

Introductory Note by Francis Bennion

The following letter by me appeared in *The Times* on 11 June 2008. It concerned provisions in the Counter-Terrorism Bill which were debated on that day by the House of Commons. The Bill was given a third reading on that day and will now proceed to the House of Lords. I propose to write an article in time for the Lords consideration of the Bill. This article will expand the brief argument put forward in the letter.

Lead letter in *The Times*

Extending 28 days

Mr David Blunkett insists the Government's 42-day extension is necessary (letter, June 10). As a constitutional lawyer who has spent sixty years working in statute law, I suggest it is unnecessary. If the feared emergency actually arose, an appropriate empowering Bill would be passed by Parliament within hours, as has frequently happened.

In addition to transgressing freedom and being unnecessary, the proposal is basically unconstitutional. Contrary to the separation of powers doctrine, it improperly jumbles together functions of the executive, the legislature and the judiciary. It provides that an executive order declaring the reserve power to be exercisable in the case of a particular individual shall lapse unless confirmed by the legislature. It brings the judiciary into what is an executive procedure by providing that the question whether detention is to be authorised beyond 28 days in the case of a particular individual is to be decided by a judge.

The proposal is also absurdly complex in many respects, whereas what we need is simpler laws.

Francis Bennion