lord Goldsmith, warned that such examination by MPs would be difficult, adding: "I think parliamentary scrutiny is hugely important and one of the great things we have in this country. But it isn't necessarily the right way to deal with individual cases, while they are going on."

At heart the idea is that, in order to make sure that someone isn't either released or charged (that is, they can continue to be kept in jail despite being, legally, entirely innocent), the Home Secretary should ask MPs for permission to keep an individual in custody for further questioning.

I'm sorry? Politicians hold a vote as to whether a specific individual should be denied his freedom? That's dangerously close to a Bill of Attainder: further, it betrays a gobsmackingly awful understanding of what the "rule of law" actually means. Certainly, politicians get to decide what the law is but it then applies, evenhandedly, to all of us. For politicians to vote on whether that evenhandedness exists or not in individual cases replaces the rule of law with the rule of the mob, not, perhaps, a path we want to go any further down.

I'm reminded of Larry Flynt's words (and I paraphrase) after winning a First Amendment case in the US. If the law protects bastards like me you can be sure that it will protect you too.

Imagine, for a moment, a purely hypothetical: we have a one eyed, hook handed, benefits gobbling,

bigamously married preacher, one who incites violence and is of dubious status as a British citizen (yes, this is a hypothetical). The Home Secretary asks for an extension of his detention. Does anyone really think that MPs will vote their consciences? On either the balance of probabilities or beyond reasonable doubt? Or will it be the Whips, or, worse, The Sun leader column that decides whether he continues to be denied his freedom?

And if the law will not protect him from politicians seeking votes, will it protect you?

I'm entirely flabberghasted that (even) the current Home Secretary could think this an advance in freedom, liberty or security.

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