



OFFICIAL REPORT
AITHISG OIFIGEIL

Meeting of the Parliament

Tuesday 15 May 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 15 May 2018

CONTENTS

	Col.
TIME FOR REFLECTION	1
TOPICAL QUESTION TIME	3
National Strategic Assessment of Serious and Organised Crime 2018	3
Onshore Fracking Licences	6
EUROPEAN UNION (WITHDRAWAL) BILL	9
<i>Motion moved—[Michael Russell].</i>	
<i>Amendment moved—[Adam Tomkins].</i>	
<i>Amendment moved—[Neil Findlay].</i>	
The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell)	9
Bruce Crawford (Stirling) (SNP)	15
Adam Tomkins (Glasgow) (Con)	18
Neil Findlay (Lothian) (Lab)	22
Patrick Harvie (Glasgow) (Green)	25
Tavish Scott (Shetland Islands) (LD)	27
Ash Denham (Edinburgh Eastern) (SNP)	30
Maurice Golden (West Scotland) (Con)	32
Stuart McMillan (Greenock and Inverclyde) (SNP)	34
Neil Bibby (West Scotland) (Lab)	37
Emma Harper (South Scotland) (SNP)	39
Murdo Fraser (Mid Scotland and Fife) (Con)	41
Alex Neil (Airdrie and Shotts) (SNP)	44
Daniel Johnson (Edinburgh Southern) (Lab)	47
Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)	49
Donald Cameron (Highlands and Islands) (Con)	52
Richard Lochhead (Moray) (SNP)	55
Gillian Martin (Aberdeenshire East) (SNP)	57
James Kelly (Glasgow) (Lab)	60
Jackson Carlaw (Eastwood) (Con)	62
Michael Russell	65
BUSINESS MOTION	69
<i>Motion moved—[Joe FitzPatrick]—and agreed to.</i>	
DECISION TIME	70
NAKBA 70TH ANNIVERSARY	77
<i>Motion debated—[Sandra White].</i>	
Sandra White (Glasgow Kelvin) (SNP)	77
Ivan McKee (Glasgow Provan) (SNP)	80
Maurice Golden (West Scotland) (Con)	82
Anas Sarwar (Glasgow) (Lab)	83
Ross Greer (West Scotland) (Green)	84
Pauline McNeill (Glasgow) (Lab)	86
Ruth Maguire (Cunninghame South) (SNP)	88
John Finnie (Highlands and Islands) (Green)	90
James Dornan (Glasgow Cathcart) (SNP)	92
Claudia Beamish (South Scotland) (Lab)	93
The Minister for International Development and Europe (Dr Alasdair Allan)	95

Scottish Parliament

Tuesday 15 May 2018

[The Presiding Officer opened the meeting at 14:00]

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon. The first item of business today is time for reflection. Our time for reflection leader is Mr Kenneth Nuttall, a Deaf Christian Bible teacher from East Kilbride.

Mr Kenneth Nuttall (Deaf Christian Bible Teacher, East Kilbride): *(simultaneous interpretation from British Sign Language)* Presiding Officer, thank you for inviting me to address Parliament today.

Many years ago, I was driving my van through a country area, and I approached a small town from the top of a hill. On the way down, I saw a sign that said that the speed limit was 30mph. I happened to look at my speedometer and realised that I needed to slow down. I put the gears into neutral and let the vehicle slow down on its own. Further down the road, at the corner, I saw a policeman standing with a speed gun. I had a quick look at my speedometer and saw that I was doing about 45mph.

Further down the road, I saw another policeman waving me to the side of the road, and I knew what was coming next. I pulled over and the policeman came around the side of the van. He did not look friendly. I rolled down my window and he started talking to me. I looked at him and gestured that I was Deaf, and he looked like he was stuck. I thought, "Do you know, I'm not going to say anything. I will just leave him with this problem and let him sort it out."

After that, he thought for a bit and pointed at my speedometer and gestured that I should slow down. He then said I could go, and I thought, "Phew." I was really relieved. The policeman had been stuck. He had felt that it was easier just to let me go, because the communication might have been too difficult, so I got to go free.

You might be smiling at that, but the truth is that that kind of thing happens quite a lot in society today. For example, often, when Deaf people go to hospital, a doctor or nurse who tries to speak to them realises that they are speaking to a Deaf person and then they are stuck. In that situation, it is not funny; it is really quite sad.

I would like to give you a quote from Helen Keller. She said that blindness separates people from things that they cannot see, but that deafness

separates people from other people, because they cannot communicate.

The Bible pleads with us to
"walk in the ways of understanding."

That is from Proverbs, chapter 9, verse 6. One way in which to walk in the way of understanding would be to understand Deaf people and the different ways that they have of communicating.

We Deaf people are very grateful to the Parliament that British Sign Language is recognised in Scotland. We believe that that will be a great benefit to Deaf people and will give us equal access to vital services.

Thank you.

Topical Question Time

14:04

National Strategic Assessment of Serious and Organised Crime 2018

1. Liam Kerr (North East Scotland) (Con): To ask the Scottish Government what its response is to the “National Strategic Assessment of Serious and Organised Crime 2018”. (S5T-01083)

The Cabinet Secretary for Justice (Michael Matheson): The Scottish Government welcomes the publication of the National Crime Agency’s “National Strategic Assessment of Serious and Organised Crime 2018”. The assessment presents a high-level picture of serious organised crime in the United Kingdom and contains a specific section on Scotland, which draws on information that has been provided largely by Police Scotland. Police Scotland has primacy for serious organised crime in Scotland and constantly assesses emerging and existing threats. It does so in collaboration with all the law enforcement agencies that are based at the Scottish crime campus at Gartcosh.

Liam Kerr: The Scottish section of the report, to which the cabinet secretary has referred and which has been co-authored by the NCA and Police Scotland, is very clear: in Scotland, the threat from organised crime gangs is not only increasing but diversifying into new forms of activity. The report highlights on-going feuds, violence and firearms incidents, particularly in the central belt. Does the cabinet secretary think that that is good enough?

Michael Matheson: The information that is contained in the report is intelligence information that Police Scotland provides on such matters to the NCA. It is correct to say that a small number of crime groups in Scotland are presently undertaking a feud that has resulted in serious gang-related violence, which we have seen in public spaces, particularly in the Glasgow area, and which is wholly unacceptable.

Police Scotland is doing everything possible to reduce the risk to the public from targeted acts of violence that take place in public places. However, I am sure that members will recognise that it would not be appropriate for me to set out in detail the specific nature of the work that is being undertaken by Police Scotland on such matters, which are operational matters for it. However, I am regularly briefed on them by senior officers from Police Scotland and its organised crime and counterterrorism unit. Members can be assured that Police Scotland takes such issues very seriously and is determined to make sure that the

actions of that small number of feuding crime groups are dealt with appropriately. It has a trail of action that is taking place to deal with them effectively.

Liam Kerr: In his answer, the cabinet secretary avoided saying whether he thinks that that is good enough. I will tell him what the public thinks: that it is not. Therefore, will he analyse the report and tell us which part of the Government’s strategy for tackling organised crime has failed, and why? The report also revealed not only that criminals have ready access to firearms but that they are willing to use them in public places. What action will be taken in response to that news, and how will progress be monitored? To put it simply, how will the cabinet secretary get the guns off our streets?

Michael Matheson: I appreciate Liam Kerr’s interest in the subject, but he fundamentally misunderstands how such matters are addressed by the police and law enforcement agencies in Scotland.

The serious and organised crime strategy is a multi-agency one involving the Scottish Government, Police Scotland, other enforcement agencies, the Crown Office and a range of public and private sector organisations, which come together to tackle such crimes collectively in a range of areas in Scotland. For example, the work that is done by a range of agencies in the divert and deter strands of the strategy to prevent and deter people from getting involved in serious and organised crime, as well as the disrupt elements, which are undertaken largely by our law enforcement agencies, are extremely important. The information that is contained in the NCA’s assessment is provided by Police Scotland—it is not new information. It feeds into the national strategy that we have in Scotland to deal with serious and organised crime. One of the things that have been very evident from the creation of a single police force has been the co-ordinated action that we are now able to take in addressing such crime.

As I have mentioned, the spilling out of the feud between crime groups on to the streets in some parts of Scotland is wholly unacceptable, but I assure Liam Kerr that Police Scotland takes such matters very seriously and takes robust action to deal with them. I reiterate that the information that is contained in the NCA report is not new. It is formed from information from Police Scotland, which is key to the delivery of the strategy to tackle such matters.

Daniel Johnson (Edinburgh Southern) (Lab): The report talks about serious and organised crime working across borders; it specifically mentions the ports of Loch Ryan and Cairnryan, and highlights the significant connections with gangs in the north-west of England. Therefore,

what work are Police Scotland and the Scottish Government undertaking to work with the Home Office and police colleagues throughout the United Kingdom to ensure that intelligence is shared and activity co-ordinated?

Michael Matheson: The member raises an important point, because there is an issue to do with how serious and organised crime groups operate. Often, they do not recognise any boundaries between countries—that is true whether they come from Northern Ireland or from south of the border. A key part of the work that Police Scotland does is share information and intelligence with fellow law enforcement agencies within the UK and internationally to deal with such matters. The teams at Gartcosh in the organised crime and counterterrorism unit are responsible for taking such measures and sharing information as and when that is appropriate.

Mr Johnson will also be aware of the recent success of operation escalate, which resulted in a number of significant individuals from organised crime groups based in Scotland being convicted and given lengthy prison sentences. A key part of the work that Police Scotland did in dealing with those matters was share appropriate information and intelligence with other law enforcement agencies to support them in progressing their work in that area. That work continues, and having the crime campus at Gartcosh has provided a central hub that allows a range of Scottish, UK and international agencies—18 different agencies are involved—to work in a collaborative fashion to tackle such matters effectively here in Scotland.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Does the cabinet secretary agree that it is essential that Police Scotland remains able to utilise the European arrest warrant so that it can combat such crimes effectively?

Michael Matheson: That question follows on well from Daniel Johnson's point about the need to make sure that we can share intelligence and information as and when that is appropriate because, in the crimes that they perpetrate, organised crime groups do not recognise domestic or international boundaries. The European arrest warrant is critical in supporting that work. The loss of the European arrest warrant could significantly hamper our ability to tackle serious and organised crime here in Scotland. It is still not clear how the UK Government intends to address that issue in the Brexit discussions.

The work that we do with Europol, which involves the sharing of intelligence through different police agencies, is critical in being able to track individuals who are involved in organised crime. The loss of access to such intelligence would compromise Scotland's ability to tackle such matters. As yet, we have had no clarity from the

UK Government on how those issues will be addressed.

The European arrest warrant and Europol play an important part in helping us to address serious and organised crime here in Scotland. To date, it is unclear how the UK Government intends to address those issues once we have left the European Union and, in my view, that potentially compromises our ability to tackle serious and organised crime in Scotland as effectively as we do at the moment.

Onshore Fracking Licences

2. Claudia Beamish (South Scotland) (Lab): To ask the Scottish Government whether powers devolved to the Parliament over onshore oil and gas licensing under the Scotland Act 2016, which commenced in February, give ministers the authority to take decisions on granting and extending petroleum exploration and development licences for onshore fracking. (S5T-01086)

The Minister for Business, Innovation and Energy (Paul Wheelhouse): The Scottish Government welcomes the devolution, on 9 February 2018, of the powers to issue and manage onshore oil and gas licences to Scotland. The powers, which were transferred to Scotland through sections 47 to 49 of the Scotland Act 2016 and related subordinate legislation, provide the Scottish ministers with a wide range of powers over the administration of onshore oil and gas licences, including the power to grant or extend petroleum exploration and development licences.

Claudia Beamish: Will the minister seek to ensure that the initial term of petroleum exploration and development licence 162, which is owned by Ineos and Reach Coal Seam Gas Ltd and covers 400km² in the Scottish central belt, will not be extended, and that the licence will cease to exist on 30 June this year? What is the process by which the licence will be considered?

Paul Wheelhouse: I hope that Ms Beamish will understand my desire not to pre-judge any application to ministers. The integrity of the planning system is very important, and we have only just received the powers in question. Any requests for extensions to a licence will be considered on a case-by-case basis and in the light of the policies that are in place at the time.

I reassure Ms Beamish that we take such matters extremely seriously and that we will take forward our plans to develop a framework for onshore oil and gas licensing.

Claudia Beamish: Can the minister clarify for the chamber and those in communities across Scotland who have concerns about onshore fracking whether the Scottish Government now

holds powers to revoke a licence or whether those remain with the UK Government?

Paul Wheelhouse: Returning to my previous answer, I say that we are grateful for the quickness of the devolution of powers following the statement in Parliament in October last year. The powers were commenced on 9 February, and they include the power to grant or extend a petroleum exploration development licence, or to refuse to do so, if need be. However, I would not want to discuss any specific licence at this point. I hope that Ms Beamish understands that I do not want to undermine the impartial, clear and transparent process that we would hope to deploy.

Ivan McKee (Glasgow Provan) (SNP): When it comes to meeting our energy needs, does the minister share my view that this Parliament's focus should be on the importance of the renewables sector and that, regrettably, the United Kingdom Government has failed to provide that vital sector with the support that it requires?

The Presiding Officer (Ken Macintosh): Very briefly, minister, as that is hardly to the point.

Paul Wheelhouse: I agree with the member's view. There has perhaps been too much focus in the past on fracking at UK level. We have encouraged UK ministers to take a greater interest in support for renewables industries. I had a recent meeting with Claire Perry at the all-energy conference in Glasgow and I have reason to believe that she is more progressive than some of her predecessors, so I hope that we will have more fruitful discussions. However, I take on board the member's point and very much agree with him that renewables are the way to go and that we should be putting our energy into ensuring that we have a low-carbon future in Scotland.

Mark Ruskell (Mid Scotland and Fife) (Green): It is now almost four years since the conclusion of the public inquiry into the UK's first commercial planning application for coal-bed methane, near Airth. The decision still sits in limbo on the planning minister's desk, so is it not time that the Scottish Government gave communities the certainty that they deserve, using the legally watertight planning powers that it now has, and shut the gate on Ineos in the Forth valley?

The Presiding Officer: The minister will be aware that there is a live court issue in this case, so he should be careful in responding.

Paul Wheelhouse: Indeed, Presiding Officer. In any case, I can say only a limited amount on the matter. The appeals remain sisted and it is a matter for the planning and environmental appeals division to decide what the next step should be in each case.

Angus MacDonald (Falkirk East) (SNP): I recall that, in his statement to Parliament on 3 October last year, the minister made it clear that the Scottish Government's preferred position was subject to the completion of a strategic environmental assessment. Will he update Parliament on that process and confirm that he will also update Parliament following the completion of the strategic environmental assessment and any business and regulatory impact assessment that is undertaken?

Paul Wheelhouse: The member makes a very good point. We have embarked on a strategic environmental assessment, which is a requirement of the Environmental Assessment (Scotland) Act 2005. As I set out in my statement, that strategic environmental assessment has commenced and we expect it to conclude in the summer. We would undertake any other statutory requirements in reaching our preferred position, and that is all that I can say at this stage.

European Union (Withdrawal) Bill

The Presiding Officer (Ken Macintosh): The next item of business is a debate on motion S5M-12223, in the name of Michael Russell, on the European Union (Withdrawal) Bill, which is United Kingdom legislation. I call Michael Russell to speak to and move the motion.

14:18

The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell): When Donald Dewar spoke at the opening of the Scottish Parliament—the re-opening, as he himself acknowledged—on 1 July 1999, he talked of it being

“a new stage on a journey begun long ago and which has no end.”

Presiding Officer, you were there to hear that speech; so was I, so were the First Minister and the Deputy First Minister sitting on the front bench today, so were Tavish Scott and Mike Rumbles, and so were Iain Gray and Elaine Smith. Twenty-six members of this present Parliament were, so to speak, in at the beginning, though the beginning was actually a culmination of a long campaign and struggle that was fought—again in Donald Dewar's words—to achieve

“the day when democracy was renewed in Scotland”.

Of course, I and all the others on the Scottish National Party benches disagreed then with Donald Dewar about the final destination of that journey, just as we disagree with others here today on that matter. However, that was not the important thing on that opening day and it is not the important thing today. The important thing was, and is, to acknowledge the progress that had, and has, been made; and to accept that, on this journey together in a Parliament of minorities—a journey that the Scottish people told us to take and which they voted for by an overwhelming majority—we should find a way to secure tangible gains for our country, no matter our vision of where we want to end up. That is our duty, because this Scottish Parliament belongs to the people of Scotland—not to us as parliamentarians, nor to this Government or any Government. As elected members, we hold this place and our powers in trust for the generations that voted for them, this generation and the generations to come. They decide on journey and end point, not us.

Over the past 19 years, this Scottish Parliament has in the greatest part been good for Scotland. The powers of this Scottish Parliament have been used by Administrations of different political complexions to improve the lives of many—hopefully, most—of the people living in Scotland,

often in response to some of the most serious challenges that they face.

Every one of us in the chamber has played a part in that, from securing free personal care for the elderly to abolishing tuition fees; from establishing world-leading climate change legislation to delivering equal marriage; from putting in place the United Kingdom's first smoking ban to agreeing that, for the health of our nation, we should introduce minimum unit pricing for alcohol; and from eliminating business rates for small enterprises to supporting innovative and profitable renewable energy generation.

We have, and we use, those powers because we enjoy an established system of government called devolution. It might not be able to secure everything that all of us want, but devolution, which was put in place in 1999 and strengthened by subsequent agreement with Westminster, has made our system of governance robust enough to withstand expected and unexpected challenge and difficulty. It has been robust enough to withstand a global financial crash and to resist, at least in part, the misguided and damaging policy of austerity.

Now it is our job to ensure that it is not cast aside because of a Brexit that Scotland did not vote for and which can only be damaging to our country. Today, the challenge of Brexit—or rather the challenge of the proposed power grab by the UK Tory Government under the guise of delivering Brexit—puts our devolved settlement at risk.

The Secretary of State for Scotland, who, incidentally, also heard Donald Dewar's opening remarks as a member of this Parliament, dismissively described the issues that we are debating today as

“dancing on the head of a pin”.

Presiding Officer, it is not “dancing on the head of a pin” to insist that 20 years of stable devolution that has delivered good things for our fellow citizens be protected.

Pauline McNeill (Glasgow) (Lab): As one of—*[Interruption.]* I apologise to Mike Russell for the delay. My card was not in the console.

As one of the 26 members Mike Russell talked about, who were members in the first session of Parliament, I wonder whether he agrees that Donald Dewar was the champion of devolution and that, unlike the Welsh model, the Scottish model was designed to state which powers were reserved. Does he agree that that was deliberate and that any attempt to change it would definitely undermine what all of us and Donald Dewar chose to try to achieve in those days?

Michael Russell: I would agree with that. It is a good point. The reserved model of devolution, which is not precisely the same as the Welsh

model, is one that requires us to defend it and to consent when there are changes. I will come to that point.

As I said, it is not “dancing on the head of a pin” to insist that 20 years of stable devolution that has delivered good things for our fellow citizens be protected, nor to demand the powers that we use for the benefit of Scotland, which have been agreed by the people of Scotland.

On one view, the vulnerability of the principles of devolution to the UK Government’s approach to Brexit should not surprise us. That Government cannot answer even the most basic of questions on issues such as the customs union with just months to go before a withdrawal agreement must be signed. It has dismissed this Parliament’s views on wider Brexit issues such as the single market and the triggering of article 50, and it has acted recklessly towards prosperity and peace in Northern Ireland. The reality of the past 23 months is that Theresa May has seemed concerned only about trying to keep together the warring factions of her party, regardless of the impact on jobs, living standards or devolution.

In contrast with the division at Westminster, there has been consensus in this chamber over the need to protect the Scottish Parliament’s powers. The Scottish Government has always acknowledged that we must prepare our laws for withdrawal. In line with the clear majority of people in Scotland, we do not want to leave the European Union, but we accept that legal preparation for Brexit is required, and the UK Government, for its part, recognises that it is required to get our consent to its European Union (Withdrawal) Bill.

The Scottish Parliament has spoken powerfully on that point. In its interim report in January, the Finance and Constitution Committee unanimously agreed that the bill was

“incompatible with the devolution settlement in Scotland.”

Therefore, the committee could not recommend consent.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Will the minister take an intervention?

Michael Russell: Not at the moment, please. I want to make some progress.

Clause 11 was not an accidental clause. The provisions encapsulate the current UK Government’s view of the type of devolution that it wants to see operating: devolution that operates only by the grace and favour of Downing Street.

To be fair, the UK Government eventually responded to the unanimous view of the Scottish Parliament and the Welsh Assembly and the view of many others by making changes, but the newly

reformulated clause still makes it clear how the UK Government sees power being exercised on withdrawal from the EU and how it views the Scottish Parliament—and that view is unacceptable. It would abandon the way in which we have all operated for almost two decades and break our devolution settlement.

Adam Tomkins (Glasgow) (Con): Will the minister explain why, contrary to his view, the United Kingdom Government’s view is acceptable to the Labour Government in Wales?

Michael Russell: That is probably a question for the Labour Government in Wales, but I would hazard a guess that one of the factors is that Scotland voted to remain in the EU and Wales voted to leave it. Perhaps Tory members might want to reflect on that.

The UK Government wants to take a power to restrict the competence of the Scottish Parliament, and it wants to be able to exercise that power even in the face of an explicit decision by the Scottish Parliament that it should not do so. This is not about the sovereignty of the Westminster Parliament or giving effect to the Sewel convention; it is about the UK Government—not the UK Parliament—being able to adjust for the first time the terms on which devolution operates through delegated legislation, and being able to do so without the consent of, or against the wishes of, the Scottish Parliament.

