



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Tuesday 26 June 2018**

**Session 5**



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# Scottish Parliament

*Tuesday 26 June 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 is time for reflection, for which our leader is the Rev Maurice Callaghan, the parish priest at St John the Baptist church in Port Glasgow.

**The Rev Maurice Callaghan (St John the Baptist, Port Glasgow):** Years ago, I read a short story about a city called Omelas. Omelas was a fabled place—beautiful, peaceful and prosperous—and all its citizens were happy and fulfilled. However, in a basement beneath one of the public buildings, in a cramped, filthy, windowless room, there was a small stunted child who might have been 10 years old but looked about six. The child was sat in its own dirt and kept hungry. It was always alone and no one ever spoke to it. Sometimes, people came into the room and the child was kicked to its feet. The child had not always been in the room but, although it cried and screamed, and sometimes said, “I will be good,” nobody replied and the door was again locked.

The people of Omelas all knew that the child was there, and they know that it had to be there. A sort of contract existed in which every child in the city between the ages of eight and 12 was taken into the room to see the child. It was explained to the children that everything good in the city—the happiness, beauty and prosperity—depended on the child being kept in those conditions in that room. The youngsters were, of course, very upset when they heard that, but the vast majority learned to live with it. However, every so often, one of the youngsters did not go home. They left the city and did not go back—they walked away from Omelas.

The contract of Omelas is not just a fable; it is the reality of the world. Pictures show it better than words. Pictures such as that of a dead, drowned Syrian toddler in the arms of a Greek soldier, because Europe’s borders have become a deadly barrier; of a burnt-out tower block in a wealthy London borough, because cost competes with safety when refurbishing poor people’s homes; and of seas full of plastic, melting ice caps, starving polar bears and deadly droughts because we need our lifestyles.

My good at the expense of others’ misery: that is the contract of Omelas. Certainly, Omelas is more of a mindset than a place. Good religion,

good politics and good humanity have always seen that. It is all connected. The kingdom of God in me connects to the kingdom of God, the Buddha nature and the conscience in you. Everyone and everything—it all matters or it is all diminished. Discount one child or one polar bear and we are back in Omelas.

## Business Motion

14:04

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-12980, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, which sets out a revised business programme for today.

*Motion moved,*

That the Parliament agrees to the following revisions to the programme of business on:

(a) Tuesday 26 June 2018—

after

*followed by* Topical Questions

insert

*followed by* Ministerial Statement: Scotland's Education Reforms

(b) Wednesday 27 June 2018—

delete

5.00 pm Decision Time

insert

4.30 pm Decision Time

(c) Thursday 28 June 2018—

after

First Minister's Questions

insert

First Minister's Appointment of Scottish Ministers and Junior Scottish Ministers

delete

12.45 pm Decision Time

insert

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

*Motion agreed to.*

## Topical Question Time

14:04

### ScotRail (Punctuality Targets)

1. **Colin Smyth (South Scotland) (Lab):** To ask the Scottish Government what its response is to reports that ScotRail missed its punctuality targets for every reporting period in the last year. (S5T-01178)

**The Minister for Transport and the Islands (Humza Yousaf):** The set of targets contained in the ScotRail franchise is a challenging but realistic contractual regime to ensure that the punctuality of our rail services is at the forefront of ScotRail's priorities. It should be noted that nearly 90 out of 100 trains—89.3 per cent—still arrive within the public performance measure, which is better than the figure for Great Britain as a whole, which stands at 87-odd per cent, and that ScotRail continues to be the best large operator in the United Kingdom.

The Donovan review recommendations are all under way. Stop-skipping, which was at 1 per cent earlier in the year, reduced to 0.09 per cent in the most recent period, and further performance improvements will be seen over the coming months as new rolling stock comes into service.

I continue to monitor ScotRail's performance very closely, and my officials at Transport Scotland are working with ScotRail to bring about a sustained improvement in its performance.

**Colin Smyth:** The minister is correct—those targets are set as part of the franchise agreement, and they are being missed. Given that ScotRail has failed to hit those targets once in the past year, does the minister anticipate that it will hit them at any time in the forthcoming year?

**Humza Yousaf:** Of course we will push ScotRail to meet its targets—that is my job and Transport Scotland's job—but let me wrap some context round the issue. Today, ScotRail's performance is at 92 per cent. The UK national average is 81 per cent. I agree with Colin Smyth that it is not acceptable that ScotRail is missing its targets, but it is missing them by 1 or 1.5 percentage points; there has not been a catastrophic decline in ScotRail's performance by any stretch of the imagination.

I will continue to press and to push ScotRail, but the PPM—or the moving annual average—is just one measure of the passenger experience. The fact that stop-skipping has reduced has been welcomed; I have heard that from passengers. The entry into service of new rolling stock will help

with the capacity issues in ScotRail. A holistic view needs to be taken of all those measures.

**Colin Smyth:** I notice that the minister did not say that he anticipates that ScotRail will hit those key targets in the forthcoming year. Given that and the fact that it has missed them in the past year, it is little wonder that a recent poll put public support for renationalising our railways at more than two thirds. Our rail workers and the unions that represent them also support public ownership of our railways.

In answering what might or might not be the last question that he receives in his role as transport minister, can Mr Yousaf tell us whether he and the Scottish Government believe that our railways—the track and the trains—should all be brought back under public ownership: yes or no?

**Humza Yousaf:** Presiding Officer,

“Too often in our history, we’ve talked about the ownership models for rail, without also thinking through clearly enough what we wanted to do with the network itself.”

It was not me who said that; it was the Welsh Labour Government minister Ken Skates, who has just awarded a £5 billion private contract for Welsh railways.

Colin Smyth demands that we nationalise the railway and Jeremy Corbyn demands that we nationalise the railways, but in the one place where Labour is in power, it awards the rail contract to a private company, so I will not take any lectures from Colin Smyth on public ownership. In 13 years in government in the UK, Labour did hee-haw about it. In eight years in government in Scotland, it did hee-haw about it. We have been in power for the past 11 years and we have changed the law to allow for a public sector rail bid, while Labour has done nothing but sit on its hands. Therefore, Colin Smyth will forgive me if I do not take any lectures from him on the state of our railway.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** Given that successive Labour and Tory Governments continually denied any public sector operator the right to bid for a rail franchise and that it was the Scottish National Party that secured that option as a result of the work of the Smith commission, does the minister agree that Labour’s position is nothing but hypocrisy, especially as Labour seems to do one thing in opposition and another thing in government?

**Humza Yousaf:** With Labour, it is a case of, “Do as I say, not as I do.” In answering Fulton MacGregor’s question, I say to Colin Smyth that, even if Labour is going to look one way in Wales and a different way in Scotland, it should at least have the guts to stand with the Scottish

Government when it comes to the devolution of Network Rail, instead of siding with the Tories. We believe that Network Rail should be devolved to Scotland. Fifty-nine per cent of rail delays are directly attributable to the infrastructure, which is under the control of Network Rail, which in turn is under the control of the UK Government’s Department for Transport, so it would be good if the Labour Party, instead of siding with the Tories on the railways, joined the Scottish Government in calling for further devolution of Network Rail to Scotland.

**Jamie Greene (West Scotland) (Con):** What options are available to the minister to ensure that the ScotRail Alliance can and will meet its contractual obligations under the franchise and when does he—or anyone who follows him—expect punctuality simply to get back on time?

**Humza Yousaf:** I go back to the point that I made to Colin Smyth—the context is not the catastrophic one that Jamie Greene is attempting to portray. ScotRail is behind its target, and Transport Scotland and I will push it to go further. However, on other performance measures, such as the reduction of stop-skipping and addressing overcrowding, which we hear about from our constituents, it is going in the right direction. Three sets of new rolling stock will enter service over the coming months.

Of course, financial penalties and incentives are available. I am sure that Jamie Greene knows about the service quality incentive regime—SQUIRE—fund. We continue to hold ScotRail robustly to that when it comes to the cleanliness of the rolling stock and stations, and there are measures within the contract to deal with problems with performance measures. However, those are nowhere near where they would have to be for there to be breach of contract. I make the point again that context is wholly important in this discussion.

**John Finnie (Highlands and Islands) (Green):** ScotRail does many positive things, but the percentage of people who are delayed by trains is too high. It affects their employment, health appointments, schooling and all the rest. We only seem to hear about public sector bids when things are not going too well. I had hoped to hear a lot more about a public sector bid before the end of term. Where is that bid, and when is the minister going to take positive action to address the concerns that are legitimately held by members of the public?

**Humza Yousaf:** John Finnie makes a good point about the effect that rail delays can have on the average passenger. That is absolutely correct and it is why there is a delay repay scheme. Scotland is doing more to advertise that so that

more people can rightly be compensated when their journey is delayed.

On a public sector rail bid, I say to John Finnie that this Government made a change to the law, and we could have gone further if full devolution of railway powers had not been blocked by the Labour Party during the Smith commission. Watch this space closely: we promise to make an announcement on the public sector rail bid shortly. John Finnie has been involved in the cross-party and cross-trade union working on that and he knows that we are actively looking at a range of options. I hope to make an announcement on that shortly.

### **Heathrow Expansion (Implications for Scotland)**

**2. Jamie Greene (West Scotland) (Con):** To ask the Scottish Government what its response is to the result of the United Kingdom Parliament's vote on Heathrow expansion and its implications for Scotland. (S5T-01174)

**The Minister for Transport and the Islands (Humza Yousaf):** The Scottish Government welcomes the fact that the third runway project is now moving to the stage of Heathrow applying for a development consent order, but notes that some members of Parliament across all the political parties were not persuaded to support the UK Government's national policy statement. It is now incumbent on the UK Government to build more confidence in the process and to set out more clearly the economic benefits that a third runway at Heathrow can deliver throughout the UK.

The Scottish Government's position remains that Scotland should benefit proportionately from the new runway capacity and that that should be subject to guarantee. We note the Secretary of State for Transport's commitment to 200 additional weekly flights for Scotland, which was made during last night's Westminster debate. However, we await the detail of that. The UK Government's aviation strategy, which is to be published later in 2018, will have a significant role to play in setting out how the UK Government intends to deal with issues such as slot allocation for services to Heathrow from the nations and regions. The Scottish Government will work constructively with the UK Government on the new strategy.

I note the concerns conveyed during last night's debate on the potential environmental implications of the new capacity. Although we are not responsible for the third runway, as a leader in tackling climate change the Scottish Government is not divorced from the potential environmental consequences.

**Jamie Greene:** Presiding Officer,

"Expansion at Heathrow offers significant job creation, major investment opportunities"

and we

"look forward to working with Heathrow to bring the significant benefits of a third runway ... to Scotland."

Those are not my words, or even the words of the UK Government—they are the words of Keith Brown and the Scottish National Party Government.

Nowhere in Mr Yousaf's answer did he explain why the SNP has reneged on the memorandum of understanding that it signed with Heathrow on a third runway, and nowhere did he answer why his party did not support the creation of the thousands of jobs that expansion will create or the hundreds of new flights that it will bring to Scotland. Let me ask the minister a simple question: does the Scottish Government whole-heartedly support Heathrow expansion—yes or no?

**Humza Yousaf:** Yes, we still support the third runway at Heathrow. I made that position clear in my opening answer. I know that Tory MSPs are used to rolling over and doing whatever Theresa May tells them whenever she wants. Our MPs are absolutely right to demand that they get cast-iron guarantees around the 200 additional flights.

We also need confidence on the climate considerations. Why on earth did the UK Government push forward with a vote days before an important report from the independent Committee on Climate Change on aviation emissions was due to be published? Why on earth was the vote not held afterwards?

With the greatest of respect, I will take no lectures from Jamie Greene when he is a member of the party of the Foreign Secretary, Boris Johnson, who said that he would lie down in front of the bulldozers. He was not lying down as much as flying away.

**Jamie Greene:** The minister says that the Scottish Government somehow supports a third runway at Heathrow, but it begs the question why his MPs at Westminster did not support it. The new runway was backed by the First Minister, the finance secretary, the economy secretary and even the transport minister himself yet, when it came to the crucial vote, the SNP abstained. It ducked out in another grievance-stoking stunt at Westminster. The question is: who gave the order and why? If we are to believe reports, the First Minister herself ordered MPs not to back it. Does that not all go to show that, given the choice between stirring up an argument or boosting jobs and the economy in Scotland, for the SNP, it is always party first and everything else second?

**Humza Yousaf:** That is quite unbelievable. I have already explained that the MPs do not have



the cast-iron guarantees. If the member can stand up and tell me how the 200 slots will be allocated, I will be all ears. He absolutely cannot do that.

When it comes to the environmental consequences of the third runway, our MPs are absolutely right to demand the detail on that. Yes, in principle, we support the third runway, but that is conditional. Unlike the Tory MSPs, who will roll over and do whatever Theresa May and the UK Government tell them to do, we will not. That is why we will stand up for Scotland and demand those guarantees. I will leave the member not just to complain about this from the sidelines but to do whatever the UK Government tells the Tory party to do.

**Mike Rumbles (North East Scotland) (LD):** I want to pursue that. Until this morning, it was Keith Brown who was supposed to answer this question. I know that the minister is now in the hot seat and he may not be as prepared, but does he agree that for Keith Brown to have—I quote him—“engaged extensively” with Heathrow, signed another memorandum of understanding, as we have heard, talked up the deal that he had negotiated for almost two years and then had SNP MPs abstain in the vote is an unmitigated embarrassment for him and the Government?

To pursue the other point, I ask the minister whether it was the First Minister who instructed SNP MPs to abstain.

**Humza Yousaf:** That is unbelievable, again, from Mike Rumbles. I note—there may be a very good reason for this—that not all of the Scottish Liberal Democrat MPs voted in favour of the third runway.

I say to Mike Rumbles that we are taking an evidence-based approach and are not simply believing what Theresa May has to say. I know that, previously, the Lib Dems accepted what the Conservatives said without standing up to them, when they were in coalition in the UK Government, but we do not take that approach. We are demanding assurances on the 200 additional flights and on the environment, which I would expect Liberal Democrats to join us in demanding from the UK Government.

We will continue to take an evidence-based approach. This Government has the MOU with Heathrow, which is of course different from the actions of the UK Government. What we are demanding is action from the UK Government, and I would expect Mr Rumbles, instead of siding with the Tory MSPs on this one, to be more on side with us.

**Gordon MacDonald (Edinburgh Pentlands) (SNP):** Does the minister agree that the UK Government should have ensured that MPs were able to take a fully informed decision on expanding Heathrow by holding the vote after the publication

of the independent UK Committee on Climate Change emissions report?

**Humza Yousaf:** Yes—absolutely. I cannot for the life of me understand how politically tone deaf this UK Government continues to be.

Although we have no responsibility for the information that was provided to MPs beforehand, given the importance of the decision, we would have expected MPs to receive sufficient information along with the appropriate time to consider it. The fact that the independent UK Committee on Climate Change emissions report was due within days but the vote was held before that is, I am sure, one of the reasons why our MPs abstained, but I have a feeling that it is also the reason why some Tory MPs and some Labour MPs voted against or abstained.

The UK Government has made a mistake, and we look to it for assurances about climate change and the emissions from the third runway.

**Patrick Harvie (Glasgow) (Green):** The UK Secretary of State for Transport, Chris Grayling, was widely pilloried for making a statement on Heathrow expansion without once mentioning the issue of climate change. The SNP’s position is equally risible. What on earth does the minister think that he will read in the Committee on Climate Change’s report when it is published that will overcome the objective reality that more flights mean more emissions? In particular, more short-haul flights between Scotland and London are completely unnecessary when we have surface alternatives, including rail alternatives, to use. Is it not clear that the proposal blows a hole in the UK Government’s and the Scottish Government’s climate change policies and leaves them without a shred of credibility?

**Humza Yousaf:** No. That is a ridiculous assertion. The Scottish Government has, of course, brought forward world-leading climate change targets, which it is meeting, and radical action—for example, in my transport portfolio in relation to low-emission zones and electric vehicles. It is worth mentioning that the Scottish Government has ensured that aviation emissions and other transport emissions are included in the climate change targets.

The independent UK Committee on Climate Change report is hugely important and vital to us, and MPs and the Scottish Government will look for assurances from the UK Government. I am afraid that Patrick Harvie’s saying that we have no shred of credibility on the matter simply does not match with reality.

**The Presiding Officer (Ken Macintosh):** I am afraid that that concludes topical question time. I apologise to members who wished to ask further questions. There is not quite enough time for them this afternoon.

## Education Reforms

**The Presiding Officer (Ken Macintosh):** The next item of business is a statement by John Swinney on Scotland's education reforms. As usual, the cabinet secretary will take questions at the end of his statement.

14:22

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The aim of the Government's education policy is to achieve excellence and equity for all our children and young people in a high-performing education system. To make that a reality, we must raise the bar for all and close the attainment gap in our schools.

Our education system is already delivering improving results. For the third year in a row, we have seen more than 150,000 higher passes, despite falling pupil numbers, and nearly 60,000 skills-based awards and achievements. We have seen the proportion of young people who get qualifications at Scottish credit and qualifications framework levels 4, 5 and 6—mainly national 4s, national 5s and highers—increase, and it is increasing fastest in the most deprived areas. Almost 23 per cent of school leavers in the most deprived areas are going into higher education compared with 16.5 per cent seven years ago.

International evidence demonstrates that successful education systems are those in which decisions about our children's education are made as close to them as possible. That is why our approach is to empower schools—to empower headteachers, teachers, parents and the wider school community—to make key decisions that will affect the educational outcomes of children and young people. We set that out in our manifesto, in saying that we will

"put teachers, parents and communities in the driving seat".

We have a great many high-quality professionals working in Scottish education, but they are not currently sufficiently empowered to work together and to use their skills, judgment and creativity in the way that they think best. It is critical that they can do so to ensure that the potential of curriculum for excellence is achieved.

Empowered professionals must also be supported by specific measures in the national improvement framework to secure improvements in Scottish education. The combination of the Scottish attainment challenge and pupil equity funding is already delivering results by empowering the teaching profession. Teachers and headteachers are taking radical, focused and innovative approaches to improve outcomes because that funding puts them in the driving seat.

The interim evaluation of the attainment Scotland fund showed that 78 per cent of headteachers had seen an improvement in attainment and wellbeing as a result of the fund and that nearly all headteachers—97 per cent—expected to see further improvements in the coming five years.

Some people say that all of that is progress enough and that the system does not need further interventions from the Government; some people say that many schools enjoy the empowerment that our reforms aim for and that great work is being done in a number of areas—and it is. In other words, some people say that children and young people have got the education system that they need and that some of them will reach their potential. However, it is simply not good enough that some children will reach their potential. We must raise the bar and close the gap for all.

A year ago, we published "Education Governance: Next Steps—Empowering Our Teachers, Parents and Communities to Deliver Excellence and Equity for Our Children". Since then, significant progress has been made. We have worked intensively with local government to reach agreement on regional improvement collaboratives to provide additional support to schools. All six regional improvement collaboratives are up and running, their leaderships are appointed and they are collaborating with Education Scotland to respond to local needs and aspirations. The first set of regional improvement plans has been developed, and the second set of plans is due in September. All of that has been achieved at a pace that would previously have been thought highly unlikely—if not impossible—as a result of creative joint working between national and local government.

"Education Governance: Next Steps" also committed the Scottish Government to working with partners to support readiness for a school and teacher-led system. That has led to a rationalisation of the existing structures and governance arrangements in Scottish education.

I chair the Scottish education council, which brings together young people, education leaders and representatives from local authorities, the teaching profession and our partners in the Convention of Scottish Local Authorities. It works collaboratively to ensure that there is a system-wide focus on improvement and to agree priorities for improvement activity and delivery.

Education Scotland has taken significant action to deliver on its enhanced role and remit. The Scottish College for Educational Leadership is now integrated into Education Scotland, building further the culture and the capacity of leadership throughout the system.

Last November, we consulted on proposals to achieve empowerment through an education bill, which included proposals for a headteachers charter. Our aim is to ensure that schools have wide-ranging powers over their own management, staffing and what is taught in their classrooms, thereby creating a culture of empowerment that enables all professionals to contribute to the improvement agenda.

The consultation analysis, which was published in March, showed that a great many people agree whole-heartedly with our aim of school empowerment, although many were not convinced about all the details of how we planned to achieve that aim. Those voices raised the question of whether we could deliver the headteachers charter faster and with less disruption in partnership with local authorities. If we could, why should we wait 18 months for an education bill?

In the light of those responses, I have been in detailed discussions with local government for some months. The work has not always been easy, but I can announce that we have reached a clear, shared commitment. I am today fast-tracking the reform of Scottish education. The Scottish Government and Scotland's councils have reached an agreement that endorses and embraces the principles of school empowerment and that provides clear commitment to a school and teacher-led education system—and it does so without the need to wait 18 months for an education bill.

Although I am publishing a draft education (Scotland) bill today, along with its accompanying documents and appropriate impact assessments, I have decided that I will not introduce the bill to Parliament at this time. Instead of waiting for the passing of legislation that cannot be fully in force until 2019 or 2020, we have an opportunity to reform our schools more quickly through investment in consensus building and collaboration rather than through legislation.

