

Letter sent to the HERALD

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Sir,

Lockerbie: Justice or politics?

During the publicity surrounding the Greshornish House (Skye) Accord, to which Prof. Hans Koechler, official representative of the previous Secretary General of the UN has attached his name, an extraordinary situation has been exposed to public view.

In a letter to Tam Dalyell Kim Howells of the Foreign Office (F&CO) has confirmed that a special counsel has been agreed to, to represent Mr Megrahi's defence over the contents of the famous 'document from a foreign power', one can only presume with the acquiescence of their Lordships of the High Court. So far as I am aware no statement has been issued from their Lordships.

We had previously been assured that their Lordships had it within their power to set aside the PII certificate issued by Mr Howells' boss, David Miliband.

Unless Mr Howell's letter is inaccurate therefore it would appear that their Lordships have accepted the intervention of a special advocate to filter material from this document before it reaches Megrahi's defence team. The route of disclosure gives the strong impression that the Foreign Office, rather than their Lordships, is making the decisions.

This would be an unprecedented intrusion into the freedom of scottish law. Just because something similar was agreed in England in the darkest days of the Irish troubles, that cannot be held to justify such action against scottish law today. It offers a restriction upon the defence's access to information, imposed by an individual who will presumably be chosen and paid for by Westminster.

However impartial this individual may be, the plain fact is that the prosecution and scottish police have been in full possession of this document for many years and the defence as long denied it. Even if he were to 'redact' nothing but the country of origin of the document, the defence could be unfairly damaged by being unable to decide how much emphasis to place on the document's contents in the appeal, and thus how much time to spend on it and significance to accord to it.

Nor is this the first time in this tortuous case where political intervention has been allowed to override the demands of scottish justice.

In January 2005 journalist Iain Ferguson, under the freedom of information act, requested the wording of the agreement which Mr MacFadyen of the Crown Office had signed with the United States authorities, on 1 June 2000.

The Crown Office honoured his request as follows. Subsequent requests were refused on the grounds of the case being 'active'. I am grateful to Mr Ferguson for allowing me to reproduce their reply below.

It seems to me extraordinary that Mr MacFadyen, acting on the express instructions of the then Lord Advocate Colin Boyd, should be empowered to put the processes of Scottish criminal justice under the control of the US authorities in the way described in the emphasised paragraph below.

Furthermore, I agree not to use this US National Security Information for lead purposes in furtherance of the Crown's case without the consent of the proper USG official.

Dr Jim Swire, Rowans Corner, Calf Lane, Chipping Campden Glos GL55 6JQ
01386 849 112, mobile 07768 571 917