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THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE FOURTH SESSION OF THE FIFTY-FOURTH PARLIAMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
COMMENCING ON THE ELEVENTH DAY OF MAY IN THE
FIFTY-FOURTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

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House of Lords

Monday, 12 October 2009.

2.30 pm

Prayers—read by the Lord Bishop of Ripon and Leeds.

Deaths of Members

Announcement

2.37 pm

The Lord Speaker (Baroness Hayman): My Lords, I regret that I have to inform the House of the deaths during the Recess of Baroness Chapman, Lord Gregson, Lord Buxton of Alsa and Lord Plummer of St Marylebone. On behalf of the House, I extend our condolences to their families and friends.

Libya: Abdul Baset Ali al-Megrahi

Question

2.38 pm

Asked By Lord Pannick

To ask Her Majesty's Government why they did not make representations to the Scottish Secretary for Justice on whether Abdul Baset Ali al-Megrahi should be released from prison on compassionate grounds.

The Minister for Europe (Baroness Kinnock of Holyhead): My Lords, the decision to release the man convicted of the Lockerbie bombing on compassionate grounds was solely for the Scottish Executive to take. As the Prime Minister said in his statement of 2 September, he respected the right of Scottish Ministers to make that decision.

Lord Pannick: I am very grateful to the Minister. Will she confirm that there is absolutely nothing in the Scotland Act to prevent the Government from expressing

their view on this matter? Will she acknowledge that it is deeply regrettable that on an issue of such public importance our Government took no position either in public or, apparently, in private for reasons of pure expediency? Will the Government please allocate urgently time in this House for a full debate on this matter in the interests of all those who lost their lives in the Lockerbie murders?

Baroness Kinnock of Holyhead: On the last issue, I am advised that it is the usual channels that need to be consulted. I totally reject the view that the UK Government have in any way not been doing their duty. Throughout the whole process, we have said that it is the business of the Scottish Executive and the Scottish judicial system to make decisions on this. We did not put any pressure on them at any time, which was the correct thing to do.

Lord Astor of Hever: Does the Minister agree that the decision to release the Lockerbie bomber was quite wrong? According to the Justice Secretary, the Prime Minister was involved in discussions about compensation for UK victims of Libyan-sponsored IRA terrorism but not in discussions about al-Megrahi during the negotiations over the UK-Libya prisoner transfer agreement. It is clear that this overwhelmingly affected the national interest of the United Kingdom. Why was the Prime Minister not involved?

Baroness Kinnock of Holyhead: I repeat, the Prime Minister did not take any part in the decision that the Scottish Executive chose to make. There was no cover-up, no double-dealing, no deal on oil and no attempt to instruct Scottish Ministers. This is what our Prime Minister has said and I believe that to be the case.

Lord Anderson of Swansea: My Lords—

Lord Lester of Herne Hill: My Lords—

Lord Morris of Aberavon: My Lords—

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): My Lords, let us hear from my noble and learned friend and then from the noble Lord, Lord Lester.

Lord Morris of Aberavon: My Lords, international affairs are not a devolved matter, although the actual decision in this case was for the Scottish Parliament. Therefore, should the external interests of the United Kingdom be affected, would it not be open to the Government to take whatever action is necessary to protect those interests either by way of comment or in some other way?

Baroness Kinnock of Holyhead: The Government always take interests into account, whether they are those of British nationals, of business or of many other concerns. But it is the case, and I shall repeat it, that the British Government played no part in the decision taken by the Scottish Government. It was absolutely the right of the devolved authority to make the decision, and that is what they did.

Lord Lester of Herne Hill: My Lords, I should declare a personal interest as the former co-counsel for Mr al-Megrahi in his unsuccessful application to the European Court of Human Rights. In the interests of justice and for the sake of the Lockerbie families, would the Government now seek to persuade the Scottish Executive to set up a full judicial inquiry into the matters raised by the Scottish Criminal Cases Review Commission and the UN observer, Professor Köchler, about a possible miscarriage of justice and abuses in the investigation, prosecution and trial?

Baroness Kinnock of Holyhead: My Lords, as yet the British Government have made no decisions on these matters. The Lockerbie investigation took place and the result was that al-Megrahi was imprisoned in Scotland under that legal system. That remains the case and nothing can change in terms of what is possible from the investigation. The Libyans paid substantial compensation to the Lockerbie victims, but we accept that that is no justification.

The Duke of Montrose: My Lords, have the Government established to their own satisfaction that the medical opinions delivered in respect of the release of al-Megrahi were the result of proper examination? At that level, surely they are able to talk to the Scottish Executive to check the facts? It would have allowed the appeal to go forward, which would have resulted in a much more satisfactory outcome.

Baroness Kinnock of Holyhead: My Lords, I am sure that full medical examinations did take place. Under Scotland's system of compassionate release, they take place when it is considered that the person concerned will live for another three months. That decision was taken on the basis of clear evidence. The Scottish Justice Secretary set out the process by which he decided to refuse a prisoner transfer, but as noble Lords know, then decided to grant compassionate release.

Lord Anderson of Swansea: My Lords, is it not a reality that any representations as suggested would almost certainly have been resented by the Scottish Executive and therefore totally counterproductive? If we believe in devolution, and there is now a consensus in favour of the devolution settlement, we must allow for the consequences of devolution—which is the decision by the Scottish Executive.

Baroness Kinnock of Holyhead: My Lords, the point is that no pressure was exerted on the Scottish Executive. That was made clear by the Justice Secretary in the statement he made on 20 August. It would have been absolutely wrong for us to intervene in the case on foreign policy grounds because we would have been criticised very severely for doing so. Foreign policy was not among the criteria used by Scottish Ministers to reach that decision and that is an important factor. Clearly, as the noble Lord said, it was right under the terms of the devolution arrangements that all decisions on prisoners in the Scottish prison estate are taken exclusively by Scottish Ministers. Therefore, that was the recourse that we took.

Lord Thomas of Gresford: My Lords, would the Government—

Lord Trimble: My Lords, are there not lessons to be learnt—

Lord Thomas of Gresford: My Lords, Front Bench, please.

Lord Hunt of Kings Heath: My Lords, we do not accept the precedence of Front Bench, but it is certainly the turn of the Liberal Democrats.

Lord Thomas of Gresford: My Lords, would the Government agree to invite and encourage the Scottish Criminal Cases Review Commission to publish its 800-page report in which it recommends that an appeal should be carried out by the Scottish judiciary into the verdicts and the sentences? That report has not been published; do the Government agree that it should be?

Baroness Kinnock of Holyhead: My Lords, I am aware that the Scottish Parliament Justice Committee will be looking into the decision very carefully. We should leave it up to that committee to make the kind of decision the noble Lord is suggesting.

Lord Trimble: My Lords, is there not a lesson—

Lord Hunt of Kings Heath: My Lords, I am sorry but we are now in the ninth minute.