In coming to my decision, I have also reflected on the advice of the international council of education advisers, which encouraged me to consider the benefits of pursuing a collaborative approach instead of legislating. I have listened to that advice and have taken the view that, by building on the joint agreement with local government, we have greater prospects of achieving more at a swifter pace. That means that the headteachers charter can become a reality faster and that school leaders will be able to make more quickly key decisions on the areas of curriculum improvement, staffing and budget, which are crucial to ensuring effective learning and teaching. By implementing our agreement jointly with local government and the education profession, we can develop guidance on

empowerment and the charter as a matter of priority and more quickly than statutory guidance under an education bill.

On budget powers, we have begun work with our local government partners on new guidance for devolved school management schemes.

We will also launch a joint action plan on parental engagement next month and will continue the work that has been started in this year of young people to enhance the voice of pupils in schools.

Finally, on the General Teaching Council for Scotland, we will explore what can be done within the scope of current legislation to provide the benefits of regulation and registration to a wider group of education professionals. I accept the strength of feeling among teachers about the body's independence and its guardianship of professional standards.

By taking the steps that I have set out to the Parliament today, we are demonstrating a clear commitment to working with local government and education professionals. We are fast-tracking progress, and we expect that progress to be sustained and swift. However, I make it very clear that, if sufficient progress is not made over the next 12 months to deliver the empowerment of schools that we have agreed with local authorities, I will return to the Parliament and introduce an education bill.

The approach that I have set out today requires tailored and targeted support. I am therefore announcing a total of £46 million of investment to support the improvement agenda.

I am announcing further investment of up to £4 million over three years, in addition to existing leadership development programmes, to ensure that headteachers can access high-quality professional learning. That includes further investment in the highly regarded Columba 1400 leadership academies.

I am announcing funding of up to £10 million to enhance regional capacity to support schools. That funding, through regional improvement collaboratives and Education Scotland working together, will help schools to close the attainment gap and tackle rural deprivation, and it will support collaboration to share best practice and the delivery of regional interventions.

To ensure that we maintain progress on the opportunities that are available for looked-after children, I will make available funding of around £8 million for the remainder of this year and £12 million in each of the subsequent two years to supplement pupil equity funding and the challenge authorities and schools programme.

This Government believes that every child in Scotland, whatever their background, should have the very best start in life, and the landmark agreement that was published today marks the next phase in reforming our school education system. It means that reform can be delivered more quickly than by legislation. It means that we will empower teachers to drive improvement in schools and help pupils to flourish. It means that the whole system—schools, councils and regional improvement collaboratives—will be focused on improving the outcomes for Scotland's children and young people. Teachers and parents will be the key decision makers in the life of a school.

Education remains by far the most effective means that we have to improve the life chances of all our young people. I am confident that this approach—one that builds consensus and fosters collaboration, with high expectations of what we can achieve together—is the right approach for Scotland.

**Liz Smith (Mid Scotland and Fife) (Con):** I thank the cabinet secretary for prior sight of his statement.

"A new education bill will deliver the biggest and most radical change to how our schools are run ... It will give headteachers significant new powers, influence and responsibilities, formally establishing them as leaders of learning and teaching."—[*Official Report*, 5 September 2017; c 13.]

That was the flagship promise of the First Minister in the Scottish Government's programme for government, just a few months ago. The cabinet secretary himself is on record saying that the education bill would be the best chance in a generation to reform our schools and raise attainment.

I am—frankly—astonished by the content of this afternoon's statement, as will be thousands of parents, teachers and young people across Scotland. In that light, I have only one question. Is the cabinet secretary embarrassed by this complete shambles of a U-turn, which not only breaks the Scottish National Party's promise to the people of Scotland but leaves schools with even more uncertainty about their future under this SNP Government?

**John Swinney:** The one-word answer to Liz Smith is no.

What I have done is pursued the Government's policy objective, which is to empower our schools, and negotiated an agreement with local authorities that enables us to empower our schools faster than can be achieved through legislation. The policy intent of the Government is absolutely intact and we will pursue it, to deliver the objectives that the Government has set out.

On the experience of schools, I see schools in Scotland using the freedoms that this Government has given them through pupil equity funding—which Liz Smith voted against in the budget—to ensure that they are able to close the poverty-related attainment gap and improve opportunities for young people. What will come from the agreement that I have negotiated with local government is the opportunity, at a faster pace, to deliver the reforms to which the Government is committed and that it is determined to deliver.

**Iain Gray (East Lothian) (Lab):** I thank the cabinet secretary for early sight of his statement.

Well, what a shambles indeed. For two years, parents, teachers, educationists and the Government's international advisers have told the education secretary that his education bill was unwanted, unnecessary and misguided, but he carried on regardless. Now, at the 11th hour, his flagship legislation has sailed off into the sunset. The First Minister's top priority—her sacred obligation—is now reduced to just another last-minute, cobbled-together joint agreement. The only thing that is being fast tracked here is the mother of all ministerial climbdowns.

The cabinet secretary has failed—and he knows that he has—to marshal support for his bill, in or out of this Parliament. His blushes cannot be spared. Will he just own up and admit that his education bill is dead? Will he now do what he always should have done, which is to restore the 7.5 per cent that he cut from school budgets and address the 20 per cent erosion of our teachers' pay?

**John Swinney:** Iain Gray talks about the marshalling of support for the bill. This has been the product not of last-minute discussion but of months of dialogue with local government, culminating in the unanimous agreement by local authority leaders of the contents of the education bill. That position was arrived at by COSLA leaders at their meeting at the end of May.

In my statement, I was responding positively to the discussions that we have had and recognising that we can achieve greater progress, at a faster pace, by working together with local authorities. That is what the Government has opted to do. However, I reserve the right to ensure that we progress that agenda in a speedy and timeous fashion and to return to Parliament if we are not able to pursue the collaborative approach that I have set out.

On the question of resources, I would have thought that, by now, Iain Gray might have welcomed the facts that, last year, local authority expenditure on education increased by 3.2 per cent and that, in the current financial year, local authorities are projected to increase their

expenditure on education by 3.8 per cent. I would have expected that he might also have supported the £120 million in pupil equity funding that goes into our schools annually to transform the lives of young people. However, Iain Gray does not support any of that, because he voted against it in the budget. I am afraid that he cannot now wriggle away from the consequences of his foolish error earlier in the year.

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** As the cabinet secretary detailed in his statement, all six regional improvement collaboratives have now been established, and their respective leadership roles have been filled. How will the collaboratives help to drive improvements in learning and teaching at local level?

I remind members that I am parliamentary liaison officer to the cabinet secretary.

**John Swinney:** We expect regional improvement collaboratives to engage closely with the work that is going on with individual schools and to respond significantly to their demands and requests for improvement support. The agreement that I have set out today puts schools in the driving seat, with their being able to determine the enhancements to learning and teaching that they require and to seek them from the regional improvement collaboratives that are part of the combined work of local authorities, Education Scotland and the Scottish Government. In that very focused way, we want to support the enhancement of learning and teaching in the classroom. One of the key tests of the success and effectiveness of regional improvement collaboratives will be what they can achieve in improving classroom practice.

**Oliver Mundell (Dumfriesshire) (Con):** This is quite clearly a case not of job done, but of job too difficult. Given the cabinet secretary's frequent pleas to the Parliament that the bill was essential for raising attainment, I want to ask: why did he bring forward the bill in the first place, why has he changed his mind and why he has brought to an end engagement with other political parties that might have been willing to work with him?

**John Swinney:** What has changed my mind is the collaboration that we have been able to build up with local authorities. I am very clear about that point. We have managed to get local authorities to a position where they are taking forward a shared agenda. They are committed to that shared agenda, which is focused on empowering schools through the design of a headteachers charter that will give headteachers much greater influence over curriculum, staffing, funding and improvement than is the case currently, and enable those headteachers to lead the process of improving educational performance in schools.

On the basis that I am constantly appealed to in this Parliament to build agreement and consensus, that is what I have sought. I have secured that agreement from local authorities and I am determined to work with local authorities to ensure that we deliver that impact on the education of young people. As Mr Mundell knows, that improvement is already being delivered, with the data that we published last week demonstrating that the attainment gap is starting to close and that the work that is being taken forward collaboratively in Scottish education is beginning to have an effect.

**Mary Fee (West Scotland) (Lab):** How will the cabinet secretary determine whether sufficient progress has been made in the next 12 months?

**John Swinney:** I will seek an independent assessment of whether sufficient progress has been made. I will look to that independent assessment to make a judgment about whether the commitments that have been made in the agreement have been fulfilled in a reasonable fashion within the 12-month period, and that independent analysis will be published and will inform my view as to whether to introduce legislation at a later stage. However, I make it clear to Mary Fee and to the Parliament that I would prefer not to do that, because I think that we could achieve more progress if we fulfil the spirit and the letter of the agreement that I have reached with local authorities.

**George Adam (Paisley) (SNP):** I welcome the cabinet secretary's funding announcement on enhanced regional capacity to support schools. Does he agree that closing the poverty-related attainment gap requires the collaboration of a wide range of public services, not just schools?

**John Swinney:** I accept Mr Adam's point. A whole range of influences can be brought to bear on the opportunities that are available to young people. That support can be provided by a number of professionals, but the key element is that all those professionals must be focused on how we ensure that our combined actions get it right for every child. That focused policy approach is an essential part of how we engage in supporting young people and ensuring that they are able to fulfil their potential as a consequence of the joint working that takes place across our public services.

**Ross Greer (West Scotland) (Green):** This is a humiliating moment for the education secretary, as he is forced to flee from Parliament. His proposals have been rejected by teachers, parents, young people, councillors and education experts, and he knows that they would be rejected by MSPs as well, so he is avoiding Parliament completely. The £10 million announced for the unwanted and unnecessary regional collaboratives could instead

have been used for 260 desperately needed teachers for the rest of this session of Parliament. Can the Deputy First Minister accept that the number 1 issue in Scottish schools at the moment is a lack of staff and resources due to his budget cuts, and that shelving the doomed bill gives him a chance to admit the mistakes made over the past decade and to change course?

**John Swinney:** Unless I am mistaken, I am in Parliament just now, answering questions from members of Parliament and explaining the Government's position, so, as a matter of pure technical reality, I can tell Mr Greer, in response to his question, that I am actually here.

In relation to the objectives of the Government's agenda, I have set out clearly to Parliament today that the Government's agenda to empower schools lies at the heart of the agreement that we have reached with local authorities, and the conclusion that I have come to is that I can make more progress working in a collaborative way with local authorities to advance that agenda than I can through legislation. If that results in the creation of a school-led, empowered education system in our schools, the Government's policy objective will have succeeded. I am sure that Mr Greer will encourage us all the way.

On resources, I have made a number of announcements today about enhancing investment in education, but the Government has also been strengthening investment in education through pupil equity funding and the Scottish attainment challenge. We are seeing the effect of that in schools and in the closure of the poverty-related attainment gap. As a result of the Government's budget settlements, improvements are being made in investment in education.

All those factors come together to demonstrate the important progress that we are making on education, which should give us encouragement about our prospects of closing the attainment gap and about every young person fulfilling their life chances. That is what the Government is unreservedly focused on achieving as a consequence of our education policy.

**Tavish Scott (Shetland Islands) (LD):** If education is the First Minister's number 1 priority, why is she not here? Is the ministerial reshuffle more important than Scotland's schools?

If the proposed bill is so important, why is the cabinet secretary ditching it, yet holding it as a sword of Damocles over our councils? Is it really collaboration to say, "Do as I say, or I'll be after you"?

**John Swinney:** Just as I am here to answer questions, although Mr Greer did not seem to think that I was, the First Minister cannot be in two places at once. She is taking forward the

Government's agenda, as she always does, and I am here to explain our position on education reforms.

As for Mr Scott's second point, he regularly encourages me to engage in dialogue with external parties. That is exactly what I am doing, and that has informed the conclusions that I brought to Parliament. However, it is only fair for me to make clear to everybody the Government's determination to pursue the policy agenda. I want to ensure that the commitments that we have entered into with local authorities in good faith are taken forward and that we have every opportunity to strengthen Scottish education as a result, but I must reserve the Government's position on legislating if we cannot make the progress that has been committed to in our agreement with local authorities.

**Ruth Maguire (Cunninghame South) (SNP):** How will the Government's plans allow for new opportunities for professional development in teaching? How will that help to raise standards and close the attainment gap?

**John Swinney:** As a consequence of our dialogue with professional associations through the international summit on the teaching profession, one important priority is the design of additional career pathways for teachers, to allow them to enhance their professional development and professional skill in the classroom without having to seek other opportunities through administrative leadership.

To be frank, we have narrowed career development opportunities too much in Scottish education; we need to open them up again. We have invited Moyra Boland of the University of Glasgow to take forward a panel that will look at the development of career pathways, in consultation with the professional associations, to provide career development opportunities that will enhance teachers' practice.

In addition, the resources that I have announced today and the focus of regional improvement collaboratives are all designed to strengthen learning and teaching in the classroom and to invest in that to enhance the opportunities that are available for young people.

**Alison Harris (Central Scotland) (Con):** Not long ago, the cabinet secretary confirmed that

"We will have the opportunity to vote in Parliament on the proposed education bill".—[*Official Report*, 5 September 2017; c 69.]

Will that ever happen?

**John Swinney:** It might, but that will depend on whether we make sufficient progress through the joint agreement with local authorities. What matters to me is the outcome that we achieve. If

the outcome is empowered schools that help to raise attainment, that will be job done, because we will be closing the poverty-related attainment gap and succeeding in our policy objectives. If we have to do that through legislation, we will have to do that, but I would rather pursue the approach of collaboration, which Parliament constantly asks me to take. We have secured the agreement and I look forward to progressing it.

**Gillian Martin (Aberdeenshire East) (SNP):** I note that in the last five minutes, Councillor Stephen McCabe of COSLA has said:

“I am pleased that our concerns have been recognised by the Scottish Government and I believe that the principles we have agreed will allow us to focus on improving outcomes for children and young people.”

What discussions has the cabinet secretary had, and what discussions does he hope to have, with teaching unions as a result of today's statement?

**John Swinney:** I engage extensively with the professional associations. We have discussed these issues over the past few months and I will continue that dialogue with them. I am particularly interested in their involvement in the career pathways development work and in the work of the regional improvement collaboratives. The associations will of course be integral to our discussions as we take forward this agenda to ensure that the legitimate and important interests of employees are properly taken into account in the reforms that we undertake.

**Johann Lamont (Glasgow) (Lab):** The cabinet secretary says that he recognises the strength of feeling regarding the reputation and independence of the General Teaching Council for Scotland. That strength of feeling could not be overstated in the consultations that the Education and Skills Committee carried out, so why will he not commit to dropping his plan to abolish that vital institution?

**John Swinney:** First, my plan was not to abolish the GTCS; it was to ensure that the GTCS became a broader body that could regulate a wider range of organisations in the education workforce. However, my response recognises the strength of feeling that Johann Lamont highlights. I appreciate that she will not have had the time to look at the draft bill, but it does not include provisions to reform the GTCS.

I accept that those proposals should not go forward because there is not sufficient agreement for that move to be undertaken. I have asked the GTCS to explore how, within its existing legislative structure, it can undertake the regulation of a broader range of educational professionals, who I think we would all generally agree should be brought into the ambit of regulation. I am thinking in particular of music tutors. That is one of the groupings of staff that the GTCS is already

exploring bringing within its locus. I look forward to continuing those discussions with the GTCS.

**Richard Lochhead (Moray) (SNP):** I welcome the cabinet secretary's announcement of £10 million being made available through regional collaboration to tackle, among other things, rural deprivation. Can he say a little more about that? Does he recognise that the United Kingdom Government also has a responsibility to tackle rural deprivation, given the number of witnesses who have told the Education and Skills Committee that welfare reform is making it much more difficult to close the attainment gap in Scotland's schools?

**John Swinney:** Mr Lochhead's last point is beyond dispute. It is increasingly difficult to tackle the poverty-related attainment gap, and our challenge is made greater because of the implications of the UK Government's welfare reform. That should not in any way diminish our determination to work to try to achieve our objectives, but it certainly makes the challenge all the greater.

Mr Lochhead made a point about the funding resources that I have announced. Those important funding resources will support the regional collaboratives around the country, particularly in rural areas, to overcome some of the challenges that exist, particularly those that are driven by rurality. They will also ensure that we have in place support for enhancement opportunities for members of the teaching profession, for example. It is about making sure that there is access to those learning and teaching enhancements despite the geographical challenges in rural areas. It is also about guaranteeing that, in rural areas, we have a comprehensive strategy to tackle the poverty-related attainment gap, which is less visible in our rural areas but is nonetheless just as significant and serious as it is in our urban areas, and the necessity of closing it is just as important.

**The Presiding Officer:** Thank you very much. That concludes the statement. We will take a few seconds for ministers and members to change seats before we move on to the next item of business.

## Scottish Parliament (Powers)

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a debate on defending the powers of the Scottish Parliament. We have a little time in hand, so interventions should be short, as should the responses, or we will run out of time for interventions. I call on Mike Russell to open for the Government.

14:55

**The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell):** Today, we have a debate without a motion. Such infrequent but valuable occasions give members across the chamber the opportunity to express their views on the issue at hand without forcing us into a binary division and a simple yes or no. Today, every party has the opportunity to consider the most important issue that is presently facing the Parliament: how to defend and protect Scottish powers if the United Kingdom Government of the day will not respect the constitutional rules. We can also put forward ideas about how we can move forward and protect Scotland from the chaotic and disastrous Brexit that the UK Government is attempting to foist on us.

We could constrain this open opportunity within 19 minutes, which was the time made available to the House of Commons to nod through provisions in the European Union (Withdrawal) Bill that fundamentally alter the nature of the devolution settlement. That time was entirely occupied by one speech by a UK minister. No Scottish member of Parliament was able to talk about the UK Government's proposals, never mind have a proper debate or a vote. The devolution settlement, which was voted for by the people of Scotland in a referendum almost exactly 20 years ago, has been altered—changed utterly—without any input at the final stage by any elected member from Scotland.

**Mike Rumbles (North East Scotland) (LD):** The powers of this Parliament have not been altered. Those powers are under threat only from the one party that seeks to destroy devolution, and that is the party of Government in Scotland. *[Applause.]*

**Michael Russell:** For viewers at home who did not catch that, we have just seen the recreation of the Tory-Liberal Democrat alliance, which we thought came to a happy and blessed end in 2015.

As I was saying, the devolution settlement, which the people of Scotland voted for in a referendum almost exactly 20 years ago, has been altered—changed utterly—without any input at the final stage by any elected member from Scotland.

However, there was a clear democratic voice from Scotland. On 15 May, here in Scotland's Parliament, we refused to give legislative consent to the withdrawal bill by 93 votes to 30—that was all the parties represented in the Parliament except the Conservatives. Just as the vote was clear, so are the rules of our constitution. Where legislative consent is required, sought and refused, the UK Government must amend its bill to reflect the views of this Parliament. The English language is clear, too: when someone asks for consent and it is refused, that is not consent.

The real point of devolution was to ensure that decisions are made as close as possible to those affected by them and that those with the most knowledge of the prevailing circumstances take responsibility for moving Scotland forward. It should give real power and real influence to the range of views in all the nations of these islands. Alas, Brexit has proved how illusory that power and influence are in the face of a UK Government that is determined to ignore the views of democratically elected legislatures.

This weekend, I heard Professor Christine Bell of the University of Edinburgh define a constitutional crisis as a situation that cannot be solved by the operation of the existing constitution. We are in that situation: the constitutional crisis in these islands cannot be resolved by the existing constitutional settlement. The weight of Brexit has been too great for the existing constitution to bear. The hostility of the avid Brexiteers, the indifference of the Prime Minister and the failure of the Tories—and perhaps one Liberal Democrat—in this place has allowed devolution to be broken. Now, it must be remade or replaced.

The Parliament and the Government have done their best to avoid such a situation. We have made our position clear again and again and we have negotiated to achieve that position by offer and by compromise. Immediately after the referendum on 23 June 2016 in which Scotland rejected Brexit, the Parliament voted for a motion mandating the Scottish Government to discuss with the UK Government options to protect Scotland's relationship with the EU and our place in the single market. On 14 September 2016, we voted that article 50 should not be triggered without an agreed UK approach. On 17 January 2017, we voted to support the approach set out in "Scotland's Place in Europe", including membership of the single market and customs union. On 7 February 2017, we voted that the UK article 50 bill should not proceed in the absence of a clear plan and a joint approach. We presented all those positions to the UK Government and we asked for them to be taken into account and ways found, which we suggested, for them to be folded into the UK Government negotiating mandate.



That has not happened. Indeed, what all those votes have in common is that they were completely ignored by the UK Government. No, not all—I should add that, on 21 March this year, we voted in favour of the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. The UK Government did not ignore that vote. Instead, it referred the bill to the Supreme Court.

What can we do to protect this Parliament's powers and the devolution settlement? My party, of course, believes that the best future for Scotland is for it to be an independent country, free to make its own decisions. Not everyone here—*[Interruption.]* This is a democracy. Not everyone here shares that view, but I hope—*[Interruption.]*

"It's coming yet for a' that".

I hope that all of us, as parliamentarians, agree that the Parliament's power should not be eroded and that its competence should not be altered without its consent. Until now, that protection has been provided by a combination of statutory provisions in the Scotland Act 1998 and the Sewel convention.

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

Will the minister give us an example of a single power that the Scottish Parliament currently exercises that is being removed?

**Michael Russell:** I can. I commend to the member, who has clearly not done his homework, the list of 111 of them. *[Interruption.]* Indeed, not only are there 111 such powers, but the UK Government is able to list any other power and just exercise it. I am afraid that that is the reality.