There are existing and effective powers under the Scotland Act 1998 that allow the competence of the Scottish Parliament or the Scottish Government to be adjusted. None of them operates in the way that is set out in the UK Government’s new clause. Every single one of them requires changes to be passed by both the UK Parliament and the Scottish Parliament, and every single one of them requires proper democratic consent to be sought and received. That is real consent, not presumed consent. A section 30 order to adjust the list of reserved matters and therefore the boundaries of devolution, for example, requires to be passed by the Scottish Parliament. It cannot become law without the consent of the Scottish Parliament and the country that it affects. Thirty orders have been passed under section 30 since the Parliament was established. All were the product of agreement and all were passed in the Scottish Parliament and at Westminster. Even the section 30 order for an independence referendum was able to secure the support and win the consent of both Parliaments.

The UK Government says that it would not normally make such regulations without our consent, but those words do not appear in the legislation. The legislation is drafted on the basis that proceeding with regulations—even without consent from the Scottish Parliament, and even if

the Scottish Parliament has unanimously voted against them—will be normal. We are being asked to consent to that legislation.

Moreover, the amendments to the new clause that the House of Lords has now agreed to say that the powers of the Scottish Parliament can be constrained for up to seven years, whether the Scottish Parliament agrees, does not agree or makes no decision at all.

Stewart Stevenson: Is the minister aware that it may be even worse than that for fishing? The white paper that was leaked last week suggested that the powers over fishing would be retained at Westminster beyond the seven years. That is bitterly disappointing to fishermen in my constituency and across Scotland. Is that how the Government feels, too?

Michael Russell: It is indeed. Stewart Stevenson is right, of course. It is possible to permanently remove powers in primary legislation within that period.

Apparently, the purpose of the constraint is to enable discussion to take place on the establishment of common UK frameworks, but there is no need to impose an unprecedented, unequal and unacceptable new legislative constraint. We have already agreed that there may be the need to establish such frameworks in certain areas and, in keeping with the spirit and principles of devolution, we agree that those frameworks should be the product of negotiation and agreement between the Governments and Parliaments. We also agree that, pending the establishment of common frameworks, both Governments should maintain existing EU law regimes across the UK.

The Secretary of State for Scotland has said that frameworks should not be imposed but, as the Finance and Constitution committee reported,

“this commitment that common frameworks will not be imposed is contradicted by the ‘consent decision’ mechanism created by the UK Government’s amendments ... which would allow the UK Government to proceed with regulations without the consent of the Scottish Parliament.”

The committee made the key point that the devolution settlement can function effectively only if there is mutual trust between all the UK’s Governments—that is, if the substantial political agreement between Governments is given effect by political means. The answer, therefore, is to proceed through reciprocal political commitments. That was the view of all parties on the committee, except the Conservatives.

Today, in the motion, the Scottish Government asks Parliament to withhold consent to the European Union (Withdrawal) Bill as it stands. This will not be the end of the process—this Parliament’s offer is still on the table. However,

agreeing to the motion will mean that the bill must be adjusted, either so that it can command the consent of this Parliament, or to reflect the terms of the legislative consent motion. If the motion is agreed to today, that will be the will of this Parliament.

What cannot happen, Presiding Officer, is what the UK Government seems to want to happen.

Neil Findlay (Lothian) (Lab): Will the minister take an intervention?

Michael Russell: No, I am sorry—I want to conclude.

The UK Government wants to ignore the reality of devolution and drown out what this Parliament says, but not even it can pretend that no motion has been agreed to; nor can it pretend that this Parliament is failing to face up to its responsibilities to enable the statute book for which it is responsible to be prepared. We are doing that—we have done it through the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill and we are doing it through this process today.

It would be serious and unprecedented were the UK Government to impose legislation on this Parliament. Such an action would be noted here and across Europe. If there is a failure after today’s vote to adapt the bill to devolution, it will be the UK Government that would be breaking trust and the rules, not us.

Donald Dewar began his famous speech in 1999 by looking at the mace that was in front of him then and is in front of us now. It has inscribed on it the first words of our founding statute:

“There shall be a Scottish Parliament.”

Twenty years ago, those were words of aspiration; a statement of constitutional intent. Now, they are words of constitutional reality and resolve: there is a Scottish Parliament, and its voice must be heard.

Donald Dewar cautioned us in his speech that the Scottish Parliament was “Not an end”, but

“a means to greater ends.”

Today we are called on—for the first time—to protect those means by refusing to accept changes to them to which we have not agreed; to protect those means so that we can go on achieving the best ends for Scotland that we can; and to protect those means because the people of Scotland themselves chose them, and they chose us to protect them.

Accordingly, Presiding Officer, I move the motion in my name,

That the Parliament notes the legislative consent memorandums on the European Union (Withdrawal) Bill

lodged by the Scottish Government on 12 September 2017 and 26 April 2018, and the reports of the Finance and Constitution Committee of 9 January and 10 May 2018, and, because of clause 15 (formerly 11) and schedule 3, which constrain the legislative and executive competence of the Scottish Parliament and Scottish Government, does not consent to the European Union (Withdrawal) Bill.

14:32

Bruce Crawford (Stirling) (SNP): I speak in the debate in my capacity as the convener of the Finance and Constitution Committee.

It is fair to say that the debate marks the end of a long journey for the committee, since the introduction in the House of Commons of the European Union (Withdrawal) Bill last July. The debate may mark the end of the legislative consent memorandum process in the Scottish Parliament, but it marks only the end of the beginning of the legislative process that any Brexit outcome will presage.

Neil Findlay: Will the member take an intervention?

Bruce Crawford: Let me make some progress, please.

Neil Findlay: It is on that particular point.

Bruce Crawford: Okay.

Neil Findlay: Bruce Crawford said that we are at

“the end of the legislative consent motion process”.

The Scottish Parliament information centre has confirmed to us that another legislative consent motion might have to come after this one. Is the member aware of that?

Bruce Crawford: It is always possible that the House of Commons will adjust the bill. If that happens, the Scottish Parliament will have to consider its response to that. I am going on the situation as it stands.

In January, the committee set out its initial position on the bill in our interim report, following completion of the bill’s passage through the House of Commons. Since then, we have continued to take evidence on the bill, as it has evolved in the House of Lords.

Our final report on the bill considers the changes that have been made in the context of whether the recommendations that were set out in our interim report have been addressed. Although the committee’s position on our interim report was unanimous, it has not, unfortunately, been possible to achieve the same outcome for our final report, in that Conservative committee members have dissented from some of the committee’s conclusions.

However, I thank all my fellow committee members for the positive and collaborative way in which they have approached all aspects of scrutiny of the bill, including our final report. I also thank the committee’s adviser on constitutional issues, Christine O’Neill, for the expert advice that she has provided throughout the scrutiny process, and to the clerks, who have carried out their jobs in their usual assiduous way.

The committee acknowledges that there are parts of the bill to which changes have been made that address concerns that the committee raised in its interim report. Let me briefly mention a couple of those. The committee welcomes the amendment that has been made that will afford the same protection to the Scotland Act 1998 as had previously been afforded in the withdrawal bill to the Northern Ireland Act 1998.

The committee also welcomes the non-Government amendments, including those that were agreed in the House of Lords to keep the Charter of Fundamental Rights of the European Union as part of “retained EU law”. Similarly, the committee welcomes the progress that the Governments have made in identifying areas that might be subject to common frameworks.

Nevertheless, the committee continues to have significant concerns about the bill. It recognises that, despite some progress having been made, there remain fundamental differences between the Scottish and UK Governments, relating principally to what was originally clause 11 and schedule 3, the process for agreeing common frameworks and the powers of UK ministers in devolved areas.

The committee has not come to a conclusion on consent, either for or against, on any part of the bill except for what was originally clause 11 and schedule 3. On the then clause 11, it is worth reiterating the committee’s unanimous conclusion in our interim report, in which we stated that

“Clause 11 represents a fundamental shift in the structure of devolution in Scotland”.

Since then, the UK Government has replaced clause 11 with new clause 15, which places a different restriction on the legislative competence of the Scottish Parliament. The new clause 15 would not allow the Scottish Parliament to modify law in an area of retained EU law, where the modification is of a kind that the UK Government has “specified in regulations”. Such UK regulations would be subject to a mechanism whereby consent of the Scottish Parliament would be sought. However, even were a decision to be made by the Scottish Parliament to refuse consent, that would not prevent the UK Parliament from approving the relevant regulations. I suggest that that approach would not normally meet a

common understanding of “consent”. As Abe Lincoln observed:

“No man is good enough to govern another man without the other’s consent.”

In addition to the new clause 15, the UK Government has produced a proposed intergovernmental agreement and memorandum of understanding. Both are intended to provide non-statutory commitments on behalf of the UK Government. The proposed agreement states that the UK Government commits to making regulations through “a collaborative process” and that the UK Parliament will “not normally” be asked to approve clause 15 regulations without the consent of the devolved legislatures.

The UK Government has also made a non-statutory commitment not to introduce legislation that would modify retained EU law applying in England in areas that are covered by the clause 15 regulations.

From the committee’s perspective, it is not clear why the UK Government should be subject to voluntary constraints while the devolved Governments would be subject to statutory constraints. The approach of the UK Government suggests that it does not trust the devolved Governments.

The committee’s view is that the devolved settlement cannot function effectively without mutual trust among all the Governments across the UK. Accordingly, the committee proposes that the constraints that would be placed on the Scottish Government should be the same as constraints that would be placed on the UK Government. In other words, the two Governments should agree to commit to a non-legislative political constraint not to introduce legislation in areas where common frameworks are likely to be needed. The committee also notes that that approach remains the outcome that is preferred by the Welsh Government. The approach would genuinely represent a partnership of equals.

The new clause 15 is also intended to provide a mechanism to allow for the creation of common UK frameworks. However, the non-statutory approach that the committee recommends would mean that clause 15 would not be necessary to enable the agreement of common frameworks.

It is worth re-iterating the committee’s position, in our interim report, on common frameworks, which was to welcome

“the commitment from the UK Government that common frameworks will not be imposed. The Committee strongly believes that both the process for agreeing common frameworks and the actual content must be arrived at through agreement and not imposed.”

That remains the committee’s position. However, the committee considers that the commitment that

was made by the Secretary of State for Scotland, that common frameworks will not be imposed, is contradicted by the consent decision mechanism that the UK Government’s new clause 15 will create.

It is fair to say that the bill’s linguistic gymnastics to define a consent decision would have provided Nadia Comaneci with a perfect 10. Clause 15 would allow the UK Government to proceed with regulations without the consent of the Scottish Parliament. The committee’s view is that a solution to that impasse should rest on both Governments making reciprocal political commitments. That would allow the discussions on common frameworks to proceed, and it would provide the clarity and certainty that are needed.

I will comment briefly on the powers that are proposed in the bill for UK ministers to legislate in devolved areas without the consent of the Scottish Parliament. In our interim report, we stated that we were deeply concerned about the lack of any statutory provision in the bill for UK ministers to seek the consent of the Scottish ministers or the Scottish Parliament to legislate in devolved areas. That concern is accentuated by the fact that the Sewel convention does not apply to subordinate legislation. The committee remains deeply concerned about those provisions, which it considers cut across the devolution settlement.

The committee has tried hard to fulfil a constructive role throughout our scrutiny of the withdrawal bill. That approach has continued in our final report, in which we have sought to offer a positive solution to the current impasse. We consider that the current situation can be resolved through emphasis on mutual trust and respect. Currently, however, those are sadly lacking.

The committee recommends that reciprocal political commitments be included in the proposed intergovernmental agreement as a means to emphasise mutual respect, and to enable progress to be made. That would represent a genuine commitment to a partnership of equals among the constituent parts of the UK. We do not discount the possibility that the two Governments may yet be able to reach agreement on alternative ways to break the current impasse, but that is our proposed solution.

Regardless of that, without a solution, and given the fundamental differences that exist between the Scottish Government and the UK Government, the committee recommends that the Scottish Parliament not consent to clause 15 and schedule 3 of the bill.

14:42

Adam Tomkins (Glasgow) (Con): We have debated the European Union (Withdrawal) Bill

numerous times in the chamber. Members will recall that, throughout the debate, the Scottish Conservatives joined parties across the Parliament in arguing that clause 11 of the bill as introduced was not fit for purpose and needed to be replaced. It was not fit for purpose because, as the Minister for UK Negotiations on Scotland's Place in Europe and Pauline McNeill said, it turned one of the pillars of devolution upside down.

All powers that are not expressly reserved to Westminster are devolved to us in Scotland. The original clause 11 failed to respect that principle, and that was our reason for arguing that it needed radical change. That change has now been delivered by a UK Government amendment that was agreed to without division at the report stage in the House of Lords.

The new clause 11—now clause 15 of the bill as amended—ensures that all powers that are repatriated from the European Union following Brexit that fall within devolved competence will come to Scotland unless they are expressly held in reserve. That is as it should be. That is the fundamental change to the original clause 11 that we called for, that the Scottish Government called for and that the Parliament's Finance and Constitution Committee unanimously called for.

Peers right across the House of Lords have recognised that, as has the Labour Government in Wales. Mark Drakeford, the key minister in the Welsh Government, said about the amended clause 11:

"This is a deal we can work with which has required compromise on both sides. Our aim throughout ... has been to protect devolution".

Comparing the original clause 11 with its amended version, he said:

"London has changed its position so that all powers and policy areas rest"

with the devolved Administrations

"unless specified to be temporarily held by the UK Government. These will be areas where we all agree common, UK-wide rules are needed for a functioning UK internal market."

Bruce Crawford: I accept the points that Mark Drakeford made and that Adam Tomkins just made. Does Mr Tomkins accept that, in the letter that he sent in April, Mr Drakeford suggested that the Welsh Government's preferred option was the one laid out by the Finance and Constitution Committee?

Adam Tomkins: The fact is that the Welsh Government has compromised, the United Kingdom Government has compromised, and the only Government that has not compromised is the Scottish Government. That is the reality.

In the House of Lords, both Labour and Liberal Democrat peers spoke strongly in support of the amended clause 11. Lord Steel said that

"this is really quite a good deal."—[*Official Report, House of Lords*, 2 May 2018; Vol 790, c 2154.]

Lord Wallace of Tankerness called it

"a considerable advance with much better arrangements".—[*Official Report, House of Lords*, 2 May 2018; Vol 790, c 2138.]

Those experienced, measured and senior politicians are among the founding fathers of devolution. If the deal is good enough for them, it should be good enough for us, too, and we should give it our consent today.

The disagreement on clause 11 has more than once been characterised as dancing on the head of a pin. Some have unkindly described it as the dullest constitutional crisis in history. Last week, Mike Russell compared it to the Schleswig-Holstein problem. Only three people understood the Schleswig-Holstein problem, and one of them went mad, so the minister had better be careful.

If we strip the current disagreement back to first principles, we can perhaps more easily see what the argument is about. There are two principles at the root of the matter. First, Brexit must be delivered compatibly with our devolution settlement. Leaving the European Union in no sense means that we can somehow return to the constitution of 1972. Secondly, Brexit must not be allowed to undermine the integrity of the United Kingdom or, in particular, the integrity of the UK's internal market. That is not just in the UK's interests; it is in Scotland's interests. Scotland, let us remember, trades four times as much with the rest of the United Kingdom as it does with the whole of the European Union. Brexit absolutely cannot be allowed to result in the creation of new trade barriers between Scotland and the rest of the UK.

Those two principles are not unionist principles; they are principles on which both unionists and nationalists can and do agree. Neither are they Conservative principles; they are matters that unite us all, left and right alike. I could not have supported a withdrawal bill—or, for that matter, a continuity bill—that failed to respect either of those principles. I did not support the original clause 11 because it fell foul of the first principle, that Brexit must be delivered compatibly with devolution.

Mike Rumbles (North East Scotland) (LD): Will the member take an intervention?

Adam Tomkins: Not at the moment.

I did not—and still do not—support the SNP's continuity bill because it falls foul both of that principle and of the principle that the integrity of the UK's internal market must be safeguarded.

However, the amended clause 11—or clause 15, as the bill stands today—adheres to both of those fundamental principles. That is what Mark Drakeford, David Steel and Jim Wallace, among many others, have all said, and it is why we, on the Conservative benches, think that this Parliament should now give its consent to the European Union (Withdrawal) Bill.

Mike Rumbles: Adam Tomkins referred to my colleagues in the House of Lords, but I want to make it clear that I and my Liberal Democrat colleagues here will support the Scottish Government's motion, because we do not want anyone to construe that we would give our consent to the UK Government's bill to leave the European Union in the first place.

Adam Tomkins: The cat has been let out of the bag. The Liberal Democrats' position here has nothing to do with ensuring that Brexit is delivered compatibly with devolution and everything to do with trying to reverse Brexit itself.

Set in the context of those fundamental constitutional principles, let us delve into the detail of the amended clause. I said a few moments ago that the first thing that it does is ensure that all powers falling within devolved competence that are repatriated from the European Union after Brexit will come to this Parliament. There is no Westminster power grab—the powers will come here. This Parliament will become significantly more powerful as a direct result of Brexit. We will have new powers over energy, including renewable energy; over aviation and noise pollution; over the marine environment, forestry and land use; and over environmental impact, carbon capture, water quality and a range of further powers.

The only exception to that is where regulations are made temporarily to hold a power in reserve in order to ensure that that power does not inadvertently undermine or jeopardise the integrity of the UK and its internal market. All parties, including the SNP, agree that those powers should be exercised in accordance with UK-wide common frameworks. However, it is not just the existence of UK-wide common frameworks that all parties, and all Governments, have agreed to; it is the subject matters and the policy areas where those common frameworks will be needed that all parties—including the SNP—have agreed to.

The amended clause will hold in reserve only powers that the SNP has already agreed should be exercised subject to a UK-wide common framework. Those powers—each and every one of them—are all powers that we, in this Parliament, cannot currently exercise. Not a single power is being taken away from us as a result of the withdrawal bill. We cannot exercise those powers at the moment, because they are not held here—

they are held in Brussels. That, of course, is where the SNP/Green alliance would prefer them to remain. This whole argument is about powers that the SNP has already agreed should be exercised subject to a UK-wide common framework and that are currently exercised by Brussels. For those reasons, it is, frankly, baffling that we are where we are today.

We should, long since, have moved on. There is serious work ahead, and we should be getting on with it. We should be negotiating and agreeing common frameworks. We should be preparing our statute book for exit day and beyond. We should be turning our minds to how we want to exercise the new powers that are coming to us. We should be thinking about what sort of regime of agricultural subsidy or fishing support we want in Scotland. How do we keep food prices low but ensure, at the same time, that farmers and crofters are properly supported? How do we want to tailor and adapt European standards of environmental protection so that they match Scotland's needs and priorities more accurately? In short, how do we rise to the challenges that Brexit undoubtedly presents and, at the same time, take advantage of the new opportunities that it affords us in policy areas that we have not been able to develop for ourselves for more than 45 years?

Those are big questions—much bigger than the constitutional dancing on pinheads to which we are being treated again today—and it is time to move on and address them. Let us give our consent to the withdrawal bill and get on with the job at hand.

I move amendment S5M-12223.1, to leave out from “, and, because of” to end and insert:

“; agrees with the Welsh Government and Liberal Democrat peers that the amended Bill respects the devolution settlement, and, because it provides people and businesses in Scotland with certainty and devolves further powers to the Scottish Parliament, consents to the European Union (Withdrawal) Bill.”

14:51

Neil Findlay (Lothian) (Lab): I offer a bit of friendly advice to Mr Tomkins in mental health awareness week: he needs to get a more sensitive gag writer.

If there is one lesson to come from all the debate over the past year, it is that—no matter what the reason or the country, or how simplistically people try to present it—extricating any state, or part of a state, from a political and economic union of which it has been a member for even just 40 years, is a very complex, tortuous, time-consuming and difficult thing to do.

If we look at the negotiations around clause 11—now clause 15—alone, we can see the

extraordinary amount of time, effort and, when it comes down to it, money that has been spent. Very important though the negotiations are, I am sure that we would all rather have seen that amount of time and effort being put into ending child poverty, addressing the inadequacies in our mental health services and building homes for people sleeping on the streets of our cities and towns today—some of them just yards from this Parliament.

I say that, because this situation was there to be avoided. There was, and is, no need for the stalemate in which we have found ourselves to have come about. All that it needed was for the Tories and David Mundell, the Cabinet's least influential and most irrelevant member, along with Ruth Davidson and Adam Tomkins, to deliver the amendments to clause 11 that they said they would—nothing more and nothing less. Their failure to deliver is what has taken us to today's position. The blame lies largely in their court.

Murdo Fraser (Mid Scotland and Fife) (Con):

On 26 April, Lesley Laird, who is the shadow Scottish secretary, welcomed the deal between the Welsh Government and the UK Government and called on the Scottish Government to follow suit. Who speaks for the Scottish Labour Party these days? Is it Mr Findlay and his colleagues or the shadow Scottish secretary, Lesley Laird?

Neil Findlay: Lesley Laird moved amendments in the House of Commons that would have resolved this situation, and your lot were whipped to vote against them. That is how we got to this situation, Mr Fraser.

The Presiding Officer: Mr Findlay, please do not say "your lot".

Neil Findlay: The stakes here are high. Workers across a range of sectors need a clear legislative and regulatory framework to work to, and businesses, exporters and importers need it to plan ahead. The national health service and public services all need certainty for long-term planning—yet, instead of certainty, all we have is confusion.

From the initial 101 areas of dispute on creating common frameworks, I am pleased that progress has been made and we are down to 24. Then again, maybe the number is not 24, because, according to Mr Mundell, that number may increase again. That is not certainty—that is more uncertainty, in areas that would ordinarily be devolved to this Parliament under the reserved powers model of our devolved settlement.

