


How I woke up to a nightmare plot to steal centuries of law and liberty

[Daniel Finkelstein](#)

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THE POINT IS, I don't want to seem like a nutter. It's a very common human emotion, that — not wanting to stand out for thinking something hardly anyone else thinks. Best keep your head down and say nothing. In 1978, in Jonestown, Guyana, more than 900 people voluntarily drank strawberry-coloured poison and died, each one following his neighbour, eager not to refuse the drink and have his neighbour think that he was a nutter. Perhaps the worst part of the tragedy is that the rest of us look back at them and think — what a bunch of nutters.

So I'm nervous about admitting that I've been having a paranoid nightmare, one that very few other people seem to share. But I have been, so you may as well know about it.

In my nightmare, Tony Blair finally decides that he is fed-up with putting Bills before Parliament. He has so much to do and so little time. Don't you realise how busy he is? He's had enough of close shaves and of having to cut short trips abroad. He decides to put a Bill to End All Bills before the Commons, one that gives him and his ministers power to introduce and amend any legislation in future without going through all those boring stages in Parliament.

That's not the end of my feverish fantasy. The new law is proposed and hardly anyone notices. John Redwood complains, of course, and a couple of Liberal Democrats, but by and large it is ignored. The Labour rebels are nowhere to be seen. The business lobby announces that it is about time all those politicians streamlined things, cutting out time-wasting debates. In a half empty Commons chamber, a junior minister puts down any objections with a few partisan wisecracks. Then the Bill to End All Bills is nodded through the Houses of Parliament, taking with it a few hundred years of Parliamentary democracy.

I wake up, sweating.

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Only one thing persuades me that I'm not cracking up. When I have my nightmares about the Bill to End All Bills, I am not dreaming about dastardly legislation that I fear a cartoon Tony Blair, with an evil cackle, will introduce in some terrible future. I am tossing and turning about a government Bill that was given its second reading in the House of Commons last week and is heading into committee.

Now I know what I am about to tell you is difficult to believe (Why isn't this on the front pages? Where's the big political row?) but I promise you that it is true. The extraordinary Legislative and Regulatory Reform Bill, currently before the House, gives ministers power to amend, repeal or replace any legislation simply by making an order and without having to bring a Bill before Parliament. The House of Lords Constitution Committee says the Bill is "of first-class constitutional significance" and fears that it could "markedly alter the respective and long standing roles of minister and Parliament in the legislative process".

There are a few restrictions — orders can't be used to introduce new taxes, for instance — but most of the limitations on their use are fuzzy and subjective. One of the “safeguards” in the Bill is that an order can impose a burden only “proportionate to the benefit expected to be gained”. And who gets to judge whether it is proportionate? Why, the minister of course. The early signs are not good. Having undertaken initially not to use orders for controversial laws, the Government has already started talking about abstaining from their use when the matter at hand is “highly” controversial.

Now, I am not an extreme libertarian. I don't spend my weekends in conferences discussing the abolition of traffic lights and the privatisation of MI5. But I have to admit that the legislation being debated in the Commons this week — the new ID cards, the smoking ban, the measure on the glorification of terror — has tempted me to take up smoking and start attending lectures about Hayek organised by earnest men with pamphlets in carrier bags.

Yet the Legislative and Regulatory Reform Bill has made me realise that I may be missing the point — the biggest danger to civil liberties posed by these new laws is not the nature of them, but merely their quantity.

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Let me explain my thinking.

The Government claims that it has no malign intention in introducing the reform to parliamentary procedures. It is just that it has such ambitious plans for deregulation — or “better regulation” as it rather suspiciously calls it — that Parliament won't be able to cope. The previous Regulatory Reform Act, passed in 2001, was so hedged around with conditions and safeguards that it took longer to produce a regulatory reform

order than it did to produce a Bill. So this time, the Government wants more sweeping powers.

During future detailed Commons consideration of the Bill, restrictions on the terms of the new orders will be resisted using the argument that business wants deregulation and government has to get on with it.

What does this argument, used often by the minister during last week's debate, amount to? An admission that we are now passing so many new laws, so quickly, and so many of them are sloppy, that we don't have time to debate them properly or reform them when they go wrong. Parliament is drowning in a sea of legislation. Instead of calling a halt to this, the Government is seeking a way of moving ever faster, adding yet more laws, this time with even less debate.

The problem with ID cards, smoking bans and new terror laws is not just the standard liberal one. It isn't even that they are entirely unnecessary, since you can fashion an argument for each measure. It is that we should be reforming and enforcing the laws we have, rather than adding new complicated, poorly thought through laws to the stack that already exists. The Legislative and Regulatory Reform Bill isn't just a dangerous proposal. It is a flashing red light.

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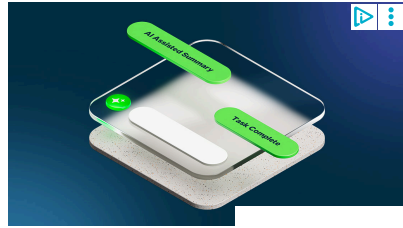
Our legislative activism is endangering our parliamentary democracy and we must stop before it's too late.

Or am I a nutter?

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