Let us return to the facts of the matter. The Sewel convention—*[Interruption.]*

**The Deputy Presiding Officer:** I ask the Conservative members to calm down a little, please. Your time will come. *[Interruption.]* I should clarify that that is because Mr Tomkins will lead for you shortly.

**Michael Russell:** The Sewel convention is what is known as a constitutional convention—a binding rule of our constitution, although a non-legal rule that cannot be enforced in the courts. The effectiveness of conventions as rules depends, in the absence of judicial oversight, on the actors in the system behaving as they should. It depends, if you like, on trust. However, as the Taoiseach said last week in Guernsey, we have to underpin trust with legal frameworks. That is what makes the European Union work and the absence of it is what now makes devolution not work.

The breach of the Sewel convention has been the result of deliberate, considered actions by the UK Government in the full knowledge that it cannot be held to account by any legal framework.

Therefore, it is now crystal clear that we need more than trust to protect us.

There is a type of statutory provision on the Sewel convention in the Scotland Act 2016, but that provision has been tested in the Supreme Court in the case of *R (Miller) v Secretary of State for Exiting the European Union* and been found to provide no legal protection at all. Therefore, it is now time to revisit the issue of a proper statutory footing for the Sewel convention, as recommended by the Smith commission. As a start, we could dust down the proposals made in 2015 by the Scottish Government and committees of this Parliament, notably the Devolution (Further Powers) Committee, which was convened by my friend Bruce Crawford.

In January, the plenary session of the joint ministerial committee, including the First Minister and the Prime Minister, agreed that the existing intergovernmental arrangements should be reviewed. That work should now consider how disputes, including on the Sewel convention, can be resolved and how a legal framework can be established to underpin the necessary relationships between the four nations of these islands.

I put those ideas to the UK Government last week in both informal and formal settings. I am now looking for urgent progress on them, and the ball is in the UK Government's court. I am pleased that the Welsh Government has fully backed such a process. I would be pleased to hear the chamber's views on those matters today and as we go forward. I am sure that committees of the Parliament will have views, as will the parties. To solve the current constitutional crisis, we need some new thinking. No one has a monopoly on that, although the simplest solution, as Occam's razor suggests, is usually the best. The simplest solution is for the Parliament to have all the powers of a normal Parliament.

I turn to a broader issue: the impending June meeting of the European Council and what the Scottish Government wishes to emerge from the various debates there. European leaders will come together to discuss matters of huge importance: migration, economy, security and defence. It is hugely regrettable that the UK seems almost inevitably to have excluded itself from those important meetings after 29 March next year. We will all be the weaker and the poorer for that. The EU 27 will also discuss the current state of play with the Brexit negotiations—namely that serious divergences remain between the EU and UK Government on a solution for the Irish border, among other issues, and that a huge amount of work needs to take place before October. The unthinkable risk of a no-deal outcome continues to increase. Delay means ever-greater pressure on

the October meeting of the European Council to avoid such a disastrous outcome.

We are told by the UK Government that a new white paper will provide the answers, but it has already been delayed beyond the June European Council meeting. However, there cannot be answers before the devolved Administrations are properly consulted, and we have not been.

I will be in London tomorrow for the second meeting of the ministerial forum that is meant to be looking at the white paper. So far, I have seen only a draft contents sheet. At this moment, with the meeting tomorrow afternoon, I have not seen another word, even though, apparently, the white paper has been written.

That really says it all. The truth is that, riven by its own internal disagreements, the Government's engagement with us or any of the devolved administrations has been at best tokenistic. It remains deeply concerning that the UK Government seems determined to continue to pursue wholly unrealistic negotiating positions, wasting precious months in the process of doing so.

I, alongside my Welsh Government counterparts, continue to engage in good faith through the joint ministerial committee (European Union negotiations) to seek to hold substantive and constructive discussions on those negotiations with the EU, which concern matters for which this Parliament is responsible.

Our position has been consistent and clear: if Brexit is to happen, Scotland and the UK should remain in the single market and customs union. Support for our position from people and businesses is growing daily and I remain determined to reflect Scotland's democratic decision, and to champion Scotland's interests.

Last week, the First Ministers of Wales and Scotland called on the UK Government to commit to staying inside the single market and customs union. It is the UK Government's red lines that mean that Brexit would deeply damage our economies. It is time for the UK Government to stop negotiating with itself, face up to the real dangers of the type of EU exit that it is proposing, and listen to our consistent, evidence-based proposals.

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

**Michael Russell:** No, I want to finish.

As we move into this summer's recess, we face an uncertain future: uncertain in Europe, with the UK Government's approach to negotiations no clearer than it has been at any point over the past two years and with time rapidly running out; uncertain in the UK, with the UK Government

apparently willing to cast aside the rules of our system of government when it suits it; and uncertain at home, with business, communities and individuals left, still, with little idea from the UK Government about what will happen next year and the year after. Brexit still means Brexit and not much else.

In these times, it falls to us in the Scottish Government and Scottish Parliament to stand up even more for the democratic institutions that we represent and to redouble our efforts to strengthen and protect them. That is why I laid out last week our next steps and promised that the Scottish Government will do everything that it can to provide information, move forward the repatriation of regulation and secure the only sensible outcome short of staying in the EU: staying in the single market and the customs union.

That is why cabinet secretaries are now bringing forward—as Fergus Ewing did last week—consultations and plans to allow policy to be developed and progress to be made, even if only to mitigate the damage that is inevitable if the UK Government stays on its present track.

I am happy to hear this afternoon other ideas, but I hope that no one will assert that it is possible to have a good or successful Brexit. It is not. Brexit is and will be collateral damage inflicted by the UK Government as a result of the endless internal civil war in the Tory party, aided and abetted by a shadowy bunch of chancers who we now know were in it to make money. Many people were duped by them. My sympathy lies with those people who are already waking up to the disappointment of promises broken and pledges dishonoured.

There is no, and can be no, Brexit dividend except in the negative: more costs, less income and a declining economy. The Scottish Government will do everything that it can to protect Scotland from such things. We want to do so collaboratively across this chamber and across the nation. I hope that this afternoon's open debate is a chance to move forward in that way, for there is much that we need to do and very little time.

15:09

**Adam Tomkins (Glasgow) (Con):** Given that this is a debate without a motion, I want to use my remarks to reflect on the events of the past year and then at the end to point to what is perhaps the way forward.

Brexit can and must be delivered compatibly with the United Kingdom's devolution settlements. That is the starting principle on which the Scottish Conservatives stand and have stood ever since the British people voted two years ago to withdraw

the United Kingdom from the European Union. Whatever else it may mean, Brexit cannot mean—it has never meant—that the UK will somehow revert to the constitution of 1972. In 1972, when the UK joined what was then the European Economic Community, there was no devolution. However, reversing 46 years of EU membership does not mean and cannot mean that we reverse at the same time all the other non-EU-related reforms to our constitution that we have seen being made since the 1970s.

Mike Russell claimed last week—he repeated the claim a few moments ago—that Brexit is being delivered in “breach” of fundamental principles of devolution in Scotland. He has made that claim because the bill that is now the European Union (Withdrawal) Act 2018 was passed by the Westminster Parliament despite the fact that a majority of MSPs here voted to withhold their consent to it. That, he has claimed, is a

“breach ... of the Sewel convention”.

It is a shame that Lord Sewel does not agree. The Scottish National Party’s misconception about the nature of the Sewel convention, and Mr Russell’s somewhat error-strewn account of what happened in the passing of the withdrawal bill, need to be confronted and corrected, for there has been no breach of Sewel, and the European Union (Withdrawal) Bill was enacted by the Westminster Parliament compatibly with, and not in defiance of, our constitutional rules.

**Bruce Crawford (Stirling) (SNP):** Does Mr Tomkins agree with the following wise words:

“The requirement in the convention to respect the views of this Parliament and not to proceed with legislation that affects the powers of this Parliament without our consent is “not a nicety” or an “add on”; it is a fundamentally important part of our constitutional settlement.—[*Official Report*, 17 May 2018; c 21.]

Why has Mr Tomkins changed his mind, given that some of those are his own wise words?

**Adam Tomkins:** I have not changed my mind. The Sewel convention was effectively suspended by the SNP front bench a few months ago, as I shall explain.

The key point, which Mr Crawford deliberately overlooks—I know that he knows this—is that the Sewel convention provides that Westminster will

“not normally legislate on devolved matters without the consent of the Scottish Parliament”

or, as the case may be, the consent of the Northern Ireland Assembly or the National Assembly for Wales. Based on a narrow reading of the convention, there is an argument that it should not even have applied to the European Union (Withdrawal) Act 2018. The subject of that act is the UK’s withdrawal from the European

Union, which is a reserved matter under our devolution legislation. It is not, and never has been, devolved to this Parliament. To their credit, though, neither Westminster nor Whitehall have ever taken such a legalistic or narrow view of the scope of the Sewel convention. Sewel applied to certain provisions of the withdrawal act because those provisions, among other matters, will extend the powers of this Parliament and of the Scottish ministers.

Let us pause to note that the withdrawal act does not remove powers from this Parliament. When he was asked about that a few moments ago by Murdo Fraser, Mr Russell could not name a single power that is being removed from this Parliament, for the simple reason that there is no such power. The act adds to the powers of this Parliament—but the problem, of course, is that the SNP does not want any of those powers; it wants them all to remain locked away in Brussels.

**Mike Rumbles:** Will the member take an intervention?

**Adam Tomkins:** I will, in a few moments.

When the withdrawal bill was first introduced a year ago, this Parliament was united in viewing its key devolution provision, clause 11, as defective—so defective that, in the unanimous words of the all-party Finance and Constitution Committee, it needed to be “removed or replaced”. The problem with clause 11 was that it would have turned devolution—or one aspect of devolution—on its head. In Scotland, all law-making powers are devolved to this Parliament unless they are expressly reserved to Westminster under the Scotland Act 1998. That is known as the reserved powers model. Clause 11, as introduced, sought in effect to reverse that principle and to convert that aspect of Scottish devolution to a devolved powers model.

However, after hearing our objections, the UK Government undertook to amend clause 11. That happened—later than would have been ideal, but it happened—at report stage in the House of Lords. The amended clause 11—now section 15 of the European Union (Withdrawal) Act 2018—fully respects the reserved powers model. All powers that fall within devolved competence that are to be returned from the EU to the United Kingdom following Brexit will come to this Parliament, unless it is necessary to hold them at UK level for a limited period so that the vital integrity of the UK’s internal market can be safeguarded.

Holding such a power at UK level does not mean that the UK can change anything; it simply means that for as long as the power is held it will continue to be exercised just as it is now—that is to say, in accordance with EU law.

**Mike Rumbles:** Our politics might differ markedly—[*Laughter*]*—*and we have our disagreements. [*Interruption.*] However, I agree with Adam Tomkins entirely that there is no constitutional attack on the powers of this Parliament, as is implied by the subject of the debate. Does he agree that it is only the SNP that is intent on destroying devolution in the Scottish constitutional system?

**Adam Tomkins:** I agree absolutely. The nationalists have never believed in devolution and they do not like it. They do not believe in the United Kingdom, whether devolved or not. They want to break up the United Kingdom and to bring an end to devolution.

Section 15 of the European Union (Withdrawal) Act 2018 is manifestly in Scotland's interests. None of us should forget that Scotland trades nearly four times as much with the rest of the United Kingdom as it does with the whole European Union. Safeguarding the integrity of the UK's internal market is essential to Scottish business and the Scottish economy. No one who genuinely seeks to be "Stronger for Scotland" should object to that—but the SNP does. The amendments were good enough for the Labour Government in Wales, and for Opposition and cross-bench peers in the House of Lords. They were good enough for everybody who was involved in the process, except the SNP. The story is that the amendments were good enough even for Mike Russell, until he was overruled by his boss.

**Michael Russell:** Will Adam Tomkins give way?

**Adam Tomkins:** I will, in a moment.

However, whatever the rights and wrongs of that particular story, one thing is crystal clear. It was Nicola Sturgeon's belligerence that broke the consensus in this Parliament. That has not strengthened our hand; it has weakened it.

**Michael Russell:** I am sure that Mr Tomkins would not want to be totally wrong. The Scottish Trades Union Congress, for example, has indicated that it does not agree with what has taken place, as have a wide range of other bodies. I am sure that he did not mean to suggest that the SNP is on its own in that. In fact, the SNP has considerable support; last week, even the First Minister of Wales indicated how strongly opposed he is to the way in which the UK Government is acting.

**Adam Tomkins:** The First Minister of Wales leads a Government that signed up to the deal that Mr Russell himself wanted to sign up to until he was overruled by the belligerence of his boss.

From one view, the most critical event in the saga was not the withdrawal bill or the

amendments to it, but the unilateral and hasty ill-advised action that the SNP took in introducing its own Brexit legislation. The so-called continuity bill—the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill—which, in reality, was a wrecking bill that was designed not to deliver continuity but to sow the seeds of legal confusion and chaos, was both a tactical error and a huge strategic mistake on the Scottish Government's part. It was a mistake that was compounded by Mike Russell's insistence that this Parliament enact that legislation under fast-track emergency procedure. Even Mr Russell knows that we do not legislate using emergency procedure in normal times; we legislate using emergency procedure when there is an emergency.

Therefore, it was no surprise that, when moving the motion on the fast-tracking of his continuity bill, Mr Russell insisted that

"these are not normal times."

Oh, dear. What a blunder. Let us go back to Sewel—this is the answer to Mr Crawford's question. Sewel says that Westminster will

"not normally legislate on devolved matters without"

our "consent", but it was Mr Russell himself who insisted that

"these are not normal times."

The SNP cannot have it both ways; it cannot pull stunts in the House of Commons, screaming from the rooftops that Westminster has breached the Sewel convention, while insisting at the same time that this Parliament uses emergency legislative procedure because

"these are not normal times".—[*Official Report*, 1 March 2018; c 29.]

To make matters even worse, the continuity bill was enacted in the face of legal advice from the Presiding Officer that the bill was beyond our legal powers, and the bill now awaits trial in the Supreme Court, whose verdict we expect in the autumn.

What have we learned? Through its own actions over the past 12 months, the SNP has undermined Scotland's interests and has weakened this Parliament's hand in the Brexit process in three ways. First, by refusing consent even to the amended withdrawal act, the SNP has isolated Scotland by breaking not only the consensus in this Parliament, but the joint working with the Welsh Government that had enjoyed considerable success until the nationalists broke it.

Secondly, by rushing ill-conceived Brexit legislation of its own through this Parliament, the SNP sold the pass on the Sewel convention, undermined the integrity of this Parliament's

emergency law-making procedures, wilfully ignored the legal advice of our Presiding Officer and exposed this Parliament's legislation to unprecedented legal challenge in the country's highest court.

Thirdly, by refusing to give consent to Westminster legislation that will protect the UK's internal market, and by enacting its own legislation that attempts to undermine the UK's internal market, the SNP has acted directly contrary to the business and best economic interests of the people of Scotland. That is the SNP's record over the past 12 months.

However, it is not too late—it is not too late for the SNP to change course. It could take its lead from the Welsh and drop its objections to the withdrawal act. It could drop its belligerent attempts to undermine Brexit at every turn. It could work with and not against the UK Government in ensuring that future Brexit legislation—including on trade, agriculture and the environment—is properly compatible with our devolution settlement. Constructive engagement in the process is likely to yield a far greater return than the shouting from the sidelines that Nicola Sturgeon seems to prefer.

It has been a disappointing year from the SNP. Let us hope that ministers take the summer to reflect on how little they have achieved in the past 12 months, and that they return here in September ready to get on with the job at hand—which is to work with and alongside the UK Government to secure the best possible Brexit deal for Scotland and the whole UK.

15:21

**Neil Findlay (Lothian) (Lab):** The past nine months have been extremely frustrating. Across our public services, we have a host of problems that are impacting on people's lives and their communities. The same issues come up time and again in surgeries, emails from constituents and conversations on the doorstep.

In my region of Lothian, general practitioner practices are closing and waiting lists have been closed to new patients at around 40 per cent of practices. The system would collapse without locums, who are paid £1,400 a day. There is a mental health crisis, there are waiting times of 54 weeks for orthopaedic treatment and care homes are closing, but that is waved aside as market failure. Our older and vulnerable people are not some casino chips to be played in a game of chance; they have contributed to our society all their lives. Next week, it will be a year since the children's ward at St John's hospital closed its doors to in-patients out of hours, with families

being forced to travel 30 miles for hospital treatment.

On top of that, we have child poverty, rising class sizes, a shambles of an education bill, the growing attainment gap, cuts to bus services and a housing crisis. Those essential public services that civilise our society are under pressure as never before, yet all the focus over the past nine months has been elsewhere: it has been on the increasingly polarised and divisive debate around the devolution of powers post-Brexit.

Prior to Christmas, the Cabinet's invisible man, David Mundell, gave a commitment that the UK Government would table amendments in the Commons to resolve the issue of consent. We were told that it would be resolved at the committee stage; we were then told that it would be resolved at the report stage. During the debate, the Scottish Conservative MP Stephen Kerr said:

"it sticks in my craw to think that unelected Lords will make the vital amendments to this vital constitutional Bill. It is not really good enough, and as a Member of the House of Commons I hang my head to think that we have somehow dropped the ball."

He also said:

"Let me be absolutely clear about the clause: we must have an agreement between the UK and Scottish Governments to allow for the passage of a legislative consent motion."—[*Official Report, House of Commons*, 16 January 2018; Vol 634, c 821, 816.]

Paul Masterton MP boldly claimed:

"On Second Reading, I said that I would not allow legislation to pass that undermined the Union or the devolution settlement, and that remains my position today."—[*Official Report, House of Commons*, 4 December 2017; Vol 632, c 729.]

However, like all Tory commitments, Mundell's promise to deliver was without any foundation whatever. The Cabinet's invisible man was posted missing once again.

To cap it all, we had the ludicrous situation whereby just 15 minutes was set aside to debate the impact of the withdrawal bill on the Scottish Parliament and the people we represent. The UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill was rushed through, but it took up a significant amount of the time and effort that we could have used to debate and discuss the issues that I mentioned at the beginning of my speech.

Later, the Minister for UK Negotiations on Scotland's Place in Europe thought that he had a deal similar to the deal that was reached with Wales but, of course, it was kiboshed by the First Minister, which left Mr Russell high and dry. No matter how many times he tries to tell us all that that was not the case, everyone knows that it was the case.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** No—I don't.

**Neil Findlay:** That is no surprise to me. Mr Stevenson is off in another world—he lives in a parallel universe somewhere.

We all know that, for the SNP, it is not really about the powers of this Parliament and the disputed areas such as fertiliser standards, pedigree sheep or academic qualifications—it is about stoking up a sense of injustice and a sense of grievance to further the reason why it exists, which is to secure independence.

As those two nationalist parties have scrapped it out, the Labour Party has sought repeatedly to find a way through the mess while protecting the principle of devolved power and the Sewel convention. All the way through, Labour has tabled constructive amendments in the Commons, which were rejected when the Scottish Tories were whipped to vote against them, with Paul Masterton and Stephen Kerr among the many who broke their previous commitments.

Labour amendments in the Lords were then rejected by the Government, and we tabled further amendments to the devolution element of the bill that would have brought some sanity to the definition of consent and reduced the sunset clause from five to three years after we leave the EU. Also, the only time that the UK Government could legislate without the permission of the Scottish Parliament would be when it had reason to believe that not so acting would leave it in breach of international obligations—a provision that is already contained in the Scotland Act 1998.

Even now, we seek constructive ways to bring about a solution. We have tried many times to bring some sanity to proceedings, and each time that has been rejected. We have worked closely with the Scottish Government when it has sought to bring parties together, and we will continue to do that. We are available to speak at any time. Today, my colleague Lesley Laird is still attempting to make progress on the matter, but we see such approaches rejected every time.

Why is that? We are not naive; we know that both Governments are putting their narrow party advantage before the national interest. The UK Government is stoking up constitutional conflict, which fits its narrative—sowing division in order to secure the unionist votes. That is the game that is being played; it is as plain as the nose on your face. The SNP, of course, seeks to further that division because it keeps its supporters angry enough to be diverted away from Nicola Sturgeon's tactical dilemma over a second independence referendum. As the two sides become more shrill in their approach, it becomes

ever more evident that that is the game that is being played out.

Nevertheless, we will continue to be constructive. We will continue to support, defend and enhance devolution, because we are the only party here that actually believes in devolution. We will try to assist in finding a way through this mess.

**James Dornan (Glasgow Cathcart) (SNP):** Can Mr Findlay explain why, if the Labour Party is so concerned about devolution, only four Labour MSPs bothered to turn up this afternoon?

**Neil Findlay:** It is good to see that Mr Dornan turned up. I will tell him why—it is because this is a debate that has no motion. It is a talking shop. Why did we not make it a substantive debate? If we had, we could have debated the motion and made a decision, but there will be nothing to vote on at the end of the talking. Mr Dornan was probably not even aware of that.

The mess has been created by the Tory party and exploited by the SNP. If we look at what is happening in the Brexit process, we see that Theresa May has been pushed by Labour to change her position on the customs union, and she changes it by the day. She is also moving on single market alignment. She is weak and vulnerable, so we should continue to pressure her on that issue, too.

