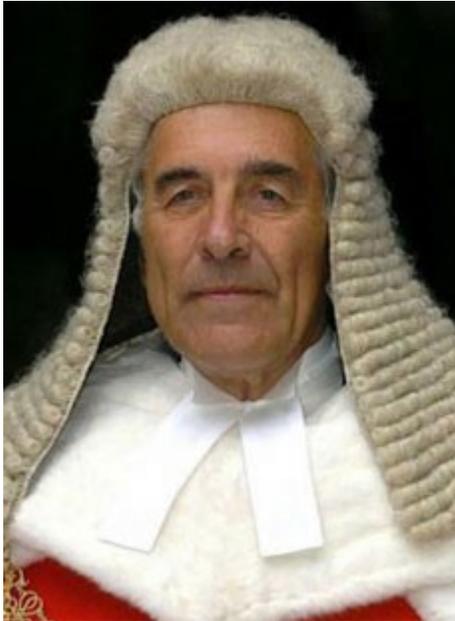


# Judges on the point of revolt

By JAMES CHAPMAN - Last updated at 23:51pm on 22nd May 2007



Lord Phillips: Inquiry demand

## **Senior judges sent Britain to the edge of a constitutional crisis last night by refusing to back the new Justice Ministry.**

In an unprecedented move, the Lord Chief Justice, Lord Phillips, said it had proved impossible to agree the judiciary's relationship with it.

He also told astonished MPs that he only learned of the most fundamental constitutional reform for decades from a Sunday newspaper.

He said he was nearing the point of invoking his right to report to Parliament that the Lord Chancellor, Lord Falconer, was failing to protect the independence of the judges.

That so-called "nuclear option" has never been used. It would plunge Britain into deep constitutional turmoil, as well as leaving Lord Falconer's position untenable.

Government officials had been locked in talks ahead of Lord Phillips' appearance before a Commons committee last night.

A deal had been expected but the Lord Chief Justice told them that had proved impossible.

He demanded a full-scale inquiry into the constitutional implications of the rushed Government decision to split the Home Office on May 9.

The judges fear their independence will be compromised as the Lord Chancellor, who heads the new ministry, has taken responsibility for prisons and probation as well as courts.

There is particular concern that judges will be pressed to pass sentences based on factors such as prison

overcrowding.

They are also demanding that court budgets are not used to fill funding gaps in the prison and probation services.

Lord Phillips told the Commons constitutional affairs select committee: "The discussions have not resulted in agreement.

"There is a need to have a fundamental review in light of the creation of the Ministry of Justice.

"I hope common sense will prevail and it will become quite apparent that we must have this inquiry."

Asked about making an emergency complaint to the Speaker that the independence of judges was being compromised, Lord Phillips said: "We may well be getting near that point.

"I have up until this moment had a good relationship with the Lord Chancellor. He and I learned together that there was a possibility of a new Ministry of Justice when we read the Sunday Telegraph."

Lord Phillips told MPs: "We've tried very hard to reach an interim agreement to tide over the period that will elapse before a review, and any implementation of it can take effect."

But the Lord Chancellor did not agree there was a need for a review. "This has become a fundamental difference between us," he said.

Lord Phillips accused Home Secretary John Reid of being behind the split of the Home Office without any proper consideration of their impact on the justice system.

"The impetus of this position was anxiety on his part to clear the decks so that he could make a concerted attack on terrorism," he said.

"It was not a decision taken because it was thought that it was a very good idea to have a Ministry of Justice."

The Tories said the Government was to blame for drawing up major reforms "on the back of a fag packet" and forcing them through before Tony Blair leaves office.

**Share this article:**

**What is this?**

- [Digg it](#)
- |
- [Del.icio.us](#)
- |
- [Reddit](#)
- |
- [Newsvine](#)
- |
- [Nowpublic](#)

 [Add your comment](#) | [View all Comments \(14\)](#)

**14 people have commented on this story so far. Tell us what you think below.**

Here's a sample of the latest comments published. You can click [view all](#) to read all comments that readers have sent in.

Any action taken to cause chaos and mayhem for this so-called government, is most welcome. Name an MP who is actually "qualified" to be an MP, let alone run a government department - they're like YTS

candidates the lot of them, without a modicum of commonsense. Thank you to the judges for standing up and doing what Joe public cannot do!

**- Kim, Hampshire UK**

It is obvious that many people do not know of the relationship between the political system and the judiciary, not only in Britain, but as it is in most western civilised countries. Basically, Parliament sets the laws and the judiciary use them to ensure justice according to these laws. But the one very important point is that the judiciary must never be told directly what to do by Parliament, and this is what is trying to be done now. It would be a disaster especially as the very important House of Lords makes sure that any new proposed laws are just and workable before they are passed into law.

The problem we have in Europe at this moment as far as terrorism is concerned (and many other criminal acts) is that the EU and the Human Rights Act are not allowing the correct security actions to be taken to protect EU subjects so these need to be sorted out. So do not blame the judges for doing their job and that is quite rightly staying totally independent of the politicians.

**- Exessayer, Marbella Spain**

Most of our judges are already revolting - they make me sick with their continual soft sentences!

**- Maria Connelly, Bellshill, Lanarkshire**