We cannot and will not support those powers being repatriated to anywhere other than this Parliament and then consent sought to create the common frameworks and regulations. That is absolutely consistent with the Scottish Labour

Party's long-held commitment and support for devolution. Labour was central to establishing the Scottish Constitutional Convention, which—we should not forget—the Tories and the SNP boycotted. Labour representatives, some in this Parliament, did the heavy lifting, working across parties with the Liberals, the Greens and civic society, at times having to compromise but, in the end, agreeing a workable model for Scotland's Parliament.

Since then, despite the many huge ups and downs of that process and under huge pressure at times, we have stood resolute in the defence of the devolution settlement and the constitutional change that people voted for in such big numbers in 1997. We have defended devolution at every turn and from every attack, wherever it has come from, and now we seek to strengthen it as we take post-Brexit powers over areas that are critical to the development of the fair, just and progressive society that we want to create, such as public procurement. We want to use this Parliament's powers to deliver a public procurement agenda that ends discrimination and blacklisting, addresses zero-hours contracts, promotes sustainability and delivers fair pay and jobs. Taking those powers and, crucially, using them is not some theoretical exercise for Mr Tomkins's constitutional law students—it is crucial if we are to deliver the democratic socialist society that we want to see and which he used to want to see.

In the Commons, Labour sought to improve the bill, but the Tories voted down our amendments. In the Lords, Labour lords voted for amendments to make a bad bill better—a bill that the Tories themselves have described as "not fit for purpose". The Welsh Government, with a different devolution history and legal system, has worked to negotiate a system that it believes will work for it; that is its right and, indeed, it is evidence of devolution at work. However, it has made it clear that it will continue to work with Scottish Labour and the Scottish Government to try to improve on the deal that it has struck.

At the weekend, Richard Leonard reached out in good faith to all parties to seek talks to end the impasse. Parties in this Parliament have worked together before. On this very important matter, we believe that they can do so again. I am pleased that the minister has indicated that he is supportive of that approach. We are serious about trying to find a solution to this situation and I hope that UK ministers are, too. Just as I was getting to my feet, we had an indication from David Lidington that he appears to be open to those discussions. We are up for it and it appears that Mr Russell is up for it, so let us encourage the Tories to get David Lidington on board and to get round the table and start negotiating.

I move amendment S5M-12223.2, to insert at end:

“, and calls on both the UK and Scottish governments to convene cross-party talks in an attempt to broker an agreed way forward.”

14:58

Patrick Harvie (Glasgow) (Green): I echo the thanks to my fellow committee members and to everybody who has contributed to the committee's work on this issue. I welcome the unity that appears to be being shown. It appears that Green, Labour, SNP and Liberal Democrat MSPs will stand together tonight in defence of the Parliament that we campaigned for together 20 years ago.

The Conservatives—the party that campaigned against the creation of this place—had given the general impression over those 20 years that they had accepted how wrong they were and had come to accept the existence of this Parliament. What has become glaringly obvious since the Brexit crisis began is that they still cannot accept the legitimacy of the distinct political will that exists in Scotland. It has been expressed in elections to this Parliament and in the 62 per cent remain vote two years ago—the Conservatives are ignoring both.

I think that everybody knows that I do not see much merit in the Conservative party's politics, which I consider to be broadly despicable. However, I can still admit that I had thought that some Tory politicians were basically rational and decent people whom I could respect, despite their promoting a political ideology that I detest. I have therefore been astonished by the speed at which they have abandoned reason and thrown in their lot with the Brexit extremists. In doing so, they are ignoring not only the views of the people whom they represent on the question of Europe itself, they are also ignoring every objective assessment of the country's best interests in favour of the delusional ramblings of their party's extremist fringe and those further right whose support they seek to win back.

As well as all that, the other aspect of Scotland's political will that the Tory position ignores is the desire to have a Parliament here in Scotland that makes decisions on the same basis as was set out 20 years ago—a model that has developed over that time, but has never moved away from the principle that what is not reserved is devolved. Let us remember that the most recent development of devolution involved a commitment, eagerly welcomed by Adam Tomkins and his colleagues, to give the principle of legislative consent a statutory basis. We were sceptical of that promise and unconvinced that it had any substance in law, but even I didn't imagine that, just months after passing the most recent Scotland Act, they would

tear up the whole idea and utterly overturn the principle of consent.

I understand that our Education and Skills Committee has been looking at consent education for young people. That is all well and good, because it is an important issue that needs to be addressed. However, the person who is most clearly in need of consent education is the Secretary of State for Scotland. If the idea of consent is to be at all meaningful, consent must be freely given or withheld without coercion or threat; it must be freely revocable—able to be withdrawn at any time—and, most important, the idea of consent must be respected. If the UK Government proceeds with its apparent threat to legislate in this area without our consent, it will have entirely justified our rejection of the bill and proved that it cannot be trusted on the principle of legislative consent.

I turn to the Labour amendment. I honestly cannot see a great deal of value in it. There have been cross-party talks here at Holyrood, organised by the Scottish Government, and Neil Findlay and I both participated. I was not aware that there had been any innovative new proposals from Labour, and I am still in that position after hearing Mr Findlay's speech. Would another series of meetings involving UK ministers actually force them to relent? Would they change their position? I doubt it.

Neil Findlay: Yes, we have had cross-party discussions with the Scottish Government, but we have never had cross-party discussions when the UK Government was at the table. Would it not be good for us to show a united front in putting forward some ideas to break this logjam? Surely Mr Harvie would want that.

Patrick Harvie: I do not object to the idea of more meetings, and if Mr Findlay wants there to be more meetings, I will come along, but I am entirely sceptical that the UK Government will relent and change its position, and that is what needs to be changed. I see no evidence that it is about to change.

That seems to me to be more like the magical thinking of those who are on the Labour front bench at Westminster, who have also given up on the country's best interests and seem positively supportive of abandoning our European future. They are rightly scathing about a UK Government that cannot even make its mind up about customs arrangements nearly two years after its self-induced Brexit crisis began, but the Labour leadership seems only to offer the idea that, if it was at the negotiation table, the inherent problems and contradictions of Brexit would evaporate, and it would simply get a better deal. That is magical thinking, and today's amendment seem little different. Whatever. If Labour members want to

cling to the idea that one more round of meetings will somehow persuade Mundell, Lidington and co to relent and abandon their position, then fine.

The critical point is that we must all—everyone who believes in the legitimacy of this Parliament and the distinct political will of the people we represent—stand together in defence against the withdrawal bill. Those who worked together to create the Scottish Parliament must now unite to stop the demolition squad, led by Ruth Davidson and Theresa May. If we can unite on that in the final vote tonight, we will be doing our jobs.

15:05

Tavish Scott (Shetland Islands) (LD): I will let Adam Tomkins into a rather badly kept secret: the Liberal Democrats are in favour of staying in the European Union. He probably was at one time, too, and we will not change our view on that one iota, no matter how much shouting there is from members on my right. Adam Tomkins talked about the powers of the Scottish Parliament being built up over many years. Jim Wallace and David Steel, among many others, were heavily involved in that. They are also Europeans to their fingertips. However, here is the difference between Jim Wallace and David Steel and the Tories: Jim Wallace and David Steel were in favour of devolution, not against it, all those years ago. We do not need any lectures from the Tories on who was for devolution and who was against it.

As Bruce Crawford accurately described, it is disappointing that the Governments have not yet reached agreement. Much more must happen between our Governments, and with some urgency. We should be clear: the Welsh Government and the peers in the House of Lords have said that further change is necessary.

The UK Government must learn the internal lessons from this on-going farce. We have consistently argued that the UK needs a strong dispute resolution mechanism that will underpin a mature partnership between the different parts of the UK. That is something that the UK and Scottish Governments should have already agreed, but we seem as far away from that as ever.

Liberal Democrat MSPs do not believe, on balance, that the Scottish Parliament should give consent. As has been reflected in the debate, there has been some movement on the clauses that have been discussed, but there has not been enough. We want the Scottish and UK Governments to continue to work for an agreement. People deserve much more than Trump-style diplomacy from London.

Two years after the UK voted to leave the EU and just nine months before the formal departure,

everything has happened, but nothing has happened. Today's debate is very secondary to the turmoil within the UK Government. If a UK Cabinet cannot reach an agreement on its negotiating position over the future relationship with the EU, is it any surprise that it has not reached agreement with the devolved nations within the United Kingdom?

Brexit and the loss of the single market are bad for the UK and bad for Scotland. Our country will be poorer, our workforce will be weaker and our future prospects will be less secure. My colleagues will not support that. We will not hand power to the Brexiteers and the right wing of the Conservative Party, or to a Prime Minister who may be in office, but who is certainly not in power. We will make the case for the people to have their say on what the final Brexit offer is, even if others will not.

Last week demonstrated the real nature of the internal Tory negotiations. The Tories cannot even agree among themselves. Last night, Tory back benchers trooped into Downing Street, and the worst Prime Minister in living memory seems to have said, "Don't blame me." She has set up not one but two competing Cabinet committees on her customs union dilemma. Johnson and Gove have branded her position crazy, but calling the Prime Minister crazy does not constitute a sacking offence in the modern Conservative Party—it is merely a contribution to the debate. A war cabinet used to face the enemy, but a Conservative war cabinet now faces each other. There is battle after battle, not against the EU but blue on blue: Hammond versus Johnson, Gove versus Clarke, Mundell versus—no, that is not fair; I cannot imagine David being against anyone.

The UK Government—surely now the worst in living memory—will not achieve an agreed position before the June EU summit. The chance of any substantial package being agreed before October is absolutely nil. Scotland, Wales and Northern Ireland are an irrelevance to London, not because the Tories have given up on being unionists—no, of course not—but because a fight to the death over Europe trumps everything else. No Prime Minister—by which I mean a competent one with a vision for Britain's future; that is not Theresa May—could square Ken Clarke, Nicky Morgan and Anna Soubry with Rees-Mogg and his right-wing, hard-line, over-the-cliff Brexiteers, yet Theresa May is still the occupant of number 10.

Oliver Mundell (Dumfriesshire) (Con): Will the member give way on that point?

Tavish Scott: I will happily give way on Rees-Mogg.

Oliver Mundell: I am struggling to see how the member's views square with those of his Liberal

Democrat colleagues in the House of Lords. A completely different argument seems to be being put forward in Scotland, while Liberal Democrats in the House of Lords are saying that this is a good deal.

Tavish Scott: The amendments in the House of Lords—on the single market, the customs union and the charter of fundamental rights—are fundamentally important to our future. They are what Liberal Democrats believe in, and that is why they did what they have done in the House of Lords.

The question for the Conservative group in this Parliament and for the Tories down in London—the Scottish Tory MPs who all claim to speak for Scotland—is this: will they back those Lords amendments or will they not? We are about to find that out.

What the UK needs now is opposition. I agree with Richard Leonard about taking a cross-party look at the Scottish position, with the involvement of the UK Government. That seemed to be the point that he and Neil Findlay were making and that Patrick Harvie rather missed. However, Richard Leonard also needs to carry that weight in London. Frankly, Labour should be 20 points ahead of the Tories in the opinion polls, but, sadly, it does not appear that Jeremy Corbyn is a great fan of the EU or of the single market. If Jeremy Corbyn saves a Tory Prime Minister in the coming House of Commons votes on Europe, he will have sold out the very young people of our country who he claims are his bedrock support. That should not happen.

What of those Tory MPs and MSPs? Most of them used to back the EU single market and customs union—there are plenty of quotes illustrating that—but they do not back them now. The hard Brexit line about mythical trade deals across the world is the new nirvana, but that cannot be.

The big question for those Tories is: do they support the withdrawal bill as it has been amended in the Lords on the single market, the customs union, and the charter of fundamental rights? We are about to find that out. That is the situation that confronts this country.

This is not a constitutional crisis. In July, the Supreme Court will determine which of the two Governments' legislation can stand. It is working under our devolution laws and the constitution. It will do that and it will give the certainty that should have been given by politicians but was not.

We are where we are on the EU, on Brexit and on the devolved powers of the devolved nations—which, frankly, is that we are going round in circles. We have a Tory Government that is obsessed with itself, not with the people living

across the nations of the UK. No wonder people are fed up with it.

The Presiding Officer: We move to the open debate. Before I call Ash Denham, I say to members that there is plenty of time for interventions. I also encourage members, where possible, to use other members' full names—even members of Parliament in Westminster. Please use their full names, as it is a bit more respectful.

15:12

Ash Denham (Edinburgh Eastern) (SNP): In international relations, there is something known as the rational actor theory, which is that states will always act in their own best interests. The theory can sometimes be used to predict how states will act in certain situations.

International relations and politics are often about predicting behaviour and detecting red-line issues in order to move towards agreement, so that a solution can be reached whereby both sides feel they have got what they needed. It might be a round of trade negotiations in which the positions of each side—far apart at the beginning—slowly inch closer and closer until the distance between them is not so great any more. It may involve crafting a convoluted form of words so that the real meaning is diluted enough to be palatable and to satisfy both sides.

The latest proposals from the UK Government, which I am sure were painstakingly drafted and redrafted, at first glance looked much more like something that the Scottish Parliament could sign up to. However, when examined closely, the promise that they held disintegrated, like a dried rose handled carelessly, into sad, tiny fragments that will not go back together.

That is the problem that we have. We have a state with extremely asymmetric power relations between the devolved Governments and the UK Government that is facing a huge challenge in the shape of Brexit. Instead of harnessing the power of the Scottish Parliament and the Scottish Government to put all hands to the pump—to make lighter work of it across these islands—the UK Government seems intent on breaking the pump so that it does not work for anyone.

Rational actor that it is, the Scottish Government is acting in its own and this Parliament's best interests, and the UK Government—one has to assume—thinks that it is acting in its own best interests. Consequently, we are at an impasse.

The UK Government's proposals, although not of the blanket nature that they were previously, still retain the power to restrict the Scottish Parliament's legislative competence. They now—ludicrously, in my view—incorporate a mechanism

by which the consent of the Scottish Parliament will be sought when the UK Government proposes that regulations be changed although the UK Government can make regulations once this Parliament has made a consent decision even if that is a decision to refuse consent. Instead of the devolution settlement being respected, we are now in a position where the UK has seemingly gone out of its way to mock the idea of consent. Out in the real world, if we ask someone what they think of an explicit refusal being taken as a consent decision, it becomes clear just how far down the rabbit hole the UK Government has taken us.

There will be a legislative constraint on the Scottish Government but there is only a voluntary one on the UK Government. The proposals would—uniquely and for the first time ever—give UK ministers the right to use secondary legislation to alter the devolved competences of the Scottish Parliament. The UK Government wants the Scottish Government and this Parliament to trust it in this process. As the player with the greater power, it has the perfect opportunity to show trust, to demonstrate good will, to recreate or reset intergovernmental relations and to put devolution on a firm footing at this important time, but it has not done that. It asks us to trust it but, throughout the process, it has failed to show that it is worthy of this Parliament's trust.

Indeed, the Finance and Constitution Committee said:

"It is not clear to the Committee why the UK Government should be subject to only voluntary constraints while the devolved governments should be subject to statutory constraints".

It also said:

"the devolved settlement cannot function effectively without mutual trust between all of the governments across the UK."

Consequently, the committee's view is that clause 15—formerly clause 11—should be removed from the bill and that the solution to the impasse is one that involves reciprocal political commitments, with both Governments signing up to respect and trust each other. If that approach were taken, trust could be rebuilt from the fragments that remain. However, as it stands, only one Government is acting rationally. Listening to the voice of this Parliament and removing clause 15 is in the UK's best interests, and I sincerely hope that that is recognised this evening. The UK Government should show the leadership that is required.

To present this situation as a continuum with a Government at each end, as the Conservatives have done today, and to suggest that, if both Governments just compromise a bit more, all will be well is a fundamentally flawed analysis. This is not a trade negotiation. We cannot compromise

over a founding principle of devolution. Either we have a proposal that respects it or we have one that does not. The committee's view is that clause 15 does not respect it; therefore, as a committee, we recommend that this Parliament does not consent.

15:19

Maurice Golden (West Scotland) (Con): I put on record my complete support for the establishment of this Parliament, even if I was not old enough to vote for it let alone be a representative in the first session, as Michael Russell reflected. Both I and my Scottish Conservative colleagues respect and back to the hilt the devolution settlement.

Of course, as we prepare to leave the EU, we need to ensure that we are ready for the post-Brexit world. That is exactly what the UK Government is doing through the EU withdrawal bill—it is seeking to ensure that the United Kingdom continues to run smoothly.

The initial plan was for all returning powers to be managed by the UK Government until the establishment of long-term frameworks. Quite rightly, this Parliament stood united against that. We all considered the plan to be unnecessary in its scope and inconsistent with the devolution settlement. However, the UK Government has proven itself to be acting in good faith by making major concessions and reducing the number of temporarily retained powers to 24 in total.

Patrick Harvie: Will the member give way?

Joan McAlpine (South Scotland) (SNP): Will the member take an intervention?

Maurice Golden: Who have we got? I will give way to Patrick Harvie.

The Deputy Presiding Officer (Christine Grahame): "Who have we got?"—that is not very courteous. Mr Harvie, please.

Patrick Harvie: Maurice Golden asks us to believe that the UK Government is acting in good faith, which I suspect is a big part of this disagreement: his party trusts the process whereas a lot of us do not. Does he not understand that, if the UK Government proceeds and legislates anyway, without this Parliament's consent, that will have proven our side of the argument to be right and his side wrong?

Maurice Golden: I am sorry, Presiding Officer. I should have said, "Who do we have?", which would have been more grammatically correct, I believe. [*Laughter.*]

I believe that the solution to all of this is to negotiate, to get around the table and to do the best deal that will work for Scotland and the UK.

One thing that is crystal clear is that we must have consistent regulations that will apply across the UK while long-term solutions are agreed—for example, we must maintain a consistent food labelling regime rather than diverge into multiple systems, which would hurt consumers and businesses alike.

The rest of the powers that are returning from Brussels will come straight to this Parliament. That is a clear sign of the UK Government's commitment to devolution, which has already seen significant new powers over taxation and welfare devolved from Westminster to Scotland. The UK Government's approach to the returning powers is both reasonable and respectful of devolution, as is evidenced by the fact that the Welsh Government, which was opposed to previous proposals, has now endorsed it. Mark Drakeford, the Welsh Cabinet Secretary for Finance and Local Government, was very clear on that point in saying that the Welsh aim had been "to protect devolution" and that that had been "achieved".

Of course, that would be a temporary measure: the powers would reside with the UK Parliament for no longer than two years, and the regulations coming from them would last for a maximum of five years. The irony of the SNP crying foul over that five-year period is that it will have taken it longer to take responsibility for the already devolved welfare powers. The SNP should focus on the real issue, which is securing the long-term frameworks that will be needed to give business certainty, to safeguard jobs and to keep our economy running.

To do that, we need common, UK-wide frameworks on certain policy areas, which is a point on which the UK Government and the SNP readily agree. Michael Russell said as much last year, when he accepted that some common frameworks were needed. He was absolutely right about that, because the UK market underpins much of Scotland's prosperity. It accounts for more than £45 billion of trade—almost four times as much as our trade with the EU—and 500,000 Scottish jobs.

The UK and Welsh Governments have shown themselves to be willing to negotiate and agree a deal. Unfortunately, the SNP has shown that it is not yet ready fully to move past the stage of political posturing. In March, we were told that the sticking point in negotiations was down to one word: "agree". If only the UK Government would amend the withdrawal bill to say that the Scottish Parliament would "agree" to frameworks and how they were governed, a deal could be done, the SNP said. Michael Russell declared:

"It's as simple as that."

Well, the amended clause now contains the word "agree", but the SNP still will not accept it. We were also told that the lack of a sunset clause was holding up negotiations. The UK Government has included one, but there is still no sign of agreement from the SNP.

Time and again, the UK Government has engaged, given ground and tried to reach a deal, but, time and again, the SNP has moved the goalposts. Even at this late hour, it is not too late for it to put party politics aside, get back to the negotiating table and strike the deal that Scotland needs. The Scottish Conservatives stand ready to offer it whatever assistance we can to help it to do that—if the SNP is willing.

15:24

Stuart McMillan (Greenock and Inverclyde) (SNP): The first First Minister of this Parliament stated:

"There shall be a Scottish Parliament."

He followed that by saying, "I like that." If the bill that became the Scotland Act 1998 were to be drawn up today by a Conservative Secretary of State for Scotland, I wonder whether they would be able to say the same.

At the weekend, our second First Minister, Henry McLeish, was reported as saying that

"Tory ministers will use a 'power grab' to 'trample over Scotland' and strike trade deals with Donald Trump."

That is the President Trump that Foreign Secretary Boris Johnson was cooing over last weekend as he tried to encourage the UK to ditch what he described as

"the lunar pull of Brussels".

Boris Johnson also described one of the trade options that the UK Government was considering as "crazy".

We can see why the UK Government would rather have powers over areas such as fishing, farming and the environment, to name just a few of the devolved areas. It would like to be able to make new deals with others, including President Trump, thereby raising the ugly prospect of the transatlantic trade and investment partnership on a global scale. We can also see why Dr Kirsty Hughes and Dr Katy Hayward, eminent scholars in their fields, said:

"Devolution has been seen more as an irritation than as a central concern in planning Brexit."

The former clause 11, which is now clause 15, skews the power balance between the Scottish and UK Parliaments to a degree that is just not acceptable. Members on this side of the chamber see it as a power grab that undermines the

Scotland Act 1998, while the Secretary of State for Scotland sees it as

“preserving the current boundaries of devolved competence”,

by which he means, “Know your place and don’t reach for anything more.”

We need a level playing field. We need the trust and open communication that the two institutions should have between them, and that can be achieved only if there is a balance of power between them. In a poor attempt at a compromise, the UK Government has given a political commitment—that phraseology is important—that it will “not normally” use the clause 15 regulations without the consent of the devolved Parliaments. Frankly, that means nothing. That commitment by the UK Government would be voluntary, and it has been repeated so many times at committee that it has almost become the norm. The new clause 15 would place a statutory constraint on the Scottish Parliament while the commitment to wield that power wisely would be only a voluntary vow, especially if it were to be used for something that we disagreed with. We all know how reliable vows are.