In the days and weeks to come, we still have the opportunity to see the real change that we want in Scotland, which is the end of this rotten Tory Government. Let us see a Labour Government for the many, not the few.

**The Deputy Presiding Officer:** I call Patrick Harvie to open for the Greens.*[Interruption.]* I do not know how Mr Harvie is supposed—

**Tom Arthur (Renfrewshire South) (SNP):** You are the few.

**The Deputy Presiding Officer:** Mr Arthur!

I call Mr Harvie to open for the Greens. You have six minutes, please.

15:29

**Patrick Harvie (Glasgow) (Green):** Debates without a motion, such as this one, can be good opportunities to explore a new issue and allow free debate across the political spectrum when there is not yet a consensus or clear party positions. However, when the Scottish Government suggested that approach for this debate, I made it clear that I thought it was a mistake.

It was suggested at one point that the debate would offer a chance to have a calm, reflective discussion of the issues, but I do not think that that is terribly likely from some members. I do not

believe that it is an adequate response to the constitutional crisis that we find ourselves in. As we prepare to break for the summer recess, we should pass a robust resolution to oppose the UK Government's actions.

This is an unprecedented situation. The Brexit crisis is bad enough. It is an economic crisis, a political crisis, a democratic crisis and potentially a security crisis for our friends in Northern Ireland and Ireland. Now, as a result of deliberate UK Government choices, it has led to a devolution crisis as well.

The UK Government's approach is supported in this chamber only by the Conservatives, who stand alone in that position and yet accuse others of breaking the consensus in this Parliament. What an absurd claim.

I have previously argued that the principle of legislative consent needs to be clearly understood and clearly defined. If it is to be meaningful, the word must surely carry the same meaning that it carries in our everyday language. Consent must be freely given or withheld without coercion or threat; it must be capable of being withdrawn at any time; and, most fundamentally, it must be respected. The UK Government has shown contempt for those principles.

Professor Tomkins tells us that the phrase "not normally" is the clinching issue for him. He hangs everything, it seems, on the idea that it will trigger in the current situation. What does the phrase mean? It is perfectly understandable to suggest that, prior to the creation of this Parliament, it was thought necessary to plan for a scenario in which legislation was urgently needed but the new mechanisms were not functioning properly and not capable of meeting that need. However, the Scottish Parliament and the Scottish Government are functioning normally.

Let us contrast the situation that we have here with what is happening in Northern Ireland, where there is clear human rights abuse, as was found recently in the legal ruling on abortion rights in Northern Ireland. There is a rising tide of public campaigning and impatience to change that iniquitous situation. There is a moment of opportunity but no functioning Northern Ireland Assembly. Yet, in that context, the UK Government says that it will not legislate on abortion rights—it will not take the responsibility to resolve that human rights abuse—because that is Northern Ireland's responsibility and it must do that through the Assembly.

Here in Scotland, meanwhile, devolution is functioning normally. Both the Parliament and the Government are operating. There is an emphatic political majority shared across four political parties, and a devolved legislative response to the

Brexit crisis is available, having already been agreed overwhelmingly by this Parliament. Yet, in that context, the UK Government has decided to override this Parliament and trigger a never-before-used power to legislate without our consent—in fact, in defiance of an explicit refusal of consent.

In that context, there is no case for our pretending that the principle of legislative consent exists any longer. It has been unilaterally abolished by the UK Government. If the UK Government has any interest in restoring normal relationships between the two Governments and the two Parliaments, there must be a concession on its part. The cabinet secretary's suggestion that that involves putting the legislative consent principle on to a statutory footing would be one way of doing it. That would be a concession to this Parliament's legitimacy, and I would welcome a discussion on that.

However, I believe that there also needs to be a concession to Scotland's national interests, which are being shown such contempt by the UK Government. One way of providing that concession would be to agree that there will be a moment of opportunity in the Brexit crisis to cede at least some control over things such as immigration to allow us to meet Scotland's economic and social needs in the face of the threat that Brexit poses to our public services, culture and economy as a result of the UK Government's ideological hostility to people's freedom to move.

Those two measures—a concession to the Scottish Parliament's legitimacy and a concession to Scotland's national interests—would offer some chance to normalise relationships again and move forward. However, I see very little evidence that the UK Government is remotely interested in achieving that.

15:35

**Willie Rennie (North East Fife) (LD):** Westminster is archaic. That is not news. We have the unelected House of Lords—there is a greater debate about this whole issue than the elected House of Commons. One Conservative MP can veto a sensible bill on upskirting with just one shout, not even a contribution to the debate. What was new was that the Conservatives mishandled the whole affair from beginning to end. They promised that there would be extended debating time in the House of Commons at numerous stages and that it would be inappropriate for the House of Lords to have the final say on the issues. Despite all those promises and David Mundell repeatedly promising that there would be extra time, all that there was was 19 minutes. There is no doubt that that was cack-handed management

by the Conservatives, and that started months ago.

I was also disappointed by the SNP's response. Walking out of the chamber at Prime Minister's question time was a waste of time, and potentially lost a long debate to explore these very issues. That was grandstanding, and it did not help. Criticising the Liberal Democrats and the Labour Party for abstaining on the clause 15 progress that had been made was wrong, too. The SNP said that there was unity in Scotland bar the Conservatives but, in the next breath, it criticised us for breaking that unity. It cannot have it both ways: there is either unity or there is not unity. The SNP needs to be careful about the collaboration and co-operation that it seeks and claims that it has in Scotland.

The whole episode has been marred by macho chest beating on both sides. We need a much more mature approach to resolving disputes.

We have put forward proposals. We put forward proposals to try to get a mature dispute-resolution procedure in the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. The SNP Government rejected those proposals. It did not want any other Government in the United Kingdom to have any say on the collaborative arrangements in the United Kingdom; only Scotland's voice mattered. We should seek genuine partnership in areas of common interest in the United Kingdom. I am in favour of a federal structure because that would embed the co-operation that we all seek in the United Kingdom. I am afraid that I do not support a so-called Scottish veto.

I also do not support—Conservative members need to listen to this—a Westminster diktat. If there is disagreement between different partners in the United Kingdom, Westminster should not have the final say. We need something like a qualified majority voting system and an independent arbiter to bring together the different parties at times of dispute. One party claiming that it should have all the power is not the way to proceed.

That potentially creates a precedent for other areas of co-operation. The UK Government did not bother to consult the Scottish Government or the Scottish Parliament on the industrial strategy for the United Kingdom, but it should have. It should have been required to do so. Such co-operation should have been embedded in the structures of the United Kingdom. That is why there has been a big missed opportunity in a cack-handed process from beginning to end. We saw that coming. The Conservatives were warned about that right at the beginning, but they played right into the SNP's hands. The whole thing has been one big macho,

chest-beating exercise, and everybody in the UK has lost out as a result.

Another big opportunity has been missed in the SNP Government's inability to get off the fence. I agree with Mike Russell when he talks about the Brexit exercise being a shambles from beginning to end, that we are on a cliff edge and about the potential for economic damage to be done to our country. If that is all the case, why is he not coming off the fence and backing a people's vote, which would be an opportunity for the British people to have the final say on the Brexit deal? If it is going to be that bad, why not put the matter to the British people? All the polls show movement towards people wanting to have that final say and to their saying that the Brexit deal is not good enough.

**Michael Russell:** The member is aware—I have made this very clear, and I did so again on Sunday—that I am not unsympathetic towards that, but we need to find a way to ensure that we do not repeat the experience of June 2016 when Scotland voted to stay in the EU but was overruled. That cannot happen again. If the member is willing to discuss the matter on those terms—he is a good liberal; he likes to negotiate, to be positive and to discuss—I am quite sure that we can make progress. I have said as much to him, and I say it again here.

**Willie Rennie:** It is uncharacteristic of Mr Russell to be shy and cautious—he is normally out there beating his chest, demanding that the rest of the UK follow exactly what he wants to happen. Why is he not doing that in this case? Why does he not stand up and say that the British people should have the final say on the Brexit deal? As I said, there is movement towards that. Look at the massive protests in London at the weekend, where people were speaking out and demanding a say. Why does he not get off the fence and say something about it?

Mike Russell's proposed declaration is one big compromise too far. I want to stay in the European Union—I make no bones about that. To accept a compromise of just staying in the single market or the customs union is not good enough. We should scrap the whole thing. Let us have a people's vote; let us reject the Brexit deal.

15:41

**Mairi Gougeon (Angus North and Mearns) (SNP):** We should not be discussing this topic in Parliament today—or ever. We should not be in the position in the first place of having to defend the Scottish Parliament's powers, but here we are and, like a growing number of people across Scotland, I am angry. I am angry that Scotland is being dragged out of the EU against its will; I am



angry that, since the vote and throughout the Brexit process, our Parliament has been repeatedly treated with contempt; and I am angry that a Tory UK Government ignored the expressed will of this Parliament and, in doing so, dismantled the core principles on which the devolution settlement is based.

There is another reason why we should not be in this position today. If we were to take the Tories at their word, which is probably never a good idea, we would be convinced that we are in a partnership of equals. Theresa May told us we had

“A future in which Scotland, Wales, Northern Ireland and England continue to flourish side-by-side as equal partners.”

But then, Brexit, and the Prime Minister stated her vision for working with the devolved Governments during the process. What was her wish? To create a

“relationship built on principles of mutual understanding, consensus and co-operation”.

That led to the establishment of the joint ministerial committee (European Union negotiations).

As a member of the Culture, Tourism, Europe and External Relations Committee, I am aware from our sessions with Mike Russell the extent to which those objectives were met, if at all, from a Scottish perspective. He alluded to some of that in his opening speech.

What about the view from Wales? Mark Drakeford, the Welsh member of the JMC, said this about its operation:

“agendas arrive less than 24 hours before the meeting takes place. When you leave Cardiff to attend a meeting, there is not even a room identified where the meeting is going to happen. Minutes are not produced, so we are unable to track progress against things that have been agreed ... the JMC has been a vehicle for managing and suppressing difficult issues rather than addressing and engaging with them.”

The JMC failed to meet for nine months out of the whole of last year. During that time, papers outlining the UK's position on a number of areas that were used as a basis for negotiations with the EU were submitted. Some of those papers related solely to devolved areas.

It is hard to reach consensus and co-operation when one side will not come to the table. There was not even a word to the devolved Governments when article 50 was triggered—one would have thought that that was a fairly pivotal moment to discuss with equal partners.

That covers the intergovernmental relations. How about relations with the Scottish Parliament? Despite numerous attempts to contact David Davis, the Brexit minister, and numerous

invitations to him to attend the Culture, Tourism, Europe and External Relations Committee, we are still waiting. After cancelling three times, Michael Gove is videoconferencing the Rural Economy and Connectivity Committee tomorrow.

The Secretary of State for Scotland, David Mundell, was due to appear at the Justice Committee to address our concerns but cancelled, rescheduled and then cancelled again with less than 24 hours' notice. I give Mr. Mundell his due—he has attended the Culture, Tourism, Europe and External Relations Committee on two previous occasions. On the first occasion, he informed the committee that there was no Scotland-specific Brexit analysis, only for that very same Scotland-specific Brexit analysis to be leaked to BuzzFeed shortly after. Our Secretary of State for Scotland was either deliberately misleading a parliamentary committee or showing complete incompetence, by the very fact that he did not know. I do not know which situation is worse.

That, as with the experience of the JMC, perfectly characterises the UK Government's attitude towards the devolved Administrations, which culminated in the withdrawal bill debate two weeks ago. It is an attitude of arrogance and no respect. The devolved Administrations have been treated with disdain and ignored.

However, given the power dynamic, I do not think that this could have ended in any other way. In committee, we took evidence from Professor Michael Keating, who told us:

“The last resort is always that the UK Government can get its way, and our knowing that changes the whole dynamic of negotiation ... I do not know of any other system of intergovernmental relations in the world in which that is so comprehensively true.”—[*Official Report, Culture, Tourism, Europe and External Relations Committee*, 3 May 2018; c 10-11.]

It was the privilege of my life to be elected to represent my home region in our Scottish Parliament two years ago. I did not stand for election to stand by as the Tories and their UK Government trample over the democratically expressed will of the people in this country and ignore the expressed will of this Parliament. To do that would be a complete dereliction of our duty as elected members. Yet that is exactly what the Tories in Scotland have done.

We have all seen the impact in Scotland when powers rest in a Tory UK Government's hands. On universal credit, on immigration, on the bedroom tax and on the rape clause, policies have been rolled out regardless of what we say or do here in the Scottish Parliament and have left a string of human catastrophes in their wake.

This is no different—in fact it is worse, because it involves assuming control of the powers that we have, which, more often than not, we have had to

use to mitigate the damage that the Tory UK Government is doing across the country. We have been failed by the Secretary of State for Scotland—the man whose sole job is to promote and protect the devolution settlement but who trampled all over the settlement when he walked through that voting lobby. We have been failed by the Scottish Tory MPs and we have been failed by the Tory members of this Parliament.

While the Tories continue to strip our powers away, my party will always continue to do our job, standing up for the people of Scotland and defending the powers of our Parliament.

15:46

**Maurice Golden (West Scotland) (Con):** I want to talk about respect: respect for the people, for Parliaments and for politicians. I believe that we need to act with the decorum and diligence that reflect the office to which we have been elected.

Undoubtedly, constitutional uncertainty has strained respect almost to breaking point, but there is still an opportunity to put the interests of the people first. We must respect democracy. If we are to do that, we must respect the democratic will of the Scottish people, who voted, first, to remain as part of the United Kingdom and then, as part of that single entity, to leave the European Union. That is where we are. We must accept it and move on. I say that to colleagues in Holyrood as fervently as I say it to colleagues in Westminster. We all need to focus on getting the best deal and we all need to leave egos and ideology to student politics.

**Pauline McNeill (Glasgow) (Lab):** Does the member agree that the Scottish people also voted in a referendum in 1998 for this Scottish Parliament and for a model of reserved powers that should also be respected?

**Maurice Golden:** No, that was voted on not in 1998—I know this because I was not old enough to vote in that referendum—but in 1997. The powers of the devolved Government have been vastly extended by David Mundell, the Secretary of State for Scotland, which is something that we should applaud.

We must also show respect for Holyrood, Westminster and the interlinkage between both Parliaments and Governments.

Let me be clear: I am passionate about defending the powers of this Parliament and being a champion of devolution. The SNP is committed to independence—a position that I can respect even if I disagree with it—but the trouble is that the SNP is using Brexit as a weapon to advance the cause of independence, thus showing a lack of

respect. Claims of a power grab are completely untrue. Not one power will be grabbed—not one. It is quite the opposite: more than 80 new powers will flood to this Parliament, with many more to come.

Everyone acknowledges that we must agree common frameworks for certain returning powers to ensure the continued smooth operation of the UK internal market. That makes sense, but instead the SNP has been opportunistic and has created needless confrontation and grievance by utilising guerrilla tactics and non-co-operation. SNP MPs claim that they have not been given sufficient time to have their say, but the issue has been debated for 95 hours at Westminster, which is longer than we have debated any bill here at Holyrood.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** Maurice Golden mentioned non-co-operation. Surely he would agree with me that UK ministers refusing to come to speak to the committees of this Parliament is an example of that.

**Maurice Golden:** Mr McMillan should recognise the fact that a whole host of UK ministers are coming to the Scottish Parliament to appear in front of committees; indeed, it is notable that they have done so over the past few years. Furthermore, members of this Parliament must recognise that we have a fixed parliamentary business schedule, while Westminster's system is vastly different as regards decision time and how and when progress is made. SNP members must recognise and respect each system before making such calls. However, it is no wonder that they make those calls, because their Westminster colleagues showed a complete lack of respect for their chamber by deciding not to ask questions on behalf of their constituents when they staged a humiliating walkout at Prime Minister's question time. Just last night, the farce continued, with SNP MPs voting against up to 16,000 jobs coming to Scotland.

We must respect one another as politicians. I respect the fact that the SNP has attempted to take some of the heat out of the argument by setting up the debate as it has done today. I urge moderates in that party to calm their more tribal colleagues. It was disappointing to see Ian Blackford resurrect the nastiness of his past to attack the Secretary of State for Scotland, David Mundell, in what can only be described as an appalling and ill-judged tirade.

Looking to the future, this Parliament is about to gain control of a raft of new powers. Our time and energy should be spent on exploring how best to use them to drive Scotland forward. The impasse must end. In the Brexit process there is no room for anything other than the national interest and respect between Parliaments and politicians.

15:52

**Richard Lochhead (Moray) (SNP):** I begin by picking up on Maurice Golden's point in which he said that the Scottish Government and the SNP are weaponising the issue of Brexit to promote the case for Scottish independence. The fact that we are having to have this debate today promotes that case. However, the reason why we have to have the debate in the first place is that the Conservative Party is using Brexit to attack Scottish devolution.

**Murdo Fraser:** Can Mr Lochhead give us a single example of a power currently exercised by this Parliament that is being removed from it as a result of the so-called power grab?

**Richard Lochhead:** I realise that Murdo Fraser and the Conservative Party think that they are making a very clever debating point.

**Members:** Answer the point!

**Richard Lochhead:** I will answer the point. We are debating the potential for Scotland to lose 111 powers—if not more—because the Tories are taking the power to legislate on devolved issues without the consent of the Scottish Parliament.

According to the Conservative Party, there are now two types of devolved powers: those that we enjoy exercising in this Parliament at the moment; and those that will come back from Brussels but should somehow stay at Westminster or in London. It is as though there are perhaps different types of fishing powers, for example—some that will come back from Brussels and some that will stay with the Scottish Parliament. There are not: there are devolved powers and reserved powers. Fishing powers are devolved, whether they come from Brussels or have been here since 1999. Once those from Brussels come to the UK, they meet the Scotland Act 1998 and devolution. Therefore, we are having this debate because the Conservative Party wants to re-reserve powers that should be exercised in this Parliament. If I get the chance later, I will come on to why that is such an important issue, and the Conservatives' motivations for that approach.

The scenes that we have witnessed in Westminster over the past week or two just widen the gulf between that institution and the people of Scotland. It is no wonder that an official statistics publication that has just been published in the past 24 hours or so shows that 61 per cent of Scots trusted the Scottish Government to work in Scotland's best interests, and 20 per cent trusted the UK Government to work in Scotland's best interests. That is an enormous gulf. The publication goes on to say that, whereas nearly three-quarters, or 74 per cent, of people said that the Scottish Government should have the most influence over the way in which Scotland is run, 15

per cent said that the UK Government should have the most influence over how Scotland is run. I can see all the Conservative members looking down at their desks, but those are fundamental points.

The Conservative Party at Westminster is taking powers away from the Parliament that people trust and passing them into the remit of the Parliament that the people of Scotland have less trust in. They are going against the grain of Scottish democracy and the will of the Scottish people. I will come on to their motivations for doing that shortly.

What we are witnessing in Westminster is not just a perception of the gulf widening between Scotland and Westminster, but actual reality. I was surprised that other people were surprised when the minister Steve Brine got to his feet after the emergency devolution debate and said that he was glad that there was a debate on devolution because it gave him time to go and watch the England match. I was surprised that other people were surprised by that comment because it is just a fact of life that that is the attitude of most Westminster politicians who do not represent a Scottish constituency, particularly the Conservative members in the UK Parliament.

When I was in the Cabinet and was negotiating with UK ministers and with Brussels, we had to have regular meetings—if we could persuade the UK ministers to attend them. The body language of the UK ministers always showed that they would much rather be out at the fine restaurants in Brussels than have to sit down and discuss issues with ministers from the devolved Administrations. When we had regular meetings at Whitehall in London with UK ministers, their body language showed that they were ticking a box and would much rather be elsewhere—perhaps getting their teeth pulled—than have to find time in their diaries to discuss issues with ministers from the devolved Administrations.

As has been shown again at Westminster over the past couple of weeks, Scotland is simply not a priority for many of the Westminster politicians or for the Conservative Party. At best, devolution is a thorn in their side, and that is simply the fact of the matter. I absolutely congratulate the SNP group at Westminster on walking out of the House of Commons, because sometimes we have to take a stand if people are not listening to us. That is the problem at the heart of the matter: at the moment, Westminster is not listening to Scotland.

Members may have noticed the stand outside the chamber hosted by the charity Listen Well Scotland. I am delighted that two of my constituents are there—Alana Smith and Kayleigh Dalgarno from Keith grammar school are supporting the charity in Parliament today. Ironically, the charity's leaflet is something that we should send to the Westminster politicians, the

Conservative Party and the Conservative UK Government. It is about a training programme on how to listen—I think that the Scottish Government should pay for the Westminster Government to go on it. The leaflet states:

“Within us all there is a need to:

- be understood and understand
- feel valued and respected
- express feelings honestly
- find meaning and purpose
- build inner resilience
- discover hope”.

Listen Well Scotland is a very useful charity, because it helps people with mental illness—not just young people but other people. Listening is also important in the political world and for politicians, and at the moment there is no respect between the UK Government and the Scottish Parliament. The Conservatives should start listening. If they do not listen, it will come back to haunt them at the next Scottish election. It is very important to start listening.

