In Australian politics, there are two sorts of complications. There are ones that are merely painful, such as Andrew Wilkie and having to live in Canberra. Then there are ones that are deadly.

Constitutional law falls into the deadly category. Telling a politician their proposal has a constitutional problem is like announcing there is a funnel-web spider with a personality disorder loose in the room.

This should be remembered as we ponder the various rescue theories sweeping through the Gillard government. The most popular is that Kevin Rudd will gallop to the rescue, be hailed as leader, and send Julia Gillard as High Commissioner for Refugees to Malaysia.

He will then race to an ego-restoring electoral success on a wave of popular legitimacy unrivalled since the last Collingwood premiership.

A quick election, of course, would be inevitable. Legitimacy is like blue cheese: a pungent substance but one that does not last in the open air.

The whole process is about as complicated as the thought processes of Bob Katter – asleep.

In fact, constitutionally, the Rudd reverse coup with triple pike has more potential stumbling blocks than an Olympic hurdles race. It is hard to see how it could be pulled off successfully without the sort of luck that would be the envy of generations of punters.

It begins by assuming that the redoubtable Gillard, who has the personal fortitude of an over-determined limpet, would go without a fight. But there are several grenades the PM might hurl from her turret window.

Quite apart from bloodletting on an already slippery party-room floor, are we absolutely sure that Gillard won’t get in first and advise Governor-General Quentin Bryce to call an election?

The viceroy would refuse, in keeping with constitutional convention, but the ensuing constitutional crisis would engulf both sides of the Labor Party, while a staggered opposition watches in gleeful disbelief.

Are we also certain that Gillard, even if not prepared to drop the dirty bomb of an election, would hang around in Parliament? What if she made Kevin ‘11 a parting gift of a by-election, and took Labor’s majority with her as a souvenir of office?

This is where things get seriously interesting – meaning terminally complicated. Assuming that Gillard is prepared to sit glumly behind a resurgent Rudd at the despatch boxes, are there other candidates to destroy Labor’s minuscule majority?

On one analysis, it is less a case of speculation than a forming queue. Already, Queensland backbencher Graham Perrett has said he will resign if Gillard goes. Then there is the wobbly trio of Labor’s three pet independents, and the Greens’ Adam Bandt. Their formal parliamentary loyalty is still to Gillard as Prime Minister, rather than Labor as government.

But beyond them sits a small army of Labor ministers and backbenchers who took part in the assassination of Rudd the First. They must look forward to his restoration with all the confidence of blowflies faced with a can of Mortein.

The brutal result is that, even if Rudd can oust Gillard as leader, his ascension as prime minister is by no means assured. He would have to convince the Governor-General that he had a majority on the floor of the House.

There is only one way he could do this, and in the undeniably chaotic circumstances, the Governor-General would be bound to insist. As a matter of constitutional and political reality, Rudd would be required to seek a vote of confidence.

Between Gillard, Perrett, three eccentric independents, an opportunist Green and justifiably hysterical government members, the outcome is hardly a foregone conclusion. What would happen if Rudd lost?
Doubtless, he would try to go to an election carrying the tremendous kudos and resources of the prime ministership with him. But constitutional convention would require the Governor-General first to give Tony Abbott a chance to carry on the administration.

If Abbott managed to do this, with the help of whatever ragtag guerilla support he could muster, Rudd would be Australia’s briefest-serving – and possibly angriest – prime minister.

Worse, even if an Abbott government lasted only a day, a week or a month, it would be Abbott who would eventually go to the election as prime minister, facing a Labor opposition that was less a rabble than a rout.

Labor should think hard. Very hard.

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