The secretary of state, David Mundell, does not want

“an administration in one part of the UK to effectively have a veto on issues that affect the whole of the UK.”

He said that without a hint of irony. He does not recognise that that is exactly what the UK Government is doing to Scotland and Northern Ireland with Brexit. It is also glaringly clear that the UK Government is using the withdrawal bill in the same way that a sledgehammer might be used to put in a nail.

Crucially, the secretary of state has repeatedly refused to rule out overruling a decision of this Parliament if it decides to withhold consent. It is clear that he does not want to indulge in speculation on a hypothetical scenario. However, by 5 pm tonight, it will no longer be a hypothetical scenario, as we will know exactly where this Parliament stands on the issue. The secretary of state will then have to tell Scotland what he and his Government will do next.

Every member will welcome the work that has been done to improve the UK Government’s withdrawal bill. Every member wants the bill to be fixed so that this Parliament can sign up to it and so that we can work in the best interests of our constituents over the next couple of years, given the huge uncertainty and anxiety that are being caused by Brexit. The fact that the Conservatives in this Parliament stand alone in their position is telling. They have a Government in London that they must adhere to instead of representing their constituents.

The two reports that were published by Scottish Parliament committees last week were positive contributions to the debate. Last Tuesday, the Delegated Powers and Law Reform Committee produced a well-balanced report. I refer members to paragraphs 96, 97 and 98. Paragraph 96 states:

“This report has been agreed at a time when there continues to be uncertainty about which bill or which combination of bills will be relied upon.”

The Finance and Constitution Committee was sometimes divided in its “Report on European Union (Withdrawal) Bill Supplementary LCM”, with the Conservatives ploughing a lonely furrow or being “utterly isolated and exposed”, as Adam Tomkins might have said. However, the report’s position is clear, particularly in paragraphs 30, 75, 83, 96 and 97. The committee unanimously agreed paragraph 30, which highlights that

“the UK Government has given a political commitment that it will not normally use the clause 11”—

now clause 15—

“regulations without the consent of the devolved parliaments.”

The call in paragraph 75 for clause 11—now clause 15—to be removed from the bill is therefore understandable, and it is disappointing that the Conservatives disagreed with that position, which was taken to defend this Parliament.

Paragraph 83 highlights the committee’s unanimous view that

“the Committee remains deeply concerned about the lack of any statutory provision ... for UK Ministers to seek the consent of Scottish Ministers or the Scottish Parliament to legislate in devolved areas”.

Given that unanimous view of a parliamentary committee, how can the Parliament place any trust in UK ministers doing the right thing by this Parliament?

The UK population heard the “strong and stable” mantra about Brexit, but it is clear from what has happened since the referendum that the Brexit process is anything but “strong and stable”: it is more fast and loose. How can this Parliament, therefore, place any trust in a political commitment?

Harold Wilson once stated:

“A week is a long time in politics.”

The Brexit process is proving to be a saga of epic proportions, with an ending in sight but yet to be written. Further, politicians come and go, so a political commitment given now might become different when the Westminster political actors change, as they surely will.

I urge all members to trust this Parliament, to support this Parliament and its powers, to reject

the power grab that is in play and to please support the motion in the minister's name.

The Deputy Presiding Officer: Members will notice that I am being a little generous with speeches because there is time in hand and we are not having many interventions. You can have another 30 or 40 seconds for your speeches.

15:31

Neil Bibby (West Scotland) (Lab): Although there has been much debate about the hugely important issues of the customs union, the single market and the Northern Ireland border, the Brexit debate in the Scottish Parliament has been dominated by our response to the UK Government's withdrawal bill. Brexit is entirely without precedent, and so is the withdrawal bill. As we know, the bill would ensure that the European Communities Act 1972 was repealed after more than 45 years, it would transpose all EU law into UK law, and it would grant UK and Scottish ministers substantial new powers to shape the post-Brexit statute book.

However, today's debate is not just about the purpose of the withdrawal bill; it is also about the challenge to the devolution settlement that the bill presents, particularly with the old clause 11—now clause 15. It is about whether we are willing to grant consent to a bill that would constrain, as the Scottish Government states in its motion,

"the legislative and executive competence of the Scottish Parliament and Scottish Government".

My Scottish Labour colleagues and I are not willing to grant that consent, because this is about safeguarding devolution and defending the principle that this Parliament may legislate in all areas that are not explicitly reserved under the Scotland Act 1998.

Bruce Crawford earlier provided a summary of the Finance and Constitution Committee's latest report. There are three points that I want to echo from that report. First, both the DPLR Committee report and the Finance and Constitution Committee report found overwhelming evidence that the old clause 11 represented a

"fundamental shift in the structure of devolution"

that was incompatible with the devolution settlement. The Scotland Act 1998—the founding statute of this Parliament—makes it clear that changes to competence should be made only with the explicit consent of the Scottish Parliament. Although I acknowledge and welcome that clause 11 has been amended and that it has been the subject of ongoing negotiation, Scottish Labour cannot accept it in its current form.

Secondly, the Secretary of State for Scotland has given a political commitment that the UK

Government will not bring forward legislation to modify "retained EU law" covering England where clause 15 regulations apply for as long as those regulations are in force and are constraining devolution. However, it is not clear why the UK Government should be subject to its own voluntary constraints while the constraints on this Parliament would be statutory. I continue to see no reason why there cannot be so-called stand-still agreements based on "mutual trust and understanding". In that case, the Governments would agree not to bring forward legislation in areas where common frameworks are needed, which would in turn negate the need for clause 15 powers to be used.

Finally, and on that point, the committee recommended that the intergovernmental agreement could provide an alternative. The agreement could be amended to include clear commitments from all the Governments not to legislate where a common framework is likely to be needed, and it would represent a political solution to a constitutional dispute.

I accept that the Conservative Government may not have set out with the intention of weakening devolution or potentially sidelining the Scottish Parliament, but the withdrawal bill could well do that. To be fair, I note that the Scottish Conservatives realised from the very beginning that the scope of the powers that it would grant to ministers was unacceptable, so they stood with the other parties in demanding action and recognising that the bill could not proceed unchecked and unamended. Now, however, they are willing to accept a compromise that the UK Government has offered Scotland that is based on amendments that do not go far enough, and which does not adequately address the concerns about the new clause 15 that are shared by every other party in this Parliament and by the Finance and Constitution Committee.

Conservative members are right to say that the Welsh Government has got a deal that works for Wales, but I remind them and Parliament again that the Welsh Government's preferred option is that the Governments of the UK work together to find a common approach in which there are no legislative constraints. That is Scottish Labour's preferred option, too, and it should be the preferred option of every member of this Parliament, including Scottish Conservative members.

Even at this late stage, I appeal to the Scottish Conservatives to use their influence to try to make the UK Government see sense. If there is genuine willingness among the ranks of the Conservative Party to agree a workable solution, it can come back with further proposals.

I would prefer the dispute over the content of the withdrawal bill to be resolved through dialogue. Today, we are not in a position to consent to it, which is a matter of regret. We have reached an impasse that neither the Scottish Government nor the UK Government seems able to resolve. The time has therefore come for this Parliament to step forward and assert itself. The time has come for representatives from all sides in Parliament to be represented in talks with the Scottish and UK Governments' ministers in order to ensure that a workable solution is reached. The Scottish Parliament, and not just the Scottish Government, must be heard, so there must now be a cross-party push to find a way forward and break the deadlock. That is the responsible thing to do. We must look at alternatives and reach a deal.

I will vote for the Labour amendment not only to indicate our dissatisfaction with the EU withdrawal bill, but to call for talks to be continued on a cross-party basis. The deadlock is not insurmountable and there is still time for the withdrawal bill to be amended in the UK Parliament. Where there is a political will, there is a way; a solution can still be agreed if all the parties that are represented in the chamber have the will to find it.

15:37

Emma Harper (South Scotland) (SNP): I am pleased to speak in the debate. I am a member of the Finance and Constitution Committee, and last Thursday we published our report on the supplementary legislative consent memorandum on the European Union (Withdrawal) Bill. I thank the other members of the committee, the clerks and everyone who has participated in the committee's work.

Our committee concluded that there is still time for the UK Government to bring forward the changes that are required to the withdrawal bill. The committee's view, with the exceptions of its three Conservative members, is that the

"differences could be resolved through an emphasis on mutual trust and respect amongst governments across the UK."

Our committee convener Bruce Crawford has said:

"There is scope for a reasonable solution to be found. If there is parity and both governments are treated equally, and both are bound by political agreement, then this can be amicably resolved.

The Secretary of State for Scotland said he trusted the Scottish Government, and I welcome that, but it is time for his trust to be put into practice.

And for that reason, our Committee has reached the conclusion that Clause 11"—

which is now clause 15—

"and Schedule 3 of the EU (Withdrawal) Bill should be removed and for reciprocal political commitments to be included in the Inter-Governmental Agreement."

I am interested in protecting the provenance of our Scottish brand and the provenance and quality of our products *fae farm tae fork*, so during the committee's evidence-taking I was keen to explore the issue of protected geographical indication status for our specialist food and drink, not just from Scotland but from across the UK. There are only 65 products with such protected status in the UK, and they are crucial. They include Scotch whisky, Scotch beef, Scotch lamb, Scottish wild salmon and Scottish farmed salmon, to name just a few.

We have already heard from elsewhere that the United States is pressuring the UK to drop geographical name protections after Brexit in order to allow supermarkets to import cheap American imitations. That is not just a problem for Scotland. I am sure that the people of Cornwall do not want cheap imitation pasties that were made in Kentucky to be labelled "Cornish" any more than we in Scotland want to see cheap whisky that was made in an industrial factory in Chicago to be labelled "Scotch whisky" or artificially smoked fish from Alabama to be labelled "Arbroath smokies".

Across the world, Scottish produce is kempt for its provenance and quality. I recently met the president of Dumfries and Galloway Chamber of Commerce, Tom Armstrong, who recently visited China. He told me that China wants the products of Scotland. It values the Scottish brand, and it wants high-quality produce that is grown, nurtured and procured with the best standards. Scotland is known for that. It is crucial that we protect and support Scottish producers, from wee jam makers such as Galloway Chillies, which makes chilli preserves in Galloway, to upland sheep farmers such as Annanwater, which specialises in slow-grown lamb, hogget and mutton. Those small one-woman and one-family businesses are similar to others across Scotland, and many of them might go out of business if the UK makes trade deals that lower standards and protections, and which pursue cheap lower-quality products, including chlorinated chicken and hormone-injected beef.

Common frameworks need to be agreed and absolutely not imposed; we absolutely cannot impose common frameworks on the food producers, farmers, crofters and growers who contribute so much to the economy of Scotland.

In closing, I want to talk about trust. In 2013, in an effort to pay common agricultural policy payments more fairly, the EU paid an additional £190 million to the UK Government for Scottish hill farmers to bring their payments up to the average per hectare payments of all the other EU countries. The EU and the Scottish Government

trusted the UK Government to pay the £190 million to the Scottish hill farmers, but it did not do so; it decided to give only £30 million to Scottish farmers. Michael Gove promised a review of that money for Scottish hill farmers, but he has broken that promise.

Peter Chapman (North East Scotland) (Con): Emma Harper speaks about money from London to the Scottish Parliament. Will she comment on how the Scottish Government gets on with paying out money to farmers north of the border?

Emma Harper: Will Peter Chapman confirm that the UK Government will not override the Scottish Parliament on common frameworks?

When we consider trusting the UK Government, we need to remember the three Ws: the Windrush generation, WASPI—women against state pension inequality—and welfare cuts.

Bruce Crawford quoted the wise words of the US President Abraham Lincoln. I will do so, too. He once said:

“The people when rightly and fully trusted will return the trust.”

I find it hard to see why our farming and food-producing folk should trust the UK Government with legislative common frameworks for agricultural support, animal welfare or food geographical indications. I trust my Government and support its motion on not consenting to the withdrawal bill.

15:43

Murdo Fraser (Mid Scotland and Fife) (Con): When we previously debated a legislative consent memorandum on the EU withdrawal bill, the position of the Scottish Conservatives was very clear and, indeed, it reflected the stance that the whole Parliament took at that time. We felt that the bill, as presented, did not properly reflect the devolution settlement, so we agreed that the Scottish Parliament should not consent to it.

A lot has changed in the intervening period. The UK Government has made substantial concessions, which have meant that our previous concerns about the bill have been addressed. Therefore, our position now is that Parliament should consent to the bill.

We previously identified that there were some 111 powers under discussion that would normally fall to be devolved when they were returned from the EU. All but 24 of those will now be directly devolved back to Scotland. It has also been agreed that the remaining 24 powers will be subject to common frameworks, which are to be agreed across the whole United Kingdom. Legislative powers in those areas will be held by Westminster only on a temporary and time-limited

basis. We will ensure that, for example, food-labelling regulations will continue to be applied uniformly across the UK rather than allowing regional deviation, and will thereby protect the UK domestic market.

On this morning’s “Today” programme, the Brexit minister who is sitting on the front bench refused to accept that there is such a thing as the UK single market. That will come as news to everyone who is involved in UK-wide trade.

Michael Russell: That is not just my opinion. Professor Drew Scott, for example, has written an article about the issue, which points—*[Interruption.]* I know that the Tories hate experts, but they should have a reality check. “Single market” has a precise definition as it exists in the EU. There is undoubtedly a unitary market in the UK, but there is not a uniform one. *[Interruption.]* Clearly, as the Conservatives do not like to hear any information, there is no point talking at all.

Murdo Fraser: The minister is tying himself in knots.

Members: Hear, hear.

Murdo Fraser: Producers in Scotland want to know that there will be seamless trade across our major market, which is the rest of the United Kingdom. That is what we are trying to protect.

Our previous concerns were in line with those that were expressed by the Welsh Government. Indeed, Mr Russell, as the responsible minister, previously made it clear that there was no difference between the views of the Scottish and Welsh Governments. He said:

“we are working very closely with Wales, and we cannot envisage a situation in which Scotland would be content and Wales would not be, or vice versa.”—*[Official Report, Finance and Constitution Committee, 20 September 2017; c 25.]*

He has also talked about how the Scottish and Welsh Governments “worked in lockstep” and how they were in “exactly the same position”.

What does the Welsh Government say now about the amended European Union (Withdrawal) Bill? On 24 April, Mark Drakeford—the Welsh Cabinet Secretary for Finance and Local Government, who is Mr Russell’s counterpart—said when welcoming the changes to the withdrawal bill, that

“This is a deal we can work with which has required compromise on both sides. Our aim throughout these talks has been to protect devolution and make sure laws and policy in areas which are currently devolved remain devolved and this we have achieved.”

As Adam Tomkins has told us, he went on to say:

“London has changed its position so that all powers and policy areas rest in Cardiff and Edinburgh, unless specified to be temporarily held by the UK government. These will be

areas where we all agree common, UK-wide rules are needed for a functioning UK internal market. London's willingness to listen to our concerns and enter serious negotiations has been welcome".

There is a stark contrast between the warm language from the Welsh Government—it started in exactly the same place as the Scottish Government, but it recognises the changes that have been made to the withdrawal bill and the huge steps that the UK Government has taken to find compromise—and the carping tone we have heard from the SNP this afternoon.

We continue to see SNP representatives trying to misinterpret the effect of the amended European Union (Withdrawal) Bill, because it is abundantly clear that the withdrawal bill will not affect any power that is currently devolved to the Scottish Parliament. It applies only to EU retained law—that is, powers that are currently exercised at EU level.

There is no "Westminster power grab" as the SNP claims. There is no question that, for example, genetically modified crops and fracking could be imposed on Scotland against the wishes of the Scottish Parliament—although in both those areas the Scottish Government has got its policy badly wrong and should be listening to science and evidence, rather than to superstition and scaremongering. If there were any doubt about that, the Welsh Government's statement makes it clear that the current devolved powers will in no way be affected by the European Union (Withdrawal) Bill. It is ludicrous to suggest otherwise.

We should not forget that, in relation to all the powers that we are talking about under EU retained law, the SNP wants to see every single one of them returned to Brussels at the first opportunity, and not devolved at all. The European Union (Withdrawal) Bill is about delivering substantial additional powers to the Scottish Government, and it should be welcomed for that reason.

While the UK Government delivers additional devolution, the First Minister writes hysterical newspaper articles claiming that the UK Conservatives are intent on "demolishing devolution". Yet, it is the SNP—not the Conservatives—that opposes devolution of powers to the Scottish Parliament and wants to see them being returned in their entirety to Brussels.

There is only one explanation for the overblown rhetoric that we have heard from the SNP and for its attempt to ramp up a grievance agenda, in the light of the reasonable stance that has been taken by the Welsh Government so far. This has nothing to do with good government and nothing to do with devolution: it is all about trying to drum up support

for a second independence referendum. No member of any party that claims to support the union should have anything to do with this nonsense. It is a crying shame that we have here, today, members of the Labour Party and of the Liberal Democrats, who claim that they believe in the United Kingdom, aligning themselves with the separatists in the SNP. They are ignoring the stance that has been taken by the Welsh Government, ignoring the stance that has been taken by members of the Labour Party in the House of Commons and the House of Lords, ignoring the comments from the likes of David Steele and Jim Wallace in the House of Lords, and they are giving succour to the nationalists. They should be ashamed of themselves.

If Parliament is serious about devolution—if it really wants more powers—it should reject the political posturing of the SNP and give consent to the bill.

15:50

Alex Neil (Airdrie and Shotts) (SNP): It is a pleasure to follow the unifying voice of Murdo Fraser.

Just for the record, I do not want to give the powers back to the EU.

Right from the start of the process on the withdrawal bill, the Conservatives have been asking privately and publicly whether SNP ministers wanted a deal. There has never been any doubt in my mind whatsoever that SNP ministers have acted in good faith and have tried everything to get a reasonable deal for Scotland.

The question is, do the Tory ministers at Westminster actually want a deal? When Damian Green was there, I was fairly confident that the answer to that question was yes. Although his successor David Lidington, who masterminds the Tory negotiations on the matter, is a very nice man whom I have met—

Ruth Davidson (Edinburgh Central) (Con): Will the member give way?

Alex Neil: I will in a minute.

David Lidington nevertheless does not understand devolution or Scotland. In particular, the thing that the Tories have never got to grips with is that, although the United Kingdom is one state, we are four nations. Therefore, Northern Ireland decides what is right for Northern Ireland, Wales decides—rightly—what is right for Wales, Scotland decides what is right for Scotland and ministers in London decide what is right for England.

I will now take the intervention.

The Deputy Presiding Officer: Ms Davidson, please do not remain standing while you wait to make an intervention.

Ruth Davidson: I was not quite sure how long Alex Neil was going to be. My apologies.

The Deputy Presiding Officer: None of us is, Ms Davidson. On you go.

Ruth Davidson: I understand the concern, Presiding Officer.

Alex Neil asked whether we are sure that the UK Government wanted a deal. Yes, we are. That is why it did a deal with the Welsh Government. It is also why it amended and re-amended the deal that was on the table. How much did his Government move in the process?

Alex Neil: I am sure that the member will listen intently. I am about to explain to her why what is on the table is unacceptable. It is unacceptable for two fundamental reasons.

Despite what Murdo Fraser and Adam Tomkins say about the 24 powers that are coming back from Brussels to the UK, under the Scotland Act 1998, it is very clear that those 24 powers relate to devolved responsibilities; they are not part of the reserved list in schedule 5 to the 1998 act. As devolved responsibilities, like all the others, they should come back directly to this Parliament; they should not come back to this Parliament via a number 9 bus at Westminster. It is our responsibility to manage and run those 24 devolved responsibilities.

I have two other important points to put on the record. The first is that, if someone looks at those 24 powers, they will see that they matter. They matter to Scotland. The equivalent powers matter to England, they matter in Wales and they matter in Northern Ireland. We are not dancing on the head of a pin. We are talking about powers that could have a real impact, depending on how they are used in the economy of the entire United Kingdom or the economy of any part of the United Kingdom.

Oliver Mundell: Will the member give way?

Alex Neil: I will in a minute.

The second point that must be recorded is that we all have a common objective. We all agree on the need for common standards in certain matters over the entire United Kingdom. That is not the issue; the issue is how we agree those standards. What is the process for agreeing what those common standards should be?

Oliver Mundell: The member appears to make a pretty compelling case for common frameworks. I am interested in why he feels that the deal does not deliver that process.

Alex Neil: I am just about to explain. First, the powers relate to devolved responsibilities and, if they are going to be taken by Westminster, that should be done with our agreement, as per all the legislative agreements that went before the withdrawal bill.

The second point, which is very important, is that UK ministers in London have two ministerial heads: they have a United Kingdom head for non-devolved matters and an English head to cover their responsibility for England in devolved matters. What is on offer means that, in effect, those ministers will be the final arbiter of what happens with the 24 powers. As they represent England, they cannot be described as fair or neutral arbiters. We need a fair and neutral arbiter when there is a dispute. There might not be many disputes at the end of the day, but the current provision, under which we can make a formal presentation to the House of Commons, is totally inadequate.

Oliver Mundell: Will the member give way?

Alex Neil: No, I need to finish the point.

The current provision is inadequate because of the arithmetic of the House of Commons, where 85 per cent of the members represent constituencies in England. We cannot expect a legislator in the House of Commons who represents an English constituency, no matter how reasonable they are, to vote against their own self-interest.

Therefore, to break the impasse, we require an agreement that there needs to be some neutral arbiter, when and if there is a dispute. Perhaps it could be a committee that is chaired by somebody who is agreeable to all four Administrations, but we cannot reasonably describe the two-headed ministers in London or the House of Commons as uninterested parties, neutral arbiters or people who do not have a vested interest in a particular point of view. That is a fundamental weakness of the proposals.