**The Deputy Presiding Officer:** Thank you, Mr Lochhead.

**Richard Lochhead:** In my closing 15 seconds—

**The Deputy Presiding Officer:** No, you will have to listen to me now. You have to sit down.

**Richard Lochhead:** I urge the UK Government to start listening to Scotland.

**The Deputy Presiding Officer:** Thank you very much. I call Pauline McNeill.

15:58

**Pauline McNeill (Glasgow) (Lab):** I agree with Maurice Golden’s call for respect in the debate, but we cannot be selective about what aspects of the debate we are prepared to respect. Lest we forget, the Brexit two-year anniversary has come around. It has been the biggest single decision affecting our domestic interests in most people’s lives, and we still do not really know what it holds in store. The men and women leading us out of Europe and its agreements and treaties spend their days falling out over whether a hardline Brexit is enough, or micromanaging the negotiations that Theresa May is meant to be leading.

Only this week, Jeremy Hunt criticised Airbus for saying that it might leave Britain, and Greg Clark, the Secretary of State for Business, Energy and Industrial Strategy, has criticised him for commenting at all, and the Prime Minister has had to intervene between feuding ministers.

We have had the starkest warnings yet from major manufacturers. BMW made a U-turn today, but others have said that they might leave Britain if no agreement is in place for their industries.

Despite all that, as a remainder I have agreed to honour the referendum’s outcome, which I respect. However, like most people, I disagree with the Tory party’s antics in leading us out of Europe, and I do not agree to the devolution settlement being undermined in that process.

The Scottish Tories played a constructive role earlier in the process, and I do not believe that they are comfortable with where we have ended up. Neil Findlay referred to Stephen Kerr’s comment that

“I hang my head to think that we have somehow dropped the ball.”—[*Official Report, House of Commons*, 16 January 2018; Vol 634, c 821.]

We have also heard that Paul Masterton said strongly that he

“would not allow legislation to pass that undermined ... the devolution settlement”.—[*Official Report, House of Commons*, 4 December 2017; Vol 632, c 729.]

The clever words of Murdo Fraser, who asked Mike Russell to name a single power that is currently exercised that will be removed, ignore the fact that the principal model of the devolution agreement is that such powers are not reserved. All the powers that are vested in the European Union by dint of our membership of the EU are not reserved to Westminster, so they should come back to Scotland in the first instance. As Patrick Harvie said, if the UK Government wanted to control all the powers that are vested in the EU, that should have been discussed during the passage of a previous Scotland Bill.

The people of Scotland also voted in a Scottish referendum, which must be respected. I agree that the UK interest in the internal market should be respected, but that should involve Scotland being an equal partner and not being dictated to by the UK Government.

How serious is the power grab? As someone who supported the devolution settlement and worked in its early days, I believe that the power grab is pretty serious. It will undermine the Scotland Act 1998 and the devolution arrangements, which are nearly 20 years old, by preventing the Parliament from legislating in areas that it was agreed that the Parliament would absolutely control.

What Wales does in reaching an agreement is a matter for the Welsh; that is what devolution is about. However, judging whether the devolution settlement has been adhered to is a matter for the Scottish Parliament.

The way in which Brexit has been handled between Governments has created unnecessary internal battles. Dragging Lord Sewel into a discussion about what he really meant by the Sewel convention does not take us anywhere, and meddling with the principles of the Scotland Act 1998 does the Tory party no service. Is that the level of debate that anyone on any side hopes for as we try to manage the Brexit situation?

We have had all that, and we do not even know what our future trade arrangements will consist of. We do not know what the consequences of Brexit will be for ordinary people. We do not know what the immigration model will look like or how it will serve Scotland's interests. I worry about the impact of Brexit on ordinary people's lives.

How seriously we take the power grab is fundamental. The Labour Party brought devolution, which was endorsed by the Scottish people. The principle is important, and every member of the Parliament should be prepared to stand up for it. I will not stand by and see the devolution settlement undermined in any way. I am no nationalist and I am unlikely ever to vote yes in an independence referendum, but if Tory members want to serve the interests of those who believe in the union, they must protect the devolution settlement.

16:04

**Ivan McKee (Glasgow Provan) (SNP):** There are some things that we take for granted and which are part of our world view, until something happens to shake that perception—something that clearly demonstrates that what we thought were solid foundations can crumble beneath our feet. That is the situation that we find ourselves in with respect to the devolution settlement. The idea that the views of the people of Scotland matter has been challenged like never before, for a reason that is not of our making—to decide the outcome of a civil war in the Tory party.

Let us be clear about what the people of Scotland think; 61 per cent trust the Scottish Government to work in Scotland's best interests—three times as many as trust the UK Government. Most people think that the Scottish Government has more influence over how Scotland is run than the UK Government does and fully 74 per cent think that the Scottish Government should have the most influence over how Scotland is run—five times the number of people who think the same about the UK Government.

That is because, when it gets right down to it, devolution matters to the people of Scotland. Meanwhile, as the Brexit bus hurtles towards the cliff edge of impending economic catastrophe, we have a UK Cabinet who cannot agree among

themselves on where they want to go and a foreign secretary who is the laughing stock of his peers. His boss cannot remove him from post for fear of the whole rotten edifice coming tumbling down and finding herself buried in the rubble. They are buying time while the economy burns.

Businesses are leaving these shores, fearful of the illiteracy of a hard Brexit, or worse, no deal at all. Meanwhile, all that Boris can do is to tell those businesses to go forth and multiply. We have a Secretary of State for Scotland who promised that devolution would be protected but failed to deliver, stitched up by his own side, and instead of resigning and apologising, he now confesses all: that Scotland is simply a part, not a partner. He is a man who fails to understand the meaning of the word “consent”—a man with no credibility left.

Meanwhile, others fail to understand why Scotland should have a say. We have a UK Government minister telling us that she would not grant any ability to the Scottish Government that she would not also be granting to Lincolnshire County Council. We have a Scottish Tory MP making it clear on Twitter that

“The UK Parliament can legislate for the whole UK. No ifs, no buts.”

We have a Tory party that has never believed in devolution, was dragged into it by the will of the people and is forever looking for an excuse to clip the wings of this Parliament, which is elected by the people of Scotland. Feel the love, Scotland.

If there is one thing that the events of the past weeks have taught us—where words are redefined to make their meanings suit the ambitions of the UK Government of the day, where the meaning of “consent” is expanded to include precisely the opposite, where “normal” is redefined to mean anything that the current UK Government says that it means—it is that power devolved is indeed power retained.

The Sewel convention—the fig leaf that was supposed to protect the devolution settlement from the realpolitik of Westminster—has been cast aside. Let us be clear why this is the case. The Scottish Parliament, and the will of the Scottish people, cannot be allowed to stand in the way of future trade deals that the UK will strive to reach, however vainly, with Trump's America and others—be that to put at risk our environment, our food standards, or indeed our health service.

When Gordon Brown is brought out to defend the union, we know that the stakes are getting high. The last time that happened, lest we forget, was in the run-up to the vote in 2014. The Broom is being deployed much earlier this time, but the context is oh so different. Not only is “the vow” history, its promises, cobbled together in a last-minute panic, lie in ruins, their credibility shattered.

The very architect of the vow has moved to yes. Gordon Brown is still preaching a federal solution but now we see that that solution lies in tatters because the reality is that in a country with no proper constitution, there is only one rule—

**Neil Findlay:** Will the member take an intervention?

**Ivan McKee:** Yes indeed, Mr Findlay.

**Neil Findlay:** Can Mr McKee tell us why he does not respect the result of that referendum?

**Ivan McKee:** Because, as Mr Findlay well knows, things have changed. That is precisely why we are here debating today. Things have changed and things have moved on and the people have the right to decide, based on the general understanding that Brexit is happening.

In a country with no proper constitution, there is only one rule—that Westminster is sovereign. Nothing else matters, and everything else is illusion. In that context, where no Westminster Parliament can bind the hands of another, where 85 per cent of the population and the power lie in one part of this disunited kingdom, there is no hope at all for a truly federalist solution.

This is where we find ourselves today. The UK Government, through its obsessions elsewhere, has ripped away the middle ground. The truth is laid bare. Power devolved is power retained. With trust destroyed, and the mechanisms that underpin devolution shown to be worthless, there is no standing still. The choice before us is to go forward or to go backwards. The people of Scotland will make that choice, and given those options, there is only one outcome.

16:09

**Liz Smith (Mid Scotland and Fife) (Con):** There was a time in my political journey, quite some time ago, when I was sceptical about the existence of a Scottish Parliament. Although that scepticism was partly attributed to the fact that I had some sympathy with those who feared that devolution would be a stepping stone to independence, my main concerns were much more pragmatic and were to do with Scotland's economic performance. I had witnessed what had happened to the UK and world economies in the 1970s, so my no vote in 1979 was based on my fears that devolution could result in the economic fragmentation of the UK, rather than on any opposition to a Scottish Parliament per se. However, I fully appreciated that there were issues with the status quo and that there was a logical argument to be made for devolution. Therefore, I became interested in what conditions would be necessary to convince a sceptical public that there should be a move away from that status quo.

We now know that, of course. Devolution's failure in the 1970s, not just in Scotland, rested on the fact that it was seen to be designed by remote politicians in the corridors of power. Now, despite what some people argue, it is seen to be owned by the people of Scotland. That was enshrined in the principle of the Edinburgh agreement, which was signed jointly by David Cameron and Alex Salmond. Over time, there has been a radical movement away from devolution being debated only in the corridors of power to its being owned by the Scottish people. In my view, that is a good thing.

I believe that most Scots are comfortable with devolution. Despite all the huffing and puffing among politicians—there is certainly plenty of that—deep down, most people are comfortable with that dual identity, because there is a philosophical belief that we are stronger together. Why? I think that it is because the Scots want the best of both worlds. They want enhanced devolution, which, as time has gone on, is exactly what they have been getting.

People are comfortable with the Scottish Parliament and they want it to work well in the context of a stronger United Kingdom in which both Governments work together. Those Governments did that in the Scotland Act 2012, which gave new powers over income tax, stamp duty, landfill tax, borrowing and more; in the Scotland Act 2016, which gave full devolution of the Crown estate and transport policing and a new benefits structure; and in the fiscal framework. There is a whole raft of examples in recent times, whether involving city deals, welfare powers, bottle deposit schemes, exports or immunisation, of the two Governments having worked effectively together—sometimes, it has to be said, at the request of the SNP—to ensure a smooth transition to legislative competence for Holyrood.

People in Scotland do not want divisive and intolerant politics, the constant bitter and very public battles between politicians or the on-going uncertainty with constitutional wrangles. They rightly see devolution as a process and not as a single event. It is a process of gaining increasing constitutional maturity and stability and one in which they can have growing and ultimate trust. That is what I believe the vast majority of people in Scotland actually want, and it is the basis of what changed my mind, a long time ago, when I was sceptical about the existence of this place. I have come to see that I was perhaps misguided. I now feel that devolution is very much the right approach and one that not only enhances the nation of Scotland but allows us to be comfortable in our own skins.

**Ivan McKee:** Can Liz Smith foresee a time when she will reflect back and realise that

independence was the right choice for the people of Scotland?

**Liz Smith:** Never.

The Parliament has grown in maturity. I am one of the members who have been here for some time and I value the institution, despite the fact that I have many political differences with a lot of people across the chamber. I value what the institution stands for, what it has become and what I believe it can be in the future. For that reason alone, we should always be very careful about the language that we use in a constitutional debate and remember that we are here because of what the people demand.

16:14

**Ash Denham (Edinburgh Eastern) (SNP):** This debate on protecting the powers of the Parliament is in stark contrast to the time that was afforded at Westminster to the same issue. The 1998 devolution settlement, which bestowed legislative powers on the Parliament, is based on the principle that every policy area is automatically devolved unless it is explicitly reserved by the UK Government, and it is on that foundational principle that the Scottish Parliament has proceeded.

The late Donald Dewar described the Scottish Parliament as:

“the striving to do right by the people of Scotland; to respect their priorities; to better their lot; and to contribute to the commonweal.”

Our attendance in the chamber as members of the Parliament recognises that and confirms our belief that Scotland has the ability to govern itself, to act on the Scottish people’s priorities and to enact change and make progress for their benefit.

Therefore, it is a great shame that, nearly 20 years on, we are called on to defend the Scottish Parliament’s powers and protect the devolution settlement. Instead of celebrating the result of that referendum and the upcoming anniversary of the Parliament’s re-establishment, we must act in the face of the UK Government, which has fundamentally undermined the devolution settlement.

Over the past 20 years, the Parliament has accomplished a great deal for the people of Scotland. Scottish values run through this place like lines through marble and are reflected back at us in the changes that have been made here. In its first session, the Parliament scrapped tuition fees, thereby widening access to tertiary education for all and ensuring that students were not saddled with crippling debt because of them. It also undertook land reform, introducing the right to

roam, and was the first Administration in the UK to limit the hunting of foxes.

In 2005, Scotland led the UK again in introducing the ban on smoking indoors, thereby putting the health of its citizens first. Further powers that were devolved in 2012 and 2016 have enabled the SNP Government to mitigate the worst of the UK Government’s welfare cuts and freezes, helping to keep many people across Scotland out of poverty.

**Neil Findlay:** Ash Denham might just be coming to this but, in the current session, thanks to my friend James Kelly, who is sitting next to me, the Parliament has also reversed one of the most illiberal pieces of legislation that it has passed by repealing the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

**Ash Denham:** The member is entitled to that view, but I do not share it.

We enforce effective bans on onshore drilling, thereby protecting the Scottish environment. We have also scrapped prescription charges, ensuring that individuals do not need to choose between food and medicine, and we have set new tax bands, creating the most progressive tax system in the UK to support some of the best public services in the UK.

We have provided a baby box for every new child that is born in Scotland. That policy is not about cardboard boxes or thermometers but tells every child that is born in Scotland that they are ours, that we care about them and that we want the absolute best for them.

We have invested in Scotland’s infrastructure and transport links to build a Scotland that is for the future, and we have introduced minimum unit pricing to tackle Scotland’s difficult relationship with alcohol—again, leading the world in progressive policies.

All of that has been possible because of the decisions that we have been able to make only because of devolution. They are Scottish solutions for Scotland. As a result, we see a different, more confident and more self-assured Scotland.

Bringing political decision making about Scotland into Scotland has resulted in a resurgence of trust in politics, and, after 20 years, there is no wish to go back. More than 70 per cent of Scots trust the Scottish Government. That figure is the highest since the Parliament was established, and it is three times the level of trust there is in the UK Government. Moreover, the overwhelming majority of Scots believe that a Scottish Government should have the most influence over the way in which Scotland is run.

We must and we will trust that the Scottish electorate elected the Government that it wanted

to deliver for Scotland. That means defending the Parliament's powers against any efforts to undermine them.

When I questioned the Secretary of State for Scotland over his Government's wish casually to derail devolution, he said to me, "Scotland ... has two Parliaments." However, the Scottish people have only one Parliament that acts in their interests. This Parliament and devolution belong to the Scottish people and it is the duty of every member in the chamber to protect its powers. The Scottish Parliament is worth protecting and worth standing up for.

I say to the Conservatives that there is no shame in defending this place—the place that their own constituents trust to do right by them and to respect their priorities.

**The Deputy Presiding Officer (Linda Fabiani):** You must close, please.

**Ash Denham:** I refer to the priorities of the people of Scotland, not the priorities of the UK Government. Now is the time to stand up and be counted—

**The Deputy Presiding Officer:** You must close, please.

**Ash Denham:** —not to fall on the wrong side of Scottish history. We must find a way to protect the powers of the Parliament and we should work together to do so.

16:20

**Graham Simpson (Central Scotland) (Con):** Do I have five minutes, Presiding Officer?

**The Deputy Presiding Officer:** Yes.

**Graham Simpson:** Thank you.

When a million of our fellow Scots voted to leave the European Union, they did so in the knowledge that powers that were currently held in Brussels would come back to the UK and that, for the Scottish Government, that would mean a host of powers coming here. For some of us, that was an attractive proposition. For me, it was not the main reason for voting to leave—that came down to a simple matter of democratic accountability—but it was an added bonus. For many nationalists, such as Alex Neil, voting for Brexit was the only logical course to take if they really wanted this Parliament to have more control over affairs in Scotland. Grumbling about powers being held at Westminster but being over the moon about their being held in Brussels was and is illogical and hypocritical.

The UK voted to leave the EU, and that is what is going to happen. It is incumbent on all parts of the UK to ensure that Brexit works. Mature

politicians would sit down and do the deals that are necessary. Mature politicians do not stamp their feet, throw their toys out of the pram and scream, "I will never agree with you." However, that is where we are now. We have had the staged walkout in the Commons, led by an appalling, boorish character, shamefully applauded by the First Minister. We have had vicious attacks on the Secretary of State for Scotland, who, whatever others might think of his politics, is a thoroughly decent man who does not deserve such insults. Further, we now have Michael Russell saying that this Parliament will not give consent to any more Brexit-related legislation. Where does that leave the parliamentary scrutiny process?

**Willie Rennie:** I agree with much of what the member has said, but does he acknowledge that the Conservative Government has mismanaged the process from the beginning? Does he have any regrets about any of that?

**Graham Simpson:** I have no regrets, but I have some ideas, which I am coming to.

All of that has happened because the First Minister believes that those tactics will fire up grievance among Scots. She is making Mr Russell look stupid—he is not stupid—and she looks like the grudgemeister that she is. Worst of all, Scotland looks to the outside world like a childish nation of impudents, and we are not that.

So, what of this power grab? This Parliament is not losing any powers—SNP members have not been able to name any—it is gaining lots of them. Because we are part of the UK, common frameworks are needed. There are just 24 areas where agreement needs to be reached. Sensible heads would be able to do that—Mr Russell would be able to do that but, when he is being harangued from Bute House, his hands are tied. There is no power grab. If there is a constitutional crisis, it is one that is entirely of Nicola Sturgeon's making.

Last week, I represented this Parliament at the latest meeting of the interparliamentary forum on Brexit. Unfortunately, Bruce Crawford could not be there as a counterbalance, as his flight never took off. There is an appetite for cross-parliamentary working. We had a very interesting discussion with the Institute for Government on how devolution might work after Brexit. Of course, all Governments of the UK have to want devolution to work. Sadly, this one does not, and the poor souls from the Institute for Government had rather overlooked that fact.

The forum previously recognised that the current system of intergovernmental relations is not fit for purpose and is in urgent need of substantial reform. Last week, we discussed the need for intergovernmental mechanisms for UK



common frameworks and the importance of effective scrutiny of those processes. We discussed a number of ideas, such as an overhaul of the JMC structures; formalising intergovernmental relations mechanisms; having the reformed JMCs act as the forum for discussion and decision making on common frameworks; clearly setting out decision-making structures for JMCs; establishing clear arrangements for parliamentary scrutiny of intergovernmental relations mechanisms; and encouraging interparliamentary working. Those are the kind of serious proposals that we should be discussing, but we are not. Instead, we are stuck in a trumped-up grievance groundhog day.

It is time for the SNP to get on with the serious business of government. It is time for the SNP to grow up.

16:25

**Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** In preparing for the debate, I found on the BBC website a brilliant article by Jamie Ross about the history of the fight for a Scottish Parliament. The article begins with the following quotation:

“We have a right, with all our separate national characteristics, to manage our own affairs in our own way.”

He went on to say that that

“might sound like a line from Yes Scotland’s latest campaign leaflet, but it was actually said over a century ago.

In 1913, William Cowan presented a successful Scottish home rule bill to Westminster, but the outbreak of World War One prevented the creation of a strong Scottish parliament which could have completely changed Scotland’s modern history.”

So, 105 years ago, we could have had that home rule, that near federalism, and the most powerful of all devolved Parliaments.

Summing up on his home rule bill, William Cowan said:

“I should like in conclusion to say a few words on some of the details of the measure I am asking the House to read a second time. The Government of Scotland Bill is introduced on the footing that it represents a further instalment of the Government’s policy of devolution. It would be easy to give evidence that this is the Government’s policy. The Prime Minister has repeatedly said so, and other Members of the Government have made similar statements. We are proposing this Bill as a further instalment of that policy. The powers delegated to subordinate Legislatures under a federal system are those at which we must aim; those powers must be similar, if not identical.”—[*Official Report, House of Commons*, 30 May 1913; Vol 53, c 479.]

Let us pedal forward 86 years to 1999, when Donald Dewar proudly proclaimed:

“There shall be a Scottish Parliament.”

From that day on we have taken up our role and right to make some decisions for ourselves—decisions that we have never wanted to give back, but decisions and powers that we have wanted and successfully extended. They are decisions that mean Scottish resolutions for Scottish issues—many of which have seriously deviated from the path of our neighbours. We have had commissions such as the Calman and Smith commissions, all of which have spoken to and, in limited ways, advanced the powers of the Scottish Parliament.

I have seen no, or very little, expression of that from people who want to end the powers of the Scottish Parliament. William Cowan said the same in his summing up. He also said:

“you cannot nowadays take up a Scottish newspaper with very much chance of finding no reference to this burning question. I do not care who goes to Scotland today, if he speaks to anybody, if he goes anywhere, if he consults the people, he will find that ... this is the most absorbing political topic in Scotland.”—[*Official Report, House of Commons*, 30 May 1913; Vol 53, c 474.]

That was true 105 years ago and it is true today. The majority of the Scottish people prefer decisions about Scotland to be made in Scotland by their democratically elected Scottish Parliament, irrespective of what political colour the Government might be.

**Oliver Mundell (Dumfriesshire) (Con):** Will Christina McKelvie explain, in that case, why she wants those powers to go back to be exercised in Brussels, rather than here, on behalf of the Scottish people?

