ANDREW MARR SHOW, 9TH JULY, 2017

DAVID LIDINGTON, MP
JUSTIC SECRETARY

AM: Can I start with the Grenfell Tower Inquiry. Do you have absolute confidence in Sir David (sic) Moore-Bick as the Chairman of that Inquiry?

DL: Yes. I mean the way this worked is when the Prime Minister wanted a full scale public inquiry I called the Lord Chief Justice, so the head of the judiciary and said, please can you find us a judge with the right background seniority to take this on and get to the truth. He came up with Sir Martin Moore-Bick who is somebody held in huge respect by his fellow judges. He’s somebody’s got no interest in this other than to get to the truth and see justice done.

AM: What the residents and other people living in the area seem to fear is that the remit will be too narrow. Who actually sets the remit for the Inquiry?

DL: Well under the law, the 2005 Act, the law, the terms of reference as ultimately set by the Chair of the Inquiry, the judge, in conjunction with the department that is commissioning the inquiry –

AM: So you’re involved in the remit?

DL: Well no, I am but the department commissioning this will be the Cabinet Office and Number 10. I play the role of asking the judiciary the Chief of justice to find the judge to do the job there. And what Sir Martin is doing, as was promised, is to consult the residents, try to make sure that their expectations are taken into account.
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AM: So the government could say to Sir Martin, can we have a slightly broader remit than you’ve suggested?

DL: We’ve got to be careful about one thing, because this has come up in the debate about the scope inquiry. The Inquiry doesn’t look into criminal guilt or innocence. There’s a separate police inquiry going on into that matter already.

AM: What a lot of the residents seem to be worried about is that part of the story of the terrible thing that happened there was about years and years and years of underfunding in local government, it’s essentially a political story which might put Conservatives in the dock and that therefore the Inquiry is being narrowed to avoid that.

DL: Well I think when we’ve looked at what’s come out in the last few weeks since the Grenfell tragedy with tower blocks in authorities of all political colours failing the combustibility test, fire regulations and if we want to start pointing fingers you know, brought in under the Blair government. I mean look, all political parties I think need to do some soul searching about this. I’m very confident we’ll get some terms of reference that will get to the truth about what happened – not just in terms of what happened on that particular day, but what the regulatory decisions and the responsibilities that led up to that.

AM: So if regulatory failures and frankly spending cuts were partly to blame for the story that will come out from the Inquiry?

DL: Well it’s up to Sir Martin to determine exactly how the Inquiry goes. Of course he can compel any witness to attend under pain of a criminal offence and he can compel witnesses to give evidence under oath as well and evidence in his inquiry can, if the Police and Crown Prosecution Service think it justifies it, later be used for a criminal investigation and prosecution as well. So I
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think that he is very, very determined to get to the full truth about this.

AM: Are you content with the state of Britain’s prisons under your government?

DL: No. I’m not content with the state of prisons and frankly this is a state of affairs that has gone back under successive governments and I – what I’m determined to do is to try to bring about improvements, build on what my predecessor, Liz Truss did in getting extra prison officers and putting in place effective measures to detect more accurately the problem we have with drugs, the new challenge we have with drones and mobile phones in prisons, so they’re more secure places. But also want to see us get better as a country at using the time during which we have people in custody to get them better educated, get them better trained, more employable so there’s a stronger chance they lead a law-abiding life when they get out.

AM: Since 2010 attacks on prison staffs have gone up by 81% - sorry attacks on staff have gone up by 140% and prison assaults are up by 81%. Why?

DL: I think it’s a number of different things, but I think one reason is that certainly in recent years that we’ve had this new problem of what used to be called ‘legal highs’ or psychoactive substances, artificial drugs coming into prisons in a big way. We find the prison population shifted in character over that period of time. We’ve got more gangsters, we’ve got a higher proportion of prison population that are sexual and violent offenders. It’s not just, you know, your young burglar that’s in prison now.

AM: And so you need more people to look after them. You cut as a government 7,000 frontline prison staff. I know you’re hiring a
few more thousand now but you’re still away down on 2010 and that is also surely part of the story.