There is a way through the impasse. We all want a way through it. It does not do anybody any good to have an avoidable fight. This fight is avoidable, but reason must reign in London and, at the moment, that is not the case. For ministers in London to say to the Scottish people that they will ignore the letter and spirit of the 1998 act by changing it so that they do not require the Scottish Parliament's express approval for what happens in Scotland is, to be frank, for them to treat the people and this Parliament with a total lack of respect.

Privately, some of the Tory members probably have a lot of sympathy with what everyone else is saying. Members should make no mistake: Labour and Liberal members are genuine devolutionists

and they fought hard with the Tory party to try to prevent independence from happening in 2014. Scottish National Party members are clearly in favour of independence, but when genuine devolutionists who will fight tooth and nail against independence unite with us on the matter, it sends a loud and clear message to the Tory Government in London that it is high time that it not only saw reason but made an effort to implement it as well.

15:59

Daniel Johnson (Edinburgh Southern) (Lab): I am assuming that I do not get an Alex Neil six minutes.

The Deputy Presiding Officer: There is time in hand, Mr Johnson. Do not be naughty.

Daniel Johnson: I will see how far I get.

This debate has almost been two debates. We have had a debate that has sought to look at areas of common ground and how we might actually make some progress, but we have also had a debate in which people have been all too eager to point fingers and cry betrayal. It is important to have the former debate, not the latter, because what is at stake is devolution.

Mike Russell opened the debate well by setting out the achievements of devolution. We have achieved a great many things in this place, but I think that he missed one of the greatest achievements of devolution, which is that it has been stable and robust, but it has also been dynamic. The strength of devolution is marked by the lack of disputes of this kind, because having a dispute is not always how such issues resolve themselves in nation states that have multiple levels of governance and multiple legislatures.

One thinks of the United States of America, which has a form of federal government that has been marked by disputes between the state and federal levels, whether over the use of the National Guard at the University of Alabama to ensure that all citizens could have access to that state university, or over the new deal, which was blocked by federal Government initially and spearheaded by state Governments. The United States is a country that has been marked by dispute, but that has not been the nature of devolution here.

We must protect the clarity that the reserved-devolved model has given us, and that is what is at stake today. We must reflect on the powers that are coming from the EU. That the 24 powers would ever be up for consideration was never conceived; indeed, Brexit was not conceived when the powers were set out in the Scotland Act 1998. There were reserved powers, with everything else being devolved, but there were also European

powers, separately provided for, and the status of those powers—whether they were devolved or reserved—was essentially not considered.

When we look at the nature of those powers, we see that they are very much about market regulation—we have heard about that from Alex Neil, Emma Harper and Maurice Golden. The reason why we need resolution and common frameworks is clear, so the argument is not necessarily about devolution or whether we need common frameworks. Rather, it is about how we arrive at a conclusion when there is dispute and no agreement between Governments. The problem with the legislation as it stands at Westminster is that it defaults to decisions being made by the UK Government. Yes, in the first instance, consent is sought, but if that fails the decision of the UK Government is what stands.

The mistake that is being made by some members is to assume that the debate is simply about the categorisation of powers. We have heard from Adam Tomkins that it is simply about dancing on the head of a pin. It is not, and to say that it is to make the mistake of believing that the debate is only about where powers lie. That is important, but there are three important considerations. One is where powers lie, but the second is the direction in which power flows—whether it is top down or bottom up—and the final consideration is how we can come to agreement when there is disagreement. That is fundamentally important.

Murdo Fraser accuses Labour and the Lib Dems of betraying the union. I say to him that we are doing no such thing. The real betrayal of the union is by those who invoke constitutional crisis and threaten devolution itself, because the union relies on the devolution settlement. It is really that simple, and it is his party that is putting the union at threat.

Fundamentally, it comes down to a division over trust—there is a lack of trust from the Scottish Government—and a fundamental lack of understanding of devolution from the UK Government. The UK Government has failed to understand not just how devolution works but the importance of devolution to Scottish people, because it is the Scottish Parliament that Scottish people see as the natural locus of power in Scotland. There has been a fundamental failure to recognise that point. However, the Scottish Government has failed to demonstrate any form of trust at all. There has been an assumption that there would be bad faith in the process.

Patrick Harvie: Can Daniel Johnson point to any action of the UK Government throughout the Brexit crisis that shows that it deserves to have trust placed in its word? Does he accept that, if the UK Government legislates without our consent

through the bill, it will absolutely have justified the lack of trust that I personally feel?

Daniel Johnson: I agree with Patrick Harvie that if the UK Government legislates without consent through the bill, that would demonstrate a lack of trust.

The UK Government has moved, but we must move it further. As my colleague Neil Bibby set out clearly, we must find a political settlement and solution, and that is possible. The powers have been exercised in a complicated way through European frameworks, which use byzantine procedures in the Council of Ministers and the European Commission, with qualified majority voting. Surely a mechanism for reaching agreement between four nations is easier to find than one for reaching agreement between 27. A political solution can and must be sought, and that is why Labour Party members stand behind the proposal for multi-party talks to find that solution and mechanism.

Ultimately, devolution is not static. It has changed and evolved—even through crisis, when a party in this Parliament sought to use its majority to break up the United Kingdom and seek independence. It was through agreement—the Edinburgh agreement—that the way forward was found. It is, in a sense, remarkable that the UK Government came to an agreement over such a fundamental issue. It is a shame that it has forgotten that culture of consensus as a means of finding solutions and ways forward through the devolution settlement.

No one will thank us for grandstanding. As Neil Findlay pointed out, this is a distraction from the real problems that we were sent here to solve, such as tackling inequality and poverty and securing good work for all Scots. We must end the uncertainty, and both Governments need to get back round the table to find a mechanism for dealing with the frameworks. We all agree that that must be found.

16:07

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): We have heard today that the chaotic muddle that is Brexit is set to take away a lot more than jobs and trade. Without the removal of the clause formerly known as 11, we will enable Theresa May's Government to begin dismantling the very framework upon which this Scottish Parliament was reconvened. What is not reserved is therefore devolved—that is the agreement.

Like a cut that begins with a trickle and develops into an arterial gush, the damage that is Brexit is leaking and spreading. Scotland alone has 134,000 people in jobs supported by EU trade.

Skilled EU nationals are leaving these shores every day. I know many of them, including those in the health and social care sectors—people whom we need greatly in those areas. A hard Brexit could lead to a loss of 8.5 per cent of gross domestic product in Scotland by 2030, which is equivalent to £2,300 per individual. That is a remarkable impoverishment, with unthinkable consequences for individuals, families and our society as a whole.

On top of that insult comes the potential for real constitutional attack. We are facing a blatant and highly alarming attempt to begin withdrawing the very powers for which the Scottish Parliament was reconvened. David Mundell has repeatedly refused to say that the UK Government would not overrule a decision of the Scottish Parliament to withhold its consent on the withdrawal bill.

Adam Tomkins: Will Christina McKelvie please identify even a single power that this Parliament currently has that is under threat of being taken away by the withdrawal bill?

Christina McKelvie: All of them, because, quite frankly, I do not trust those people with any of them. Under the current UK Government proposal, we could for the first time ever see the powers of the Scottish Parliament change without the consent of this Parliament. As Patrick Harvie pointed out, the definition of consent in the proposals is a very interesting one, and not a definition that I understand. Is this Mrs May's strategy for dismantling the devolved powers that we have worked so hard to retrieve, I wonder?

The Scottish Government is not opposed to UK-wide frameworks when they are in Scotland's best interests. We know that. What we will not tolerate is being ignored, punished and kicked to the side by those who want imperial control. We need trust and respect—qualities that are in very short supply in the UK Government and, in many cases, in this chamber—and we need to agree to proposals, not have them imposed upon us. That is the important point: they are being imposed upon us—not for us, but against us.

This is arguably the most serious attack on Scottish democracy since this Parliament was reconvened nearly 20 years ago, on what was a proud day for many of us. We all worked long and hard to make devolution work, and it has largely been successful. We have made Scotland a better place and behaved with wisdom, justice, compassion, integrity—well, some of us have—and, mostly, dignity. In doing so, we have won national and international respect as a Parliament. We should never do that down; it is something in which all of us in this chamber can take justifiable pride.

The Scotland Act 1998 that created this place opened with the now-famous words:

“There shall be a Scottish Parliament”.

Those words are immortalised on the mace that sits in front of us today. They were not just an aspiration; they were a promise to our people, a statement that old wrongs would be righted, and a declaration of intent that our new democracy would be modern, civilised and forward thinking and that we would be the keeper of our own house.

The words that brought this Parliament into being most assuredly did not say, “This shall be a Scottish Parliament subject to the whims of convenience of politicians in London who can strip away its powers for their own ends whenever it suits them, without consent”. That is not what those words say. We are not going to surrender what we have achieved. We are not going to hold the door open while Mrs May and her acolytes trample all over this place and threaten to close us down if we do not behave ourselves and do what we are told. It sounds a bit dystopian, but I never thought that it would become normal to tell someone with a terminal brain tumour that they were fit for work. I did not think, either, that a family that used a small front bedroom to keep dialysis equipment for its young son would ever be told to pay a bedroom tax. It is dystopian—and I do not trust the Conservatives with my country.

I did not think, either, that that family would have to face those tragedies and trials in the way in which we are having to face them today. EU law provides us with protections and employment rights, equality rights, the right to belong to any religion or none and the right to a safe home, and it provides us with food and livestock standards that cover the quality and provenance of the meat and other food that we eat. The UK Government seems to be rubbing its hands with glee while pondering which EU laws to delete or withdraw. The lack of any commitment in this bill to the charter of fundamental rights tells us everything that we need to know. The UK Government asks us to trust it. How can we do that when we see that it does not actually trust us? The door could soon be open to fracking, genetically modified crops and eating chlorinated chicken—nothing that I want to see.

I can never accept this attack on our freedom, our democracy or our right to do what is in the best interests of our nation—the nation of Scotland. I am confident that this Parliament feels the same. We will defend ourselves against anybody who undermines the powers of this Scottish Parliament. Call that defiance if you will, Presiding Officer, but, in “The Philosopher and the Wolf”, Mark Rowlands reminds us:

“In the end, it is our defiance that redeems us”.

With belief and resolution today, let us redeem ourselves, support the motion and tell the UK Government, in a manner that demands that respect, to get back to the table and talk to us.

16:13

Donald Cameron (Highlands and Islands) (Con): This motion is being debated today in tandem with the equivalent motion in the Welsh Assembly, just before the third reading of the withdrawal bill in the House of Lords tomorrow. Wales and Scotland were, of course, meant to present a united front. It was claimed that both Governments shared an “identity of purpose” and stood together. The minister was quite clear that he could not

“envisage a situation in which Scotland would be content and Wales would not be, or vice versa.”—[*Official Report, Finance and Constitution Committee*, 20 September 2017; c 25.]

However, it has not quite worked out that way. The Welsh Government has not played ball. It has quite reasonably concluded that the present deal protects devolution and it has signed up to it. Mark Drakeford, the Labour Welsh minister, said this afternoon:

“We have defended and entrenched our devolution settlement. We have provided for the successful operation of the United Kingdom after Brexit. We have provided a good deal for the Assembly and a good deal for Wales.”—[*Record of Proceedings, National Assembly for Wales*, 15 May 2018.]

The deal is good enough for Mr Drakeford, but not good enough for Mr Russell—I wonder why?

Michael Russell: For completeness, we should also mention something else that Mark Drakeford said this afternoon. He said that it was right for Wales to back down while Scotland fights on, because Wales voted leave and Scotland voted remain.

Donald Cameron: If that is the excuse, of course the minister must accept it.

There has been much talk about the devolution settlement. In the House of Lords debate last week, Lord Hope, the most senior Scottish judge in that legislature, made an important point when he counselled against elevating the Scotland Act 1998 beyond its status. He said:

“the purist argument—that of principle—does not really apply here ... We are dealing with a different, rather more subtle, situation in trying, as the Minister said, to create a functioning internal market with what has come back to us from Europe.”—[*Official Report, House of Lords*, 2 May 2018; Vol 790, c 2169.]

Other commentators have said the same thing. The 1998 act is not some sacred text that

operates in a vacuum, not least since it never envisaged Brexit.

Gillian Martin (Aberdeenshire East) (SNP): Will the member take an intervention?

Donald Cameron: No. I would like to make some progress.

In that sense, I suggest that the amended clause 11 is no more and no less than another step in the evolution of devolution. Its amendment rightly addressed the significant concerns that many people, including members on these benches, had about its original form. It is now more targeted and proportionate. It is built on the principle of collaborative working, balanced against the responsibility of the UK Parliament—not the UK Government—to act when there is an impact across the UK in the interests of the UK as a whole. In so doing, the bill will protect the UK internal market and the many jobs and businesses that depend on it. Anyone who votes against consent tonight should bear that in mind.

On the other hand, the demands of the SNP would lead to any devolved Administration having an absolute veto on matters that have serious implications for the whole of the UK. It is that which truly threatens devolution.

The clause puts some of the hyperbole into perspective, not least the blood-curdling accusation that the Scottish Conservatives want to completely demolish devolution. What? It was a Conservative Government that extended devolution so significantly in 2016. It was a Conservative Government that enacted the recommendations of the Smith commission and was responsible for the transfer of powers over income tax and welfare a mere two years ago.

As for the “power grab” sloganeering, it is sad to see the minister stooping that low. Not one power of Scottish Parliament is being removed. In no way will Parliament stand diminished as a result of the bill. Instead, it will be enhanced.

Patrick Harvie: Will the member give way?

Donald Cameron: I am sorry, but I do not have time.

It will have 111 additional powers, of which only 24 will require a UK common framework, which even the SNP accepts is necessary.

The actual dispute here is about the temporary solution that is necessary while permanent frameworks are being established. The amended clause 11 does not seek to construct everlasting constitutional foundations; it is merely a temporary fix.

While I am talking about power grabs, let me turn to the greatest irony of all. The SNP would prefer every power that is coming back to the UK

and Scotland to be returned to Brussels. Let us imagine the scene. An independent Scotland rejoins the EU and the Scottish Government comes to the chamber to explain that each and every one of those 111 powers has to be automatically surrendered to Brussels. There would be no question of consent. The powers would be swiftly gathered in, packaged up and transferred to the EU, to languish in some dusty Brussels corridor, in the hands of the European Commission.

Gillian Martin: Does the member not agree that one aspect of his job is to make sure that whatever comes back from the UK to this Parliament that affects Scotland should be scrutinised and voted on by the people who have been elected to this Parliament?

Donald Cameron: The member’s own Government accepts that there is a need for common frameworks in certain areas of what comes back from EU retained law.

The fact is that we would see devolution in reverse if the SNP returned all those powers to Brussels. The SNP has perpetuated many myths during this sorry saga, but the power grab myth is the greatest sham of all. What the SNP demanded, the UK has agreed to. The SNP demanded recognition that powers would be presumed to sit at a devolved level, and that was conceded. The SNP demanded that co-decision making was imperative, and it was conceded—the amended clause 11 sets out a collaborative approach. The SNP demanded a sunset clause, and it was conceded. The UK Government has made concession after concession, with absolutely no movement from the Scottish Government in return. Again, I wonder why.

I respect Mike Russell. He is a pragmatic politician who, I believe, would have done a deal had others not intervened. For the SNP, it is not about identity of purpose; it is about the politics—it always is—and the politics point in only one direction. As ever, the SNP’s eyes are on a different prize. This is just the latest move by the SNP in its game of constitutional chess—its latest gambit aimed at agitating the Scottish population towards a different outcome.

This is a sad day. It is sad because the issues that are at stake could easily have been resolved if trust had been maintained. It is sad because once-principled unionist parties prefer a short-term strike to a long-term deal in the interests of devolution. It is sad because, once more, we are debating in the chamber matters of the constitution at the expense of practical everyday issues that affect the lives of those whom we are privileged to represent.

16:20

Richard Lochhead (Moray) (SNP): I confess that I am one of the oldies, in that I was here in 1999 for the fanfare of the opening of the Scottish Parliament. Since then, every time that I have spoken in debates about powers for the Scottish Parliament, it has always been about new powers coming to the Scottish Parliament, and we have talked about the vision, the imagination and the ambition in what we can do with new powers to build a better Scotland. Therefore, it is very regrettable and sad that I have to speak today about a threat to take powers away from the Scottish Parliament. We should all be clear that today is a really important day in the history of devolution, and I hope that as many of us as possible will stand together and defend our Parliament when it is under threat.

The people of Scotland went to the polls in the June 2016 EU referendum and voted to remain, but parts of the UK voted to leave, so we are leaving the EU. However, I suspect that the 38 per cent of Scots who voted to leave did not appreciate that, by voting to leave the EU, they would perhaps contribute to, or enable the UK Government to deliver, a threat to the powers of the Scottish Parliament. Indeed, it is ironic that people voted to leave to decentralise power away from Brussels to the UK, but that that vote is now leading the UK Government, under the guise of Brexit, to potentially centralise powers from the Scottish Parliament back to London. That is an irony that the Scottish Parliament should tackle.

I have no doubt whatsoever that people across the country who are watching the debate, or hearing about it in the news, will expect members of the Scottish Parliament to stand together in the national interest and protect the powers of the Scottish Parliament, because devolution is under threat. What started as a debate about the need for UK frameworks following Brexit has resulted in the UK Government wanting to be able to negotiate in devolved areas without the consent of the Scottish Parliament—the undermining of devolution.

There is a good case for common frameworks in the 24 policy areas in which the UK Government says that it might want to legislate, because we all accept that there should be, and it makes sense for there to be, UK common frameworks—we share the same islands and some of the same priorities on many of the issues. However, we have moved into new ground. The UK Government wanting the ability to legislate and tackle devolution is something completely different. Adam Tomkins stood up and said that those UK frameworks are very important, so that we do not undermine the UK's integrity or jeopardise the UK's internal market. To me, that is

just a euphemism for the UK Government wanting the ability to put the brake on Scotland doing anything differently from the rest of the UK in devolved areas.

The UK Government says that it will not impose regulations in the 24 areas, but the Finance and Constitution Committee makes a very good point in paragraph 51 of its report, which states:

“The Committee's view is that the commitment that common frameworks will not be imposed is contradicted by the ‘consent decision’ mechanism created by the UK Government's amendments to Clause 11 which would allow the UK Government to proceed with regulations without the consent of the Scottish Parliament.”

In this debate, it is important to look closely at the 24 areas in which the UK Government potentially wants to regulate without the consent of the Scottish Parliament. Those areas include agricultural support; genetically modified organisms; animal welfare; environmental quality, waste packaging and product regulations; fisheries management and support; food labelling; and nutritional health claims, composition and labelling. Those are just some of the 24 areas in which the UK Government might, judging by its track record, want to take a different policy position from the Scottish Parliament.

We are talking about powers coming back from Brussels to the UK. Those powers were negotiated by the UK in Brussels, with Scottish ministers in attendance, for many years. For nine years, I attended those negotiations in Brussels and I found that there was often resentment towards devolution from many of the UK secretaries of state. They did not like the Scottish Parliament and the Scottish Government adopting policy positions that were perhaps not flavour of the month with the party in power at UK Government level.

If we look at fishing, for example—an area that the UK Government might want to regulate without the consent of the Scottish Parliament—there was an issue to do with the UK Government supporting the privatisation of the fish quota. Just think about that for a second—the privatisation of billions of pounds-worth of the Scottish fish quota. It would be open for anyone across the world to buy up, denying opportunities for our fishing communities to fish their own waters. Furthermore, the UK Government top-slices the UK quota before it is divided up between the devolved nations and the rest of the UK—a double benefit for fishermen south of the border. The fact is, as Alex Neil highlighted, UK ministers often have to wear two hats.

There is also the issue of agricultural support, on which the UK Government regularly takes a position in relation to EU regulations that there must not be direct support for Scottish farmers or

the rest of the UK farmers. We continue to have direct support for farmers in Scotland only because the UK was outvoted by the rest of the EU member states. Members should ask themselves—what will the position be post-Brexit, when we are not protected by the EU?

To summarise, I believe that the UK Government wants to have the option of regulating in the 24 areas without the consent of the Scottish Parliament in order to stop Scotland doing something different and doing what we were elected to do. Adam Tomkins and the Conservative Party have created this new category of devolved powers. We have the devolved powers that we have at the moment—apparently, they are being protected. Then there are the reserved powers, which, according to the Scotland Act 1998, will stay with the UK Government. Now the Conservatives say that there is a third category of powers, over the issues that are devolved but which used to be decided by Europe, and that they should stay with the UK Government or the UK Government should have the ability to regulate on them.

The point is that within the UK, the 24 powers—including on fishing and farming—are devolved. There is not a third category. Once those powers come back from Brussels to the UK, they are devolved—that is why they should come to this Parliament. I urge all parties to stand together and protect the Scottish Parliament and protect devolution today. It is a shame that the Conservative Party is not getting behind this. When it comes to devolution, the Conservative Party seems at best lukewarm; at worst, it is only political expediency that leads the Scottish Conservatives to support devolution in this country.

For the rest of us, we can stand together—we can get behind this Parliament. We can get behind each other to protect devolution in this afternoon's vote, and I urge members to do that for the sake of Scottish democracy.

16:27

Gillian Martin (Aberdeenshire East) (SNP): A fundamental responsibility of members of this Parliament is to ensure that its powers cannot be diminished without the consent of the people of Scotland. The withdrawal bill, to which we are asked to give our consent, gives that power over to the UK Government and aims to press ahead, even if that consent is not given today.

The withdrawal bill, as amended, would grant to UK ministers the ability to restrict the powers of Scottish ministers. It would, uniquely—for the first time ever under devolution—give UK ministers the right to use secondary legislation to alter the

devolved competences of the Scottish Parliament. That affects each and every one of us.