**Christina McKelvie:** If Oliver Mundell were to look at the functioning of the Treaty on European Union he would know that all 27 nations are independent and have the choice to do whatever they like. They do not give sovereignty back to Brussels.

We had 105 years of stuttering progress, but what do we see now? We see 19 minutes—yes, just 19 minutes, or 1,140 seconds—having been dedicated to Scotland: 1,140 seconds to wipe away all that progress, and a debate that included a UK minister who has no understanding of, and very little interest in, the powers of the Scottish Parliament. That is why I welcome the debate without a motion or a question being put because, sadly, any question now from the Scottish Parliament will be wiped away by Tories in London demonstrating their deep and utter contempt for the Scottish people and their Parliament.

We have dedicated a whole afternoon to this debate. Compare that with the 1,140 seconds of contempt from Westminster, which suggests, “Scotland—know your place”. [*Interruption.*] The chuntering from the sidelines proves my point.

Lord Steel of Aikwood, the former Presiding Officer here at Holyrood, told his fellow lords that the UK Government's flagship Brexit bill "dispensed with" the powers of the Scottish Parliament and cut across the devolved settlement. I agree with him. As parliamentarians, we have a duty to our constituents to ensure that neither our voices nor our powers are dispensed with. Our voices will be heard here today and will ring out to Westminster. Scotland will not be silenced.

16:30

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** For my generation, the conception and realisation of this institution—our Scottish Parliament—heralded the beginning of a more positive era for our country, and an exciting new chapter in our nation's story. Since 1997, 1998 and 1999, when I watched Donald Dewar, Winnie Ewing and others turn a new page in Scotland's democratic story, we have, as a country, achieved so much together for the common good that simply would not have happened without devolution.

Devolution has delivered progressive and pioneering new policies. Across political parties and society, we have worked together to enhance the public services that we value and that support the most vulnerable people in our communities. We have developed our economy where we have the responsibility and power to do so, and we have protected our environment. We have made Scotland fairer and more successful, despite imposed austerity and challenging global events.

So much has been achieved since I was a boy, in 1999. I think about that in the context of this being the year of young people, and in relation to the young people who are growing up in Scotland today for whom this Parliament is part of their normality. When I speak to school groups here in Parliament and in my constituency, I really feel that. I am sure that it is the same for other MSPs.

In this time of unprecedented flux and ever higher Brexit-driven uncertainty, how we protect and enhance the strength of Scotland's Parliament matters to us all. It matters not just in the here and now: it matters, too, for future generations. We must move forwards and not backwards, which is why the debate about the scenario that we are in, and time being made for it, are so important, because the UK Government's EU withdrawal act seeks to take us backwards. The Westminster bill on the effect of Brexit on devolved powers, which was passed in the House of Commons with very little debate, includes what professor of public law Aileen McHarg called

"a radical re-reading of the Sewel Convention which would seriously undermine the protection it offers for devolved autonomy."

**Mike Rumbles:** Ben Macpherson has eloquently defended devolution, saying that it has done really effective things for Scotland since 1999. However, is not it true that he does not want devolution to succeed, because he wants to end it? I give him credit for that, because that is what he wants to do, but will he make that clear?

**Ben Macpherson:** I was reluctant to take Mike Rumbles's intervention, because I expected the same sort of debasing intervention that has been made on other members. While we are in the devolved framework, we all want to protect and enhance devolution. Until the Scottish people, through their sovereign right, vote for independence, we in the SNP will proudly and strongly stand up for the powers of this devolved Parliament.

I will get back on to the debate in the House of Commons, because my time is limited. When consent for the UK Government's bill was not granted by this Parliament on 15 May by 93 votes to 30, which was across parties, the withdrawal bill should not have progressed in Westminster in its existing form. Instead, the UK Government went back on its word and ignored the Scottish Parliament and, by extension, the Scottish people. That should not have come as a surprise to us because, as others have said, since the EU referendum the UK Government has shown a lack of respect to the Scottish Parliament by cancelling meetings and not putting up ministers to appear before committees, despite the fact that Scotland voted emphatically to remain in the EU.

Scotland wants more powers. It is on a journey of increasing confidence; it does not want more Westminster interference or oversight, which is what the UK Government's withdrawal act proposes. In the undemocratic and highly disrespectful way in which it has acted, Westminster has refused to listen to the people of Scotland. Westminster is trying to ignore Scotland. We will not accept that, nor will the people of Scotland, and they will not forget the attempts that have been made to dampen their voices and ignore their preferences.

**The Deputy Presiding Officer:** We move to the closing speeches.

16:36

**James Kelly (Glasgow) (Lab):** There is no doubt that this afternoon's debate, despite the SNP's attempts to hype it up, has had an element of the last week of term about it. Patrick Harvie was right to pinpoint the fact that a debate without a motion was unlikely to shed much further light on

the situation, and that has been very much the case.

Although the Tories have packed their benches, there is no doubt that they will have sat uncomfortably through another afternoon of debate on the powers of the Scottish Parliament, in which we have shed light on the fact that it was—

**Brian Whittle (South Scotland) (Con):** Will the member give way?

**James Kelly:** Not at this point.

It was the Tories who created the situation that we face with Brexit. We should not forget that it was David Cameron who called a referendum in 2016 in order to placate the right wing of the Tory party, arrogantly thinking that he could win it for remain, but that backfired on him. As well as costing him his career, it has been chaotic and disastrous for the country. Two years down the line, we still face massive uncertainty, not just in Scotland but throughout the UK, with regard to our relationship with the European Union and the impact on the economy. That has been underlined by the Tories' mishandling of the withdrawal bill, the legislative consent memorandum and the issue of consequential powers for the Scottish Parliament. Before Christmas, Tory members told us confidently that a deal would be reached and the situation would be resolved, but when it came down to it, as Neil Findlay pointed out, David Mundell did not even table any amendments in the House of Commons. The Tories have failed the country on that.

It has been interesting to listen to the speeches of SNP members such as those great defenders of devolution Ash Denham and Ben Macpherson, but it should be remembered that in 1997 the SNP was somewhat reluctant—certainly in the initial stages of the process—to support devolution.

**Clare Adamson (Motherwell and Wishaw) (SNP):** Will the member take an intervention?

**James Kelly:** No, I will not.

The SNP was not a member of the Scottish Constitutional Convention.

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney) rose—**

**Neil Findlay:** He is back. Did you survive the reshuffle?

**James Kelly:** He has come all the way from Bute house.

Mr Swinney and his colleagues should not forget that, in 2014, he and his colleagues wanted to smash the devolution settlement and tear it up altogether.

**Ben Macpherson:** Will Mr Kelly take an intervention?

**James Kelly:** No thanks.

**John Swinney:** Will Mr Kelly give way?

**James Kelly:** Okay, Mr Swinney.

**Neil Findlay:** Tell us about the education bill.

**John Swinney:** I am certainly going to educate Mr Kelly in a moment. I was a very enthusiastic member of Parliament who voted for the Referendums (Scotland and Wales) Act 1997 and the Scotland Act 1998. I am very proud of the fact that I used my parliamentary voting strength to support the establishment of this Parliament. In the light of that educative contribution from me, will Mr Kelly change his remarks?

**James Kelly:** I certainly will not change my remarks. As I also pointed out, in 2014, Mr Swinney wanted to smash the devolution settlement. If Nicola Sturgeon and his party had had its way last year, we would have been on our way to another referendum and more threats to devolution.

**Ben Macpherson:** Will the member take an intervention?

**James Kelly:** No, thank you.

My final point on the debate is that there is a fundamental issue for Parliament. I get the fact that it is very important to consider Brexit, and there have been occasions over the past eight months when Parliament has had to look at its legislative consequences. However, as Neil Findlay pointed out, over the past eight months this Parliament has not spent enough time looking at the fundamental issues for which we were sent here to represent people.

In the health service, for example, there continues to be a growing GP crisis. Yesterday, the British Medical Association told us that the national health service is in a worse state now than it was a year ago. The housing waiting lists continue to stand at 150,000 and we continue to have a housing crisis. Only this afternoon, we had a climbdown from Mr Swinney, who was not able to publish the education bill, and there are real issues about access to university for kids from underprivileged areas and areas of social deprivation. There are also the issues with rail, which mean that people in Scotland are on occasion not able to get to their work on time because the train services are not working properly.

The Government might want to reflect, as it puts its new team together and when it comes back after the summer, that what we need in Parliament is more meaningful debates about the fundamental issues that affect people's lives and

less of the grandstanding that we have seen from the SNP benches this afternoon. People are now heading off for the summer recess, some of them to new jobs and others losing their jobs. Let us accept our responsibilities as parliamentarians and come back seriously committed to making the differences to people's lives in Scotland, rather than to the posturing that we have seen from some this afternoon.

**The Deputy Presiding Officer:** I call Murdo Fraser. *[Interruption.]* Excuse me. Members should please be quiet and allow Mr Fraser to begin and get a little bit into his speech before there is any barracking.

16:43

**Murdo Fraser (Mid Scotland and Fife) (Con):** Thank you, Presiding Officer.

I start on a note of agreement with what James Kelly just said about this debate. We had hoped for a helpful and enlightening debate, but after two and a bit hours I do not think that we are any further forward than when we started. All that we have heard from the SNP members this afternoon is the same as we have heard from them here and at Westminster over the past few weeks. It is simply sound and fury, with their near hysterical rhetoric about power grabs demolishing devolution. To quote a famous Scottish king, in the words of Shakespeare, it is

“sound and fury,  
Signifying nothing.”

When is a power grab not a power grab? When no powers are being grabbed. The simple fact is that, when we cut through all the bluster, noise and hyperbole, not one person in the SNP can give us a single example of a power being removed from this Scottish Parliament.

**Patrick Harvie:** Will the member take an intervention?

**Murdo Fraser:** No, thank you. I asked Michael Russell and Mr Lochhead that question and not a single member of the SNP could give me the answer.

**Stewart Stevenson:** Will the member take an intervention?

**Murdo Fraser:** Mr Harvie wants to give an answer on behalf of the SNP. Mr Stevenson will give me the answer. I ask him to name one power exercised by this Parliament today that will be removed.

**Stewart Stevenson:** The secretary of state has already been to the Danes and the Dutch to promise that their access to our waters will remain. We will not have the power that we were promised to control access to our waters.

**Murdo Fraser:** That was not an answer to my question, and the reason for that is simple and straightforward. Not a single power is being removed from the Scottish Parliament, as Maurice Golden reminded us.

**Patrick Harvie:** Will the member give way?

**Murdo Fraser:** Sit down, Mr Harvie.

There is nothing that this Parliament is doing today that it will not be able to do after the passage of the EU withdrawal bill at Westminster. *[Interruption.]*

**The Deputy Presiding Officer:** Mr Harvie, it is clear that Mr Fraser is not taking an intervention from you.

**Murdo Fraser:** Thank you, Presiding Officer.

That is because the bill makes it perfectly clear that it deals with EU retained law—in other words, laws that are currently dealt with in Brussels, and those alone. Nothing that this Parliament does today is affected.

The Scottish Government was concerned, quite rightly, about some 111 powers that were covered in the EU withdrawal bill. Of those, more than 80 are being devolved immediately. That is a power bonanza by any definition. Of the remaining 24, there will be UK-wide common frameworks, which it is widely agreed are necessary. Trade bodies such as the Food and Drink Federation Scotland, the Scottish Retail Consortium, Scottish Bakers, NFU Scotland and the Federation of Small Businesses have all recognised that common frameworks across the UK are essential to protect the integrity of the single domestic market in the UK—a market that, as Adam Tomkins reminded us, is four times more important to Scottish business than is the EU single market.

**Neil Findlay:** Will the member take an intervention?

**Murdo Fraser:** I will not at the moment.

The real issue of contention is whether the Scottish Government and indeed the other devolved Administrations should be given a right of veto over the terms of the common frameworks, which will apply across the United Kingdom. The UK Government's view is that they should be reached by discussion and consultation and that neither the Scottish Government nor any other Government should be given a right of veto.

Nor should we forget that not just the 24 powers that are subject to common frameworks but all of the 111 powers are powers that the SNP does not want to be exercised here at all. It wants every one of them to be returned to Brussels, as Graham Simpson reminded us. Powers over the environment, agriculture and fishing would be returned to Brussels at the first opportunity. That is

the real power grab—taking away powers that Scotland should have and giving them back to the EU.

**Ash Denham:** The member sits, as I do, on the Finance and Constitution Committee. We have spent hours taking evidence from expert witnesses about the common frameworks and intergovernmental relations, and not one of them, at any point, said that clause 11, which is now section 15, was necessary in order to agree common frameworks. Can the member explain why it had to be done in that way when it was completely unnecessary?

**Murdo Fraser:** It is entirely reasonable for the United Kingdom Government to say that it is not going to give a right of veto to the Scottish Government, or to the Governments of Wales or Northern Ireland, over the terms of common frameworks. External bodies, those who are interested in trade, farmers and fishermen want common frameworks to be set up and established. They do not want them to become political playthings, which is what the SNP is trying to turn them into.

**Neil Findlay:** Will the member take an intervention?

**Murdo Fraser:** No, thank you.

We heard a lot in the debate about the Sewel convention, so it is worth reminding ourselves what the author of that convention, Lord Sewel, has had to say about the current situation. If anyone has an opinion on the matter that is worth listening to, it is surely the man who gave his name to the convention that the SNP is so exercised about. What he said, in an interview with the BBC, is that this is not a power grab. He went on to say:

“It’s not a constitutional crisis.”

However, let us listen not just to Lord Sewel. Let us listen to those who are connected to the SNP, because even the former SNP depute leader Jim Sillars—[*Interruption.*] They do not want to hear from him now, do they, Presiding Officer? Even Jim Sillars could not have been clearer when he wrote this in *The Times*:

“Let me be blunt: the stand-off between Holyrood and Westminster is primarily the fault of Nicola Sturgeon ... Castigating the Tories for a ‘power grab’ of repatriated powers, while acting like a fifth column for the EU in Scotland, has left the SNP in the ludicrous position of demanding powers from Theresa May that Nicola Sturgeon promises an independent Scotland will hand back to Jean-Claude Juncker.”

Jim Sillars got it right, and SNP members should listen to him. This is all about a grievance agenda from the SNP, stoking up constitutional tensions with Westminster, and trying to drive up support

for independence and a second independence referendum.

We do not need to debate protecting devolution, because devolution is not under threat. It is being strengthened with more than 80 new powers coming to the Parliament. We would think that the SNP would welcome that. As Jim Sillars has stated, those are the powers that the SNP wants to send straight back to Brussels.

In the meantime, the Conservatives will get on with the job of strengthening devolution and strengthening the powers of the Parliament.

In a considered contribution, Liz Smith reminded us of the journey of devolution. That journey is still going on. A Conservative Government has already delivered fiscal devolution, control over income tax, control over landfill tax, and control over the land and buildings transaction tax. The assignation of VAT is to come shortly. A Conservative Government has delivered the devolution of social security—a bill on that was passed unanimously by the Scottish Parliament just a few weeks ago—and it is now delivering an additional 80 new powers over forestry, carbon capture and franchise legislation, to name but a few things. Devolution is not under threat; it is being enhanced, and it is time that the SNP dropped its ludicrous rhetoric—its

“sound and fury,  
Signifying nothing.”

**The Deputy Presiding Officer:** I remind Mr Fraser and other members that it is the Presiding Officer’s job to tell people to sit down, and I remind everyone that there should be courtesy to fellow members at all times.

16:51

**Michael Russell:** When I listened to some of the Tory contributions in particular, they confirmed the impression that I have had for some time in dealing with UK ministers that the Tories no longer live in the same world that the rest of us live in; rather, they live in a completely artificial but rather noisy world in which they simply assert things and believe them to be true. The most astonishing assertion this afternoon came from Adam Tomkins. Who tore up the constitutional settlement? According to Adam Tomkins, it was not the Tories; it was me. I did that by using my special powers.

**Neil Findlay:** I knew that.

**Michael Russell:** Neil Findlay knew that. I have special powers because I managed to destroy the constitutional settlement just by using a six-letter word in the chamber. According to Adam Tomkins, my using the word “normal” suspended the Sewel convention.

I was completely unaware that I have those overwhelming special magical powers that influence the UK Government in that way. We are heading towards the recess. I intend to use a substantial part of the time during the recess flexing my muscles and learning how to use those powers. If I can do that to magic away the Sewel convention, maybe I can magic away Brexit and all the Tories. I shall be practising. That might take more than a six-letter word; it might take Boris Johnson's four-letter word, but I will do my best to do that.

This has been a debate of contrasts. In a moment, I want to contrast two sets of speeches, but first I want to comment on two or three things that deserve an answer. Quite a lot of what we have heard does not deserve an answer, but useful things have been said that do.

I disagree with Neil Findlay's analysis of the Scottish Government, of course, and with what he believes we are doing, but I agree that we need to keep on talking and having a debate and a discussion, and that we need to look at ideas to see how we can move forward. Those ideas are valuable.

We heard some of those ideas from Graham Simpson, but unfortunately—or, rather, fortunately—the ideas that he came up with were the very same ones that I put forward last week. I seem to have influenced him subliminally so that he now understands what I was talking about. That could be my magic powers again; they could be working on Graham Simpson. We need to talk about the Sewel convention and find out how to put it into legislation and how to put the relationship between the Governments on a statutory footing. We should move forward in that way.

Patrick Harvie added to that process in his contribution. He was right in saying that, when I spoke to him, he did not want to have a debate without motion; the other parties agreed to that, but he did not. I hope that we have got a few additional ideas out of today on which we can work together in order to try to make progress.

I want to highlight some contrasts. I will start with one between two members with whom I do not agree and who said things in their speeches with which I do not agree: Pauline McNeill and Liz Smith. Pauline McNeill has been in this Parliament, with a brief interruption, since 1999—I, too, have had a brief interruption, so I know what that is like—and Liz Smith has been here since 2007. Both come to this question from entirely different perspectives from mine. Pauline McNeill says that she is unlikely to ever vote yes; unfortunately, Liz Smith says that she would never vote yes, but she has changed her mind once on

the constitution and, as far as I am concerned, where there is life, there is hope.

However, both members talked about the operation of devolution in a positive way. To that I add that all parties in this Parliament have operated devolution in a positive way—this Government has, the Liberal Democrats and Labour did when in coalition and the Tories have. The difference now is that all the Tories in this Parliament and one of the Lib Dems—he is not here; he has clearly been so horrified by this speech that he has gone away—are colluding to undermine the devolution settlement. This is not a question of moving on devolution—I want to do that, to the full powers of a normal Parliament—but a question of reversing devolution and sending it backwards, which is precisely what the Tories are doing. Unfortunately they are doing that with the support, or at least the collusion, of their party here.

**Patrick Harvie:** I am grateful to the minister for giving way, given that no Conservative member was willing to hear from me when they constantly asked what existing powers would be taken away. Is it not clear that, whether someone sees devolution as an end result or as a step in a journey to independence or to federalism, all of us have to rely on the fact that this Parliament's fundamental underlying power is to say yes or no freely on a matter of devolved competence and to have its say respected? It is that fundamental power that is being taken away.

**Michael Russell:** Patrick Harvie puts that well.

I will make two points in my remaining time. The second contrast that I want to make is between the two MGs—Mairi Gougeon and Maurice Golden, who spoke after her. I hope that we cut the video and show those two speeches to every school and in every village hall in Scotland, because there could not have been a stronger contrast and a better illustration of what this debate is about.

I am sorry to say that, although I respect Maurice Golden's position, his speech was passive, bloodless and process driven. He just accepts what exists; he said nothing could change in that regard. At one stage, Neil Findlay shouted out to Maurice Golden, "Is that it?" I rarely commend Mr Findlay's comments but, at the end, I, too, regrettably felt the same. I was left wondering, is that it? Is that the result of 19 years of this Parliament?

However, Mairi Gougeon gave a tremendously strong and passionate advocacy not just for this Parliament, but for the rights of the people of Scotland. That is what counts; that is what this debate is about. It is the people of Scotland to

whom we report and for whom our efforts are, in the end, judged.

Let me come to the canard of the debate, which was constantly repeated by somebody who likes such things—Murdo Fraser—and the Tories curious admission that there are powers that we are not getting. He spoke in these terms, “You just want to hand those powers back to Brussels”. [*Interruption.*] Ah! They confirm it. Think about that for a moment. That does two things. It confirms that there are powers that we are not getting; it also says that they cannot trust the Parliament to use those powers and that it will not get them because they do not like how it would deal with them.

It also shows—Christina McKelvie was absolutely right about this—no understanding of how the EU works, but let us pass over that. The reality of that line is that it says everything that this Parliament needs to know about the Tories’ attitude. Just as consent does not mean consent, or maybe means consent, the Tories’ position on this issue is that they are not giving the Scottish Parliament the powers that it should have because they do not like things that it does with them. That is not devolution but its antithesis. In that regard, Murdo Fraser’s point was unfortunately not accurate, because it is the Tories who are threatening devolution and we have to resist that.

## Decision Time

17:00

**The Presiding Officer (Ken Macintosh):** There are no questions to be put as a result of today’s business, so we move on to members’ business.