DL: Well what happened in 2010, as the case with my ministry as with every other ministry, is that in the face of the deficit some very tough decisions had to be taken. What’s happened in the years since then is that as we’ve managed to bring the deficit down, have restraint on public sector pay, take through some of the welfare reforms, it’s brought us the breathing space to hire extra staff in areas like prisons where we do need to deploy them. Now Liz Truss got agreement from the Treasury to two and a half thousand additional police officers – prison officers to come in, about 500 of those have been deployed already and our plan is to have all of them fully trained and deployed by the end of next year.

AM: But I put it to you that’s not enough. The Chief Inspector of Prisons says that Britain’s prisons ‘have become unacceptably violent and dangerous places,’ and that is in part because of the cuts that were made to the prison staff you’re talking about.

DL: I don’t dissent from the view that the - what the Prison Inspector has described, that this is an unacceptable state of affairs. There is also too much self-harm in prison, which means we need to deliver better mental health assessments and mental health care than we’re doing at the moment. These are problems that the government’s determined to confront.

AM: And do you accept this is partly down to prison officer numbers? Let me read you what the Justice Select Committee said: ‘It is not possible to avoid the conclusion that efficiency savings, staffing shortages and other factors have made a significant contribution to the deterioration in safety.’ Are they are right?
DL: You need – we need to get numbers up, I don’t disagree with that, but we need to do other things too. Improving regimes, get better as we are getting better at detecting illegal drugs and mobile phones inside prisons and using our capital programme, about one and a half billion pounds, to close some of these antiquated Victorian prisons that actually tie up staff unnecessarily and have new prisons that are easier for staff to control and manage effectively.

AM: I’m not going to quite let the staffing thing go yet because the Chief Inspector himself says that you need another 8,000 staff in prisons, not the few hundred that you’ve put in. I put it to you that every single red warning light around your desk from all the committees, all the blogs, all the reports, all the statistics is flashing red at the moment and that as the new Justice Secretary, as a fresh broom you need a really urgent review of Britain’s prisons.

DL: I think that we had a good strategy for the improvement of both security regimes in prisons that we published earlier this year. That’s a strategy for prison security and prison reform that I’m determined to follow through, but one thing and I –

AM: You say it’s a good strategy but I mean in the past year alone assaults on staff are up 38 percent.

DL: I just said this came out earlier this year and one of the key objectives is to bring down the levels of both violence and self-harm inside prisons and the strategic document set out a number of policies that were intended to secure that. One of the things that struck me, even just four weeks of doing this job, is that there have been too many occasions – I’ve looked at the first lot of inspector’s reports and Ombudsmen’s reports across my desk and it seems sometimes recommendations have been made in the past that have not been followed through and implemented. One
of things that I’ve said is we must get a lot better at actually delivering on the changes the inspectors want to see.

AM: And fast, because the actual situation in prisons is pretty horrific. There was a case in Norwich last week of a guard being stabbed in the neck. And one of the prisoners said, the situation is now, there are so few staff that the prisoners are actually safeguarding the staff, not the other way around. It is a real, real crisis. And again I put it to you, as the new Justice Secretary you should be going to the Prime Minister and saying we really need to look at prisons much more seriously. We need to spend some more money and fast.

DL: I’ll certainly be pushing forward very vigorously with the programme of prison reform and with measures to increase security, reduce the levels of violence in prisons which I agree are unacceptable. Around the Cabinet table we will be discussing all these issues about different priorities, in the context also of the need to be aware that we have to find the funding for any public spending that we agree.

AM: I understand that. Let me turn to Brexit. As I said at the beginning you were a very fierce supporter of the European Union during that referendum campaign and we’re now told that we can have all the benefits of the single market access without being inside the EU. Can I just play to you what Michel Barnier, the UK’s chief negotiator, said about this this week.

(clip) Barnier
I’ve heard some people in the UK argue that one can leave the single market and keep all of its benefits. That is not possible. I’ve heard some people in the UK argue that one can leave the single market and build a customs union to achieve frictionless trade. That is not possible.
AM: And that is the truth, is it not, that we face a really tough choice between having the free access to the single market, having all of those advantages and effectively staying inside the EU despite the referendum or getting out completely and not having those advantages.

DL: Well I actually don’t think that what Michel Barnier said in that clip was terribly different from what the Prime Minister acknowledged in her letter to Donald Tusk the day Article 50 was triggered, when she said our EU colleagues have said the four freedoms are indivisible, therefore we accept that we can’t simply have some but not accept all of them.

AM: David Davis talks about it being the exact same benefits after we leave. Barnier’s making it absolutely clear that can’t be the case.

DL: Oh I think we need in the negotiation that’s forthcoming to try to get the best possible access for our businesses to Europe and freedom to operate within the European market and for European businesses to do so here. But what the government faced was basically a choice. There were two models once the people had taken the decision to leave the EU. One was you went for something like Norway, you’re in the what’s called the European economic area. That means you have to accept all four freedoms. You have to accept freedom of movement and you must also accept all the –

AM: You pay in.

DL: You certainly pay in, but all the rules and regulations that Europe makes to govern business and trade affairs, you have to implement though you’ve got no seat at the table when those decisions are taken.

AM: It’s been called government by fax.
DL: Government by fax. That’s what Norwegian ministers have said to me. So the other model, which is what the government’s decided to go for is a very ambitious trade and cooperation agreement that aligns that a country like Canada has got but we hope because we are already working to EU standards a more ambitious one and bringing in things like security and judicial and police counter terrorist cooperation too, that enables us to be outside the jurisdiction of the European Union and we will have left, but we will continue to build this new deep and special partnership with our EU colleagues.

AM: Can I ask you a very straight forward question then. Is it possible for British business to have as good access to the single market as it does now, once we’ve left the EU?

DL: That will be depend not just on us but on the EU 27.

AM: Surely the answer is no?

DL: Look at what the Repeal Bill is doing. That is going to repeal the European Communities Act in the jurisdiction of the EU in this country, but at the same time put all current EU legal obligations and regulatory obligations and standards onto a British legal basis. Now if the EU decides that to introduce some more restrictive or protectionists measures in the future clearly we would not be in compliance with those. But it seems to me it is in the mutual interests of everybody, us and our 27 neighbours and friends, to try to make sure that our businesses all prosper from having access to each other’s markets.

AM: You thought during the referendum campaign that leaving the EU would be a catastrophe for British business and British prosperity. Looking now from where you are and looking at what Donald Trump and Mr Modi and .. have said at the G20, do you now regret what you said then?
DL: No, I don't. And I took a very firm view in that campaign and before that I thought British interests were best served both strategic and economic by staying within the EU. But the people took a different decision as they were democratically entitled to do and I don't think if you call yourself a democrat you can somehow say we should just set that aside and ignore it. That would do immense harm to public confidence and democracy.

AM: Do you think a big new trade deal with Trump's America, for instance, could make up most of the damage done by leaving the EU?

DL: It wouldn't be enough on its own, no, but it would be a very good thing to have as would trade deals with the emerging economies of Asia and Latin America. And certainly one of the frustrations sometimes about being part of the EU is that while the mass of the EU gives it some leverage in international trade it moves sometimes at a tortoise like pace. Because all the member states have to agree a common negotiating position. So actually having the nimbleness and the flexibility to deal with this bilaterally and we'll still be, you know, 5th of 6th biggest economy in the world, that does give us some opportunities there.

AM: All right. You're grown up, you've seen all the papers, you've seen the extraordinary stories coming out from your colleagues, Andrew Mitchell and others saying that the Prime Minister has really lost so much authority that she can no longer be in charge of this process and has to make way, possibly for David Davis or somebody else. What is your message to your colleagues who are so busy at summer parties?

DL: Well I think the summer parties is the key to this and look, I've been in parliament 25 years and almost every July combination of too much sun and too much warm Prosecco leads
to gossipy stories in the media. But the key thing is this. The public’s had an election. I think they want the politicians to go away and deal with the real problems that people of this country are facing. Social care, digital technology, we need to get on with that task, that’s what the PM’s doing.

AM: I will leave you to go away and deal with those problems very shortly but time is running out....

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