I am deeply concerned about the lack of any statutory provision in the withdrawal bill for UK ministers to seek the consent of Scottish ministers or the Scottish Parliament to legislate in devolved areas. That ultimately undermines the competence of our Parliament and it goes against the constitution.

No one is arguing that there should not be UK common frameworks, but their formation should result from a joint negotiation between Parliaments, not an imposition of one Parliament's will over the others. We should have the right to vote on whether we accept the frameworks, when and if they affect devolved areas, as we have done for 20 years. Take agriculture—Richard Lochhead mentioned agriculture in his speech, to the point where I should just say, "What he said." However, 85 per cent of Scottish agricultural land is classed as being within a less favoured area, which takes into account the challenging geographical conditions that face many of Scotland's farmers and crofters.

We know that the UK Government has confirmed that all UK farmers will continue to receive the current level of EU subsidies until 2024, but there are still so many questions to be answered about a replacement. If a less favoured area support-type scheme was unable to continue, the impact on rural Scotland would be devastating.

Peter Chapman: Will the member give way?

Gillian Martin: No, thank you.

A month ago, I asked whether the UK Government had carried out an impact assessment on the withdrawal of LFASS from the Scottish agricultural sector and the answer was no. Further, the recent delay by the UK Government of its promised review of how EU convergence uplift payments are distributed does not inspire confidence in common frameworks being entrusted solely to Whitehall. If the Scottish Parliament grants its consent to the EU withdrawal bill, we cede power over the formation of frameworks for agricultural support to a Government that neither understands nor prioritises rural Scotland.

Fisheries are devolved, and decisions that affect the regulation of Scottish waters and vessels should be made in Scotland, for obvious reasons that have been outlined by many of my colleagues. As Stewart Stevenson said when he intervened on the minister, a recently leaked Westminster fisheries paper showed that the UK Government intends to retain a veto over international negotiations. That suggests that the UK Government is intent on imposing arrangements on Scotland. When it comes to a

Brexit negotiating point, I just do not trust the UK Government to prioritise fishing over, say, the car industry.

Ruth Davidson: Will the member take an intervention?

Gillian Martin: No, thank you.

For that reason, I think that the interests of the Scottish fishing industry would be best served by the Scottish Government being front and centre as those frameworks are negotiated, not waiting for a top-down edict that we cannot vote on in this Parliament.

I am also concerned that the withdrawal bill sets a precedent for other Brexit-related UK legislation, particularly the trade bill. Regardless of the precedent, if we consent today, we also cede power on procurement decisions. With EU procurement arrangements being out of the window, what could that mean as Liam Fox ties himself in knots courting the favour of Donald Trump over trade? A relaxation of procurement laws could well be tied up in a trade arrangement with the US that could see our public services adversely affected. Could that impact on NHS Scotland? I do not want us to be unable to scrutinise and vote on those bills, and the Conservatives should be standing alongside us all on that.

The UK Government has refused to rule out the weakening of food and drink standards through trade deals. The result of that might be the influx of low-grade products, as Emma Harper mentioned. Ross Finnie of Food Standards Scotland said that

“it will be difficult for Scottish stakeholders’ voices to be heard, or for the needs of businesses or consumers in Scotland to be given priority”.

The reservation of those powers to Westminster would prevent his organisation from operating effectively.

Our Government is prioritising tackling obesity and alcoholism. Reservation to the UK of policy and legislative frameworks on food standards and labelling mean that Scotland will not have the competence to regulate in this area to improve public health.

We all know about the issues around Scotch whisky and the EU protected food name schemes that are in operation at the moment. There are still no answers in that regard, either.

We can see that there is a direction of travel that I do not think is particularly good for Scotland. Why, therefore, would we want to relinquish any of our legal ability to legislate on devolved areas and why would we accept new frameworks without the ability to vote on them?

Bruce Crawford is right to say that we are being asked to trust the UK Government when it does not trust devolved Governments. The UK Government should take clause 15 and schedule 3 out of the withdrawal bill and respect the constitution and the people of Scotland. Let us not forget that the people of Scotland did not vote for any of this, but they might feel a lot better about the situation if they knew that their Parliament was representing them in a devolution settlement that they most definitely did vote for.

The Deputy Presiding Officer (Linda Fabiani): We move to the closing speeches. I remind all members that, if a member has taken part in the debate, they should be present for the closing speeches.

16:33

James Kelly (Glasgow) (Lab): I thank the Finance and Constitution Committee officials and clerks, and the witnesses, for the work that has been done on producing the committee report, which is the platform for this debate.

This is an important part of the process. However, it is not the end of the process. That is why, tonight, Labour has said that it will support the Government motion signalling that Parliament will not give its consent to the legislative consent motion on the EU withdrawal bill, but has also lodged an amendment urging cross-party talks involving Mr Russell and David Lidington.

Over the months, on this crucial issue we have had a number of debates that have centred on the allocation of powers and how disputes have been resolved. Here is where we have got to on the issue of clause 11, which has now become clause 15. While there was real frustration—shared by even the Conservatives—about the original clause, in that the list of powers would be taken to a UK level rather than devolved to the Scottish Parliament, the latest proposal from the UK Parliament tries to resolve that but does not deal properly with dispute resolution. If there were to be a dispute over powers, under retained EU law, that had been taken temporarily into the UK Parliament, and the Scottish Parliament had not consented to that, that would have to be resolved on the floor of the House of Commons and the Scottish Parliament would not have a vote on it. Ministers would have a say, but not a vote. That would create a power imbalance, and that is the fundamental issue that Labour, the Liberal Democrats, the SNP and the Greens have with the proposal that has been put forward.

From that point of view, it is important to recognise a point that Neil Findlay made: the motion that is before us today is only one that expresses a view; it is not the end of the process.

Therefore the proposal for cross-party talks, which has been positively received by Mike Russell—there has also been some positive indication from David Lidington—should be explored.

Patrick Harvie, who I know is very exasperated by the whole process, is perhaps too keen to reach the end. It is important to bring all the parties into the process. Alex Neil made a very—

Patrick Harvie: As James Kelly knows, I have not said that we will oppose Labour's amendment. I am sceptical that another round of talks will offer anything. What does Labour expect to happen as a result of those talks? If the UK will not relent and reverse its position, what else is there?

James Kelly: This debate has been very useful, in that we have had some practical suggestions. Alex Neil was right to point out that if we have a situation in which Labour and the Liberal Democrats, who both opposed independence, and the SNP and the Greens, who both supported it, can get round the table and explore the issues with the UK Government, there will be a potential way forward.

Neil Bibby made a powerful contribution that put forward the case for an intergovernmental agreement. We also heard from Alex Neil on the possibility of a committee of the regions, or of the different Parliaments, which could resolve disputes. Those suggestions show that there are still possibilities out there that could be explored by cross-party talks. I urge Patrick Harvie to take that on board.

Daniel Johnson was right to point out that Mike Russell's contribution emphasised the merits of devolution. If that could be handled correctly, there would be an opportunity not only to protect the devolution process but to enhance it. If we can get the common frameworks right and have them set up in such a way that they are agreed by both Governments, we can ensure that the powers that will come to this Parliament will enhance devolution.

Neil Findlay quoted the example of procurement, which gives us a very powerful opportunity to ensure not only the fairer awarding of public procurement contracts in Scotland but the implementation of policies that would help to grow the Scottish economy fairly.

There is an onus on all parties in the chamber to send a signal tonight not only that the settlement that is currently on the table is not acceptable, but that we will not give up on that. As we move forward with the cross-party talks, there will be a real opportunity to influence the process of the final House of Lords and House of Commons consideration of the withdrawal bill. We have a duty to ensure that that happens. Not to do so would see us heading down a disastrous route on

which we would end up in the courts and in a potentially chaotic situation, which would not serve well the people who sent us to this Parliament.

16:40

Jackson Carlaw (Eastwood) (Con): I will start on a note of agreement with Mike Russell. When the whole process began, neither of us hoped or expected that this is where we would be this afternoon, but it is indeed where we are. I refer back to the contribution of the Scottish Conservatives during this whole exchange. Even Mike Russell might have expressed some surprise, back in September, when he asked for support from all sides of the chamber and found it forthcoming from us. We accepted that the withdrawal bill as published was unacceptable. We listened, and we have worked in an effort to reflect and represent the concerns of the Scottish Government. Our whole objective has been to get to a point at which the Government would feel able to recommend to the Parliament approval of an LCM.

We noted the various requests that the Scottish Government made, and we believe that changes have been achieved. I do not see Bruce Crawford in the chamber, but, when he spoke on behalf of the Finance and Constitution Committee, he referred to the fact that changes to the withdrawal bill had been achieved, and I respect the fact that he did so. We also explained that the negotiation had to take account of other factors, too. In the most recent debate that we had on the issue, I tried to explain that it was a quadrilateral rather than a bilateral discussion and that the UK Government and other parts of the UK were concerned that, in the frameworks that had to be established, there needed to be a process of agreement that took account of the fact that the expectation that the Scottish Government could exercise a veto over what would ultimately be decided was not an acceptable outcome.

It is important to emphasise that, despite the way in which some might wish to characterise it, our responsibility as Scottish Conservatives is not simply to represent the UK Government's view but to offer a considered reflection on the UK Government's position. That is why, throughout the whole process—even in the new year—we expressed frustration about the lack of progress and the failure to put an alternative clause 11 on the table. However, we now believe, as do the Welsh Assembly Government, Labour peers in the House of Lords and Liberal Democrats in the House of Lords—I am not sure whether the Liberals have consulted their two Scottish MPs in the House of Commons on whether they share their views; some doubt has been expressed that that is the case—that the changes that have been

achieved reflect many of the requests that Mike Russell made.

Ash Denham: Will the member take an intervention?

Jackson Carlaw: I may in due course.

Mr Russell said that the problem was with the word “agree”. Clause 11 was changed to become clause 15, which expressly uses the word “agreement”. He talked about the need for a sunset clause; a sunset clause is now there. He talked about the need for there to be co-decision making, and that is what the process of the new clause was designed to achieve.

In his opening speech, Mr Russell gave a rather sentimental introduction about the origins of devolution, to which everyone would lend their support, but I disagree with the conclusions that he drew thereafter. Adam Tomkins set out in detail our analysis of the bill as amended, and specifically of the amendments that have been made and the effect that those changes would have. He quoted Mark Drakeford, and I heard what Mr Russell said in response to the Labour Party about Mark Drakeford. He seemed to say that the Government in Wales was now more determined to achieve Brexit than it was to stand up for the principles of devolution, which I thought was both ungenerous and unfounded. I do not believe that that is the case at all. I believe that, through the course of negotiations, the Government in Wales came to believe—just as David Steel, Jim Wallace and Labour peers in the House of Lords did—that the agreement that had been arrived at was reasonable.

Neil Findlay said that the source of the problem was the fact that David Mundell, Ruth Davidson and David Lidington had failed to achieve a new clause 11. They said that they would achieve a new clause 11 and they did. It is one that the Labour Party in Wales supports and that no Labour peer in the House of Lords spoke against. Tavish Scott gave a long list of all the things that Liberal peers spoke against in the House of Lords, but they did not speak against the particular provisions that we are discussing this afternoon, which makes a nonsense of his argument—it almost disproves the point that he made.

Tavish Scott rose—

Jackson Carlaw: I will come back to Mr Scott in a moment.

Neil Findlay rose—

Members: Give way!

Jackson Carlaw: I have a queue. I will give way to Mr Findlay first.

Neil Findlay: Can Mr Carlaw tell us why, when Labour put forward proposals in the House of

Commons that would have resolved the problem and saved us from having all these discussions the Tories got whipped to vote against those proposals? Mr Carlaw is turning to Mr Tomkins so he can ask him what the answer is, as he does not know.

Jackson Carlaw: It was exactly the same as what happens in this Parliament at stage 1 of the bill process, when amendments are not considered but are then considered at the report stage—that is exactly what happened. We are now at a point at which Labour in the House of Lords and Labour in Wales agree but Mr Findlay does not. One is led to the conclusion that the Labour Party in Scotland sees the politically expedient argument but not the principled argument for devolution.

We have also heard arguments in the debate about a power grab, but we have just passed the Social Security (Scotland) Bill within the past fortnight, which arose as a result of new powers being transferred to this Parliament. Further, Derek Mackay produced a budget, which we opposed, that increased taxes because of new powers that the Westminster Government transferred to this Parliament. As a result of the Westminster withdrawal bill, there will be the most enormous transfer of powers to Scotland as we leave Europe. The bill is not a power grab but a power transfer to the Scottish Parliament.

I enjoyed Tavish Scott’s entertaining constituency association lunch speech from last Saturday, and I am sure that the six of them around the table all found it very amusing, but Mr Scott had nothing at all to say about the debate that we are having this afternoon. We have heard all manner of arguments this afternoon, and we heard from Alex Neil again about the whole misunderstanding of what we are being asked to do. We are being asked to approve a bill that says that no one member state can unilaterally change the existing arrangements being transferred—*[Interruption.]* No, the bill does not give the UK Government the power to unilaterally change the arrangements; the bill says that, until the frameworks are agreed, when the powers come back from the European Parliament to the Westminster Parliament, no one country within the four member states can unilaterally change those arrangements.

We have been through an extended debate over the past few months. However, I ultimately believe that, as has been suspected, the Scottish Government is actually more motivated to produce further grievance to justify an argument for fighting for independence. I am surprised that the midwives of that argument have turned out to be Tavish Scott and Mr Findlay—shame on them. This afternoon, we should recognise that there is a

whole argument to be had going forward about how we best represent Scotland's interests in the discussions that are going to take place. My single worry is that Mr Russell's and the Scottish Government's actions will have undermined the confidence and trust in Scotland's voice in those framework discussions as they proceed—that would be the tragic outcome of this afternoon. We should support the LCM and allow Scotland to proceed.

The Deputy Presiding Officer: I call Michael Russell. Can you take us to just before decision time, please, minister?

16:48

Michael Russell: I doubt whether there has ever been so much concern expressed for the people of Wales by the Scottish Conservatives—or, indeed, by any Conservatives. It is a charity that was extended this afternoon even to the Lib Dem peers and, finally, to the Lib Dem MPs. The only people whom the Scottish Conservatives do not appear to be concerned about are the people of Scotland, the vast majority of whom voted for devolution in 1997, against—let us remember—the express wishes of the Scottish Conservatives. That is the problem in this debate: the Scottish Conservatives have form in being against devolution, and they have shown that form again this afternoon.

I confirm to the Tories that I did—and still do—want the process of negotiation to lead to an agreement, but not any agreement and not at any price. What we are being asked to do this afternoon is accept any agreement at any price—or, rather, any Tory price. I also confirm my agreement to the Labour amendment. I wrote to Richard Leonard yesterday, indicating what I would do at the conclusion of today's debate. If this chamber chooses to confirm that it will not give legislative consent, I will write to David Lidington this evening, asking him to come to the Scottish Parliament and meet the parties, including the Conservatives, in order to sit down and to find, if it is possible, some new ways forward.

Some ideas have been mentioned in the debate that are worth exploring. Alex Neil drew a very good distinction between UK Government frameworks and UK frameworks. Although some of the proposals—for example, a way in which there could be a committee of ministers that arbitrated—have already been raised in the House of Lords and have been defeated there, it would be worth exploring those issues. We will support the Labour amendment at decision time, and I will immediately act upon Parliament's decision today.

However, let us suppose for the sake of argument that, at the end of the day, the Tories impose their will on this Parliament. What would that mean? If we stand back and look at what it would mean, we understand the enormity of the situation. What is being proposed is that the Tories in London, using the votes of the Democratic Unionist Party, will hand the power of veto over the decisions of this elected Parliament and Government to the Scottish Conservatives—to a minority within this chamber. That would be the effect of what took place, because, for seven years, the Conservatives would be able to veto anything that we chose to do. That anti-democratic action would benefit only the Conservatives. They would use the votes of the DUP to, in essence, muzzle this Parliament, and that is not a price that we should pay.

Why would they do that? Why would the UK Government and the UK Tories offer that prize to the Scottish Conservatives? We heard the answer this afternoon: it would be in exchange for fanatical support for Brexit. These people were opposed to Brexit. On the day after the referendum, Ruth Davidson demanded that we continue in the single market and the customs union, but we heard from the Tories not a single word of criticism of Brexit this afternoon, nor will we hear that, because the way to success in the Conservative Party in Scotland is to be an extreme born-again Brexiteer. Of course, the person who takes to that extremism like a duck to water is Murdo Fraser, as he showed this afternoon in his extreme view of Brexit.

That is regrettable, because it is doing damage to the very people whom they exist to serve. We heard an example of that from Peter Chapman. At the very moment when he was speaking up for Brexit, the people to whom he is apparently closest—the people at NFU Scotland—were issuing a press release talking about the on-going uncertainty of Brexit and the damage that it would do to the agriculture community. In fact, this is not a victimless crime. While the Tories attempt to grab power in this Parliament, people, interests, organisations and businesses are suffering the chaos of the Tory Brexit, and it is being backed by the Scottish Tories.

We heard a range of misconceptions from the Tories this afternoon. There were too many for me to go through them all in detail, but I will deal with three of them. The first was that no present powers in this Parliament would be affected. That is wrong. I will name just three that would be affected off the top of my head: environmental protections, agricultural subsidy and protected geographical indications.

The second misconception was that this debate involves dancing on the head of a pin and is not

about real issues that touch people's lives. Food standards are affected—Ross Finnie's letter last week indicated that very strongly. Chemicals are affected—an example of that is my constituents in Mull trying to stop neonicotinoids coming into their water supply. Public procurement, which leads to thousands—probably hundreds of thousands—of jobs in Scotland, is affected.

Thirdly, we heard the misconception that clause 11 is fine—that there are no difficulties and it does not give rise to a threat of any description. The words “not normally” are apparently the parachute that saves us all, but those words are not in the legislation. They have already been rubbished by the Advocate General, and the normality in the new clause 11 is the overriding of the Scottish Parliament. That is what the legislation says.

Daniel Johnson talked about what is at stake in devolution, and he was right to do so, because a great deal is at stake. What we have is undoubtedly the worst challenge to devolution that we have had since 1999. Devolution is not, of course, just about us. We should remember something that the consultative steering group on the Scottish Parliament paid attention to. It said:

“the Scottish Parliament should embody and reflect the sharing of power between the people of Scotland, the legislators and the Scottish Executive”.

Devolution is about how we all work together for the benefit of Scotland.

I have looked at the words of each of our First Ministers as they put forward their vision to be elected as First Minister. Earlier, I quoted Donald Dewar's remarks on the opening of the Parliament. Let me quote each of the other First Ministers.

Neil Findlay *rose*—

Michael Russell: No. I want to finish.

On 26 October 2000, Henry McLeish said:

“The Parliament is about politics and, of course, we will have our political differences ... However ... our ultimate aim is the same: the best interest of our fellow Scots”.—*[Official Report, 26 October 2000; c 1172.]*

That is what devolution is about.

On 22 November 2001, Jack McConnell said:

“On the day of the 1997 referendum, Scots voted yes because they wanted better politics and better government and because they believed that a Scottish Parliament would focus on their priorities”.—*[Official Report, 22 November 2001; c 4153.]*

That was devolution.

On 16 May 2007, Alex Salmond said:

“It is a Parliament of minorities where no one party rules without compromise or concession ... The Parliament will be about ... intelligent debate and mature discussion.”—*[Official Report, 16 May 2007; c 24.]*

That is devolution.

Neil Findlay: Why does Michael Russell want to end it?

Michael Russell: Because we can always do better. We can always aspire to do better, as we do. I have argued this afternoon for what we have and how we use it, and I thought that Mr Findlay wanted me to do that.

On 19 November 2014, Nicola Sturgeon said:

“Those whom we represent expect us to give our very best, and we—all of us—must ensure that we do not disappoint them. They expect to see us debate vigorously, but they do not want us to divide ... let us work together to create a future for Scotland that is worthy of their dreams and their trust.”—*[Official Report, 19 November 2014; c 23.]*

Ruth Davidson: Will the member take an intervention?

Michael Russell: No, I will not.

Nicola Sturgeon talked about

“a future for Scotland that is worthy of their dreams and their trust”,

not the demands, the narrow interests or the Tory party factionalism of the UK Government or the demands of Ruth Davidson that she and her fellow members be able to veto what an elected Government and an elected Parliament decide. Nicola Sturgeon talked about

“a future for Scotland that is worthy”

of the dreams and the trust of the people whom we are here to serve: the Scottish people. They would not forgive us if we gave away the powers that we are trying to use to improve Scotland.

Business Motion

16:57

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-12253, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revised business programme for Thursday.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Thursday 17 May—

delete

5.00 pm Decision Time

and insert

4.00 pm Decision Time—[*Joe FitzPatrick*].

Motion agreed to.

The Presiding Officer: Although the chamber looks full, I will wait until 5 o'clock to ensure that every member has the chance to be in it for decision time. Therefore, I will suspend the meeting for a minute and a half.

16:58

Meeting suspended.