## National Health Service 70th Birthday

**The Deputy Presiding Officer (Christine Grahame):** The final item of business today is a members' business debate on motion S5M-12842, in the name of Richard Leonard, on the NHS's 70th birthday. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament celebrates 5 July 2018 as the 70th anniversary of the founding of the NHS; agrees with the words of its founder, Aneurin Bevan, that it is "a triumphant example of the superiority of collective action and public initiative"; believes that, each and every day, both in Central Scotland and throughout the country, there are countless examples of the importance and success of the NHS; thanks all health service staff, past and present, for their compassion and dedication in delivering care to people in need, and wishes the NHS a happy 70th birthday.

17:01

**Richard Leonard (Central Scotland) (Lab):** As we celebrate and reflect on 70 years of the national health service in this debate, let us remind ourselves of the vision for a healthy nation that was first outlined in Labour's 1945 manifesto. It read:

"By good food and good homes, much avoidable ill-health can be prevented. In addition the best health services should be available free for all. Money must no longer be the passport to the best treatment. In the new National Health Service there should be health centres where the people may get the best that modern science can offer, more and better hospitals, and proper conditions for our doctors and nurses."

Yet today, as in 1945, health inequalities—that glaring flaw in our society—persist. That is precisely why tackling poverty and inequality in Scotland, and the health inequalities that result from them, should be the first priority of this Parliament.

Poverty is a moral issue. Not only does it diminish the lives of the people who are caught up in it, it diminishes us all. It holds us back as a country, weakens our society and hinders our economy. It is the cause of much preventable ill health. That is why we cannot carry on as we are, with poverty deepening and inequality widening.

I pay tribute to all the staff who work so hard to keep our NHS going, day in and day out, night in and night out, caring for and curing our sick. They deserve better support than they are getting from this Government.

It is not just NHS staff who are being let down, but NHS patients, too. Patients, many of them elderly, and often with underlying health conditions, are waiting for hours for an ambulance,

despite repeated 999 calls, and then waiting for hours on trolleys in hospital corridors.

We have been able—at long last—to secure an independent inquiry into mental health services in Tayside, but it should not take questions to the First Minister and families marching into this Parliament demanding justice for action to be taken.

The Labour Party founded the national health service, and something that is often overlooked is that Labour's Tom Johnston, when he was appointed Secretary of State for Scotland in the wartime Cabinet in 1941, began an experiment in the Clyde basin, in which civil defence hospitals that had been set up to treat civilian war casualties, were used to treat war workers who could not afford specialist diagnosis and treatment. He rolled out the approach across Scotland and, in so doing, drove down hospital waiting lists by 34,000, helped form the basis of the 1944 white paper and blazed a trail for the national health service of the post-war years.

Down the years, it has been always been Labour Governments that have invested in our NHS. When Labour was last in power, spending on the national health service in Scotland doubled—not merely in cash terms but in real terms. We scrapped the internal market and we took the Health Care International private hospital in Clydebank, which the Tories had used public money to establish, and put it into the NHS. In the future, we will put before the people a clear choice: a decade of austerity and public expenditure cuts with the SNP and the Tories, or a decade of real and sustainable investment with Labour.

As we celebrate 70 years of the national health service, we recall its pioneers in the Labour Party, reflect on its transformative achievements and, once again, renew our commitment to an NHS that is free at the point of use; an NHS that is fully funded and resourced; an NHS that values its staff and serves its patients; and an NHS that works for the many, not the few. The NHS is practical socialism in action—"pure Socialism", as Bevan described it. That, in the end, is the Labour Party's defining idea.

The heralding of the NHS 70 years ago meant the end of insurance stamps, the means test and endless queues. Medical care was no longer connected to ability to pay. General practitioners stopped having to compete for business and joined forces as part of a medical team. It became a single service and a national service. Commercial principles were replaced with collective action and public initiative. That is a powerful and enduring idea, which we will defend with every sinew in our bodies, but it should not be limited in its application to our national health



service. It would be well applied in responding to growing demands to provide care for the elderly, which is an area in which we are seeing commercial principles and a market-based approach pulling us into a crisis; to social care, so that we can support the human rights of disabled people, remove the profit motive and pay carers a proper rate of pay; and also in the field of public transport, and the provision of energy supply and distribution in housing. The possibilities are limitless.

In 2018, it is time that we started to learn the lessons of 1948. The national health service was created when the country was almost bankrupt. It is time that we started to think big and act radically. It is time that we recaptured the spirit of that 1945 Government and it is time that we once again applied those enduring and timeless principles to our times.

17:08

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I start by paying tribute to things that the Labour Party has done, which is not a natural thing that members would expect me to do. However, in the past hundred years, the legislation that it has introduced to establish the national health service is a most significant and enduring achievement that we should all commend. In this Parliament, I have commended Jack McConnell in the past—and I do so again today—for his political courage in introducing legislation on smoking. The Labour Party is capable of getting things right. However, I have to draw one or two different conclusions from those that we have just heard in the contribution that has been made so far in this debate.

First, I remind members on the Labour benches that, in fact, the story of the national health service really started with the Highland and Islands medical service, which was established in 1913 and covered half of Scotland's land mass. It was not free at the point of supply, but it set the limit on what people paid at a very low level so that, for the first time, ordinary working men and women had access to a health service.

In rolling out the service in the 1940s, Beveridge was drawing on that model, so the routes that have got us to where we are are more diverse than the simple idea that it was Beveridge. It is none the worse for any of that, I have to say, and I do say. Indeed, the quotation from Nye Bevan in the motion is one that I agree with.

I will do what I did in the previous health debate. I went again to the Care Opinion website and found the following entries, all from the past week, and it is not all doom and gloom. A patient treated at Aberdeen royal infirmary said:

"I was diagnosed with Type 1 diabetes in September 2017 ... the support of the whole diabetic team at Davidson Anderson Building, ARI has been incredible."

A comment on the play service at Aberdeen children's hospital states:

"I think the play service is a really valuable service that helps children make the hospital seem less scary."

Commenting on their son's three-and-a-half-week stay at the Royal Aberdeen children's hospital, a parent said:

"My boy broke his femur at 2.5 years old and was in traction for 3.5 weeks ... My son really enjoyed his time with the play staff who made his stay very enjoyable".

Listen to that. They are talking about someone in traction with a broken femur. That is how good the hospital was. Another comment, on Dr Gray's maternity hospital, states:

"When my grandchild was born in August 2017 he had to stay in SCBU for 10 days ... The care that was given to both my daughter and grandchild was exceptional."

That tells us a lot about the staff in the health service, because that is front-line experience. It also tells us about the system that supports the staff.

I will conclude with a comparison with the world before then, because I was born before the health service. I have here a copy of a medical bill that my mother had to pay, because the year before I was born she had an ectopic pregnancy—a pregnancy in the fallopian tube—and had to go to hospital and have that fallopian tube removed. It was a very serious operation, but fortunately it was done with such skill that she was then able to give birth to me, her first live birth, and to two subsequent children.

The point is that the amount of money on the bill is three-and-a-half weeks of the average working man or woman's wage at that time. My mother was fortunate to come from a family who could afford that. The health service made it possible for the quality of service that my mother was able, fortunately, to pay for, to be available to all. I congratulate the health service on its upcoming 70th birthday. We are all grateful for its enduring contribution to our society.

17:12

**Miles Briggs (Lothian) (Con):** I start by paying tribute to the Cabinet Secretary for Health and Sport, as she has announced her intention to leave the Scottish Government. We have had many disagreements across the chamber on health policy, but I have never doubted Shona Robison's commitment to improving the health and wellbeing of our nation. All of us have seen how former cabinet secretaries for health and sport, once they have left the Government, acquire a

new independent lease of life, so I hope that she, too, will experience that in the coming weeks, and will hold the Government to account from the back benches.

I congratulate Richard Leonard on securing today's important debate, and am pleased to take part in it.

I record my sincere thanks to all those who currently work or have worked in our NHS—from GPs, surgeons and consultants, to the nurses, midwives, health visitors, hospital porters, ambulance drivers, paramedics, hospital cleaners, auxiliary staff and many more.

Each and every day, thousands of NHS workers in Lothian and across Scotland go above and beyond the call of duty to provide our constituents with some of the very best healthcare in the world. We owe them a huge debt of gratitude. As we celebrate the 70th birthday of our NHS, it is right that we thank NHS staff: that is a key part of the celebration.

Any organisation is, at its heart, its people. The NHS is no different. I am lucky enough in my job as shadow cabinet secretary for health to meet NHS professionals daily. Many of my meetings focus on the challenges that face our NHS and the increasing demands that are being placed on Scotland's health and social care services. However, more often than not the focus is on people and on lives that have been saved. The conversations are about the people who work in our NHS going the extra mile every day to deliver patient care. There are stories of hope, of love and, often, of recovery against the odds. Thanks to the efforts of our NHS staff at all levels, who use the medicines and technological advances that we are lucky enough to access, our people's health has been completely transformed since 1948.

A child who was born in Scotland in 1948 could expect to face a raft of illnesses including polio, measles, whooping cough and diphtheria. Vaccination programmes have now virtually wiped out those diseases. Child and infant mortality rates are a fraction of what they were, and people are receiving cancer treatment and surviving cancer in ways that could only be imagined by clinicians in the 1940s.

I hope that the debate will celebrate our NHS, its achievements and its outstanding workforce. However, our NHS's 70th birthday should also be a time for us to look to the future and to help to put in place the long-term policies and plans that will ensure that our NHS is free at the point of delivery for every constituent in the decades ahead.

Building a sustainable NHS needs to be a priority for everyone in Parliament, because our NHS faces constantly evolving, new and complex challenges—from obesity-related conditions to an

ever-increasing demand for mental health services, to antibiotic resistance, to the costs of new drugs and technology, and to provision of social care for an ageing population as life expectancy continues to increase—although we should celebrate that increase as the major achievement of our NHS. Those are all massive challenges, but all of them can be addressed if we develop the long-term strategic thinking and policies that are required to meet them, and if we do that by working alongside our NHS staff, who are at the front line and who know better than any politician does how to respond to patients' needs and to cope with the demands that are placed on our health service.

Great countries come together to turn challenges into opportunities, and I know that our NHS staff are ready to do that to help to transform our nation's health and wellbeing. In the coming months, Conservative members will put forward our plans and vision to take forward our Scottish NHS. I believe that Parliament and every party that is represented in it need to come together to deliver a sustainable future for our Scottish NHS.

For the time being, let us celebrate the fact that our Scottish NHS is 70 years young, and let us look to the future. If we do that, and if we work positively and co-operatively across Parliament, we can be confident that the best days for our NHS lie ahead of it.

17:17

**Anas Sarwar (Glasgow) (Lab):** I thank Shona Robison for her service as our Cabinet Secretary for Health and Sport. It is no secret that she and I have had our disagreements—we were not exactly best friends—but I genuinely wish her the best for the future.

I congratulate my leader, Richard Leonard, on securing this important debate to celebrate the 70th birthday of our NHS. It is 70 years since—for the first time—hospitals, doctors, nurses, pharmacists, opticians and dentists were brought together under one umbrella to provide, for everyone, services that are free at the point of delivery.

It is only right that a Labour member has led the celebration of the NHS. Our NHS—Labour's NHS—is Labour's greatest-ever achievement and our country's most cherished public service.

It is thanks to our NHS that we have all but eradicated diseases including polio, and have pioneered new treatments including the world's first liver, heart and lung transplant. Every day, the NHS treats, supports, cares for and cures tens of thousands of our fellow citizens through services that are free at the point of need, and which are paid for through our collective contribution, with no

questions asked about how much money is in a patient's pocket.

Every day, our amazing NHS staff go above and beyond the call of duty in order to care for others. To all the staff across the NHS, I say, "Thank you." We all have our personal stories and connections. I thank midwives such as June, who cared for my family. I thank the doctors such as Dr Rajan, who aided my father's recovery from his heart attack. To the dentists including my wife Furheen—I have to say this or I will not be allowed back in the house tonight—I say, "Thank you." I thank all our NHS and social care staff, no matter their role.

However, we must be honest that the workforce is overworked, undervalued, underresourced and—after almost a decade of pay restraint—underpaid. We say thanks, but that is not enough: we need to support the staff.

We have debated many times in the past few months many of the challenges that are facing the NHS: the 3,000 nurse and midwife vacancies; the 1 million bed days that are lost to delayed discharge; the 1,200 children who are not receiving the mental health support that they need; and the fact that the treatment waiting time law has been broken more than 100,000 times.

In the run-up to its 70th birthday, we need not just to recognise the successes, but to demonstrate how we will fix some of the challenges in our NHS because, as Bevan said,

"The NHS will last as long as there's folk with faith left to fight for it".

Labour members have the faith to fight for it and the political will to deliver the investment that is needed to save it. Over the course of the celebration week, we will be making the case for what we would do differently, if Labour was in Government. We would be using our tax system to fund the NHS properly. We would have a credible and deliverable workforce plan that would reverse the cuts to nursing and training places that have been made by Nicola Sturgeon. We would have a mental health counsellor in every school, crisis mental health services, protection of local services, cancer diagnoses being done within two weeks, access to vital lifesaving medicines, an end to cuts to social care budgets, an end to the 15-minute care visit, access to free sport, a meaningful pay increase for NHS staff, and a return to an NHS that is true to the vision of Nye Bevan—an NHS that, once again, supports us from the cradle to the grave.

In closing, Presiding Officer, if anyone ever asks why we need a Labour Party, tell them this: the NHS. If anyone ever asks what a Labour Party ever did for us, tell them this: the NHS; and, if anyone ever asks what the Labour Party will ever do again, tell them this: the NHS.

17:21

**Patrick Harvie (Glasgow) (Green):** I begin, as others have, by paying tribute to Shona Robison, who is stepping down as health secretary, and I wish her well for the future.

I congratulate Richard Leonard on bringing the motion to the chamber for debate. I do not think that there is any great downside to having two motions on the same topic in the one week; it is perhaps a small pity, however, that there is not an opportunity to reconcile the motions and unite behind a single motion—[*Interruption.*] That it would have felt a little more unified is the only point that I was trying to make. Nevertheless, I express my support for both motions.

Several other members have also opened their remarks by commending and thanking the very many people who work in our NHS: the dedicated—and often tireless, because they have to be—professionals who deliver its services. I have to offer the same thanks and echo Anas Sarwar's reference to midwives in particular, because my mother was a midwife. I grew up with a mum who very often worked night shifts in the NHS, so the NHS is a natural and instinctive part of my understanding of what healthcare is about.

I would have found it peculiar, bizarre and incomprehensible at that young age to think that in such recent times—just one generation previously—there was no such thing as the NHS. It is very easy to think of history just a few decades before one's own youth as though it is ancient history, but it is such a recent change. Just a generation before mine, there was no NHS.

My experience of the NHS was not just through seeing my mum going out to work there and coming back early in the morning, as we were getting ready for school. I was also a bit of a sickly child and was often in and out of hospitals with infections, and had long-term kidney damage as a result of those infections. I became a bit of a human pincushion and, at times, I may even have resented having to go through so many treatments in the NHS. However, now, standing here, I can reflect on the fact that I and so many other people do not even know whether we would be able to stand here and contribute to such a debate if we had not had access to those health services.

We all need to convey deep and profound gratitude. Richard Leonard made a profound point in saying that something of the spirit of the post-war generation needs to be recaptured. That was a generation of people who were brutalised and traumatised by their wartime experience, and who were not in a strong place economically—but invest, they did. They had fought together and survived together, and they said that together they were going to rebuild a society that would make

them better off together, not only through the national health service but through the welfare state.

I wish to goodness that we could see something of the spirit of that post-war generation in today's political climate, instead of an exercise in disaster capitalism, which I fear may be the legacy of our political generation. However, if we were able to recapture that spirit, it would mean not only that we would pay more collectively for high-quality services that make us better off collectively and remunerate fairly the people who deliver the service, but that we would take collective social responsibility for the determinants of ill-health. One of those determinants is poverty, and Richard Leonard mentioned the inequality in health outcomes.

There are also the facts that our food chain has been handed over to commercial interests and that recreational drugs have been handed over to gangsters without the state having any ability to regulate them effectively. There is a huge need for us to take collective social responsibility for the things that create and worsen ill health in our society, because we cannot rely on science alone to create the conditions for health. If we run an unhealthy society, we will have unhealthy outcomes, and the NHS alone will not be, even with the greatest support that we could provide for it, in a strong position to do the work that we need it to do.

**The Deputy Presiding Officer:** Because of to 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 ask Richard Leonard to move such a motion.

*Motion moved,*

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[Richard Leonard]

*Motion agreed to.*

17:27

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I echo the thanks of other members to Richard Leonard and the Labour Party for bringing this important motion to Parliament. I will address the cabinet secretary's departure later in my remarks. I also echo the thanks of other members to our hard-working NHS staff.

In 1961, a prominent United States actor walked into a recording studio and cut a record. I am sure that many other members will have on their iPod that hot-button favourite and spoken-word classic "Ronald Reagan speaks out against Socialised Medicine", which contains 11 minutes of vignettes such as:

"soon your son won't decide what he will do for a living. He will wait for the government to tell him",

or—my favourite—

"One of the traditional methods of imposing ... socialism on a people has been by way of medicine. It's very easy to disguise a medical program as a humanitarian project, most people are a little reluctant to oppose anything that suggests medical care for people who possibly can't afford it."

To Ronald Reagan and the American right wing, who still support that view, I say, "Nonsense." In 2016, 29 million people in the United States were still without medical insurance. Had I been one of them, an operation that I had 20 years ago to fix the rotator cuff muscles in my shoulder, which had resulted in repeated dislocation, would have cost me \$30,000. Theatre delivery of my son when my wife had complications during our first pregnancy would have cost \$50,000, plus the fee for the resuscitation that he needed. All told, my lifetime involvement with the NHS would have cost me hundreds of thousands of dollars, but I have never left hospital with anything other than a dodgy shoulder fixed and three beautiful children—so, to the NHS, I say, "Thank you."

Members from across the chamber are right to remember some part that their party played in the creation of the NHS, because it was a cross-party creation. Good things happen when we put aside our differences and work together. It was absolutely a Labour Government that brought it in, but that was off the back of a Conservative member of Parliament's proposal for legislation, and in its infancy it stemmed from Beveridge, that great giant of liberalism, and his report in which he talked about the five giant evils of ignorance, idleness, squalor, want and disease. It was for that last giant evil that he envisaged the formation of a universal healthcare system or, as he described it,

"comprehensive health and rehabilitation services for prevention and cure of disease".

How prescient is that? More than 70 years ago, people were talking about prevention, and we are still working towards that goal.

We are bolstered by an amazing staffing complement in our health service—people who work all hours of the day and days of the year to bring comfort, safety, security and treatment to our most vulnerable people. The model of treatment and care in this country is sound; the direction of travel is off.

My call for the cabinet secretary's resignation is a matter of public record but I do not revel in it today. She was always kind to me, was always generous with her time and displayed a compassion that is uncommon in Scottish politics. I wish her well.

However, the Government has certainly presided over a panoply of error and misjudgment in the discharge of its responsibilities to our health service, such as in delayed discharge, which the former cabinet secretary pledged to eradicate. There is still an interruption in flow that means that, after being declared fit to go home, people are waiting in our hospitals for as many as 600 nights to get back into their communities. There is also service redesign without communities' involvement. The worst example is in mental health services, with 1,000 adults having waited for more than a year for first-line psychiatric or psychological therapies and children in some parts of Scotland waiting for two more years.

Let us celebrate today the creation of our much-loved NHS. Let us try to strip out the party politics behind it. That means the new cabinet secretary listening to the helpful criticism of Opposition members in the discharge of her responsibilities.

17:31

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** Like others, I welcome the debate as a chance to speak positively and constructively about the huge achievements of our NHS on this important anniversary. As the motion says,

"each and every day, ... there are countless examples of the importance and success of the NHS",

and the Parliament

"thanks all health service staff, past and present, for their compassion and dedication in delivering care to people in need, and wishes the NHS a happy 70th birthday."

That is the sentiment that I want us to focus on in the debate. I say that not just because of the countless examples that I see in my constituency, which has a large population, and the different challenges that we have in such a dense urban area, but because of my family connection to the NHS. I wondered whether to touch on that but Patrick Harvie has opened the door and given me encouragement to mention it.

My mother worked for more than 30 years as a geriatric physician at the forefront of the NHS in Lothian until she retired. That is one of the most challenging areas of our NHS at present. As Patrick Harvie said of his mother, seeing that commitment as I grew up meant that, in my childhood and beyond, I recognised the sheer dedication that our public servants in the NHS give daily to make a difference to others and to try to tackle the changing scenarios, factors, pressures and areas of need that we have to deal with in our society and which bear down on our health system.

It is important for us not to take the NHS for granted, as its egalitarian and inclusive nature and

history are unique in the world. It is important to recognise that.

It is good that other speakers talked about the new and complex challenges, needs and demands that our NHS faces. Miles Briggs said that we need to look to the future. In his motion, and in his speech, Richard Leonard talked about the need for collective responsibility. That call to action is about how we preserve and enhance the NHS over the next 70 years so that we do not take it for granted but build on it, improve it and facilitate it in a way that deals with the needs that are coming at us.

In the time that I have left, I would like to focus on MSPs and other politicians. We all have case work to do that involves the health service and we all recognise the importance of the NHS. Given what Shona Robison said about her resignation today, perhaps we should use this debate as an opportunity to think harder about what more we can do to collaborate.

There has been quite a lot of grace with regard to the topic today but I have seen some quite ungracious behaviour, to be frank, in previous discussions in the chamber. There is a lot of opportunism when it comes to talking about our NHS. We should all be more solution focused. Before we press the button on the tweet or sign off the press release, we should think, "Will this help?" We want to ensure that our NHS survives for the next 70 years, and the challenges that it will face during that time are profound. We could achieve so much more if we worked together to take forward what is, in the words that are quoted in the motion,

"a triumphant example of the superiority of collective action and public initiative".

Let us show public initiative and commit to collective and collaborative action.

17:36

**Daniel Johnson (Edinburgh Southern) (Lab):** I am pleased that Richard Leonard has brought forward this motion for debate, in part because the NHS is Labour's greatest achievement—Labour is at its best when it makes change that is so profound that it cannot be undone, and the NHS is one such achievement. However, the main reason why I am pleased that we are debating the motion is that it allows us to do something that is important to me, which is to say thank you, on a personal basis.

My eldest daughter was born in 2012 and spent the first four months of her life in the Royal hospital for sick children. She was born with an intestinal atresia, which is a blockage that is created in the gut through an interruption in the blood supply. Within 12 hours of her birth, she was

in an operating theatre being operated on. I will never forget the experiences of those first few hours, days and months, such as the midwives talking us through the way in which they counted the baby's movements in the womb when we were worried that she was not moving enough. I will never forget holding my wife's hand in the operating theatre as she went through an emergency caesarean section—and I will never forget some of the smallest details. I remember silly things from when I was talking to the surgeons before and after the operation, such as the details of the room and what they were wearing, but I cannot remember what they said, because the detail was so overwhelming that I could not take it in.

However, I will be forever thankful—thankful because I now have a happy six-year-old child who is just finishing primary 1 and who, despite the fact that she has only half the length of small intestine that she is supposed to have, is in the 90th centile for height for her age. I will always be thankful that we knew from an early stage in the process that it was only a matter of time before she would get out of hospital, and thankful for the care that would have cost hundreds of thousands of pounds if we had had to pay for it ourselves. I am thankful to the surgeons, the medical teams and the nurses, especially Mr Munro and a nurse called Anna, whose surname I do not know but who looked after my daughter when she first got out of the operating theatre.

Above all else, I say thank you to the NHS for getting us through that time and for providing us with the care that my family needed, and I say thank you to the sick kids hospital, which was wonderful. Despite how traumatic and difficult that experience was, I would not change a thing. The sick kids hospital and the NHS more broadly took a stressful situation and made it one that was extremely rewarding. I am thankful for certain small things that I have mentioned before in the chamber, such as the fact that there were nurses on hand to tell me how to bathe my child for the first time, which would otherwise have been an incredibly nerve-wracking experience. I have to say that I finished up thinking that, if I ever got ill, I would want to go to the sick kids hospital, because it was such a fantastic place.

However, there are some realities that lie behind that. This year marks the 70th anniversary of the NHS. In 1948, 80 per cent of children who were born with the condition that my daughter had would have died. By the 1970s, 80 per cent of those children would have survived, because of the advances in enteral feeding, which is intravenous feeding. Now only a small percentage of such children do not survive. The NHS has allowed us not just to progress in medicine but, as

Richard Leonard pointed out, to ensure that we all benefit from those advances.

The other key issue, and why my experience was so positive, is the number of staff. The nurse to patient ratio in the sick kids is 1:6, which is about twice the number of nurses that we would expect to see in an adult hospital.

We face a number of challenges. The NHS is under huge pressure because of the ageing population and because we are ever more capable of doing new things, introducing new technologies and making new medical advances.

In some ways, though, we face the same old issues. It is not magic—there is not some complicated science behind this. It boils down to resource and numbers. If we want the NHS to provide the level of care that we want, we need to resource it. Ben Macpherson is right. It is easy, with the NHS, to get trapped in the small politics, but there is also the big politics. Yes, the NHS is underresourced, but the Government needs to step up, acknowledge the challenges and accept that we need more than just a strategy, a new bill or a consultation to fix it. If we are going to tackle the big challenges, we need a step change such as the one that saw with the creation of the NHS—a step change such as the one that we saw when Labour was last in power, when we doubled the resource going into the NHS. If we want the NHS to continue for another 70 years and to continue to do the amazing things that it has done for my family and for families throughout Scotland, we have to face up to those big challenges and put in the resource. We need to put in the investment to ensure that we live up to the enduring principles on which the NHS was founded.

17:41

**Alexander Stewart (Mid Scotland and Fife) (Con):** I am delighted to take part in the debate, and I congratulate Richard Leonard and thank him for securing it.

On 5 July 1948, the national health service was launched by the then health secretary, Nye Bevan, at Park hospital in Manchester. For the first time, hospitals, doctors, nurses, dentists, opticians, pharmacists and all kinds of specialists became part of one service, to be provided free of charge from birth to death. That is what we still have, 70 years on.

The NHS has transformed the health and wellbeing of people throughout the United Kingdom and is envied across the world. It has delivered huge medical advances and improvements to public health. There are experts in their fields across the service.

Why do we have the NHS? After the second world war, we needed to look at health and poverty and at housing for individuals who had come back from serving. The NHS was an opportunity for celebration. I pay tribute to all the politicians who saw the NHS as the way forward and thank everyone who has played their part, and continues to play their part, in providing services throughout the country, every day, 24 hours a day.

The NHS has eradicated many diseases—for example, polio and diphtheria. There have been transformations in lung and heart health and new techniques that improve the situation in the case of strokes. Individuals have had their sight restored with bionic eyes, and there are now transplants on the NHS. In the past, some techniques would have been seen as science fiction, but now they are in everyday use.

Since its inception, 70 years ago, the NHS has been at the forefront of innovation. In the early 1950s, vaccinations were not common. The NHS introduced vaccinations for polio and diphtheria. Until then, there were 8,000 cases of polio and 70,000 cases of diphtheria across the UK every year.

The NHS launched the idea of the modern hospital, and a hospital plan was put in place to ensure that every population of 125,000 had a district general hospital. In the late 1960s, heart transplants took place. Moving into the 1970s, there were computed tomography scans and, in 1978, a “test-tube baby” was born. Then there is the whole idea of organ donation. All of those technologies and innovations have given opportunities to individuals.

I pay tribute to everyone who has participated. I have something in common with a number of members, as my mother trained as a nurse and then became a midwife, a district nurse and a health visitor. I grew up in an environment in which the phone would ring in the middle of the night and our mother would go out and deliver a child or deal with someone who needed support. For 40 years, she gave of her time and talent to the NHS. She knew the value and the opportunity that that created. I pay tribute to all the individuals who have done that.

The service does a fantastic job every single day, but that comes at a cost. Looking back, how many billions of pounds were spent 70 years ago to start the NHS? We are now dealing with tens or hundreds of billions of pounds being spent around the United Kingdom. We all need to pay our fair share so that the NHS is retained, maintained and sustained for generations to come.

17:45

**Tom Arthur (Renfrewshire South) (SNP):** I am delighted to have the opportunity to speak in the debate, and I thank Richard Leonard for securing it. It is fantastic that we have two debates this week in which to express our feelings and views on the NHS, which are universally positive, notwithstanding the challenges that the service faces.

I pay tribute to Shona Robison, Maureen Watt and Aileen Campbell, who leave the health portfolio today. I had the privilege, briefly, to be the parliamentary liaison officer to the Cabinet Secretary for Health and Sport at the beginning of this parliamentary session, and I saw at first hand the dedication, commitment and passion that all three of those individuals brought to their respective portfolios. I wish them all well. I congratulate Aileen Campbell on her elevation to the Cabinet and I wish her well in her new portfolio.

I join colleagues from across the chamber in thanking our dedicated NHS staff. I come from an NHS house, as both my parents worked in the health service for more than 30 years. My mother started off as a theatre and district nurse before retraining as a mental health nurse and working for more than 20 years at Gartnavel royal hospital. She did a difficult and demanding job during a period of significant change in public attitudes to mental health and in how we, as a country, sought to treat and support people with mental health conditions.

My father worked in a different side of the NHS. He worked in estates, a department that is often overlooked. He started off as an electrician in the health service and worked his way up—during an era when there was perhaps far more social mobility—to become an electrical engineer and, before retiring, an estates manager. That gave me a different perspective, and I pay tribute to all those who work in the health service whom we do not talk about every day. I remember family events being cancelled when I was growing up because my father was on call and a security system went off, a boiler failed or a door would not open. We do not discuss enough the tremendous work that is done by those who work in estates in our health service.

It is fitting to mention my dad, as he was born in 1951, the year in which the great Labour Government of Attlee demitted office. In 1951, the average life expectancy in the UK was 72 for women and 66 for men. Last year, life expectancy in the UK stood at 86.2 for women and 83.4 for men. There has been a transformation in the demands that our health service faces and, to some extent, it is a victim of its own success. The occurrence of infectious diseases has been

massively reduced, notwithstanding the challenges that we still face with, for example, hepatitis C.

The real challenges that we face are with non-communicable diseases and the ageing population. Some important speeches in the debate, particularly Patrick Harvie's, have highlighted our need to think more broadly about the social determinants of ill health. Although we rightly focus on the services that people use, whether accident and emergency services or child and adolescent mental health services, we cannot allow ourselves to forget the bigger picture of those social determinants of ill health. We cannot think about health services as being in a silo; we must always think about how housing, education and social security can be used collectively and holistically to make sure that we have a healthier population.

I welcome the broad measures that this Government is taking in areas such as the national clinical strategy and the 2020 vision, setting out our ambition in relation to acute and primary services. I also welcome the Government's vision of achieving a fairer, more equal society by having a social security system that is based on fairness, dignity and respect and by taking necessary measures through the minimum unit pricing of alcohol and the obesity strategy, which is to be launched shortly.

There is much work still to be done, but I will close as I began, by thanking everyone who works in our NHS for the outstanding work that they do. They really are the best examples of people in this country.

17:50

**John Scott (Ayr) (Con):** I congratulate Richard Leonard on securing the debate. I also pay tribute to Shona Robison, who gave her best to our health service during her time in office, and I thank her for the personal help that she gave me on behalf of my constituents. I welcome Jeane Freeman to her new role as the Cabinet Secretary for Health and Sport.

As others have done, I congratulate our NHS in Scotland on reaching its 70th birthday and on having evolved into the remarkable institution that it has become. That everyone in the chamber is bursting with pride and wants to say good things about our NHS is beyond doubt, and with good reason. That many of us have a personal story to tell, too, is touching, and it reflects the gratitude and commitment that we all feel towards our health service on the occasion of its 70th birthday.

Given my age, I feel as though I have grown up alongside the health service, and I have many reasons to be grateful for its existence, not least

for the GP part of the service, which has probably saved my life on more than one occasion. My first encounter with our GP service was when, at the age of nine months, I needed five stitches in my forehead, as the result of being kicked by a cow while I was crawling around in the byre, but my real gratitude is for the life-saving penicillin that I was given to treat secondary infections that were caused by ringworm, which was a cattle-borne problem for me as a four-year-old. Like others, I have much to be grateful to the NHS for, then and since.

The NHS in Scotland started with a budget of £42 million in 1948, which has grown to around £12 billion—almost a third of Scotland's total budget. Along the way, we have seen dramatic advances in so many areas of medicine. In 1954, Sir Richard Doll and Austin Bradford Hill identified the causal link between smoking and cancer that has led to improved cancer treatments and the pioneering anti-smoking legislation here in Scotland. In 1960, the Edinburgh royal infirmary pioneered kidney transplants under the guidance of Sir Michael Woodruff, while in 1972, 15 health boards were created in Scotland under the National Health Service (Scotland) Act 1972. In 1988, breast cancer screening was introduced in the United Kingdom following a report by Sir Patrick Forrest of the University of Edinburgh, and in 1989, keyhole surgery was introduced at Ninewells hospital by Sir Alfred Cuschieri.

Fast forwarding through 2014 and the groundbreaking development of health and social care partnerships takes us up to today, and my local health board. We in Ayrshire have a diligent and hard-working service in the shape of NHS Ayrshire and Arran, where, in almost every case, all the staff combine and go beyond the call of duty to deliver a constantly expanding and daily more sophisticated service. It is good to be able to take the opportunity to say a big thank you to our doctors and nurses and all the other staff in NHS Ayrshire and Arran and across Scotland.

Regrettably, the nature of being an MSP—in my case, I led the campaign to keep the two accident and emergency units in Ayrshire open 12 years ago—is such that we are like lightning conductors, because we often hear only about the problems and difficulties that are faced by patients and staff in the NHS, when most of the time they are delighted by and proud of the outcomes that are achieved by our doctors and nurses. Indeed, it is easy to lose sight of the positives in much of the constant debate about the efficiency and future of the NHS, but my only ambition for our NHS in Ayrshire and Arran is for it to be the very best provider in Scotland among all the different health boards.



What is important is what has been achieved and what is still likely to be achieved, and there is a bright future for our NHS in Scotland. Given that additional funding has been promised by the Scottish and UK Governments, it is possible to see how the growing future needs of our ageing population, whose life expectancy is growing, will be met. Today, we celebrate 70 years of better health and look forward with confidence to continuing improvement in healthcare in Scotland in the next 70 years.

17:55

**Monica Lennon (Central Scotland) (Lab):** I thank Richard Leonard for securing the debate, because we should take every opportunity to celebrate our NHS and, especially, to say thank you on its 70th anniversary. Although 11 men have spoken so far and just one woman, we should remember that more than three quarters of NHS staff are women. I say an extra special thank you to the sisters in the NHS.

Most of us hope that we will never need it, but when we do the NHS is always there. When I told a constituent about the debate, without prompting she sent me a message yesterday about what the NHS means to her. With her permission, I will share it with you.

"I have squamous cell cancer in my colon. It is an unusual cancer in that area. It does not present itself with a lot of symptoms for most people. More often it is only detected in later stages. However my GP listened to me when I told her I had some rare occasions of slight bleeding which worried me.

That examination was done on the Wednesday and the diagnosis was confirmed the following Monday by a colonoscopy. I then had various tests, CT scans, MRI scans, PET scans, chemotherapy and radiotherapy at the Beatson. I was very well looked after by all involved in my treatment, despite the slight complication of a heart attack in the middle of it all. The very last step is to reverse my stoma. Although the NHS have missed the anticipated date for this procedure, they have sent me a letter hoping to increase capacity in general surgery so that I may have a date for my operation soon.

I owe my life to the NHS. The hardworking doctors, nurses, radiologists, oncologists, surgeon, colorectal nurses, cardiologists, anaesthetists, paramedics and auxiliary staff who looked after me are true heroes in my eyes. I fully support the NHS and hope we never take it for granted. I am grateful to Lanarkshire Cancer Care Trust for their services in taking me to and from my many medical appointments during my treatment.

I have had a very positive experience of our NHS, but I know that there is always room for improvements. Long live the NHS and may Scottish Labour"

—that is us, guys—

"always fight to keep it as it is one of our country's finest institutions. Happy 70th birthday NHS; because of you I will see many more birthdays with my family, and continue to work and contribute to society and our nation."

It is signed with a kiss, from "Mum".

That is the story of my mum, Helen, who was diagnosed with and treated for bowel cancer, and who suffered a heart attack in the middle of it all last year. Both she and I, and all our family, are so grateful for the amazing care that she has received over the past year from the amazing healthcare staff in our NHS, including Dr Mary Jo Sommerville from Calderside medical practice in Blantyre, who was on the telephone several times a week, Mr Arijit Mukherjee, the surgeon at Hairmyres hospital, Dr Tareq Abdullah, my mum's oncologist at the Beatson, Dr Grainne Dunn, the medical colorectal oncologist at Hairmyres hospital, and numerous nurses at the Beatson.

My mum has had a phenomenal experience with the NHS, but resourcing problems in the NHS can affect us all. It is true that my mum is still waiting to have her final operation to reverse her stoma. At the end of May, she received an apology letter from NHS Lanarkshire to say that her 12-week treatment time guarantee had not been met due to capacity issues in general surgery. Even the best of cases are not immune from the challenges and pressures facing our NHS.

There is no doubt that our NHS faces serious pressures, but in my mum's case I will be forever grateful to the incredible men and women who have treated her over the past few months. As the motion says, it is right that we celebrate our NHS; we should be celebrating, and it is the incredible stories of success that we should always be mindful of when we talk about why ensuring that our NHS is properly cared for is so important.

Thank you, NHS, and happy 70th birthday.

18:00

**The Minister for Parliamentary Business (Joe FitzPatrick):** Presiding Officer, I am sure that members will be surprised to see me closing tonight's debate. I know that I am. [*Laughter.*] However, as I am sure every MSP does, I recognise the precious value of our NHS and the skill, dedication and compassion of its staff. I know that I speak for everyone when I offer my thanks to all the staff, past and present, of NHS Scotland, who have delivered medical advances and improvements to health and social care, which means that more people can expect to live longer and healthier lives. Although there has, of course, been a good smattering of politics in tonight's debate, there has also been a common thread of gratitude to all NHS staff, which has crossed and transcended the party lines.

I am sure that you will understand, Presiding Officer, when I offer my thanks for the service of my friend Shona Robison to our NHS and care

services. Over almost four years as health secretary, she fought for our health services, and I know just how happy she was when, this week, she was able to offer our NHS agenda for change staff a pay rise of at least 9 per cent over the next three years. I thank Miles Briggs, Anas Sarwar, Patrick Harvie, Tom Arthur, John Scott and Ben Macpherson for their good wishes and warm words to her.

Scotland has made an immense contribution to the development of the NHS. Indeed, before there was an NHS, the Highlands and Islands medical service was established in 1913 as a state-funded health service. It proved to be highly successful, and by 1929 there were 175 nurses and 160 doctors working in 150 practices. By 1935, an air ambulance service was available to transport patients to specialist mainland hospitals. The Highlands and Islands medical service was a remarkable achievement for its time. It is seen by professionals as having an important influence on the development of the national health service. It was a model of state-funded care that clearly delivered improved health in the communities that it served.

After the establishment of the NHS, Scotland continued to pioneer medical treatment that has saved countless lives. In 1958, Glasgow produced the first practical ultrasound scanner, and in modern forms such devices continue to save lives around the world. In 1960, the first successful kidney transplant in the UK was performed by a team at the Royal infirmary of Edinburgh, and in 1980 the world's first clinical magnetic resonance imaging service was introduced at Aberdeen royal infirmary. In 1989, the UK's first use of keyhole surgery to remove a patient's gall bladder was undertaken at Ninewells hospital in Dundee, in my constituency.

That work in the Highlands and Islands, Glasgow, Edinburgh, Aberdeen and Dundee are only some examples. Health and care staff throughout Scotland have led innovations and treatments that have made our NHS admired and emulated around the world, which is still the case today. The SNP Government is working with NHS staff and many other partners to introduce world-leading solutions in order to improve health and social care.

We have launched the Scottish patient safety programme, which is the first national approach to improving patient safety. Professor Donald Berwick, who is a former adviser to President Obama, has been quoted as saying:

"The reality is that Scotland is the internationally leading success story of healthcare safety improvement. Other nations have made progress, but not to the degree of comprehensiveness—and, I think, scientific discipline—that Scotland has."

We are the first country in the world to implement minimum unit pricing for alcohol. We took that bold decision and stuck to it despite the many obstacles that were placed in our way, because we are determined to tackle Scotland's unhealthy relationship with alcohol.

**Patrick Harvie:** The minister has moved on to a public health issue. Does he agree that if we are going to have a successful health service and a healthy population in the long term, we need to face up to the reality that most developed societies have been more successful at extending lifespans than we have been at extending the healthy and active part of life? Does he agree that not just ministers who have direct responsibility for the NHS but ministers across the spectrum of Government need to take responsibility for transforming public health, if we are going to achieve the outcomes that we all want?

**Joe FitzPatrick:** That is a very good point. In dealing with just about any aspect of government, we need to look across the whole of Government and consider how we can make differences to outcomes. The approach of considering how we can join things up and make a difference to outcomes in people's lives is very much the one that has been embedded in our national performance framework.

Patrick Harvie was also right to say that it is not just about the extension of life; the quality of life is important, too. We need to be careful that we measure the correct outcomes that will make a difference. He has made a very good point on a subject to which I was coming, so I will skip over that part of my speech.

In continuing to move our public health priorities forward, we have jointly published with the Convention of Scottish Local Authorities our "Scotland's Public Health Priorities". I will touch on points that Patrick Harvie made. Our new priorities focus on place and community, the early years, mental wellbeing, reducing the harms that are associated with alcohol, tobacco and other drugs, reducing poverty and inequality, and healthy weight and physical activity. The priorities have been developed in collaboration with, and broadly endorsed by, a wide range of organisations and professional groups. It is not just across the Government that we need to work together; we need also to work together across society.

I am reassured that our message about the collective effort of society as a whole, and about the importance of empowering communities, is being heard and is resonating with people. We have already made progress with the publication of an action plan on tobacco. That will, in the coming weeks and months, be followed by strategies and plans on physical activity, mental

health, diet and healthy weight, and substance use.

Collective action and public initiative are the driving forces that enable our NHS to care for us all—to care for the mother who is delivering her first baby, to care for those who are suffering from illness and accidents in communities across Scotland, and to care for and ensure that our elderly people live healthy and fulfilling lives for as long as possible.

The NHS has cared for us for 70 years, and will do so long into the future. Again, I thank all our health and care, staff past and present, for their work. They can take pride in their achievements, past and present, and have given us a tremendous gift for the future.

*Meeting closed at 18:07.*



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