17:00

On resuming—

Decision Time

The Presiding Officer (Ken Macintosh): The first question is, that amendment S5M-12223.1, in the name of Adam Tomkins, which seeks to amend motion S5M-12223, in the name of Michael Russell, on the European Union (Withdrawal) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Ballantyne, Michelle (South Scotland) (Con)
Bowman, Bill (North East Scotland) (Con)
Briggs, Miles (Lothian) (Con)
Burnett, Alexander (Aberdeenshire West) (Con)
Cameron, Donald (Highlands and Islands) (Con)
Carlaw, Jackson (Eastwood) (Con)
Carson, Finlay (Galloway and West Dumfries) (Con)
Chapman, Peter (North East Scotland) (Con)
Corry, Maurice (West Scotland) (Con)
Davidson, Ruth (Edinburgh Central) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Golden, Maurice (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Halcro Johnston, Jamie (Highlands and Islands) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Harris, Alison (Central Scotland) (Con)
Kerr, Liam (North East Scotland) (Con)
Lindhurst, Gordon (Lothian) (Con)
Lockhart, Dean (Mid Scotland and Fife) (Con)
Mason, Tom (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)
Mundell, Oliver (Dumfriesshire) (Con)
Scott, John (Ayr) (Con)
Simpson, Graham (Central Scotland) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Tomkins, Adam (Glasgow) (Con)
Wells, Annie (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Motherwell and Wishaw) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Arthur, Tom (Renfrewshire South) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bibby, Neil (West Scotland) (Lab)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Cole-Hamilton, Alex (Edinburgh Western) (LD)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
Denham, Ash (Edinburgh Eastern) (SNP)
Dey, Graeme (Angus South) (SNP)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)

Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)

Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 30, Against 95, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that amendment S5M-12223.2, in the name of Neil Findlay, which seeks to amend motion S5M-12223, in the name of Michael Russell, on the European Union (Withdrawal) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)

Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)

Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 93, Against 31, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The final question is, that motion S5M-12223, in the name of Michael Russell, on the European Union (Withdrawal) Bill, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)

(Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 93, Against 30, Abstentions 0.

Motion, as amended, agreed to,

That the Parliament notes the legislative consent memorandums on the European Union (Withdrawal) Bill lodged by the Scottish Government on 12 September 2017 and 26 April 2018, and the reports of the Finance and Constitution Committee of 9 January and 10 May 2018, and, because of clause 15 (formerly 11) and schedule 3, which constrain the legislative and executive competence of the Scottish Parliament and Scottish Government, does not consent to the European Union (Withdrawal) Bill, and calls on both the UK and Scottish governments to convene cross-party talks in an attempt to broker an agreed way forward.

Bruce Crawford (Stirling) (SNP): On a point of order, Presiding Officer. The Parliament has agreed that it does not consent to the European Union (Withdrawal) Bill. This is a historic and significant moment for the Scottish Parliament, and I hope, with all sincerity, that the United Kingdom Government will respect its views. In view of the decision, will you, Presiding Officer, write to the Parliaments, assemblies and legislatures of the UK to inform them of our decision?

The Presiding Officer: I thank Bruce Crawford for advance notice of his point of order. He is right to point out that this is a significant matter of interest to all parts of the UK. I consider that it would be appropriate for them to be made aware of the Parliament's decision this evening and I will write to my counterparts at Westminster and the other UK legislatures to make them aware of the Parliament's position.

Nakba 70th Anniversary

The Deputy Presiding Officer (Christine Grahame): The final item of business is a members' business debate on S5M-11690 in the name of Sandra White on the Nakba 70th anniversary. The debate will be concluded without any question being put.

Motion debated,

That the Parliament acknowledges the 70th anniversary of the Nakba, known by Palestinian people as the "day of catastrophe", in which the state of Israel was formed after what it understands was the mass eviction of over 750,000 people from historic Palestine land, which included the destruction of over 500 towns and villages; believes that this led to generations of pain for the Palestinian people, who continue to live under a state of occupation; understands that it led to a major crisis in which over four million displaced people were registered by the UN as refugees and unable to return home; condemns what it sees as the deepening of the crisis in the form of illegal settlements, which are unrecognised by the international community; understands that these continue to be built in the occupied territories at a rate of five times that prior to the implementation of the Oslo Accords; believes that, on 15 May 2018, millions of people across Palestine and around the world will mark the anniversary of the Nakba with marches, rallies and vigils; supports Palestinian people, including those in the Glasgow Kelvin constituency, in the commemoration of the Nakba, and notes the calls for a resolution to be sought to what it considers the Palestinian humanitarian crisis and occupation.

17:06

Sandra White (Glasgow Kelvin) (SNP): I thank the many members who signed the motion, giving it cross-party support and enabling the debate to take place.

I also thank the many groups who contacted me and other members about the debate. Some of their representatives are in the gallery tonight and I welcome them to the Scottish Parliament. Thank you for your support.

In the past 48 hours, we have witnessed the killing of over 50 Palestinian people, and thousands being injured by the Israeli army. Members of the international community have condemned the Israeli army's use of live ammunition and teargas on innocent civilians. I add my voice to that condemnation and stand in solidarity with the Palestinian people, who have been denied the right to return to their land and their homes—that is the Nakba. [*Applause.*]

The debate is to mark the 70th anniversary of the Nakba. In doing so, I want to offer some background, as is the proper thing to do. There is often a great deal of misunderstanding and misrepresentation on Palestine, whether from individuals, the media or Governments, but certain historical facts cannot be altered or dismissed.

After the dissolution of the Ottoman empire in 1914, the British occupied Palestine as part of the Sykes-Picot agreement of 1916 between Britain and France to carve up the Middle East for imperial interests.

In 1917, before the start of the British Mandate from 1920 to 1947, the British issued the Balfour declaration, promising to help the

"establishment in Palestine of a national home for the Jewish people",

essentially vowing to give away a country that was not theirs to give away.

In early 1947, the British Government announced that it would be handing over Palestine to the United Nations and therefore washing its hands of any responsibility for the Palestinian people. On 29 November 1947, the UN adopted resolution 181, recommending the partition of Palestine into Jewish and Arab states with—and this is very important—a special international status for the city of Jerusalem. That is an important point to make, and I hope that Mr Trump and others are listening.

The proposals were not seen as acceptable, as they went against the principles of the right to self-determination and imposed conditions that were seen as unfair and unworkable. This led to the 1948 conflict, which saw Israeli forces take control of a much larger area of land than was proposed in the UN resolution. An estimated 700,000 Palestinians fled or were expelled, with hundreds of Palestinian towns and villages depopulated and destroyed. That was the Nakba, and those who fled are still waiting to return.

I want to highlight the stories of two people who lived through this and many more atrocities. Abu Arab owns a tiny store in the main thoroughfare of the market in Nazareth's old city. His shop is a time capsule. On display is a rusting bowl and inside are hundreds of old coins of a currency no longer recognised: that currency is the Palestinian lira. Abu Arab cherishes those relics as keenly as he does his memories of a home and way of life he lost when he was 13 and lived in the village of Saffuriya.

Abu Arab recalls the events of July 1948, as he was attacked. He says:

"They bombed us from the air just as we were breaking the fast for Ramadan—they knew we would all be in our homes."

His parents fled with the children: three brothers—including the famous poet, the late Taha Muhammad Ali—and a 12-year-old sister. They were forced northwards towards Lebanon. Shortly after they arrived in a refugee camp there, his sister died and his father decided they must make the dangerous journey back home. At the

journey's end, they found that the village was gone. The area had been fenced off and declared a military zone, and anyone entering risked being shot. He says:

"We had nothing. Everything had been taken from us."

Abu Arab helped to found the main body that represents internal refugees, the Association for the Defence of the Rights of the Internally Displaced—ADRID—which, for the past 30 years, has organised an annual Nakba march.

Umm Omar was only eight when her family was expelled from their home town of Jusayr in 1948 and landed in the Jabaliya refugee camp in the northern Gaza strip. The refugee camp was established by the United Nations Relief and Works Agency for Palestine Refugees for an estimated 35,000 people who were evicted from their area. Today, it is the largest camp in the besieged coastal enclave, with more than 110,000 refugees living there.

The pain of displacement never ended for the family. They have lived through three Israeli military offensives in Gaza since 2009. Like tens of thousands of Palestinians across the narrow coastal enclave, Omar's home was destroyed by Israeli air strikes during the 51-day offensive in Gaza in 2014.

Several years ago, she and her husband buried the deeds and keys to their home—that is important because the keys to their homes mean a lot to the Palestinian people—in a location that only their children know, in the hope that they would be able to return one day.

"I still hope that I'll die in my home town. I may be using a walker to move around today. But if they told me I can go back ... I'd run all the way."

What a woman.

It is estimated that there are about 7.98 million Palestinian refugees and displaced people who cannot go back to their houses. The Gaza strip, where some 2 million Palestinians live, has been under Israeli siege for more than a decade. Israel controls the air space, sea and borders. The strip has also witnessed three Israeli assaults that have made the area close to uninhabitable.

Many people are quick to criticise nations that violate UN resolutions or do not abide by international law. That is quite right. If we fail to acknowledge what Israel has been doing in Palestine, we fail to present the situation honestly and we fail to be taken seriously by the rest of the world. I notice that, about 10 minutes ago, the United Kingdom Government issued a statement calling for greater restraint from Israel. That is an insult to every Palestinian who has been killed and injured not only in the past 48 hours but over the years. We must ensure that our voices are heard.

Let us be clear: regardless of the history, the way forward and the only way to achieve a lasting peace is to recognise a Palestinian state alongside an Israeli one. That was not possible in 1947 but, for me and many others, it is the only viable option. Let us be clear that the time is now—not tomorrow, next year or some point in the future. People are dying every day. We cannot continue to bury our heads in the sand.

It is time for the UK to join other UN member states and recognise the state of Palestine. It is morally incumbent on the UK to take that step, given its involvement and its resulting culpability for the current situation. From the time when Britain administered Palestine after the first world war until it abandoned it in 1948, resulting in the Nakba, our involvement in Palestine has been shameful. From the promises of an independent Palestinian state, to refusing to support UN efforts for a two-state solution, which led to the 1948 war and the subsequent loss of Palestinian land, our actions have loomed large over the history of Palestine. It is time for them to loom large over the future of Palestine. *[Applause.]*

The Deputy Presiding Officer: I call Ivan McKee to be followed by Maurice Golden. Mr McKee, please. *[Interruption.]* We thought that he had pressed his button, but we have misread the display. *[Interruption.]* He has pressed his button. Where is Mr McKee? He is not here.

Members: He is here.

The Deputy Presiding Officer: Oh, sorry. I have called you, Mr McKee.

Ivan McKee (Glasgow Provan) (SNP): Sorry. You need to shout louder, Presiding Officer.

The Deputy Presiding Officer: I was beginning to think that I was taking a wee turn, Mr McKee. I did call him, did I not?

Members: No.

The Deputy Presiding Officer: I did not?

Members: You did.

The Deputy Presiding Officer: Thank you. I have some allies. I call Ivan McKee to be followed by Maurice Golden.

17:14

Ivan McKee (Glasgow Provan) (SNP): Thank you, Presiding Officer. I also thank Sandra White for bringing this hugely important debate to the chamber this evening. Of course, our thoughts today are with the families of the people who have been killed by Israeli forces over the past few days, and with those who are affected by the tragic situation that is developing in Gaza.

The Nakba—or catastrophe—as it is called by the Palestinians, was, as Sandra White explained, a series of events that happened 70 years ago, when more than 700,000 Palestinians were evicted and forced from their land and their homes. More than 500 villages and towns were destroyed. The descendants of those Palestinians still live in Gaza, the West Bank, Jordan, Lebanon, Syria and all round the globe.

Although the events took place 70 years ago, they are still very much alive today, as the tragic events of yesterday and the past few weeks have demonstrated, with the Palestinian people making clear their determination to return one day to the homes from which they were expelled. Gaza is very much a consequence of the Nakba; more than 50 per cent of the population of Gaza are refugees from the events of 70 years ago.

Let us be clear: the ethnic cleansing that happened 70 years ago has continued every day through to the present. I took my first trip to Palestine recently and witnessed first hand the events that continue to unfold day by day. I was taken to the south Hebron hills by Breaking the Silence, which is an organisation that is formed of veterans of the Israeli army who are making a stand to state that the things that they were asked to do when they were in the army were unacceptable, and making it public to the population in Israel and internationally what unacceptable acts the Israeli army is expected to carry out in the occupied territories daily.

We visited the village of Susya, the residents of which have on no fewer than six occasions in the past 70 years had their homes destroyed and been moved on, only for them to return, to rebuild and to try to carry on with their lives. It is in what is called area C of the West Bank—the area that is under Israeli military control. Right next to the Palestinian villages there are, of course, the illegal Israeli settlements. The Israeli army is there not to police the situation, but is there with the clear intention to protect the settlers and to do whatever is required to make life as difficult as possible for the Palestinians who live there. We witnessed Palestinians who were trying to farm the land and plant trees being thrown off that land by the army in front of our eyes. The army creates so-called military zones with the specific purpose of preventing Palestinian villagers from farming on them by throwing them off their land and destroying the water system so that the villagers cannot continue their agricultural business on the land that they own.

I met representatives of Medical Aid for Palestinians, who are here today. They explained the situation with the Israeli checkpoints, at which 57 Palestinians have died in the past year trying to get to hospital, but were stopped by the Israeli

army from doing so. I also met representatives of B'Tselem, which is an effective and brave Israeli human rights organisation that documents the human rights abuses that are carried out by the occupying forces across the occupied territories.

It is clear that the situation is getting worse. The actions by the Trump Administration are disgraceful: identifying Jerusalem as the capital of Israel will only make the situation worse. Now is the time, as Sandra White said, for a message to go out from the Scottish Parliament and the Scottish Government, from the United Kingdom Government, from the European Union and from others internationally that the time has come to end the ethnic cleansing of Palestine and to move towards a just peace in the region.

17:18

Maurice Golden (West Scotland) (Con): Let me begin by paying my respects to the many people who have tragically been killed and injured during the protests in Jerusalem. It is important that we remember such events, lest they become lost in the cycle of violence that sadly plagues the region. The latest violent clashes serve as a reminder of how volatile the middle east is. Centuries of anger and conflict have led us to a present in which Israelis and Palestinians share an uneasy co-existence. It is that legacy of conflict and strife that we are here to debate today, but we must also look to the future and the hope for rapprochement.

I do not have time in such a short speech to recount the entire history of conflict and dispute between Israelis and Palestinians. Nor, in this particular debate, would it be appropriate to do so. However, it is important to recognise that the two peoples share an intertwined history. To recognise only one aspect of that history, whether it be from a pro-Israeli or pro-Palestinian viewpoint, would do both a disservice.

Just as hundreds of thousands of Palestinians were displaced from their homes in the 1948 war, so did hundreds of thousands of Jews flee from Arab states to the newly created state of Israel. Both occurred against a backdrop of war that claimed thousands of lives. I will not attempt to draw equivalence between suffering and loss, but I point out that Israelis and Palestinians are two peoples who are linked by the same tragic events. If we want to see the cycle of anger and violence broken, we must acknowledge that link—that shared tragedy.

In that light, we must recognise that the motion tells only half the story. It refers to the

“generations of pain for the Palestinian people”,

and so do I, but we should also recognise the generations of fear for the Israelis, who have also found themselves under attack. The United Kingdom rightly favours a two-state solution. If we are seriously to champion the cause of the Palestinian people to live in their own state in peace and security, we must also champion the right of Israel to exist and be free from attack. Both causes are equally valid.

Israel was born amidst war, but it has come through adversity as an established democracy in the middle east. Of course, Israel is not perfect, nor should we defend every action of the Israeli government. Israel does, however, show the world that a free and democratic society, governed by the rule of law, is possible in the middle east. It is important that we remember the suffering and loss on both sides, but we cannot be bound by the darkness of the past, if we want a brighter future for both Israel and Palestine.

17:22

Anas Sarwar (Glasgow) (Lab): I was not intending to speak in the debate, only to listen to it, because I was sure that I would support everything that Sandra White—and many others—would speak about. I congratulate her on bringing the motion to Parliament for debate. However, I have been so struck emotionally by what I have seen in recent days that I feel angry, helpless and broken. I know that that feeling is shared by millions of people in our country, and by tens of millions of people around the world.

The events of the past few days will have lasting consequences. The opening of the US embassy in Jerusalem is a direct and deliberate threat to any chance of peace. It is a deliberate attempt to kill any hope of a peace process or a genuine two-state solution. It is a deliberate act to inflame and escalate—not de-escalate—tensions. The events in Gaza prove that. Fifty people have been killed, including women and children, and more than 2,000 people have been injured. That is not an isolated incident on one day—it is an on-going crisis every single day.

To give a stark contrast, I ask members to imagine the city of Glasgow surrounded by a wall, with limits on the people and supplies allowed in and no one allowed out, and with intermittent firing of missiles and rockets into the city. What would be the reaction of fellow Scots or the international community? That is what is happening to the people of Gaza every single day.

The death of humanity is what happening in Gaza and on the West Bank, and we have to stand up and speak out about it. The reality is that Donald Trump is not an honest broker for peace. He has broken that chance of peace.

Where is the so-called international community? We all say that the international community needs to send out condemnation, to come together and to start a peace process. There is no such thing as the international community when we see such horrific international incidents.

We talk about the peace process, but there is no peace process to revive: there is no peace, and there is no process. Every single day that we waste makes the chance of achieving a two-state solution less likely. Shame on us: shame on all of us, and shame on every single person right across the international community who has allowed this tragedy to go on, day after day. Innocent people are denied basic rights of access to clean water, food and employment, and they are denied access to any kind of peace, justice or democracy—things that we take for granted every day.

I have been to the Gaza strip. Two thirds of the population eat only because of UN food programmes. One third of the medicines that are listed by the World Health Organization as essential are not available to the people of Gaza. That is a tragedy in our world, on our watch, and we should all, collectively, be ashamed of ourselves. I am sick of condemnation when bad events happen. Condemnation is no longer enough. We need to wake up as a genuine international community and act. If we do not, the legacy that we will leave behind is one of shame on the entire global family that we say we live in.

17:26

Ross Greer (West Scotland) (Green): I thank my co-convenor of the Parliament's cross-party group on Palestine, Sandra White, for ensuring that we are able to mark the Nakba in the Scottish Parliament today.

When we discussed preparations for today at the CPG, little did we realise that the debate would prove so tragically timely, although Israel's barbarities are no surprise to anyone with even a passing understanding of how its state came into being or its actions in each and every year since. Many of us had hoped that, with the world's eyes on it yesterday, Israel might show some restraint, even if for nothing more than public relations purposes. In hindsight, it was stupid to expect as much from an Israeli state that has not for years seen Palestinian people as people and which places no value on their lives.

Yesterday, Israeli soldiers gunned down more than 60 Palestinians who were protesting their right to exist on their land, and injured thousands more. They killed six children and at least one paramedic. In the weeks since the great march of return protest began, they have killed almost 100 demonstrators. Ibrahim Abu Thuraya, who lost

both his legs in a previous Israeli air strike, was shot dead in his wheelchair. Photojournalist Yaser Murtaja was shot wearing a protective vest that clearly marked him out as press. After murdering him, the Israeli Government propaganda machine spun into place to claim that he was a high-ranking member of Hamas. Before concocting that story, the Israelis had not bothered to find out the first thing about him. If they had, they would have known that he was previously arrested and beaten by Hamas. He had cleared American Government vetting to receive grants from an aid agency. He was no threat or extremist; he was a journalist doing his job. They have no hesitation in lying or spreading misinformation in attempts to get away with their crimes.

It is our year of young people in Scotland, and I take this opportunity to show our solidarity with the children and young people of Palestine, especially those in Gaza, who were born long after the Nakba and who are still suffering its consequences. Half of Gaza's population is under the age of 18. More than a decade into the siege, the UN estimates that more than 300,000 of them need psychological support, because they are so traumatised by the atrocities that have been inflicted on them.

During the 2014 assault on Gaza, more than 500 children were killed by Israel. That included four boys from one family who were playing football on the beach when they were shelled by the Israeli navy. They were clearly children and clearly not a threat. They were not hit by a single stray shell; they were deliberately attacked. As they fled across the beach, the Israeli ship adjusted its aim and fired a second shell that killed them all. Their names were Ismail Mohammed Bakr, who was 9; Zakaria Ahed Bakr, who was 10; Ahed Atef Bakr, who was 10; and Mohamed Ramez Bakr, who was 11. Their deaths were recorded by the world's media, 200 metres away in a hotel. Many of those journalists put themselves at risk and did all that they could to save the children and two others who were wounded with them. The Israeli Government spokesperson sent out to spin it all away was, of course, Mark Regev, who is now the Israeli ambassador to the UK. From what I can tell, no war crime is too heinous for Mr Regev to spin.

Israel is the only country in the world to summarily prosecute children in a military court system—not Israeli children, of course; just Palestinian children. Those who object to Israel being labelled an apartheid state should look no further than the situation on the West Bank, where two legal systems exist. Maurice Golden talked about Israel being a country under the rule of law, but there are two legal systems that rule it. The legal system that someone is subject to depends on nothing more than their nationality and

ethnicity. A Palestinian living in the Palestinian territory will be subject to Israeli military court systems that deny Palestinians their basic and fundamental rights. An illegal Israeli settler will fall under Israel's civilian legal system. Israel's apartheid system goes far beyond the walls that it builds. Just ask the 500 to 700 Palestinian children who are arrested and prosecuted under the military court system every year. Three in four of them are physically abused by their captors, and one in four is forced to sign documents that are written in Hebrew, a language that they do not speak.

Israel is not a beacon of decency and democracy. It is a colonial occupier. It is an apartheid state. It is an abuser of children. We must reject the false equivalence of those who try to obscure Israel's crimes by framing the conflict as a conflict between equal sides. Palestine has no army, no navy and no air force. For much of the day, Gaza does not even have electricity, and it has barely any running water. While Israel relies on massive economic and military aid packages from the US and the UK, Palestinians rely on our international solidarity and that of those inside Israel, such as Breaking the Silence, which Ivan McKee mentioned, whose work should be admired.

That is why the boycott, divestment and sanctions campaign is so important. Just as apartheid South Africa became an international pariah, so must apartheid Israel. We cannot stand by and allow these crimes to go unanswered. We must put pressure on every business and organisation that supports the occupation until they withdraw. The people of Palestine deserve to be free and, here in Scotland, we must do all we can to help them achieve that.

The Deputy Presiding Officer: Because of the number of members who still wish to speak in the debate, I am minded to accept a motion without notice, under rule 8.14.3, to extend the debate by up to 30 minutes. I invite Sandra White to move such a motion.

Motion moved,

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[*Sandra White*]

Motion agreed to.

17:32

Pauline McNeill (Glasgow) (Lab): I begin by thanking Sandra White for securing the debate to ensure that this day does not go unmarked.

Al Nakba—the catastrophe—is a crime that the world should never forget. It was not just an event; it was the point in history that caused the Palestinian-Israeli conflict. It was a crime against

humanity and against the Palestinians. There are two sides, but it should be taught to our children in history lessons in our schools, for that reason

The world has remained largely silent and certainly ineffective in challenging Israel, which is the only party in the conflict that can make the necessary concessions to the Palestinians. The events on 15 May 1948 included systematic and violent removal of Palestinians from their homelands. Israel expelled them, colonised their land and annexed their territory. Yaroun in Bint Jbeil, Haifa, Jaffa and Lubyā are the names of just some of the Palestinian villages that were taken by force. We know that there were more than 500.

The refugees who ended up in Lebanon, Jordan, Syria and dispersed around the world live in the worst conditions. I know that many colleagues have been to see that for themselves. In Shatila camp in Beirut, which I visited last year, young men and women can only dream of a future. Such people have no rights in the countries in which they are refugees. I spoke to a young woman who is desperate to be a doctor, but she cannot achieve her dream because she has no rights in Lebanon, where she lives in a refugee camp.

There can be no settlement without a solution based on the rights of refugees to return to their homeland. More than 80 percent of the Palestinian population lost their homeland, which was expropriated without compensation. They have still not received justice.

As we have heard, Gaza is described as a prison, and is now in its 11th year of blockade. It is unliveable and has only a few hours of electricity every day. It is now being said that Gaza will not be viable by 2021.

If we want to ask why Palestinians are peacefully protesting on the border between Gaza and Israel, it is because they live in a prison and are blockaded by land and by sea, which the world does nothing about. In the West Bank, Palestinians live under occupation, with no rights and daily suffering. As Ross Greer said, there is no equal treatment for Palestinians: they do not have citizenship. Any Jewish person from anywhere in the world can come to the West Bank—occupied territory—and claim citizenship, but my friends from Jerusalem, whose families come from Jerusalem, cannot get citizenship. There is no equality.

UN resolutions are continually ignored by Israel, and no state actor stands up to Israel. To name but one, resolution 194 on the right to return says that no person will be subject to arrest, detention or exile. In fact, the first Israeli Cabinet passed an emergency regulation one day after the adoption of resolution 194 to legalise the confiscation of all

property of Palestinian people who were absent and had fled the violence in 1948. Sadly, that is the character of the state of Israel. The question is not about the right of the state of Israel to exist, but about the character of Israel and how it has evolved in the past 70 years.

While addressing the UN, Noam Chomsky, whom I admire, said that many of the world's problems are "intractable", but that the Palestine-Israel conflict is one of the world's solvable problems. He was the first person to observe, as Anas Sarwar rightly said, that the peace talks were never meant to reach a destination; they were to perpetuate a situation in which there is no solution. It is very important to understand that point.

We have witnessed some dreadful scenes in Gaza in the past few days—58 Palestinians have been killed. I say to Maurice Golden and others that I appreciate that we do not have the same view, but surely as a human being he can see that the protesters are unarmed and that the actions of Israel and its army should be condemned outright. The Gaza hospitals do not have enough operating theatres to attend to the injured.

I am struck by the number of young Israelis of all ages who are appalled by the actions of their own state—a state that they love and believe in. The only way to ensure that there is peace in the middle east is for a third party—not the United States—to be an interlocutor to provide for an independent Palestinian state alongside the state of Israel. If no state actor is prepared to challenge Israel's behaviour and how it conducts its business—it makes no concessions to Palestinians in the peace process—the conflict will, unfortunately, go on for another 70 years. Shame on the international community for doing nothing to stand up to Israel.

17:38

Ruth Maguire (Cunninghame South) (SNP): I congratulate my colleague Sandra White on securing the debate, and thank her for her long-standing and unwavering commitment in highlighting the injustices that are suffered by the Palestinian people at the hands of Israel.

We are here to mark the 70th anniversary of the Nakba, but the Nakba—the catastrophe—did not really start or end in 1948. There was the mass eviction of more than 750,000 men, women and children from historically Palestinian land, and the destruction of more than 500 towns and villages. The Palestinian people were being forcibly removed from their land before 15 May and, today, 70 years later, generations still know the pain of displacement, the pain of protracted conflict and the pain of a prolonged and vicious Israeli occupation, punctuated by frequent incidents of

calculated and cowardly violence. We all witnessed such incidents again yesterday. State-sponsored violence is carried out against children as well as adults. Shame on those who describe it as “clashes”; not a single one of us is fooled by the term “clashes” when it is describing what has happened over the past few days. Quite simply, it is a massacre for which there is no justification.

I fear that the actions of the so-called superpowers and the UK’s impotent response simply mean that we have never been further from justice and peace. I cannot have been the only one who was sickened by the grotesque pictures of the decadent back-slapping celebration of US dignitaries as they opened their embassy in Jerusalem as snipers fired at unarmed civilians, maiming and killing. It was a massacre.

Medical Aid for Palestine states that Palestinians who are living under occupation or blockade in the occupied Palestinian territories, or as refugees in Lebanon, are subjected to intolerable stress in every aspect of their daily lives. Lack of access to health services, settler violence, threat of home demolition, unemployment and trauma that is caused by conflict and displacement are all facts of daily life.

More than 4 million displaced people have been registered by the UN as refugees and are unable to return home. A constituent of mine has Palestinian family in Jordan; he tells me that the children have asked their grandpa there many times why he did not stay and he tells them that it was because they were so worried. They knew what was being done and they fled in all directions. There was a mass eviction of more than 750,000 men, women and children and the destruction of more than 500 towns and villages. He believed that it was only temporary and that they would be home soon. Four generations have passed and they are still exiled. Still, there is no justice and still, we are far from peace.

I almost cannot bring myself to imagine how despairing the seeming absence of any prospect of peace, freedom or justice must be. It is absolutely heartbreaking. The old are still alive and the young will never forget. We will not forget here in Scotland either; there are many local organisations campaigning for justice for Palestine, such as the Ayrshire Palestine forum, which this month marched with the trades councils on May day to raise awareness, and which holds regular stalls and events. People should find their local group and support it.

There will be national demonstrations taking place this weekend. People in the west of Scotland might like to join me on 19 May in Glasgow. If people cannot join a group or a demo, they can take action as individuals. Boycott, divestment and sanctions are legitimate peaceful

actions to take. They have worked before against apartheid and can work again. Boycott Israeli goods, encourage divestment from Israeli companies and contact MPs and the UK Government to urge sanctions against the racist apartheid state. We have to build a wave of support for Palestine that cannot be ignored.

Finally, I encourage everyone who cares about peace and justice to take action and to do all that they can.

17:42

John Finnie (Highlands and Islands) (Green):

I, too, congratulate my friend and colleague Sandra White on all her efforts on behalf of the Palestinian people and on bringing the debate to the chamber. It is important that we remember, 70 years on. Every day has been a day of misery for people there. It is important that we do not forget the role that the UK played. We cannot rewrite history and, of course, history will show us that a bullying state will remove a group of people from their own homes and land; it will seize those homes and land and put its own people in; and it will imprison and abuse the original occupants.

That is what the Nazis did; that is what happened under Stalin in the Soviet Union; and that is what is happening on a daily basis in the apartheid state of Israel. That is an appropriate term. The gentleman who compiled that term in a UN report was hounded around this planet for evidencing the fact that Israel is an apartheid state—that is an example of the bullying that goes on. I condemn unreservedly that inhumanity and I am surprised that a group of people are prepared to condemn only two of those three examples that I mentioned.

I also condemn violence. I think that everyone has a right to defend themselves; I condemn violence. However, the underlying causes of that conflict must be recognised and must be looked at.

Most of all, in this chamber, I have the opportunity to condemn apologists. Mr Golden told us that he came here to debate; he did not come to debate. He could have taken the opportunity to engage in debate; instead, he has kept his head down and read his pre-prepared speech. I do not know who wrote it for him.

In August 2016, while many of us were looking after our constituents—who were concerned about issues around the planet—a group from the Conservative intake to Parliament went to Israel. I will tell members what their leader, John Lamont, said:

“I look forward to exploring ways we can further these political, cultural and economic ties with the Jewish state.”

I have to tell members that I am not alone in finding that term offensive.

When they were there, they took the opportunity to do a bit of sightseeing. I know that you do not like props, Presiding Officer, so I will not hold up the picture, but I can describe it. It shows Messrs Mundell, Ross, Lamont, McInnes, Thomson and Greene, along with Ms Wells, Ms Hamilton and Mr Maurice Golden, at the West Bank wall, which was erected in 2007, in violation of international law, according to the International Court of Justice. They are all standing there grinning profusely with the military officer who built the wall. What a tremendous propaganda success for that vile regime, handed to it on a plate.

I respect international law—it is evident that the Conservatives do not—and I am also prepared to condemn anyone who is involved in violence. There is a lot of concern about state media control that emanates from Russia, and the killing of journalists is a factor there. Of course, we know that that is exactly the same in Israel, and people who are prepared to condemn Russia on that basis should be prepared to condemn Israel. We have heard from many speakers that there has been an intentional targeting of people who have tried to record what is going on and that innocent people with press vests on have been shot.

There are many fine people in Israel. In previous speeches, I have mentioned the respected war correspondent Gideon Levy, who was vilified for documenting in an analytical form what he saw in Gaza, just as he had done in Chechnya and in the Balkan conflict.

Like others, I have visited Gaza—I was there in 2012 with my colleague, Claudia Beamish. It is a human prison. I find it particularly galling that the Conservative Party will condemn a Government providing a baby box to a family but has nothing to say about babies in Gaza being denied electricity, food, sustenance, shelter and, most of all, a future. It is to their eternal shame.

Of course, what we know about Gaza is that it is a successful live test ground for the munitions of Israel's very successful arms industry.

I want to be positive. I think that justice will prevail. I see that those on the Conservative benches find that amusing, but I do not think that there is anything amusing about justice prevailing. Justice catches up in full. It caught up with the Nazis and it will catch up with the present regime in Israel. People will be put on trial and will be able to say their bit and be defended.

The keys that people have talked about are a wonderful symbol. I think that they will be used to gain access to houses.

I say again that history will judge harshly those who have colluded, promoted, appeased and denied.

People who have spoken today will be subject to online bullying at the conclusion of the debate. That is the way that things work: people come out of the woodwork, or very nice, mild-mannered wee women want to come and see people and harass them. That is the way that it works. That is how it worked with Nazi Germany. That is how it worked with Stalin. That is how it worked with Pol Pot. That is how it works with this regime.

There are many things that could be said, but I am sure that the Presiding Officer is about to tell me to sit down. Let us not forget, what is required—what I want—is the fulfilment of international law in the interests of something approaching humanitarian norms.

The Deputy Presiding Officer: I hope that I am allowing members a generous amount of time in this debate, whoever is speaking.

17:48

James Dornan (Glasgow Cathcart) (SNP): I congratulate Sandra White on bringing this motion to the chamber. As Ross Greer said, the timing could not have been more horrifically apt.

A lot has been said about the Nakba. I will not go over that except to say that, if that happened today, we would not be calling it a catastrophe; we would be calling it ethnic cleansing. That is exactly what happened: the Israelis ethnically cleansed the area.

I have not been to Palestine yet—we hoped to arrange a trip once, but it had to be cancelled late on—but I have been to areas that have gone through similar things, such as Uganda and South Sudan. I have also been to Serbia, where I met Syrian refugees—obviously, there are connections there with the Bosnian conflict. I am going to Srebrenica shortly. When I go to such places, I wonder how people can get into a position where such things can happen. People cannot get into that position if they see the other people as being the same as them. What we see in Israel is what has happened in other countries across the world, in that the Israeli Government does not perceive the Palestinian people as being equal to the Israeli people. If it did, it could not possibly treat them in the way that it is treating them just now.

I watched some of those scenes, which were just heartbreaking. Today, a baby died from the effects of tear gas. Members will correct me if I am wrong, but I am fairly confident that—just like the guy in the wheelchair who was mentioned by Ross Greer—that child had not been trying to climb over the wall or go through the wires. Those people are

not trying to invade Israel or putting others at risk; they are innocent people, who are being murdered, slaughtered and massacred by the Israeli state. I do not think that it is incumbent on anyone in this Parliament to come here and—to be fair to Maurice Golden, who admittedly did so a bit shamefacedly—get up and defend the Israeli state. It should not be defended.

Mr Golden spoke about there being two sides to the issue, which there are. Some terrible things have happened to the people of Israel. However, in the past year, we could count on the fingers of one hand the number of people who have died through the conflict—although that would be five too many, if that were to be the case. In the time that I have been making this speech, the same number of people have probably been killed in the current conflict. There has to be moral and legal equivalence. The Tories are meant to be the party of the rule of law, but it seems that when it comes to Israel they turn a blind eye to it—just as they do with Trump and the other major forces in this world.

We have heard powerful contributions today from Anas Sarwar and many others. If they are to mean anything at all, we need to make sure that the international community stands up to the bully boys of Israel and tells Trump to get out of his box, go back and build another hotel and leave the world to grow in peace. What he did yesterday was quite shameful and, as was said earlier, it was deliberate. Members might not know that, yesterday, the Israeli Government asked the mosque near the new American embassy whether it could tone down the call to prayer during the celebrations. I am being serious: that shows how insignificant it sees the Palestinian and Muslim populations of Israel as being.

I urge members to think about this issue. The Conservatives and everyone else in this place should think about how we can move forward together, to make this life better for everybody and not as it is just now—which is that some people are treated as though they are higher up and therefore count, but a big swathe of others are treated as though they are down there and do not count. That is not how we should think in this Parliament; the world in general should not be like that. Let us get behind the people of Palestine and get the two-state solution sorted—and let us do so as soon as we possibly can.

17:52

Claudia Beamish (South Scotland) (Lab): I declare an interest in that, along with Sandra White and Ross Greer, I am a co-convenor of the cross-party group on Palestine.

I thank Sandra White for lodging her motion and for giving us the opportunity for debate today, on the 70th anniversary of the Nakba—although I do so with a very heavy heart, because the motion recognises a day of mourning that should not be happening. It is also a shameful day for the Israeli state, whose actions over all this time have caused untold suffering and have broken the tenets of international law.

For me and for many others across the world, it is also a day of disbelief that the United States President has shown total disrespect for a whole displaced, persecuted and imprisoned people—yes, they are imprisoned in what should be their own land—by moving the American embassy from the capital, Tel Aviv, to Jerusalem, which is a holy city for Christians, Muslims and Jews alike and is thus totally inappropriate as a capital city for anybody. As was reported in *The New York Times* of 7 December 2017,

“All but two of 11 former United States ambassadors to Israel contacted by The New York Times after President Trump’s decision to recognize Jerusalem as Israel’s capital thought the plan was wrongheaded, dangerous or deeply flawed.”

Today is also a day to recognise that many Jewish people in Israel and across the world support a just solution for Palestinians. For me, that is symbolised by the handing out of flowers to Arab and Palestinian residents by some 200 activists in the old city of Jerusalem ahead of the flag march, as it is now known, which is a massed rally of thousands of Jewish nationalists that has been criticised as being—and, in my view, is—provocative.

Today is also a day of deplorable déjà vu for me and for many others. When I lived in London as a child, I grew up knowing Palestinian exiles, and I visited Lebanon with my father, who was then a politician, when I was aged 15 and saw the refugee camps. That was 40 years ago. Today, the Nakba, or mourning, recognises 70 years since the start of this shameful story.

As many in the chamber and beyond will know, 5 million Palestinian exiles have been forced out of their lands into camps and other countries across our planet. We have heard about Gaza city, which John Finnie and I—as well as many other members—have visited over the years. I signed his recent motion about Israel being an apartheid state. When we visited the occupied territories in 2012, we witnessed schools and homes that had been bombed in totally disproportionate attacks by the Israeli state. There were desperate shortages of medical supplies in the hospitals. There was also heavy dependence on UN food aid and bottled water because of the Israeli blockade of Gaza. The members’ business debate that I led on the issue when my friend and colleague John

Finnie and I came back was entitled “Thirsting for Justice”. There is still no justice.

As was reflected in Sandra White’s previous motion about land day, 17 unarmed Palestinian protesters were killed by Israeli forces as they tried to show their frustration and fury at the illegal occupation of their intergenerational homeland, and more have been injured since that day.

That brings us to yesterday. At least 58 Palestinian protesters are dead and more than 2,000 have been injured. The motion that Anas Sarwar has lodged today notes that the UN High Commissioner for Human Rights has stated:

“Those responsible for outrageous human rights violations must be held to account.”

I thank Ivan McKee, because Medical Aid for Palestine was at today’s drop-in here in the Scottish Parliament. I ask everyone in the chamber and beyond to consider supporting that charity, which, in deplorable conditions, carries out robust medical work on women’s health and a range of other medical issues and is trying to save the lives of those who were injured yesterday.

In 2018, there is undoubtedly a sense of international community, but where is the sense of global responsibility that will help to find a solution to a 70-year-old injustice? Scotland and Britain must play their part. I ask the Scottish Government to consider protesting about the present deplorable and disproportionate actions of the Israeli state and to demand in the strongest terms that Israel recommences negotiations with the Palestinians on the creation of a Palestinian state and a fair and secure solution for all those affected, wherever they may be.

My colleague and friend Pauline McNeill has just highlighted to me that the UN Security Council is currently holding an emergency meeting to discuss the Gaza protests. The indomitable Palestinian people will not give up the keys, which must not be passed on to another generation. It is time for them to go home. The international community and everyone in the chamber and throughout Scotland and Britain must help to make sure that we play our part in making that happen.

17:58

The Minister for International Development and Europe (Dr Alasdair Allan): I welcome this evening’s debate to recognise the 70th anniversary of the Nakba, which, as we have heard, is known by the Palestinian people as the day of catastrophe. I thank all the members who have taken part in the debate. In particular—as others have done—I thank Sandra White for bringing her motion to Parliament for debate.

It is as well to remember the horrors that we commemorate. In 1948, there were 750,000 evictions and 4 million refugees. Many members have eloquently made the point that we can hardly ignore the horrors of this week, either. It is true, as Mr Golden said, that there has been violence on both sides in the history of this conflict, but this week there has been an escalation of violence by the Israeli Government and we have had the highest death rates in the region since 2014.

Following the recent protests along the Gaza border, there has been appalling, state-sponsored violence leading to large-scale loss of life and thousands of injured, including, as we have heard, children. The Scottish Government urges—as does the Scottish Parliament—that every effort be made to prevent further escalation of the situation. In particular, all possible steps must be taken to protect children along the border. I say to anyone who wishes to be more equivocal about that: we either specifically condemn the killing of children or we do not. I hope that that is the message that leaves this Parliament today.

I echo the First Minister’s words of yesterday in condemning the appalling violence and in urging international law to be upheld and human rights to be respected. I also reiterate the words of the Cabinet Secretary for Culture, Tourism and External Affairs, Fiona Hyslop, who last night condemned the Israeli Government’s absolutely excessive use of force against civilians. The use of force on that scale against civilians has to be unjustifiable. I add my own condemnation of the Israeli Government’s actions to the condemnation that has been heard from around this chamber and from around the world.

The cabinet secretary is writing to the UK Foreign Secretary, Boris Johnson, to express the Scottish Government’s shock over the loss of life and her own dismay over the totally disproportionate response of the Israeli Government. She is also asking the UK Government to do all that it can to urge an immediate solution to the violence and to play a full role in re-establishing a meaningful peace process. To pick up on a point made by a number of members in the debate, the cabinet secretary will seek confirmation from the UK Government that it certainly does not intend to move its own embassy to Jerusalem.

Yesterday alone, 58 Palestinians were killed and thousands more were injured. Protesters streamed to the frontier for the climax of a six-week demonstration, which coincided with the US preparing, as we have heard, to open its embassy in Jerusalem. The decision that the US President took on Jerusalem was, by any reasonable assessment, reckless, wrong and a direct threat to the peace process in the Middle East. That is why

the decision was rightly condemned across the international community. To bring us back to where Sandra White began this debate, I state that the status of Jerusalem can be determined only in a negotiated settlement between Israelis and Palestinians and that, ultimately, Jerusalem should be the shared capital of the Israeli and Palestinian states. That is an important principle and the starting point in any quest for peace.

The Scottish Government strongly encourages the Israeli Government and the Palestinian Authority to work with the international community to secure long-term peace and end the heartbreaking cycle of violence that continues to affect both Palestinians and Israelis. Above all, as a Parliament, we must take this opportunity to call directly on the Israeli Government to stop the wildly excessive and totally unjustifiable use of force against civilians. We condemn the reckless decision to open the US Embassy in Jerusalem at the very height of tensions on the Israel-Gaza border. The region needs a considered, balanced and strategic approach to building trust and peace, and the opening of the US embassy in Jerusalem has served only to increase distrust and make a long-term peaceful solution less likely.

The Scottish Government, like many others, supports the EU position of a two-state solution based on the 1967 borders and firmly encourages both Israel and Palestine to reach a sustainable, negotiated settlement under international law that has as its foundation mutual recognition and the determination to co-exist peacefully. As we mark the Nakba, with the distressing scenes that we witnessed this week, it is worth reflecting that peace can come only when human rights are respected, international law is upheld and all parties join in a genuine peace process that puts the rights of all at its heart. That very basic respect for human rights is not what happened to the people of Palestine in 1948 and—let us be in no doubt—it is not what is happening to them this week.

Meeting closed at 18:04.

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba