



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Tuesday 1 November 2016**

**Session 5**



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# Scottish Parliament

*Tuesday 1 November 2016*

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

## Time for Reflection

**The Presiding Officer (Ken Macintosh):** Good afternoon. Our first item of business is time for reflection. Our time for reflection leader today is the Rev Dr Jaco Boonzaaier, who is the minister of Broxburn parish church.

**Dr Jaco Boonzaaier (Broxburn Parish Church):** Presiding Officer and members of the Scottish Parliament, thank you for the opportunity to be with you.

Today is All Saints' day, also known as All Hallows' day, which follows on from All Hallows' eve, or—as we more commonly know it—Hallowe'en. In several Christian communities, today marks the day when we reflect on the lives of the saints past and present. This time for reflection among Christians dates back to the 4th century AD. In fact, even earlier, we find a reference in the New Testament that says that we are surrounded by a cloud of witnesses encouraging us, according to Hebrews 12, to lay aside every obstacle to allow us to run the race of life with endurance and purpose. To that end, readers are reminded of the life of the historical Jesus. Through his life, death and resurrection, he demonstrated unconditional love and unrestricted acceptance of all people.

On 30 November, we shall celebrate St Andrew's day here in Scotland as well as in many other countries worldwide. It will be an opportunity to remember the life of the apostle Andrew, who it is generally accepted was the first follower of Jesus. Through his life, Andrew demonstrated humility and service. Andrew is regarded as the first follower of John the Baptist and the first disciple of Jesus. According to scripture, he witnessed to his brother Peter and led him to Jesus. Andrew was the person who brought the boy with the fish and bread to Jesus before the feeding of the thousands.

After Jesus' ascension, Andrew continued to serve him with humility and dedication, being a missionary to areas in modern-day Turkey, Greece, Hungary and Russia, and as far as Poland. Until the end of his life, Andrew never wavered in his commitment to his master and to serve those where he ministered.

Today marks an opportunity to reflect on the saints and on our calling to be saints in the

communities where we live. Whether we identify with a historical root for being saintly or not, we have the opportunity to serve with humility and dedication. We have the opportunity to speak out for the voiceless, empower the powerless and provide shelter to the homeless, or simply just to donate a food parcel at one of the many food banks nationally.

May we, on 1 November, reflect on the plight of the deprived as we consider our countless opportunities to be saints to those who need our help in our society.

## Topical Question Time

14:03

### Colleges (Financial Deficit)

#### 1. Monica Lennon (Central Scotland) (Lab):

To ask the Scottish Government what plans it has to address the financial deficit that is reported to be facing 16 out of 20 colleges in the current financial year. (S5T-00150)

**The Minister for Further Education, Higher Education and Science (Shirley-Anne Somerville):** The recent Audit Scotland report “Scotland’s colleges 2016” highlighted that the financial health of the sector remains relatively stable. The Scottish Further and Higher Funding Council works closely with colleges to ensure that deficits are kept to a minimum; that operational activity is not adversely affected and that, where required, special measures are put in place.

**Monica Lennon:** The minister attempted to give a reassuring answer, but there is no escaping the fact that the financial picture is worrying and that it comes at a time when the Scottish Government has cut college funding in real terms since 2010. Budgets have been pushed to breaking point. From the latest returns reported to the Scottish funding council, we know that more than three quarters of Scotland’s colleges are expected to be in the red by the end of the year. Will the minister take responsibility for the situation that the college sector finds itself in—which her Government has created—and rule out any further cuts to this year’s college budgets?

**Shirley-Anne Somerville:** Scottish Government funding levels for 2015-16 remained steady at 2014-15 levels and, in these hugely tight financial times, our 2016-17 budget protected college resource funding at £530 million, despite a cut to the Scottish Government’s overall budget due to the Westminster austerity agenda.

As I said, Audit Scotland’s recent report concluded that the college sector is financially stable overall. The funding council is working closely with the colleges to analyse the latest returns, for example to determine how the figures relate to technical accounting adjustments, such as property asset valuation reductions or net depreciation charges. The member can be reassured that the funding council is working with, and will continue to work with, colleges through a range of specific measures where that is needed.

**Monica Lennon:** The minister is correct that funding for the sector remains broadly static for 2015-16, but that is a real-terms cut since 2010-11 of 18 per cent. I am disappointed about the lack of assurances about college funding for the next

year, and I am sure that my disappointment will be shared by those in the sector who are facing the uncertainty over further cuts.

The Scottish Government has failed to deliver on the promises that it made to the further education sector; it promised national pay scales without providing the resources to deliver them, and it brought colleges on to the public sector balance sheet but failed to deliver an adequate solution.

Only last month, the Auditor General for Scotland told the Public Audit and Post-legislative Scrutiny Committee that it is difficult to assess whether the college merger programme has saved the sector money.

As a result of those factors, colleges have lost staff and the number of part-time courses and students has reduced. Does the minister accept the recommendations in the Audit Scotland report on colleges? What steps will she take to ensure the long-term financial stability of the sector?

**Shirley-Anne Somerville:** I hope that Monica Lennon will appreciate that I am not going to write Derek Mackay’s budget for next year for colleges or for any other part of my remit. *[Interruption.]* Labour members can indeed have a go, but I am not going to go down that path today. We will be looking at funding for colleges, universities and the rest of the education system through the budget process.

I hear Monica Lennon’s demands for colleges and I hear the Labour Party’s demands on many other aspects. As we go through the budget process, it will be for the Opposition parties to come together to deal with the budget realistically and to work out where their priorities are, just as we do as a Government. The financial situation that we are working in is tight. I am sorry, but it is simply not acceptable to continue to demand money for education, the national health service, transport and every other section of the Scottish Government budget without a dose of realism about where that money is going to come from and the difficult decisions that we in the Government have to make in order to balance the books.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** As a member of the Public Audit and Post-legislative Scrutiny Committee, I have heard a great deal about arm’s-length foundations. Is it not the case that ALFs allow colleges to protect revenue that would otherwise have been lost following the Office for National Statistics reclassification? How much of the funds that were transferred into ALFs have been returned to the colleges?

**Shirley-Anne Somerville:** The member makes an important point. Monica Lennon also discussed

ONS reclassification, which she seemed to assume was something that the Scottish Government wanted or brought upon itself when, of course, it was not. Arm's-length foundations were a way of allowing colleges to keep the reserves that they had before reclassification. ALFs are separate from the Scottish Government and they are independent of it. They have been set up with a charitable purpose with the colleges, and it is for the colleges to have determined in the articles of association how the money will be spent. It is for colleges to look at the money that is in the ALFs and to make sure that they spend it correctly.

**Liz Smith (Mid Scotland and Fife) (Con):**

Audit Scotland said that the Scottish funding council's 2016 estimate of the total cost of the mergers would

"not include the costs of harmonising terms and conditions, which could be significant."

Is the Scottish Government carrying out urgent and thorough work to estimate what that will involve?

**Shirley-Anne Somerville:** The funding council looked at the costs and benefits that have accrued from the regionalisation process in colleges, of which Liz Smith mentioned one aspect.

The Government has set up national bargaining for colleges. Many of the issues to which Liz Smith referred will be dealt with through national bargaining, the conclusions of which will be dealt with in the spending review process.

**Drug Users Injecting Facility (Glasgow)**

2. **Adam Tomkins (Glasgow) (Con):** To ask the Scottish Government what its position is on the introduction of an injecting facility for drug users in Glasgow. (S5T-00143)

**The Minister for Public Health and Sport (Aileen Campbell):** Glasgow city integration joint board agreed yesterday that a business case should be developed for a pilot safer drug-consumption facility and heroin-assisted treatment in Glasgow. The Scottish Government sees value in the proposal and supports it, subject to the business case, which will be presented to the board in February 2017, being acceptable.

**Adam Tomkins:** There is no question but that something must be done to tackle drug addiction, not only in Glasgow but across Scotland. There has been a significant increase in the number of drug-related deaths in Scotland, which is why the Scottish National Party's decision to cut drug and alcohol funding in last year's budget was so baffling and so misguided.

Professor Neil McKeganey of the Centre for Substance Use Research has cautioned:

"there is a real danger that we're moving ... away from a commitment ... to get addicts off drugs."

What can the minister say to reassure members that getting people off illegal drugs and preventing drug use remain key priorities of the Government's drugs policy?

**Aileen Campbell:** The Government has invested heavily and significantly since 2008 in treating drug and alcohol dependency issues. We continue to do so and we continue to work with alcohol and drug partnerships and stakeholders across the country that have an interest in ensuring that people can get the support that they need, when they require it.

Of course, there will be a mixture of solutions to people's dependency issues. There might be issues that are to do with trauma that people have experienced and with homelessness, poverty and isolation. A holistic approach needs to be taken to ensure that we can help people when they need help. Help must be timely. There is also a job for us to do to tackle the stigma that is associated with drug dependency.

As is evidenced by the significant funding that we have put in and by our commitment to help people to help themselves to become more stable in life and tackle associated risky behaviours, the Government has a clear commitment to doing all that we can to help Scotland to become a much healthier nation and ensure that people live their lives without being dependent on illegal drugs.

**Adam Tomkins:** The minister talked about significant and sustained funding, but the fact is that the Government cut drug and alcohol partnership funding by 20 per cent in last year's budget.

Possession of heroin is an offence. It is also an offence to permit premises to be used for the supply of heroin. What is the Scottish Government's position on whether the criminal law should be enforced in the circumstances that we are talking about? What does the minister make of the suggestion by the United Nations International Narcotics Control Board that fix rooms could breach international drug control treaties?

**Aileen Campbell:** As I said, the integration joint board agreed yesterday to develop a business case. We will look at the proposals and, subject to their being acceptable, the situation in Glasgow will move forward.

The member raised issues to do with drugs legislation. The Lord Advocate would have to authorise any proposal to establish a supervised injecting facility. I presume that someone with the member's constitutional knowledge would realise and understand that.

I do not think that we want to get into a debate in which we look at things as right or wrong and black or white. We need to look much more holistically at the issues that people with drug dependency face. Poverty, homelessness and trauma that people have experienced might have led them down the path of drug dependency. We need to tackle the stigma and deal holistically with people's behaviours. Members of all parties in the Parliament need to work to ensure that the country can respond appropriately and help people when they need help.

**Clare Haughey (Rutherglen) (SNP):** What lessons might be drawn from the medically supervised safe injecting rooms in Sydney in Australia and from other centres around the world that might add to the potential benefits of such a facility in Glasgow?

**Aileen Campbell:** The member raises an interesting point. We should look at all the evidence from around the world to inform how we move forward as a country. That evidence indicates that drug consumption facilities are associated with a decrease in public injecting, and their effectiveness at reaching and maintaining contact with highly vulnerable and marginalised targeted populations has been widely documented. However, we must be mindful that we need to have a Scottish context, which is why the Glasgow pilot will be important to our knowledge and approaches going forward.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** The 20 per cent cut to alcohol and drug partnership funding that Adam Tomkins discussed is one of the most retrograde steps to have been taken in tackling substance use in this country. It has led to a measurable outbreak of HIV in Glasgow and, according to Rob McCulloch-Graham, who is the chair of Edinburgh's integration joint board, it will all told lead to a £1.3 million year-on-year cut to services in our nation's capital. That is a fire sale.

Does the cabinet secretary agree that, given the weight of the international evidence that supports initiatives such as the injecting facility that is proposed for Glasgow, we should embrace such initiatives for Scotland? Will she commit to reversing the cut to alcohol and drug partnership funding, the cost of which is already measured out in human lives?

**Aileen Campbell:** Since we came to power, we have invested significantly in tackling alcohol and drug dependency issues and in helping people to cope with them. In a letter to national health service boards earlier this year, the Cabinet Secretary for Health and Sport asked them to use their resources to match the outcomes of previous years and to look at the fact that their budgets have had an uplift. The NHS has had record

investment and it has support from the Government. We need to look at that wider context.

We also need to look at what works, and I accept the point that we need to be mindful of and open to other approaches, provided that there is robust evidence on them. That is why we will look with keen eyes at what is proposed in Glasgow, to see what the case is and what evidence comes forward. That will also inform the Lord Advocate if he needs to take a decision.

From the perspective of me and the Government, the encouraging signs that the amount of drug taking among our younger population is lower than it has been for some considerable time show that many of our approaches are working. However, we need to work across the Parliament, because this is a Scotland-wide issue that requires not just action from me in my portfolio but action under all portfolios—including housing, social security and a host of other areas—to give people back the opportunity to move forward with their lives with dignity and respect.

**John Finnie (Highlands and Islands) (Green):** The Scottish Green Party supports community-based, supervised medical interventions such as the one that we are discussing. David Liddell of the Scottish Drugs Forum said that it is an additional provision to deal with long-term users for whom

"Abstinence recovery is not on their immediate horizon."

Will the minister join me in applauding the aim of saving lives, as outlined by Mr Liddell? Will she acknowledge that there is an opportunity to save even more lives if the intervention is rolled out across Scotland?

**Aileen Campbell:** I say again that we need to ensure that the evidence is robust, and Glasgow city IJB agreed yesterday that the case could be made. We need to look at the evidence and, if the pilot is given the go-ahead, to look at the evidence that it produces. We need to learn from the evidence in our country and around the world.

I met David Liddell from the Scottish Drugs Forum today and I was hugely impressed by the level of commitment that it shows and the diligence that it has applied to the issue for decades. We want to work collaboratively, and we do that with the funding that we give the forum.

We do not want to see the statistics on drug deaths that I was presented with when I was not long in post. The figure of 700 or so represents 700 lives and families being affected. We want that to be turned round, which will require us to work harder and to understand the situation much more readily.



I agree with John Finnie on many of the elements that he spoke about. We want to save lives and we want to work on community-based solutions to achieve that.

### **Borders Railway (Performance)**

**3. Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** To ask the Scottish Government what measures it will take following the recent report on the performance of the Borders railway. (S5T-00146)

**The Minister for Transport and the Islands (Humza Yousaf):** I recently made the Parliament aware that, in my view, ScotRail's performance levels have not been to an acceptable standard, which is why I requested an improvement plan from ScotRail. Within that plan and the actions around it, there is a focus on the Borders route's performance. I am closely monitoring and reviewing progress to ensure that better performance is delivered.

**Christine Grahame:** In the year from October 2015 to October 2016, trains were cancelled in 47 weeks out of 52. In September, the Government put in place the recovery plan for the Borders railway yet, on 20 October, three trains were cancelled. One from Tweedbank had to terminate at Newtongrange due to door problems, and even the next day there were two cancellations. Does the minister consider that the recovery plan is having any effect?

**Humza Yousaf:** When an improvement plan is put in place, we have to give ScotRail the time to be able to enact it, and a serious amount of work is going into that. For example, £14 million is going into the refurbishment and improvement of the class 158 units. Unless I am misquoting the member—she can come back to me on this—in her members' business debate last week, she said:

"to judge by my experience and my inbox, there has been an improvement in the service's reliability in recent months ... It was a bit bumpy at the beginning but it is not now."—[*Official Report*, 25 October 2016; c 84.]

I am sure from what the member said last week that she recognises that there is an improvement. However, I am not going to be satisfied until the Borders railway reaches its public performance measure target and some of the problems are resolved.

An improvement plan is in place, significant funding is going into that and we are going to give ScotRail the time to ensure that its performance improves. I will monitor that closely and if it does not improve, there will be consequences.

**Christine Grahame:** My comments were anecdotal, but the report from two long-time supporters of the line—Bill Jamieson and David

Spaven—calls for an official Borders railway-specific survey to include the impact on repeat journeys, especially those made by commuters. Will the minister commission one?

**Humza Yousaf:** I have met David Spaven regularly and have had conversations with him about the Borders railway. I am well aware of the campaigners' criticisms about forecast methodology, rolling stock and track infrastructure, and I am happy to continue to discuss those matters with them, the Campaign for Borders Rail and elected members.

As I said, the PPM target for the Borders railway must be met and I will work to ensure that ScotRail meets it. In the past three days, the figures have improved—but that is only three days. We could look at a snapshot over three days, a week or a month, but until there is consistent improvement, I will not be happy.

An improvement plan is in place and some serious investment is going into ensuring that the Borders railway improves to meet its PPM target. I will monitor that closely and will keep the member and others, such as David Spaven and the Campaign for Borders Rail, up to date.

**Rachael Hamilton (South Scotland) (Con):** Campaigners have made six asks in calling for the Borders railway to provide a better service, notwithstanding the improvement plan that ScotRail has in place. Those asks are: improving the efficiency of door opening and closing; increasing the number of coaches on busier services; replacing defective radiators on class 158 units; improving the maintenance regime for the coaches; redeploying more reliable class 170 units; and replacing faulty signalling equipment on the route. How many of those asks will the Scottish Government help to see implemented, and when can we expect to see those vital changes made to improve the performance of the Borders railway?

**Humza Yousaf:** I thank the member for her question. Those asks are very reasonable, and ScotRail is taking them forward and I can give some examples of the action that is being taken. The radiators on the 158s are going through an engineering check, and some of them have been replaced and some have been refurbished. An engineer will attend the 158s on their departure and arrival at stations. Also, the rolling stock is being upgraded and, due to cascading of rolling stock around the network, there will be more capacity on the network at peak times in 2017. Therefore, some of what Rachael Hamilton and the campaigners are asking for is being done. All those asks are very reasonable and ScotRail is acting on them. I have taken a note of all the asks that the member mentioned.

ScotRail must improve its performance across the network, but there must be a particular focus on the Borders railway. Let us not forget that the Borders railway has been a great success for the region. There have been over 1 million passengers and it is the longest new rail line in a century. There has been great success, which has been celebrated. Notwithstanding that, there are some issues that ScotRail is determined to get to the bottom of, and I will personally keep an eye on that.

**Neil Bibby (West Scotland) (Lab):** The Borders rail monitor report makes it clear that Transport Scotland is directly responsible for many of the problems on the Borders railway, including the deployment of class 158 units and the cutting back of sections of double track. In addition, Transport Scotland massively underestimated passenger numbers on the line. Astonishingly, patronage at Tweedbank in the first six months of the line's operation was 869 per cent above the level that was forecast.

It is clear that the minister agrees that there are serious questions about Transport Scotland's forecasting abilities, and I welcome the much-needed review of its methodology. Once that review has been completed, will the minister commit to new appraisals of rail infrastructure projects? Will he commit specifically to a new appraisal of the Glasgow crossrail scheme, given that that important project was rejected using a methodology that he now accepts to be flawed?

**Humza Yousaf:** In a spirit of trying to maintain the consensus on the success of the Borders railway, when I appeared before the Rural Economy and Connectivity Committee last week, I said that the forecasts for some of the stations were way off. I therefore instructed a review of the forecasting methodology, the findings of which I will be more than happy to report. Some of the initial findings are extremely helpful. I instructed that review because I do not want other rail projects to be rejected on the basis of flawed forecasting methodology.

As far as reviewing projects retrospectively is concerned, I would be more than happy for people to come to me. I regularly meet rail campaigners from Levenmouth to the Borders. I will be very open minded in any such discussions, bearing in mind that we are entering discussions on the new control periods 6 and 7. In the interests of fairness and balance, I request that Mr Bibby acknowledges that the Borders railway has been a great success for the region and has brought some much-needed tourism and regeneration. I think that we can all agree on that. Notwithstanding that, I will make sure that Mr Bibby gets a copy of the findings of the review of the forecasting methodology.

## UK Referendum on EU Membership: Justice and Security

**The Presiding Officer (Ken Macintosh):** The next item of business is a debate on motion S5M-02203, in the name of Michael Matheson, on the United Kingdom referendum on European Union membership: impacts on justice and security in Scotland.

14:27

**The Cabinet Secretary for Justice (Michael Matheson):** I welcome the opportunity to open the debate.

In the recent referendum, the people of Scotland supported continued membership of the European Union. People in every local authority area in Scotland voted to remain in the EU. The Scottish Government and a clear majority in this Parliament support continued membership of the EU. I acknowledge that some of us voted to leave the EU, and that is a reality that we must address by listening and responding to the concerns behind that vote.

However, it is important to emphasise that justice matters in Scotland, including civil, criminal and family law, are largely devolved. Scotland has always had its own separate and independent justice system and agencies. Over the past 40 years of EU membership, EU law has become woven into the fabric of that system. Our independent justice agencies and legal professionals engage directly and extensively with their EU counterparts. Even though those arrangements benefit individual victims, families, businesses and communities here in Scotland and elsewhere in the EU, we find ourselves—against the views of the people of Scotland—in a position in which those arrangements are under serious threat.

Justice and security measures are essential to how we operate as a modern society and how we engage with other nations. EU membership gives us access to the single market and to the laws and mechanisms that are necessary to facilitate that market operating for the benefit of people and businesses. Individuals and companies gain access to buyers and sellers of goods and services across national borders, and people have their rights as employees or consumers recognised and protected. In the event of any disputes, cross-border commercial contracts can be enforced throughout the continent.

That legal infrastructure supports the economy and affords opportunities for growth. With 500 million consumers, the EU is the world's largest

single market. As well as supporting the single market, EU membership and justice and security measures make us safer and support the international co-operation that is vital to combat cross-border crime and terrorism.

There will be people who will argue that leaving the EU will create new opportunities for co-operation or that we can use alternative mechanisms, but we already know that those arrangements are less effective, slower and more costly than the benefits that we already have from full EU membership. That is not just my view; it is the view of the justice agencies and professional bodies that operate those arrangements on a daily basis.

I want to talk in more detail about some of the specific practical measures that would be put at risk if Scotland was no longer a full participant in EU justice and home affairs matters. Leaving the EU puts at risk a range of co-operation across both civil and criminal law, including police co-operation, which assists in tackling organised crime and helps to make the people of Scotland safe and to live and work across the EU. For example, Europol is central to the fight against organised crime and terrorism. It plays a key role in facilitating and supporting the efforts of Police Scotland and other key partners in implementing our serious organised crime strategy.

I recently visited Europol in The Hague and was briefed by the director and his team on the resources and support that are available to help to confront the growing threat from organised crime and terrorism. Europol supports more than 18,000 cross-border investigations each year and provides invaluable support to law enforcement agencies across Europe. Whether in tackling human trafficking or tackling money laundering, we must show solidarity with our friends across Europe. Now is not the time to walk away, particularly with the increase in online threats. We must work together to face those challenges and safeguard our communities in Scotland.

**Douglas Ross (Highlands and Islands) (Con):**

The cabinet secretary moved on from saying that we need to discuss Europol to saying that we are walking away. Does he accept that we are not walking away? The home affairs minister, Brandon Lewis, said to the UK Parliament yesterday that he will report to it shortly on the future of the engagement between the UK and Europol. We are not walking away. That will be announced shortly.

**Michael Matheson:** Douglas Ross should have listened to what I said. I said that now is not the time to walk away. He should also be aware that the regulations need to be signed up to by January. Investigations take months in planning and months to execute. The UK's delay and dithering on the matter is putting such joint

investigations at risk. The UK Government needs to move forward on the Europol regulations as quickly as possible to ensure that we minimise that particular risk.

We would like to ensure that we maintain the other aspects of cross-border co-operation that take place in Europe. I know that some members will say that alternative arrangements for cross-border co-operation could be taken forward through Interpol, for example. However, those arrangements do not offer the same levels of opportunity for co-operation or sharing of information as currently exist and should be acknowledged as sub-optimal when they are compared with continuing membership of Europol.

Many other things may be affected, such as Eurojust, which facilitates cross-border investigations and prosecutions, and the European criminal records information system, which facilitates the sharing of EU-wide convictions in the state of residence against individuals, to name but two.

I want to turn to the European arrest warrant in particular. Serious and organised criminals take no account of borders. An ability to pursue effectively individuals who commit serious crime, apprehend them and bring them to court is vital. It is also important for the protection of the Scottish public that Scotland, along with the rest of the UK, does not risk becoming viewed as a safe haven by those who seek to escape justice. Interested agencies and professional bodies in Scotland are unanimous about that risk.

Indeed, when an opt-out was under consideration in 2013, the then Lord Advocate and the present Lord Advocate, who was then the vice-dean of the Faculty of Advocates, gave oral evidence in support of European arrest warrants to the House of Lords. The Association of Chief Police Officers in Scotland, the Crown Office, the Faculty of Advocates, Justice Scotland and the Law Society of Scotland, as well as the Scottish Government, have all advised the UK Government of their strong support for the instrument.

When Theresa May was Home Secretary, she said that the European arrest warrant and other EU justice and security measures are

"practical measures that are necessary to protect us from serious criminals and terrorists."

However, in the Westminster Parliament and now in the UK Government, there are those who actively oppose European arrest warrants. We should be clear that, if we leave the EU without putting successor arrangements in place, the advantages of speed and the streamlined process that the European arrest warrant provides and which benefit all parties will be lost.

The repeal of the EU's justice measures will also impact on the civil aspects. In its evidence to the Scottish Parliament European and External Relations Committee inquiry into the implications of the EU referendum for Scotland, the Law Society of Scotland noted that many aspects of reserved and devolved law have been influenced by EU law, and that rights and opportunities have been afforded to individuals and business under EU law. These aspects include civil justice, company law, consumer law, employment law, environmental law, mental health and disability law, equality and human rights and family law.

I would like to highlight cross-border commercial impacts and the potential impact on family law. When a family has links to more than one EU member state, there are benefits of cross-border rules. The Brussels II regulations cover cross-border matrimonial matters, parental responsibility and international parental child abduction. The regulations are the main instrument for families who are involved in cross-border divorce or family proceedings. We have yet to establish with the United Kingdom Government what our relationship with the EU in family law will be in future and it is important that we continue to engage with other EU member states to ensure that our citizens do not find themselves at a disadvantage.

On the commercial side, recent changes to EU rules on jurisdiction and the enforcement of court judgments came into force last year. The UK Government opted into the regulations at an early stage, acknowledging the importance of a streamlined regime for resolving cross-border disputes at a commercial level.

The Scottish Government's top priority is to ensure that justice and home affairs measures are given the status that they merit during the Brexit negotiations, and to achieve as developed and seamless levels of co-operation as possible with EU partners in future. I am also determined that we ensure effective engagement and communication with agencies and professional bodies that use and understand the justice and home affairs measures in Europe, as well as with victims groups, consumer groups and academics, to help build the best possible evidence to inform Scotland's contribution to the negotiation process.

I take this opportunity to ensure that our message is heard loud and clear. Scotland voted as a whole to remain in the EU and we want to maintain the benefits of continuing collaboration and co-operation between our justice system and those of other member states. I understand that the Lord Advocate will be in Brussels later this month to meet EU justice stakeholders to ensure that Scotland's prosecution interests are protected.

The collaborative justice board of key justice leaders has established an EU sub-group, which will work to ensure that the interests of Scotland's separate and independent justice system are represented and protected in the post-EU-referendum negotiations. Officials will engage directly with the Law Society of Scotland and the Faculty of Advocates, recognising the implications of EU membership and the referendum outcome for our legal professionals and those who rely on their services.

We will continue to engage with our UK Government counterparts to ensure that Scotland's interests are represented and that we are able to influence that where possible. The UK Government must recognise our interests in this matter and engage with us as full partners. We are not content to be simple consultees in this matter: we must be centrally involved as partners in the process, not treated as bystanders.

We in the Scottish Government and this Parliament are looking to protect Scotland's interests generally, as well as arguing for the least damaging impact from the EU referendum for the UK as a whole. This is significant to the security and safety of all the people of Scotland. I hope that our aim will be supported by all members in the chamber.

I move,

That the Parliament acknowledges the result of the UK referendum on EU membership in Scotland; recognises the continuing importance of EU membership to Scotland; acknowledges the benefits to the justice system of EU-wide cooperation and the extent to which the current Scottish justice system is shaped and informed by EU law, as well as the benefits to Scotland's mixed legal system, which includes civilian elements; notes that any repeal of the EU justice and law enforcement measures will have an impact on the effectiveness of law enforcement and an increase in costs in law enforcement procedures due to the lack of harmonised systems and standards already established; acknowledges the pivotal role played by EUROPOL in facilitating and supporting the international cooperation necessary to combat cross-border crime and terrorism; resolves to promote Scotland's willingness to continue to collaborate with European partners, and calls on the UK Government to ensure that Scotland has a role in the decision-making, as well as full involvement in all negotiations between the UK Government and the EU, to protect Scotland's independent justice system.

14:40

**Douglas Ross (Highlands and Islands) (Con):**

I welcome the opportunity to open the debate for the Scottish Conservatives. As this is the first justice debate in Parliament for a couple of weeks, I want to take the opportunity to put on record the Scottish Conservatives' and, I am sure, the entire Parliament's best wishes to Constables Deborah Lawson and Robert Fitzsimmons, who were deliberately knocked down in Glasgow a week

past Sunday. PC Lawson suffered multiple fractures and PC Fitzsimmons was also taken to hospital. Events such as those remind us of the bravery of our officers, which they show day in and day out. Although such events are, thankfully, rare, we must never forget that for us to live safely our officers must be dedicated to their task. It is clear that Deborah Lawson and Robert Fitzsimmons are certainly that. We wish them both a speedy and full recovery.

Just last week, Prime Minister Theresa May reiterated that

“the country is facing a negotiation of tremendous importance”.

She continued by saying that

“It is imperative that the Devolved Administrations play their part in making it work.”

It is therefore both right and sensible to determine with stakeholders the repercussions of Brexit for Scotland’s justice system. It would be remiss to suggest otherwise, given that we have, as the cabinet secretary said, a separate and unique legal system within the United Kingdom. I note that the Scottish Parliament’s Culture, Tourism, Europe and External Relations Committee, as well as respected organisations including the Faculty of Advocates and the Law Society of Scotland, have already embarked on this sizeable undertaking.

Let us be very clear, however: it is the UK Government that is negotiating our withdrawal from the European Union. As the cabinet secretary mentioned in his opening remarks, the UK leaving the EU framework will impact on civil and criminal justice in Scotland, and on policing.

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

**Douglas Ross:** I will take interventions from several members, but on this occasion I will not take an intervention from Mr Stevenson because I can already tell him what his intervention will be. It will be to ask me three very random questions to which he has three very random answers. I have a lot to get through. I have sat through many debates in the chamber in my short time as an MSP, and I have got his measure very quickly. I will carry on, if I may.

No one is under the illusion that Brexit will be easy. Together with her Cabinet, the Prime Minister has repeatedly acknowledged the challenges ahead.

The Faculty of Advocates has emphasised that

“it appears to us inconceivable that it will be possible to review all that law, and determine what to keep and what to remove, in time for the last day of the UK’s membership of the EU.”

I seek to reassure those who are concerned about the transitional arrangements that, as and when we repeal the European Communities Act 1972, we will convert the body of existing EU law into British law.

I further commend the Law Society of Scotland, which has already met Secretary of State for Scotland David Mundell. *[Interruption.]* I will take an intervention from Ms Ewing if she wishes to stand up and get involved rather than speaking from a sedentary position. I will give Ms Ewing time to put her card in.

**The Minister for Community Safety and Legal Affairs (Annabelle Ewing):** Would Douglas Ross care to define this new concept of “British law”.

**Douglas Ross:** I apologise. Clearly in the fluster for Ms Ewing to get her card in she was also not prepared for that. I meant “UK law”. I apologise if that has offended in any way and I clarify that for Parliament.

I was saying that I further commend the Law Society, which has already met Secretary of State for Scotland David Mundell, for underscoring the importance of ensuring stability in law post-Brexit, and for emphasising that

“Specifically in connection with legal matters changes will require to be carefully thought through.”

I really believe that the UK Government has exhibited judiciousness towards the negotiations so far, unlike those—*[Interruption.]* We already hear Mr—the minister for removing Scotland from the EU is the Cabinet position; Mr Russell—mumbling away there. I look forward to his mumblings later today.

We have already heard from the SNP that it is not looking towards what the UK Government is doing and that it is looking only at its own way forward. We need to be mindful that the UK is negotiating with a union of 27 other members. The Institute for Government points out that they will play a

“crucial role in informal negotiations”

and

“will almost certainly have to individually ratify any final agreement.”

For Mike Russell—there is the name—to have stood up in the chamber last week and denounced the UK Government for “reaction, inaction and confusion” was quite simply childish and, I must say, amateurish. The SNP has not been proactive in its approach, as it would have us believe. *[Laughter.]* Their laughter tells us everything that we need to know.

The SNP has not been proactive in its approach; it has been pre-emptive. Four months

ago, after the outcome of the EU referendum was announced, the First Minister almost immediately attempted to embark on a public relations tour of European member states, only to be respectfully reminded by the German Government, the Danish Minister for Foreign Affairs, the Czech Government, the Estonian foreign affairs ministry and none other than the President of the European Council, that in such self-aggrandisement she had stepped well beyond her remit.

Together with her cohort of Cabinet colleagues, the First Minister has once again started to agitate for independence, fanning the flames of Brexit, as a cause célèbre for the SNP's relentless obsession with separation. In the meantime, they have neglected the powerhouse Parliament that we have here that we were all elected to, and have neglected to use the unprecedented powers that we have. In fact, in just four months, which have included the summer recess, we have had no less than three statements in the chamber on Brexit, and today's debate is the sixth such debate. Since 24 June, we have had a running commentary from the SNP on the European Union, and it has even launched a consultation on a second referendum bill.

**The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell):** Will the member give way?

**Douglas Ross:** It is no surprise that Mr Russell wants to come in on that.

**Michael Russell:** I am just wondering about consistency. Douglas Ross opened his speech by saying that it is "right and sensible" to have the debate to consider the implications of Brexit, but he has contradicted himself within six minutes.

**Douglas Ross:** I am happy to contribute to the debate on behalf of the Scottish Conservatives, and we will discuss the issue, but the Scottish Government has allocated its time to this—

**Michael Russell:** The member said it was "right and sensible".

**Douglas Ross:** If Michael Russell wants to intervene again, he can stand up rather than speak from a sedentary position.

**Michael Russell** rose—

**Douglas Ross:** Okay—I will give way.

**Michael Russell:** The words that the member used were "right and sensible".

**Douglas Ross:** The point that I am making is that we have had three statements on the European Union referendum and six debates in the chamber, when we should be debating policing and the national health service, which the First Minister struggled with at First Minister's question

time last week. Government time in the chamber has been dominated by Brexit issues. People in Scotland want the Government to focus on the bread-and-butter issues and to get those right, rather than try to pick fights and fan the flames of its own separation agenda. As yet, not one piece of proposed legislation has been introduced to Parliament for scrutiny since the May elections, which tells us everything that we need to know about the Government's priority.

I need not remind members that the developments that are unfolding around us mark a huge constitutional change, but it seems that far from advocating Scotland's interests in the negotiations, the SNP is advocating only on its own behalf. That is a great shame, because that approach detracts from the task at hand. As my amendment points out, it is clear that Scotland as part of Great Britain has benefited from pan-European co-operation on justice and home affairs, particularly in policing and criminal justice and through participation in the 35 opt-ins that were negotiated by the UK Government. The UK has already opted out of almost all EU substantive criminal law, but we have benefited from access to agencies such as Europol, as the cabinet secretary said, as well as information-sharing measures including the Schengen information system, the customs information system that is used in trafficking and drugs cases, and the Prüm decisions, which provide access to police databases on fingerprints and DNA. The European arrest warrant has also helped to facilitate and expedite extradition proceedings, with 48 extraditions to Scotland and 367 from Scotland since January 2011. Those are sensible measures that demonstrate the importance of pan-European collaboration and co-operation in criminal justice. That has been brought to bear by the work of the Scottish crime campus at Gartcosh. As Police Scotland has pointed out, that work is often underpinned by

"the exchange of information and intelligence with other nations",

which is

"achieved through close working relationships with institutions such as Europol and Interpol".

The cabinet secretary has expressed concern about the uncertain status of the UK's future involvement in Europol beyond May 2017. The Scottish Government rightly argues that Europol has played an effective role in providing analytical support, enabling law enforcement and information exchange and producing a threat assessment. However, as I said in my intervention, the UK Government home affairs minister mentioned to the UK Parliament yesterday that it would be updated on that very shortly.

I am not here to be a spokesman for the UK Government: the cabinet secretary has his own channels of communication for that. However, he will no doubt be aware that Home Secretary Amber Rudd has confirmed that the UK Government will be

“having discussions about how to continue some form of involvement within the agencies of the EU that help to keep us safe.”

David Davis MP, the Secretary of State for Exiting the European Union, also recently emphasised in relation to Europol that

“the aim is to preserve the relationship with the European Union on security matters as best we can ... we are across that, and of course we are aiming to maintain it.”—[*Official Report, House of Commons*, 5 September 2016; Vol 614, c 46.]

Let us not forget—as my colleague Liam Kerr will shortly emphasise—that there are many other mechanisms for co-operation on matters of security and policing, which should not be overlooked.

Our amendment looks at the wider issues of security. In my own area of Moray, our communities in Kinloss and Lossiemouth play a vital role in the security and protection of the entire United Kingdom. Lossiemouth is eagerly awaiting the arrival—

**Stewart Stevenson:** On a point of order. Douglas Ross may inadvertently have described himself as the member for Moray. He said, “my own area of Moray”. Could the Presiding Officer invite him to properly describe himself as a member for the Highlands and Islands?

**The Presiding Officer:** Mr Stevenson has made a point, but it is not a point of order. Mr Ross—you have plenty of time.

**Douglas Ross:** Thank you, Presiding Officer. That is another bit of time wasted in Parliament by Mr Stevenson. I said,

“In my own area of Moray”.

I live in Moray; I was born and bred in Moray; I think that I can class it as “my own area”. I represent, and am proud to represent, Moray as part of the wider Highlands and Islands region. I will mention Moray as “my own area” whenever I like.

As I was saying when I was so rudely interrupted, Lossiemouth is eagerly awaiting the arrival of new Boeing P8s and, having been lucky enough to have flown in one recently, I know what a huge investment that is for Moray—if I am allowed to say that—for Scotland and for the United Kingdom on defence infrastructure.

It is clear that this will ultimately be a bespoke agreement between an independent sovereign

United Kingdom and the European Union rather than a binary choice. It presents an opportunity to engage and to implement measures that foster Europe-wide co-operation and best serve the interests of the United Kingdom and Scotland. This is an opportunity, not an obstacle. That is what needs to inform our thinking over the months ahead.

Democracy is not about re-running the vote until you get the result that you want; democracy is about respecting the outcome of the vote once and for all. Post the Brexit referendum, the UK Government is working to deliver the best possible deal for the entire country. I sincerely hope that the SNP will support the UK Government’s work on that over the coming months across all the devolved portfolios, rather than run a grievance, grumble and gripe campaign that self-servingly promotes the SNP agenda to the detriment of Scotland’s interests.

I move amendment S5M-02203.2, to leave out from “the result” to end and insert:

“the vote to leave the EU; recognises the benefits to the justice system of European cooperation and the extent to which the current Scottish justice system is shaped and informed by EU law, as well as the benefits to Scotland’s mixed legal system, which includes civilian elements; notes the international cooperation necessary to combat cross-border crime and terrorism; resolves to promote Scotland’s willingness to continue to collaborate with European partners and seek a continuously strong relationship with Interpol, as well as play a pivotal role with international partners such as NATO and the Five Eyes intelligence network; supports the UK playing a key role in the UN Security Council through its permanent seat, and calls on the Scottish Government to positively engage in shaping the UK’s negotiating strategy for leaving the EU.”

**The Presiding Officer:** I call Claire Baker. I let all members know that there is plenty of time in the debate to take interventions.

14:53

**Claire Baker (Mid Scotland and Fife) (Lab):** This is a welcome opportunity to discuss the impact of Brexit on our justice system in Scotland and the security of communities.

Those who advocated leaving the European Union argued that it would make Britain safer, in the context of an uninformed and depressing debate over immigration. Many of us who argued for the UK’s continued membership of the EU put forward the case that leaving would, in fact, threaten our security and weaken our justice system. Nothing that I have heard following the vote in June has caused me to revise that opinion.

Over the past decade, we have made vital progress in our security systems, collaborating with forces across Europe as a member of the EU. We have had no information either from those who argued for Brexit or from the UK Government

about what plans will be made to secure the progress that has been made through European co-operation on justice and security. There is no detail on how the potential for greater collaboration—and that potential has undoubtedly existed while Britain has been in the EU—can be taken forward once we are outside the EU.

We risk being isolated at a time when there is an even greater need for co-operation. It is therefore right that the Scottish Government has provided the opportunity to discuss these vital matters, and I welcome that opportunity. We have heard that Brexit means Brexit, but little beyond that. In Scotland, we may not all agree on what the right response to Brexit is, but at least we are having a vibrant debate on what the options might be and ideas are being suggested.

The lack of detail and strategy from UK ministers can only increase anxiety over what the final impact will be, not least on justice and security. There is additional complexity, as many of the areas are devolved or are unique to Scotland. In recognition of that, our amendment today calls for work to be undertaken to determine the full extent of the impact that leaving the EU will have on our separate legal system, in order to ensure that Scotland's interests are protected and to fully inform the negotiation process.

**Michael Matheson:** The member raises an important point, which is that it is essential that the UK Government recognises the unique nature of the Scottish justice system and gives it its rightful place in the negotiations. In addition, it is important for the Scottish Government to be involved in that process. The member has identified that in her amendment, which we will support at decision time.

**Claire Baker:** I am pleased to hear the cabinet secretary say that.

It is important that we recognise the separate and unique nature of the Scottish legal system. It is also important that the UK Government is well aware of the different implications that there might be, and it is incumbent on us to be clear about what those implications are. I note that the briefing from the Scottish Parliament information centre highlights the fact that a specific group has been set up within the justice department to consider the impact of Brexit on the justice system, and that Police Scotland has established a working group. However, I would need to be confident that those groups have the specific skills and expertise that they need to understand the legal implications of Brexit, and would appreciate further detail on how that work can be taken forward. I do not want us to have to consider emergency legislation or deal with unintended consequences as a result of the decision.

EU membership has strengthened our justice system in the modern world. Through the Extradition Act 2003, the Scottish Government and the UK Government brought in measures to ensure that prisoners from other countries in the EU can either be returned to their country of origin at the conclusion of their sentence or serve their sentence in that country. That can only be beneficial for security and justice in Scotland. Figures suggest that the average extradition process takes 97 days; for non-EU states, the process takes approximately 10 months. The European arrest warrant has led to the arrest of individuals who are responsible for sexual offences and murders in Scotland. We simply do not know what the impact of leaving the European Union will be on the UK's inclusion in a system that has been vital in returning criminals whose offences have impacted seriously on communities in Scotland. The briefing from the Law Society says:

"Following a withdrawal from the EU it is possible that, without the trust and mutual recognition between EU Member States that underpins the European Arrest Warrant, the process for the surrender of individuals will be more expensive, complex and time consuming and would require a new treaty to underpin any alternative arrangements. Extradition proceedings would become more prolonged and, in custody cases, create significant additional cost."

At the moment, there are no assurances that the legislative provisions that underpin those arrangements will remain in place or be replicated after Brexit, or about how offenders would be repatriated.

We also recognise the importance of being part of Europol, and we can see that that becomes even more important if we consider the changing nature of crime, with threats from organised crime, human trafficking, child sexual exploitation, cybercrime and terrorism. We are in the regrettable situation of urging the UK Government to accept a new Europol regulation by January in order to ensure continuing membership, while facing restricted membership following Brexit. Notwithstanding all the reassurances from ministers who are involved in issues around exiting the EU, it is worrying to hear senior police officers warn that, after we leave the EU, it will be more complex to achieve the things that they can achieve now, because we will have restricted membership of Europol and no influence over decision making.

The current director of Europol is a British civil servant, Rob Wainwright. He has said that the UK could face becoming a second-tier member and that, alarmingly, our access to the Schengen information system could be revoked, all of which will negatively impact on our ability to address human trafficking, among other issues.



It is also important to note the impact on civil justice matters, which is set to be significant. Rules on cross-border family law cases impact on divorce proceedings, custody cases, judgments on access and maintenance support. Those regulations are all hugely important for families who are affected by those issues and provide protection for children who are at risk of parental abduction. It is also worth mentioning the regulation on the taking of evidence, which simplified the rules on the taking of evidence in one country for direct use in another country.

What will Brexit mean for all those areas—a return to complex negotiations, or the use of consular or diplomatic routes? Can we retain those mechanisms when we are no longer a member of the EU? There must be clarity on these significant issues.

Even before Brexit, the UK Government indicated its wish to withdraw from the European convention on human rights. Not every judgment of that court has been lauded in this chamber, but any objective analysis would surely conclude that the convention has been of enormous importance in securing and improving human rights throughout Europe, and indeed in assisting the promotion of human rights throughout the world.

Membership of the convention is a condition of EU membership. The Conservative Party's extraordinary desire is that we should leave the convention, and Brexit makes that all the more likely. It shows just how far the Tories have regressed that they wish to abandon an institution that Winston Churchill played a key role in establishing.

So much for the Tories posturing as the party of law and order, when a constitutional crisis resulting from their own internal party disputes threatens the future of European action on justice and security, ultimately putting communities in Scotland at risk of being less safe—it will not make them safer. Crime knows no borders and is increasingly international and serious. Organised crime in Scotland is often connected to activity not just throughout the UK but throughout Europe and European Governments and justice agencies require to work together to counter it. We have made the progress in that area through our membership of the EU, but such progress will only become harder and less effective as a result of Brexit. Despite that, we hear very little from the UK Government about how it will mitigate the impact of Brexit. That is not good enough for communities across our country. They want to be safer from terrorism and the actions of serious and organised criminals. They want a legal system that recognises the international nature of personal relationships and business transactions and which can deliver justice swiftly. Leaving the EU puts all

of that at risk. Although the situation has not been created by the Scottish Government, the cabinet secretary needs to continue to challenge the UK Government to protect the vital mechanisms that our justice system relies on. The Scottish Government's priority must be a deal that protects co-operation and the interests of us all—a deal that protects vulnerable people and maintains the UK's position as a partner in dealing with crime. It must be a deal that fully responds to the unique aspects of Scots law and its interwoven relationship with EU justice matters.

I move amendment S5M-02203.1, to insert after "European partners":

"; calls on the Scottish Government to undertake a full analysis of the impact of leaving the EU on Scotland's independent justice system, to protect against any unforeseen consequences and to fully inform the negotiation process".

15:01

**Joan McAlpine (South Scotland) (SNP):** I am pleased to speak about this important topic. It is perhaps an aspect of Brexit that, to date, has not been given the attention that it merits, so I am pleased that the Government is highlighting it by bringing it to the chamber today.

The Law Society of Scotland has submitted written evidence to the Culture, Tourism, Europe and External Relations Committee on the implications of leaving the EU for its members, their clients and the services that they provide. The Law Society's submission outlines in stark, plain language the scale of the challenge faced by the legal profession and its clients. The cabinet secretary has alluded to some of the aspects of law that the Law Society has pointed to; I will quote them in full. They are:

"Civil Justice, Company law, Competition law, Consumer law, Criminal law, Employment law, Environment law, Equality law, Family law, Financial services, Human rights law (through the Charter of Fundamental Rights), Immigration law, Intellectual Property law, Mental Health and Disability law."

I expect that other members will focus in detail on aspects of national security and criminal law—as the cabinet secretary and others have already done—so I will not do so here, except to say that it is absolutely clear that the safety of our citizens will be threatened if the extensive networks of co-operation on crime fighting, crime solving and intelligence gathering are damaged.

I want to look at justice in so far as it relates to the European single market, which is so important to the prosperity of us all. In the realm of business, the Law Society points out that EU law has relevance for employers—examples are the working time directive and the posted workers directive. European law impacts on business

innovation, which is a key building block of economic prosperity—inventors, for example, benefit from the European unitary patent.

European law underpins the European single market that the UK Government appears determined to leave. The law is designed to ensure fairness and equity for those operating in the market. Producers are protected with laws on food and environmental standards. Procurers of services are protected by laws designed to prevent corruption and favouritism. Exporters have the common commercial policy. Small and medium-sized enterprises, as well as large corporations, have recourse to the late payments directive. Moreover, a key aspect of the single market is the legal right to set up a business in another member state—an aspect of the acquired rights of European citizens that we are all, apparently, going to be stripped of when the great repeal axe falls.

The helpful SPICe briefing for today's debate details a number of legal provisions in the 1997 Amsterdam treaty that are essential to the smooth functioning of the single market. One example is the insolvency regulation of 2002, which allows insolvency proceedings to be brought in the most relevant member state. The 2009 Lisbon treaty took that further. Under article 81, the EU is expected to “develop” judicial co-operation in civil and commercial matters with cross-border implications, particularly when that is

“necessary for the proper functioning of the internal market.”

Previous UK Governments clearly thought that that was of benefit to businesses.

Even though it had the right to opt out of many justice aspects of the Lisbon treaty, the UK opted in to the European small claims procedure, which means that businesses can apply for cross-border small claims. We now have European enforcement and payment orders, which create a fast-track procedure for the enforcement of cross-border orders for uncontested claims.

Post Brexit, our businesses face real headaches with dispute resolution. What will happen, for example, to the Rome I and Rome II regulations on the law applicable to contractual and non-contractual obligations? The London law firm Slaughter and May produced a “Brexit Essentials” briefing, which notes that, post Brexit, the UK will have to replace European arrangements for dispute resolution or face the prospect of its courts’ judgments becoming less effective across Europe. It says:

“Without a replacement, international parties might be persuaded to nominate an EU Member State (rather than the UK) as the forum for their disputes if a pan-European judgment was important to them or, alternatively, switch to arbitration”.

The effect of Brexit on justice matters will also have a direct and, I believe, detrimental impact on Scotland's standing and influence. Scotland is a separate jurisdiction, with a system of law that is as independent as that of any other nation in Europe. The treaty of union of 1707 protects Scottish law, as we all know. Our completely separate legal system, with its own civil and criminal law, courts, legal profession and prosecution service is a source of great pride, and, of course, most police and criminal justice matters are devolved under the Scotland Act 1998.

Because of that long-standing legal independence, Scottish legal institutions are recognised in Brussels. The Crown Office and Procurator Fiscal Service, to use one example, participates in the UK Government's Eurojust oversight board. Police Scotland has a presence in the Europol liaison office in the Hague, which was well illustrated today when the cabinet secretary described his trip to it. Losing that recognition will mean a reduction in Scotland's international influence, which is one of the things that the First Minister identified as a priority in her mission to protect Scotland's status in Europe. That is why I support the motion. The development of European law has fundamentally been about collaboration between states and jurisdictions. In Scotland's case that has enhanced the influence of our justice system and our standing as a country, albeit one that is a sub-state of the United Kingdom.

Scotland, in matters of justice, is already in many ways an independent country, but one that collaborates effectively across borders thanks to EU structures. As the motion demands, we must have full involvement in all negotiations between the UK and the EU to protect our independent justice system and, crucially, all those individuals, organisations and businesses who depend on its effective functioning.

**The Deputy Presiding Officer:** We have quite a bit of time in hand, so we can have speeches of seven minutes. Is that not excellent news?

15:08

**Margaret Mitchell (Central Scotland) (Con):** Presiding Officer, the motion seeks to assess the impact of Brexit on justice and security issues. It is important to stress that it would be complete folly and totally impractical for the UK, before article 50 has been formally initiated, to set out its negotiating position on any aspect of Brexit, including justice and security issues. This debate can serve little purpose other than to provide a superficial assessment of the impact of Brexit on the various areas of security co-operation that exist between the UK and the EU at present.

As the Prime Minister has repeatedly stated, we can be sure that

“there are going to be lengthy negotiations over the course of the two years and more”

and that the UK Government will

“deliver on the vote of the British people to leave the European Union”

and will be

“ambitious in its negotiations to negotiate the best deal for the British people”.

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

**Margaret Mitchell:** Please allow me to make some progress, Mr Stevenson.

It is also not in doubt that it makes sense for EU states to continue to co-operate with the UK after we withdraw because it is simply in their best interests to do so. It is for that very reason that EU states currently co-operate on operational law enforcement issues with countries outside the EU. Put another way, what do Albania, Australia, Canada, Colombia, the former Yugoslav Republic of Macedonia, Iceland, Moldova, Montenegro, Norway, Serbia, Switzerland, Liechtenstein, Monaco and the USA all have in common? They are all non-EU countries with operational agreements with Europol. In fact, it is widely acknowledged that America has more officers working in Europol than do most EU member states.

**Joan McAlpine:** Does Margaret Mitchell agree with David Armond, the deputy director general of the National Crime Agency, who said:

“whatever measure we negotiate will be less of a solution or suboptimal compared to the arrangements we currently have”?

**Margaret Mitchell:** Absolutely not. Why should it be? We are in a unique position. We are not following a deal that has been made with other countries; the arrangements are already in place. Why should they be any less when we leave, when it would be in everyone’s best interest to continue them?

Frontex, the EU border agency, is another example of an EU agency that has a working relationship with non-EU states—no fewer than 17 of them, and it is in negotiation with a further seven. Despite the UK not being part of Schengen, it still co-operates with Frontex on issues such as human trafficking.

On a more routine basis, security co-operation exists for airlines’ passenger name records, which are shared between the EU and countries such as the United States of America, Canada and Australia. Suffice it to say that there is no shortage of ways in which non-EU states co-operate with

the EU on security issues at present, and that will continue to be the case post Brexit.

During the EU referendum, some argued that their principal reason for voting remain was that they believed that the UK is safer in the EU, rather than on the outside. However, that fails to take cognisance of the tragic recent events in Europe, including the Paris bombings, the atrocities in Brussels and, in Germany, the organised harassment of women in Cologne. All of that took place against the background of—and was interrelated with—the migration crisis that was engulfing the EU.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** The former director general of MI5 said that claims that the UK is safer outside the EU are “nonsensical and spurious”. Will Margaret Mitchell comment on that?

**Margaret Mitchell:** She is entitled to her opinion, but it is difficult to know how she could reach that conclusion, given the unpalatable truth that Europe has lost control of its external borders. To answer Mr MacGregor’s specific point, I believe that that situation has provided the opportunity for extremists and potential terrorists to hold EU passports.

While the Scottish Government has wallowed in predictions of gloom and doom about every possible aspect of Britain leaving the EU, there are two obvious advantages of Brexit from a justice and security point of view. The first is the potential for the UK to take back control of its borders, and the second is that Euro judges will no longer be able to prevent the UK from deporting dangerous terrorists. Furthermore, the UK will remain a member of NATO. Major General Julian Thompson, who spent more than three decades—

**Claire Baker:** Will the member take an intervention?

**Margaret Mitchell:** I have been very generous with interventions.

**The Deputy Presiding Officer:** You have time if you wish—it is up to you.

**Margaret Mitchell:** You do not know how much more I have to say, Presiding Officer.

**The Deputy Presiding Officer:** I still have plenty of time—it is up to you.

**Margaret Mitchell:** In that case, I will take the intervention.

**Claire Baker:** Does the member recognise that many of her claims are indeed just claims and assertions? She can give no guarantees on any of the issues around Europol membership and European arrest warrants. That is exactly the point of the debate—we are all hugely concerned about

the impact of Brexit in that area, yet Margaret Mitchell seems oblivious to those concerns.

**Margaret Mitchell:** I regret that Claire Baker has joined the SNP in continually believing that her glass is only half full. She seeks to find problems where none currently exist and where there is no evidence that they will exist in the future.

Major General Julian Thompson, who spent more than three decades in the Royal Marines and commanded British forces in the Falklands conflict, has pointed out that the benefits of being a member of NATO far outweigh those of being a member of the EU. With regard to defence against terrorists, he states that information sharing between the security services of the Anglosphere five eyes alliance between the UK, US, Canada, Australia and New Zealand is particularly beneficial for UK security due to the trust that has been established over decades of working with those agencies. In addition, the sharing of tactical intelligence with EU countries can still be established case by case.

In conclusion, according to the UK's former intelligence chief Sir Richard Dearlove, the UK currently provides more intelligence to the EU than it gets back. He has said:

"Britain is Europe's leader in intelligence and security matters and gives much more than it gets in return. It is difficult to imagine any of the other EU members ending the relationships they already enjoy with the UK."

15:17

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** One would be forgiven for thinking that this had ceased to be the Parliament of Scotland if the Conservative amendment is anything to go by. I remind Douglas Ross and his colleagues that the Parliament is here to represent the people of Scotland first, last and always. The people of Scotland spoke loud and clear: we want to remain part of the European Union. Dare I say it, remain means remain.

In the past few months since the referendum, the lack of a plan for Brexit from the UK Government has been quite astounding. It is becoming increasingly likely that the UK Government's lack of preparation will result in Scotland being dragged out of the EU with a hard Brexit.

The prime minister can repeat, "Brexit means Brexit" over and over again, but if the day comes when Scotland ceases to be a member of the European Union, we need to know that every possible action to protect the interests of the Scottish people has been taken.

**Graham Simpson (Central Scotland) (Con):** Does Fulton MacGregor accept that Scotland is not in fact a member of the EU, as the UK is the member state?

**Fulton MacGregor:** Scotland is known to be a country; it is a country and as a country we voted to remain. That is what this Government and this Parliament are trying to respect.

That means that the Prime Minister must engage in constructive dialogue with the Scottish Government and that the Scottish ministers must be involved in negotiations with the EU. Over the past few months, the message from the Prime Minister and the UK Government is that they have no interest in listening to the Scottish Government. I therefore welcome the First Minister's renewed commitment that she will do whatever it takes to protect Scotland's interests.

There are not many areas for any Parliament to discuss that are as important as justice, and it is crucial that Scotland's voice is heard during the Brexit negotiations. Scotland has always had an independent justice system, as other members have highlighted, and there must be measures in place to ensure the security of Scotland post Brexit.

It deeply concerns me that the current arrangements between law enforcement agencies in Scotland and the rest of the EU are under threat. We regularly see the successes of those agencies in tackling organised crime, particularly surrounding child sexual exploitation, human trafficking and cybercrime, and I was glad to hear Douglas Ross mention the work of the crime campus in Gartcosh, which is in my constituency.

This year, Police Scotland was involved in an operation with the Romanian authorities to halt the trafficking of individuals for sexual exploitation, resulting in eight victims being taken into care and the arrest of those involved. It is imperative that Scotland continues to be involved in detecting and stopping large scale, cross-border criminal activity. Douglas Ross mentioned Interpol, which is an important part of maintaining Scotland's security, but I am left wondering, despite what Margaret Mitchell said, whether his proposal to amend the Government motion to remove any mention of Europol is an acceptance by the Conservative party that, unless stopped, its hard Brexit policy will see an end to the UK's and Scotland's co-operation in combating cross-border crime. Ms Baker alluded to those concerns, too.

The ability to share information quickly and to co-ordinate operations with other law enforcement agencies using Europol is key to detecting, disrupting and detaining criminals throughout Europe.

I will briefly touch on the European arrest warrant. There is great risk that exit from the EU would result in that fantastic system being unavailable to police and prosecutors in Scotland. That would result in an increase in cost and time in bringing criminals to justice. There is also the impact on victims of crime, who would be subjected to months or years of uncertainty.

The Prime Minister must take her head out of the sand and start discussing these serious issues. Her Government has outlined no meaningful plans and, to date, Nissan seems to know more than anyone else about the Brexit plans. The concerns are very real, entirely justified and felt the length and breadth of Scotland. The Prime Minister must now invite the Scottish ministers to be fully involved in all discussions and negotiations.

That was a bit shorter than I thought that it would be.

**The Deputy Presiding Officer:** It is always the case that the speeches get shorter when we have time in hand, Mr MacGregor. I do not know why.

15:21

**Jenny Marra (North East Scotland) (Lab):** I do not belittle the importance of Brexit and its consequences. Indeed, it is one of the biggest political issues of our time. However, I agree with Douglas Ross: the continual debates in this chamber since the vote on 23 June are taking focus away from issues that are pertinent to our communities and from the effect that the cuts are having up and down this country.

As I stand here, a debate is going on in one of Dundee's communities about the closure of a local police station, which, it has been admitted, is being driven by a cost-saving agenda and will take police officers out of the very community where they have served for years. I beseech the Government: once its programme of debates on the UK referendum on EU membership has ended, can we get back on to the bread-and-butter issues that members in this chamber are keen to discuss and that this country's citizens want to hear us discuss?

I turn to the motion and the amendments. Most striking in the Conservative amendment is the list of organisations that they are keen to rely on for intelligence. It cites NATO and the five eyes intelligence network. Although I do not belittle the importance of those agencies in our security and crime agenda, I have to say that the list seems very weak and lacking without the mention of Europol and the incredible work that it does.

**Douglas Ross:** I will reread very carefully in the *Official Report* what the member was saying about

NATO being very weak, but would she concede that I mentioned Europol and the implications of what the UK Government is planning to do with Europol as part of my speech? It is not as though we ignored Europol.

**Jenny Marra:** If Douglas Ross cares to read the *Official Report*, he will find that I did not say that. I said that the list seems weak without Europol being mentioned on it, because it plays a central role in crime prevention in this country. He need only speak to the crime prevention agencies in this country that are working on child protection, human trafficking and the prevention of internet paedophilia to learn exactly that.

In January—in just a few weeks' time—the UK Government must indicate whether it is willing to accept a new regulation on Europol. To put it in simple terms, we need to decide whether we will ask to continue with the Europol system, which has evolved to be more and more crucial in European policing co-operation and in preventing and tackling cross-border crime.

It is only about three years since I attended, in a committee room upstairs, the human trafficking summit that the Scottish Government and the Lord Advocate organised—I think that you were there, too, Presiding Officer. We listened to a key contribution from Europol on how Scotland would take forward its anti-human-trafficking efforts. Europol is integral to the work that Police Scotland's national human trafficking unit is currently undertaking. We all know that human trafficking is a cross-border crime and that cross-border policing and prevention operations are becoming more and more important. To cease such work and our involvement in such networks will enable cross-border criminal networks to thrive, as the structure for a co-ordinated response is destroyed.

That is one of the many reasons why I voted to remain in the European Union and it is one of the reasons why the UK Parliament must and should have a vote on the Brexit negotiations. The wishes of voters across the UK must be respected, but at the end of the negotiation we must extricate ourselves from the EU with the best arrangements for our citizens, for whom security and crime have always been a top priority.

For that reason, I am pleased that Michael Matheson has been to The Hague to find out more about Europol operations and Scotland's place in them. The European counter-terrorism centre, the European migrant smuggling centre and the European cybercrime centre, all of which were established at Europol, are crucial to crime prevention and detection in Scotland. Just before this year's referendum, Europol helped Police Scotland and the Romanian police to dismantle a Romanian organised crime network, which was

trafficking Romanian victims to Scotland for sexual exploitation.

Europol also supports the effective operation of the European arrest warrant, which is crucial in Scotland, as members said. I have read that Police Scotland has arrested 301 offenders under the arrangements and that 43 offenders have been returned to Scotland to face justice. Such traffic in both directions makes citizens safer.

**Joan McAlpine:** The member has raised important points in her speech. Does she agree that they illustrate the importance of our debating the subject in the Parliament?

**Jenny Marra:** It is important to debate the subject, but, as I said at the start of my speech—and I think that this was clear to Ms McAlpine and other members—we are continually having debates on Brexit and we must balance the need for such debates with the need to debate issues that are current in our communities.

The amendment in Claire Baker's name is one of the most important to have been lodged in such a debate, because there is clearly a need for, as the amendment puts it,

"a full analysis of the impact of leaving the EU on Scotland's independent justice system, to protect against any unforeseen consequences and to fully inform the negotiation process".

As all members know, Scotland's justice system and Scots law are unique and will require specific consideration in the Brexit negotiations. It is only right that the Scottish Government does the preparatory work in advance, to mitigate the impact of surprises and unforeseen consequences. We do not want to discover loopholes in the law when we are months or years out from the Brexit negotiations. We need the work to be done now, to prevent that from happening.

I am happy to support the Labour amendment.

15:29

**John Finnie (Highlands and Islands) (Green):** I think it is very important that we debate the subject. As we heard from Jenny Marra, justice is a top priority for our citizens, and an obligation is placed on any state, however it is configured, to see to the security of its citizens and provide justice for them. Key to that is collaborative working, and that is what the European project was about. It was not about setting aside the unique nature of Scots law; it was the mix that was important.

In my view, the clear motivation for the European Union referendum was disengagement from that sort of approach. That has led to alienation and, in some respects, disrespect for the United Kingdom and, by default, Scotland, and

I think that it has put security at risk. It has been gesture politics and we continue to hear gesture politics.

We have been there before—I think that only the cabinet secretary has briefly alluded to this—when it came to the Lisbon treaty, which was agreed in 2009. A final decision on United Kingdom participation in 133 justice and police co-operation measures required to be taken no later than 31 May 2014. A convoluted process was involved in that, but nonetheless there was a five-year window following the Lisbon treaty and there was ample opportunity for the UK Government to engage with the devolved Administrations on whether to exercise the block opt-out. After the Lisbon agreement, the arrangements were that it was possible to come in on an individual basis but, for the measures that were agreed before it, a block opt-out had to be exercised.

The important point there was that, despite letters from the Scottish ministers as far on as in April and August 2012, there was very little action. It was clear that the Scottish Government's position was that some elements that were part of the pre-2009 agreement were defunct and had limited impact. However—it is a big however—there were other significant measures, which have continually been alluded to, including the investigation of cross-border crimes, measures to bring serious organised criminals to justice and the European arrest warrant, Scotland's experience of which has been entirely positive.

What is at risk if we do not have that approach? I will miss out the names, but examples were given to those of us who were on the Justice Committee at that time. The Deputy Presiding Officer, Christine Grahame, and my colleague Margaret Mitchell will be familiar with this. We heard about a murder case in which the individual was arrested within a day of the extradition request being issued and was swiftly returned to Scotland. Importantly, the warrant allowed the seizure of clothing and other property before it could be destroyed, which would have affected the evidential value, and it led to a successful prosecution.

**Liam McArthur (Orkney Islands) (LD):** I join John Finnie in supporting the European arrest warrant, but he said that it had been wholly successful. Even as somebody who supports the warrant, I note that some legitimate concerns have been raised about the proportionality test for those extraditions. Further work will need to be done in that area, without detracting from the support that is rightly given to the warrant itself.

**John Finnie:** The member makes an interesting point but, if it is a numbers game, it has to be seen that it is 5 million people versus the entire population of the remainder of the EU, so it does

look disproportionate. The important thing is the speed and efficiency with which action was undertaken.

Another example that we were given involved a violent attack and a murder in 2012. The individual was arrested through the European arrest warrant system within five hours of the issue of the arrest warrant, but also—importantly—by direct contact between the Scottish and Polish authorities under the European judicial network. We need to consider not simply the police operations, which are very important for all the reasons that we have heard, but the value of co-operation at the judicial and prosecutorial level.

There was support from the Scottish ministers, the police, the prosecutors, legal professionals, academics and the House of Lords European Union Select Committee inquiry, which took the view that the benefits of opting out of defunct or ineffective pre-Lisbon measures did not justify the risk of losing those measures that are essential in tackling cross-border crime.

The most telling aspect of what we learned at the time, when the Presiding Officer was convener of the Justice Committee, was that the UK ministers did not consult the Scottish ministers or the Scottish justice agencies on the matter. Although 35 of the measures were ultimately opted back into, I would hate to think that we are about to see that model again. If we did see it, that would be bad news for law enforcement, the judicial network, our civil law and our contractual law, and it would be good news for those who seek to circumvent the law—most commonly criminals. The benefits of the European arrest warrant are well understood.

The issue of taking evidence was raised by my colleague Claire Baker, and there have been developments in that field both in this jurisdiction and elsewhere—another opportunity that could be lost.

The briefing from the Law Society of Scotland, for which I am grateful, talks about stability in the law and says:

“The primary objective of judicial security and police cooperation is the safety of the citizen, as a guiding principle there should be no change to the law which would prejudice the safety and security of the individual.”

We simply do not know. At the moment, lots of guessing is taking place. Going back to the Lisbon agreement, the concern was that, if that had not been concluded in time, we needed reassurance in Scotland about the potential gap in legislation. I think that a big gap is potentially opening up.

The Scottish Green Party will support the Labour Party’s amendment, because we think that it is important that there is analysis. It is also important that we consider the issue of transitional

arrangements. For any piece of legislation, we know what has happened in the past and we can perhaps agree what is going to happen in the future; all the complexity is in the transition.

The Scottish Green Party will support the Scottish Government’s efforts to ensure the following for people living in Scotland: that their democratic wishes are respected; that they have access to a quality legal system that co-operates with others; and that their security is assured, which is best achieved by conflict resolution. We believe that all those things are being put at risk by Tory recklessness.

15:36

**Gil Paterson (Clydebank and Milngavie) (SNP):** I must say that I am a bit disappointed that Jenny Marra suggested that the Parliament should not be discussing Brexit, but that we should leave it to the Tories.

**Jenny Marra:** I did not say that.

**Gil Paterson:** Well, that is what I took from what you said.

**The Deputy Presiding Officer:** If the member wants to take an intervention, it might be better if he did that; otherwise, what Jenny Marra is saying is not on the record—he is having a wee conversation with the air.

**Jenny Marra:** Will the member take an intervention?

**Gil Paterson:** Of course I will. I am sitting down.

**Jenny Marra:** I thank the member for giving way. If he reads the *Official Report*, he will discover that that is not what I said. I said that it is perfectly legitimate and important for the Scottish Parliament to discuss Brexit, which I said is one of the most important political issues of our time. However, I said that we need to balance that with issues that are affecting our communities every day, up and down the country.

**Gil Paterson:** I thank Jenny Marra for her intervention. I thought that her speech was otherwise very good, but it came across to me that she was saying we should sit down and let the big boys and girls get on with it.

I would like to set the scene by quoting from the Tory amendment. Tory members are asking the Parliament to acknowledge

“the vote to leave the EU”.

Let us get one thing clear: the Scottish Parliament acknowledges the vote of the people of Scotland, who voted to remain. I will not acknowledge any time soon, while I am in this chamber, a vote to leave the EU.

**Douglas Ross:** I am sure that a lot of people will be worried because Mr Paterson does not recognise the result. However, does he agree that it was a fair, democratic decision across the United Kingdom and that the question was about whether the United Kingdom should leave the European Union? Does he also agree that, although Scotland voted to remain, in some constituencies the vote was very close? In Moray, where I reside, there was a difference of 122 votes between the vote to leave and the vote to remain. The simple picture that is painted by Mr Paterson and his colleagues is not quite true for all of Scotland.

**Gil Paterson:** My point is that, before the referendum, the Tories were out there telling us all to remain, yet it seems to me that they are very good at making surrender speeches and hoisting the white flag. They became complete converts to Brexit, in my view.

Thanks to the Tory members putting their party disunity before the best interests of the people, Scotland faces uncertain times, including for our distinct justice system and the wider way in which we engage with other EU members on security. It is interesting that the Tories want to protect the union but ignore the act on which the union was formed. The United Kingdom is meant to be a union between Scotland and England, and it is right that, regardless of what one of those equal partners says, its views and democratic will should be considered and not ignored.

In common with other areas, justice and parts of the security system are devolved under the Scotland Act 1998. The implications of the Brexit process mean that Scotland cannot be treated as a simple consultee or stakeholder. The powers that the Scottish Parliament has will be affected and, as I mentioned earlier, we are meant to be an equal partner.

It needs to be highlighted that the Scottish Government and our justice agencies are working within the restricted security powers of this Parliament. With our current powers and the new powers, there will always be a ceiling beyond which the Parliament cannot go. In my view, the powers above that ceiling are the ones that will ultimately unlock Scotland's potential to engage with European and international partners, which will allow the Government and the Parliament to make decisions to ensure that all our foreign justice and security policies are aligned with our objective for Scotland of being an outward-looking and prosperous nation.

We have a unique and independent justice system. If Scotland is not formally part of the negotiation process with the result that we cannot put forward our concerns to the wider EU, our interests in such matters might not be fully

protected. With the advent of the internet, the speed of globalisation and the fact that all forms of transport are available on our doorstep, it has never been more imperative that Scotland works as part of the wider EU community to fight crime and protect our citizens.

As part of the EU, the UK is a member of Europol, so Scotland's police and justice agencies work co-operatively with other member states on vital operations such as combating human trafficking, child sexual exploitation and cybercrime. When criminals are identified, Europol—on behalf of us all—issues European arrest warrants. Such warrants have brought about the arrest by Police Scotland of 301 offenders, 43 of whom have been returned to Scotland to face justice.

It is my understanding that, under new arrangements, the UK has until 2017 to accept a new regulation, and that failure to do so would mean that the UK's—and therefore Scotland's—membership of Europol would come to an end.

**Liam Kerr (North East Scotland) (Con):** Would Gil Paterson care to tell the chamber how many non-EU countries Europol has co-operation arrangements with?

**Gil Paterson:** I am sure that Mr Kerr will tell us. I ain't going to kid him on and say that I know what the figure is.

I do not need to tell members how disastrous the ending of our membership of Europol would be for information sharing on some of the more serious crimes. If the Prime Minister will not listen to the elected Scottish Parliament and end the uncertainty, maybe she will listen to the member for Edinburgh Central.

The Scottish Government has a duty to respond to the democratic wishes of the people of Scotland, and it will take all possible steps to protect Scotland's interests. If we find that our interests cannot be protected in a UK context, independence must be one of the options that Scotland has the right to consider.

I commend the cabinet secretary's motion to Parliament.

15:43

**Liam McArthur (Orkney Islands) (LD):** I associate myself with Douglas Ross's remarks about PCs Lawson and Fitzsimmons and echo his wish for them to have a speedy recovery.

Last week, I participated for the first time in the now weekly debates on Brexit and I now have the second opportunity to do so in as many weeks. As I suggested in last week's debate on the environment and climate change, I do so willingly



and enthusiastically but against the backdrop of the fact that, as Jenny Marra said, there is no lack of issues in the wider justice and policing field that are unrelated to Brexit that must be the focus of our attention as well. Not a week goes by without further concerns being raised about the situation that Scotland finds itself in following the centralisation of the police force. The courts and the judicial system are under great pressure and, as the Justice Committee heard last week, that is not helped by the Scottish Government's decision to close sheriff courts.

Tomorrow, we will turn our attention in the chamber to the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, which is a blunt and rushed piece of legislation from a Government that showed insufficient respect for the Parliament, civil liberties and the complexity of an issue on which it had taken its eye off the ball.

That is not to diminish in any way the challenges that are presented by the Brexit vote. As I did last week, I attribute the lion's share of the blame for that to the Tory party for its failure to deal with its internal dissension. The decision was inward looking and a backward step.

Claire Baker made a valid point about the debate that led up to the Brexit vote, which was tarnished by the focus on immigration. It is regrettable that Margaret Mitchell, for whom I have the utmost respect, was at times in danger of reprising some of the argumentation that we heard in that debate. For the record, it should be recalled that the 7/7 bombers were British citizens and the bombers in Paris and Nice were French and Belgian citizens.

That reminded me of a quote from Professor Malcolm Anderson, the emeritus professor of politics at the University of Edinburgh. He said:

"There is a significant difference between 'feeling secure' and 'being secure': although people may feel more secure if 'we take back control of our borders' and have British border police checking on all foreigners coming into the UK, their security may in reality be better protected by the free movement of persons in the EU conjoined to close cooperation between police and security forces in partner countries."

To turn to the concerns that have been raised, I do not think that anybody disputes—this is implicit in the Tory amendment—that justice and policing is one of the areas in which closer co-operation and collaboration have worked and should continue to work. The excellent SPICe briefing is striking in demonstrating the incremental nature of building co-operation. That is highly appropriate in such a sensitive area, where public assurance is needed. That probably reflects the point that John Finnie made about seeking collaboration and co-

operation in an area in which very distinct legal systems are brought together.

Looking ahead, there is obviously a lack of clarity about what precisely Brexit will mean and how, if at all, the situation can be salvaged through new agreements or falling back on other existing treaties. Brexit seems to me to open up uncertainty, delay and obstacles that are wholly unnecessary in return for little or no benefit.

I turn to policy specifics in criminal justice and policing. Collaboration has allowed mutual recognition of criminal judgments and judicial decisions, and has provided the underpinning for the European arrest warrant, which other members have referred to.

In the earlier conversation with John Finnie, I was not talking about proportionality in terms of numbers; I was talking about it more in terms of the thresholds. The thresholds that trigger extradition, possibly from the UK to other member states, have appeared to some lower than they are the other way round, and that is worthy of further discussion.

**John Finnie:** I understand and recognise that, but that simply further evidences the need for international dialogue and co-operation.

**Liam McArthur:** I thank John Finnie for that intervention, with which I whole-heartedly agree.

The collaboration has allowed the exchange of information between law enforcement agencies and judicial bodies. At best, we have been promised restricted access to Europol and Eurojust. The exchange of intelligence, assessments of risk and joint action to combat the threat of serious and organised cross-border crime as well as terrorism are not best served by the route that we are currently going down.

On civil justice, collaboration and co-operation have allowed the determination of which member state courts have jurisdiction over civil or commercial cases. On cross-border family law cases, which are increasingly characteristic—that reflects the make-up of our societies in the 21st century—collaboration and co-operation allow for the determination of which court is responsible for divorce, custody and access; ensure the recognition and enforcement of decisions in other countries; and, as Claire Baker intimated, allow some sort of redress where a partner has taken a child across a border against the wishes of the other partner.

Collaboration and co-operation also allow maintenance rules to be agreed, and they streamline and speed up the insolvency and small claims processes in commercial law. Nothing of what the UK Government has promised to date seems to offer anything like as good a deal.

UK citizens have the prospect of no longer being protected by the decisions of the European Court of Justice. I recognise that that been a bit of a *bête noire* for many in the right-wing press and politicians alike, but it is and always has been a bulwark in the safeguarding of the rights of EU citizens against an unwieldy state in recent decades.

The SPICe briefing fairly recognises Scotland's separate legal system and all that it entails, which means that specific Scottish issues will arise in relation to negotiations with the EU in the field of justice. That needs to be acknowledged, respected and reflected in what follows the vote in June. As I said earlier, there is no lack of issues that are in urgent need of addressing with regard to justice and policing in Scotland and I hope that we will have an opportunity to turn to those in due course.

Dealing with the mess that has been created by the failure of the Tories to deal with divisions in their own party is something that we could have well done without but, in the context of where we now find ourselves, I am happy to confirm that the Scottish Liberal Democrats support the motion and the amendment in the name of Claire Baker.

15:50

**Gordon Lindhurst (Lothian) (Con):** Today we find ourselves again debating the potential consequences for Scotland that are supposedly due to our imminent departure from the European Union.

I have previously mentioned in the chamber the stated objective of Police Scotland, which is to continue to protect the Scottish public irrespective of the politics that are being played out. I welcome the preparatory action that was announced by Assistant Chief Constable Steve Johnson of Police Scotland ahead of the start of formal negotiations.

There is no doubt that there will be areas of discussion during the negotiations between the EU member states and the UK Government, but justice and security is an area in which the UK, including Scotland, is particularly strong and the issues at stake are not negotiable. We are talking about people's lives and wellbeing rather than tariffs and trade. It is, always has been, and will continue to be in the interests of all sides to adopt a reasonable and responsible approach in the months and years ahead.

Security is one area in which co-operation spans borders. Threats to Europeans have come into sharp focus in the recent past, as was mentioned by my colleague, Margaret Mitchell. The UK's familiarity with counterterrorism goes back decades to the extent that we have security services that are the envy of the world. Of course,

countries today do not always work on their own. Modern-day trends show that terrorists disregard geographical limits and operate in cyberspace.

However, and as Richard Walton, the former head of the Metropolitan Police Service counterterrorism command pointed out just after the EU referendum,

"Our security does not depend on engaging with the institution of the EU".

Rather, the EU institutions and their agencies are but one platform from which information is shared and the practice will continue outwith the EU's structure. EU member states depend upon the vital information that UK agencies pass on to keep other EU citizens safe. My colleague Margaret Mitchell already quoted from that particularly striking comment by Richard Dearlove, who ran MI6 from 1999 to 2004, and he continued:

"If a security source in Germany learns that a terrorist attack is being planned in London, the Bundesamt für Verfassungsschutz ... is certainly not going to withhold the intelligence from MI5 simply because the UK is not an EU member".

I ask my parliamentary colleagues to give our European allies some credit for reasonableness and intelligent thought. They will not simply refuse to discuss matters on a reasonable basis.

**John Finnie:** Does the member accept that history is peppered with lots of instances in which difficulties have arisen because security services, notably those in the US, have not shared information?

**Gordon Lindhurst:** The member makes a good point but that has, of course, happened even within the United Kingdom and Scotland. It has carried on happening in spite of whatever efforts have been made to ensure proper information sharing. However, I take his point; it is important that security services share information and that should, and no doubt will, continue.

Let us bear this matter in mind when we consider other areas of crime and justice. As a result of the establishment of the principle of freedom of movement, member states have co-operated more fully in justice matters, as, for example, has already been mentioned over the European arrest warrant. If we look at its use in Scotland, we see that, in 2015 for example, there were 78 extraditions from Scotland under an EAW and the conclusion of court proceedings but only nine took place into Scotland in the same year. Whether the UK remains party to the EAW post-Brexit may or may not be a matter for discussion, but it is clear that co-operation to expedite extraditions for criminals who have crossed borders is as much a priority for the EU member states, if not more so, as it is for Scotland.

In areas that the UK has opted into, including in civil justice, negotiations will no doubt take place on how matters develop going forward. Scotland, with a different legal system, as has already been noted, from the rest of the UK, may be affected differently and will be involved, as it always has been, in adding its voices to the discussions. The Scottish Government has previously noted its backing for the mutual recognition of court judgments, but it has also been supportive of UK opt-outs on justice and home affairs measures which it considered

“would not have correctly translated into Scots private law”.

Scaremongering about the consequences of Brexit on the judicial system in Scotland is entirely premature. The European Union is not a nation state. It relies upon the pre-existing and continuing to exist national legal systems, such as the system that we have in Scotland. That will not change when we leave the EU. Leaving the EU will of itself not alter one of the many acts of Parliament or regulations that have effectively transposed EU rules or regulations into our law.

There may be much work to be done in the negotiations on leaving the EU, but the UK and Scotland add a great deal of value in the area of justice and security. I am certain that EU member states will recognise both that and the moral imperative of working together to keep our people safe, irrespective of the political set-up through which we relate to each other. As a witness said, giving evidence today to the Economy, Jobs and Fair Work Committee, we are in danger of becoming obsessed with Brexit. Meantime the nationalist Government sits there gripped by Brexititis. However, I retain hope for the SNP, as hope indeed springs eternal.

15:58

**Stuart McMillan (Greenock and Inverclyde) (SNP):** At the outset, I want to touch on a couple of comments that have been made by other members.

In his opening comments, Douglas Ross spoke about being right and just; seven minutes later, he was complaining about the number of EU debates in the chamber. Liam McArthur and Jenny Marra also touched on the number of debates. I am quite sure that one debate a week is not overly excessive; I do not imagine that anybody could accuse the Scottish Government of being overly excessive by having one debate a week. Certainly, in any other debate that takes place in the chamber, it is entirely up to members to choose the issues that they want to raise.

**Liam McArthur** *rose—*

**Stuart McMillan:** I ask the member to give me two seconds.

If members want to introduce an EU element into their contribution, that is entirely up to them. I do not think that having one debate a week can be considered overly excessive.

**Douglas Ross** *rose—*

**Stuart McMillan:** I will take Mr McArthur, because he was in first.

**The Deputy Presiding Officer:** I call Douglas Ross. [*Interruption.*] Sorry, which one is it?

**Stuart McMillan:** Liam McArthur.

**The Deputy Presiding Officer:** Sorry—I call Liam McArthur.

**Liam McArthur:** Thank you for the recount, Presiding Officer.

I hear what Stuart McMillan says. Expressed in that way, the situation perhaps does not sound unreasonable, but in a Parliament that has three sitting days a week and where the total number of debates is relatively limited, we have had a significant proportion of Brexit debates. That does not diminish the importance of the issues that we are discussing, but the result is that, over the eight weeks or whatever it is since we returned after the summer recess, we have not had an opportunity to debate other issues because of the Government's dominance in determining the Parliament's agenda. It is perhaps getting to the point where—

**The Deputy Presiding Officer:** This is getting to the point where it is more of a speech than an intervention, Mr McArthur.

**Liam McArthur** *rose—*

**The Deputy Presiding Officer:** No—do not get up again, please.

**Liam McArthur:** I thought that you said that we had plenty of time, Presiding Officer.

**The Deputy Presiding Officer:** Please sit down.

**Liam McArthur:** It was in the interests of helping.

**The Deputy Presiding Officer:** As always, but it was still more of a speech than an intervention.

We go back to Mr McMillan.

**Stuart McMillan:** I quite enjoyed Mr McArthur's speech, but we will have to agree to disagree on that particular point. I am sure that if the population of Scotland felt that the Parliament was not considering the implications of Scotland and the rest of the UK leaving the EU, whether in relation to justice or any other issue, they would be rather angry and very disappointed. No doubt, we

as politicians and the Parliament would be laughed out of court by many people across Scotland. It is imperative that the Parliament has the opportunity to discuss the full range of implications of Scotland leaving the EU. It is an opportunity for members to put issues on the record so that the Scottish and UK Governments can consider them, particularly when it comes to the negotiations on our actually leaving the EU.

There is no doubt that Brexit will have differing impacts throughout the UK, which as we know is a multi-jurisdictional state. In Scotland, there will be a specific impact on justice. The UK, as an EU member state, is the entity that signs up to EU treaties and individual EU justice measures. However, Scotland has always had a separate legal system within the UK, with its own civil and criminal law as well as its own courts, legal profession, police forces and prosecution service. In addition, most police and criminal justice matters are devolved under the Scotland Act 1998, as are most aspects of civil law.

Given that Scotland has a separate legal system, specific Scottish issues will arise in relation to negotiations with the EU in the justice field. Safeguarding our independent justice system demands that Scotland is involved in all negotiations between the UK Government and the EU, and is not just a consultee.

The consequences of Brexit are unclear. Much will depend on the outcome of the future negotiations. Consequently, current reactions to the decision to leave the EU may, by their nature, involve elements of speculation and are subject to change. Although there are differences of opinion, there are arguments that the new arrangements have the potential to be more complicated, expensive and time consuming than the existing regime.

There are important questions about what Scotland's role will be in the process, given that Scotland has its own legal system with its own civil and criminal law, as well as its own courts, legal profession, prosecution service and police force. Although the Scottish Government does not have international relations powers—which rules out our having international treaties with the EU—it is permitted to observe and implement international obligations, including under EU law.

Claire Baker stated that “Crime knows no borders”, which is a fact that every single member in the chamber needs to recognise. It appears likely that Brexit will have a vast impact on the remaining areas of EU police and criminal justice policy, such as mutual recognition of judgments, exchange of information and participation in EU agencies.

As regards the EU agencies, the UK will, like other non-EU countries, be able to enter into agreements to co-operate with Europol and Eurojust. However, as the director of Europol, Rob Wainwright, has recently made clear, such agreements do not allow the UK to have direct access to databases, to lead investigation teams or to take part in the management of those agencies. We have to remember that Europol and Eurojust have had British directors.

The importance of the exchange of information and intelligence was recently stressed by Assistant Chief Constable Steve Johnson, who has responsibility for organised crime and counterterrorism in Police Scotland. We have heard various examples from members about how co-operation across the EU has helped Scotland and justice. Europol plays an important role in helping to keep our citizens safe from organised crime and terrorism, and it helps to make our communities safer places to live and work in.

The European arrest warrant is an essential tool in the fight against crime and terrorism in the EU. More than 500 cases have been heard in Scottish courts since 2011 as a result of the European arrest warrant, and nearly 400 people have been extradited from Scotland under the warrant to face courts elsewhere in Europe. That is a perfect example of how working together with our friends and allies in Europe helps to keep us safer. It is unacceptable that that has been put at risk thanks to the irresponsible actions of the Tory Government.

Those who use the Paris and Brussels attacks to claim that Brexit is safer are not only being populist in the worst way but plain wrong. Internal security is not linked only to Schengen borders. The attacks in Paris in November 2015 and in Brussels in March 2016 were carried out by European terrorists. They all had European passports. The main problem that Europe has to face right now is internal. To protect our own security, we should work on preventing radicalisation and the recruitment of European citizens by terrorist organisations.

Closing the UK's borders even tighter would not change anything. In a globalised world where capital, humans and merchandise can go nearly anywhere, it is not feasible to fight alone. All security experts agree: we need to move towards a systematic exchange of information, and our secret services need to work hand in hand with one another.

Rob Wainwright, the director of Europol, confirmed that the UK would be more vulnerable to attacks and organised crime if Brexit were to happen. Access to Europol databases, participation in Eurodac, which is the European fingerprint database, and use of the passenger

names record—all are tools that come under European law. Countries that are not members of the EU can contribute under an opt-in system. However, no one has the answer for certain, and the issue remains blurry, obscured by uncertainty about post-Brexit terms. The UK Government must confirm that it will do everything that it can to ensure that vital cross-border co-operation on law and order continues.

The Scottish Government has a duty to respond to the democratic wishes of the people of Scotland, and it will take all possible steps to protect Scotland's interests. We must also keep all our options open, which in the first instance means exploring options that would allow different parts of this multinational UK to pursue different outcomes.

16:07

**Lewis Macdonald (North East Scotland) (Lab):** There are few better examples of how the European Union has changed and developed in recent years than in the field of justice and security.

The EU began life as a customs union and free trade area and grew into a single market. Its focus was at first an economic one. However, as Joan McAlpine said, if a single market covering so many separate jurisdictions was to work, the need for a common approach by the law courts in those jurisdictions to an ever wider range of issues quickly became clear. Once that was acknowledged, it made sense to develop ever greater judicial co-operation, not only on issues affecting trade and investment but increasingly across the field of civil law.

The very real threats faced by all European countries since the turn of the millennium, which many members have mentioned today, have made the case for co-operation on policing and criminal justice unarguable—in particular, in fighting international crime and terrorism.

Membership of Europol, as opposed to talking to it from outside, allows even closer partnership working among police forces in EU member states than working through Interpol alone. That is bad news for criminals and good news for law enforcement.

The same applies to Eurojust, which, as the cabinet secretary said, co-ordinates the work of the prosecuting authorities across boundaries to a degree that simply does not happen with countries outwith the EU. Most obviously of all, it also applies to the European arrest warrant, which transcends national boundaries so that fugitives from justice can be caught and returned to stand trial in the country from which they had fled far more quickly than can be achieved under extradition agreements with other countries

around the world. John Finnie gave some very good examples of that, and Claire Baker also spoke about it.

All those areas of co-operation and others were supported by every party of government in both Scotland and the UK before the Brexit referendum, and supporting them remains in the national interest today.

It is deeply concerning that ministers in the current Tory Government have not yet signed up to the new powers that have already been agreed for Europol, which are due to come into force in May next year. As long as we are in the European Union, we should surely take advantage of its benefits, and co-operation across the police forces in Europe is surely one of those benefits. If nothing else, I hope that the Scottish Tory party will support that sign-up today and use this opportunity to urge its colleagues elsewhere to take the necessary steps to maintain full membership of Europol for as long as we are members of the EU.

I am sorry that Douglas Ross is not in the chamber at the moment, because he was keen to tell us that a UK minister is to make a statement on the issue shortly. I hope that either he or one of his colleagues will tell us that they want that UK minister to stand up in the House of Commons and pledge to sign up to the new powers for Europol so that we can enjoy those benefits over the immediate period ahead. Perhaps we will hear something on that later on this afternoon.

**Michael Matheson:** Will the member give way?

**Lewis Macdonald:** Of course, although I would far rather give way to a member of the Conservative front bench.

**Michael Matheson:** I note that Mr Ross is not present.

One of the central points about making a decision on Europol is the time and resources that are necessary to put in place joint investigation teams. The delay on the part of the UK Government means that officers in Police Scotland who are seeking to engage with other EU states through Europol are already finding that other member states are saying that, because the UK might not be a member of the organisation come the end of next April, they are not prepared to start to engage in that discussion at this point. That is why we need a quick decision on the matter, rather than delay.

**Lewis Macdonald:** Mr Matheson makes a strong point. I note that Mr Ross has returned to his seat. Perhaps we will now hear that the Conservative front bench in the Scottish Parliament believes that the UK Government should sign up to Europol's new powers, which have already been negotiated. Mr Ross has an

opportunity to make that clear today, if he so wishes.

As we have just heard, the Scottish Government has already made that case, and that is welcome. Of course, however, we also need to hear from Scottish ministers how they propose to take forward the issues beyond that of Europol's new powers, and what they are proposing to their UK counterparts as the basis for our future co-operation with EU member states.

As a number of members have said, Scotland has continued to exist as a separate jurisdiction with our own system of law and justice through hundreds of years of economic and political union with our nearest neighbours. It is, therefore, essential that the Scottish Government engages fully in the formulation of the United Kingdom's approach to negotiations in the justice field, not least in order to ensure that what is ultimately agreed recognises Scotland's distinct position.

**Stuart McMillan:** Does Lewis Macdonald agree that having these debates creates an opportunity for the Scottish Government to listen to the issues and the concerns of all members, so that, when it has conversations with the UK Government, it can put those views forward?

**Lewis Macdonald:** Yes, that is vital. As Jenny Marra said, we are talking about one of the most significant political events of our lifetime, and it is vital that the Parliament fully considers the issues. However, as Jenny Marra also said, it is equally important that the Parliament and the Government maintain a clear focus on the areas for which they are directly responsible in our communities. I hope that we will have those debates in this Parliament as well.

With regard to the formulation of the Scottish Government's approach to negotiations with UK ministers, it is important that there is wide consultation about the implications of Brexit, about the needs of the justice system and about how best to deliver what the justice system needs, given the political context that has been set by the referendum. We have heard something about that consultation from Mr Matheson today, but I hope that we will hear more at the close of the debate not only about the various stakeholders whom ministers have consulted but about what the Scottish Government has concluded from those consultations and what it will propose to UK ministers in order to protect Scotland's relationships in Europe. After all, there are plenty of thorny issues for ministers in both Governments to address.

The word "bespoke" has been much used by Tory ministers. However, UK participation in European justice arrangements is already bespoke. The Treaty of Lisbon allows the UK

specifically to opt into or out of most of the arrangements, more or less at will. Of course, as we know and as we heard today, UK Governments of all parties have opted into some of the critical arrangements.

It was concerning to hear some of the Parliament's Tory members today appearing to make light of some of the vital forms of co-operation that have been supported by Tory ministers in the past. We can only hope that, in the UK Government, wiser counsel will prevail, because some of the things that all parties have signed up to in the past remain just as important today.

However, even if wiser counsel prevails in Theresa May's Cabinet, the issue becomes just how difficult, destructive and time consuming it will be to keep the arrangements that we have already signed up to while we leave the EU itself. It has been said that co-operation on policing and the courts is not confined to EU member states. Norway, Iceland and Switzerland are members of the Lugano convention, for example, which supports the enforcement of judgments in the civil courts; there are plans to extend a form of the European arrest warrant to Norway and Iceland; and other countries, such as the United States, Canada and Australia have co-operation arrangements with Europol, Eurojust or both.

However, as with access to the single market—of which Norway, Iceland and Liechtenstein are members—third-party agreements do not allow external partners to decide the rules of engagement or play a full part in the policy process. If we were to join Margaret Mitchell's long list of external partners of Europol, for example, police officers here would, as Stuart McMillan said, lose access to some of the powers that they currently have. In particular, Scottish, English, Welsh and Northern Irish forces would no longer be able to provide senior managers for Europol to influence the organisation's direction.

All of that has serious implications for the police and the courts in Scotland and throughout the UK. We need to know from UK ministers whether and how they propose to retain the benefits of our existing European arrangements on justice, and at what cost. We need to know from Scottish ministers what proposals they will make to UK ministers in the justice field and what scope there is for continuing Scottish engagement with European partners. Those are not abstract issues; they impact directly on people's lives. That is why we need to focus on what can be done now and in the longer term to protect the victims of crime and the integrity of our justice system.

16:16

**Liam Kerr (North East Scotland) (Con):**

Security is one of the fundamentals of society and we need not be internationalists to accept that the chamber should note that international co-operation is necessary to combat cross-border crime and terrorism and should promote Scotland's willingness to continue to collaborate with European partners. The United Kingdom must seek a continuously strong relationship with the agencies that keep our people safe.

We must go further, though. Emblazoned above the steps of Britannia royal naval college in Dartmouth are the words:

"It is upon the Navy, under the good providence of God, that the Wealth, Prosperity and peace of these Islands and of the Empire do mainly depend".

That is as true today as it was 211 years ago this week, when the British fleet prevailed at Trafalgar, which all but ended Napoleon's ambitions to invade these islands.

**John Finnie:** Does that include having an aircraft carrier but no aircraft that can go on it?

**Liam Kerr:** I will come to the defence of these islands shortly.

Napoleon's ambitions were ended as Britain was protected by her best bulwarks: her impregnable floating wooden walls. The walls long ago ceased to be wooden, but they do exist. They exist in our place as part of the United Kingdom at the top table of NATO; in our place as a permanent member of the United Nations Security Council, which allows the UK's voice to be heard on a global stage alongside China, Russia and the United States of America; in our membership, as the UK, of the vital five eyes intelligence network with the USA, Canada, Australia and New Zealand; in maintaining as the UK a well-resourced Government Communications Headquarters, which has foiled seven serious terror plots in the UK in just one year; and, of course, in the UK's Royal Navy, Army and Royal Air Force, which, through the UK Government's strategic defence and security review, we have pledged to support by spending a minimum of 2 per cent of Britain's gross domestic product on defence in every year of this UK Parliament, with at least a 0.5 per cent rise in defence spending every year. We commit more to common European security than any other NATO member does other than the United States.

As we sit here today, just down the road in Barrow-in-Furness people are cutting steel for the wooden walls of the 21st century: HMS Dreadnought and her sister boats, which are to be based at Faslane and built to carry the next-generation Trident replacement weapons system. They will ensure not only the future security of this

country but the economic security of the surrounding area, as they will secure more than 6,000 jobs at the Faslane base alone and many more in the surrounding area.

Let us not forget the order for eight new type 26 frigates for the Royal Navy, which the UK Government has guaranteed will be built on the Clyde and which will create hundreds of jobs for the local population. Where our amendment calls for our security to be preserved, this is what we resolve: the maintenance of those great cornerstones as part of the United Kingdom—I stress the word "united".

A divided Europe is bad not just for this continent or this island but for the world, and that is why, despite Michael Matheson's suggestion that we will be walking away post-Brexit, the United Kingdom will be Europe's closest ally and friend. It is why France and Great Britain signed the Lancaster house treaty in 2010, as a result of which the two countries hold regular joint exercises and collaborate on next-generation military technology. It is why, since 2002, as part of combined task force 50 and operation enduring freedom—Horn of Africa, British ships have sailed with our NATO, European and other allies off east Africa to protect the world's shipping from piracy. It is why we see a Europe that is sheltered and protected through NATO as our best defence against the key threats that we face collectively in 2016. As the Prime Minister has said, security co-operation existed long before the EU and it will exist long after it.

For many of our European cousins, especially those to whom war or occupation is not a page in a history book but a lived experience, seeing ancient enemies sitting around a table under a common flag must be a sight that they prayed for and never thought to see. However, let us look at what is happening in Europe. Only last month, the President of the European Commission, Jean-Claude Juncker, announced to the European Parliament that the time had come for a joint European military headquarters and battle group to be formed—a permanent EU facility for a joint European defence force, which would cede UK command and control of our military to Brussels.

Stuart McMillan brought up the attacks in France. The French and the Belgians are still arguing about intelligence sharing between them—the French accuse the Belgians of allowing home-grown terror to grow unwatched and untapped in the communes of Brussels, while the Belgians accuse the French of refusing to share vital information that might have led to them intercepting the Paris and Brussels bombers before they struck. One French intelligence chief said:

"The Belgians just aren't up to it."

Our security depends on Scotland's membership of the United Kingdom. If Scotland separated from the United Kingdom, would it commit to spending 2 per cent of GDP on defence? Would it commit to joining NATO if NATO insisted on Scotland allowing nuclear submarines in its waters? If Scotland separates from the United Kingdom, it will not be part of the five eyes network, have a permanent seat at the UN Security Council or automatically benefit from the treaties and alliances on defence and security that the UK has signed with other sovereign nations.

It is clear that the security of our nation depends on our membership of the United Kingdom, allied to, working with and supporting our European partners. It does not depend on membership of the European Union. Our amendment acknowledges the good in the Government's motion, but we go further. We ask the Parliament to acknowledge the greater value to our security of being part of the United Kingdom and call on the Scottish Government to positively engage in shaping the UK's negotiating strategy for leaving the European Union.

16:23

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I gently disagree with Liam Kerr. The person who really defeated Napoleon was a guy called George Scovell, who was Arthur Wellesley's code-breaker. George Scovell broke Napoleon's *le grand chiffre*, and thus, in the peninsular wars in 1812, the man who became Lord Wellington knew exactly what Napoleon's plans were.

In the modern world, perhaps the use of, access to and protection of data will be equally important, and important things on the European stage relate to that. Government Communications Headquarters was the home of public key cryptography: Crookes and Clifford Cocks were the original inventors, although now its invention is attributed to the 1977 Massachusetts Institute of Technology patent in the name of Rivest, Shamir and Adleman. The secrecy of GCHQ meant that the UK was denied the commercial advantage and intellectual approbation of the world for inventing the software and algorithms that continue to protect our data to this day.

If we cut ourselves off from the world in the way that it appears will be the case, we will not be in a position to develop the means to make and to break cryptography. When we are dealing with crime, we need to be able to break into the codes and encryptions that criminals use and we need to produce robust protections for our data, because that is the very basis of our national security.

Rather than involving the old arguments about hardware, the future will be much more about fighting cyberwars and cybercrime. With people from around the world coming to our universities to share their intellect and their ideas, we are in a position to develop the kind of protections that we need. However, with the cutting of ties to European institutions and the setting up of barriers to the free movement of people, we will not have the intellectual and multinational capacity to fight the world in the internet.

The internet *de facto* knows no boundaries; it creates commercial, intellectual and cultural opportunity, but it also creates threats to which we need to respond. The internet is a place with fewer rules than we would probably put in place if we developed it from scratch today. It enables people to create spoof emails, it enables phishing attacks by spoof websites and, with wi-fi moving into domestic things such as fridges and lights—the internet of things, as that is now called—it creates further vulnerabilities that require international collaboration.

Only last week, an attack by a bot infected many pieces of domestic equipment and wi-fi via the internet, and it brought down the domain name server that allows people to access Twitter. Some of us might think that having Twitter off the air for four or five hours is probably a very good thing. However, that attack is indicative of the threats that will exist in the future from the activities that can take place on the internet.

We must not pretend that the world of the future is one where barriers will be more controllable than they were in the past; they will be more permeable than at any time in recent history.

Terrorism is not a new thing. The Metropolitan Police special branch was founded in 1883 in response to the Irish republican brotherhood—a domestic terrorist organisation in the United Kingdom, which included Ireland at that time.

International terrorism existed then, too. In January 1911, Winston Churchill attended the siege of Sidney Street, where Latvian revolutionaries—who had been conducting a series of bank raids—had holed themselves up. Special branch and the Army were there to dig them out. Churchill claimed that there were lead bullets in his astrakhan coat from peering from behind the wall to see what was going on and getting himself shot at—whether that is true is perhaps a matter for debate.

In more recent times, we had the Balcombe Street siege in London in 1975, which again involved Irish terrorism. We had the Baader-Meinhof gang in Germany and the red brigades in Italy, both of which were entirely domestic. Terrorism crosses boundaries, but it can also grow



in communities that are not socially adept at responding to changes.

We have just been through the fifth referendum organised by central Government. The first was in 1975, although there was also a referendum on the League of Nations in 1934. That one was organised by the churches, but everyone in the UK voted. We are now discussing the impact on the justice system of the most recent referendum. Let us go back and think about what that referendum was about.

The question on the ballot paper was a simple one: should the United Kingdom remain a member of the EU or should it leave? That was all. It was not a referendum on immigration, the single market or the European convention on human rights. In fact, the question that we were asked made no reference to matters of justice, the economy or a wide range of other areas. Therefore, we should not read into the result the idea that it tells us that we should leave the single market or unsign the European convention on human rights, which—as Claire Baker reminded us—was very much the brainchild of Winston Churchill, who was at that time a distinguished Conservative member and former Prime Minister. We cannot look at the vote and decide what it means.

Margaret Mitchell told us that we should not reveal anything about our negotiating hand. I predict that, if we go into the chamber where the negotiations take place with a blank sheet of paper, we will come out with a blank sheet of paper.

16:31

**Mary Fee (West Scotland) (Lab):** In closing for Scottish Labour, I welcome the opportunity to debate the serious consequences of the referendum on EU membership and I reiterate our support for the Scottish Government throughout the negotiations to protect our shared interests and in particular the national interests of security and justice.

The Government motion spells out clearly the benefits that we have come to expect from being part of the European Union, from membership of Europol and the European arrest warrant scheme to consumer protection laws and family law regulations. We will support the motion tonight, and I am pleased that the Government has indicated that it will support our amendment, which

“calls on the Scottish Government to undertake a full analysis of the impact of leaving the EU on Scotland’s independent justice system”.

We know that, throughout the upcoming negotiations, the Scottish Government will be a serious and willing partner in protecting our

interests, and the Prime Minister and her army of Brexiteers must respect that.

We heard earlier from Claire Baker, Jenny Marra and Lewis Macdonald, who all share a deep concern for our membership of Europol and Eurojust. As Jenny Marra said, Scotland has a unique justice system, and we must ensure that it is protected and that there are no unintended consequences. Police Scotland needs our support to continue with cross-border investigations and to access the shared resources that enable us to fight cybercrime, drug smuggling and selling, terrorism and human trafficking. Those crimes and their perpetrators do not recognise or respect borders or legal jurisdictions.

Prior to the referendum in June, many security experts warned of the potential dangers of retreating from Europol, Eurojust and other cross-border agencies and agreements. Rob Wainwright, the director of Europol, warned in the days leading up to the vote on 23 June that leaving the EU would result in Britain becoming “a second-tier member”, which would risk the shared resources that police forces across the UK use. He pointed out that, last April, the UK became the first non-Schengen nation to gain access to the Schengen information system after negotiating a special deal, noted that British police now use the database daily and commented that it could take years to strike a new agreement.

Philipp Amann from Europol commented that British police will find it

“more complex to achieve the same that they can achieve now”

after leaving the EU. We know that the Cabinet Secretary for Justice recently met the director of Europol, and we extend our support to encourage the Home Office to accept Europol’s new and expanded remit.

One of the problems with the EU result is the uncertainty. Until the Brexiteers show any sense of direction or give any kind of plan, the rest of the country will continue—rightly—to demand answers.

Scotland has a unique position in the UK, given our different legal system, so the SNP Government must be clear in advance of any negotiations what its goals and objectives are and lay those out to Parliament. We need to know which aspects of EU law our justice system uses and what impact the Scottish Government would expect to see if we were to lose those powers. As a Parliament, we must unite and speak with one voice to ensure that we do not put our security at risk.

As a former Home Secretary, Theresa May knows that Brexit will put key protections at risk

and make it harder for Police Scotland and the security services to do their jobs. We must ensure that our country's security is not jeopardised by this Tory gamble.

On civil justice, I ask the Scottish Government to inform the Parliament how it plans to secure protections on human rights, maintenance rights and cross-border family law.

The previous UK Labour Government made hugely significant strides in protecting our rights through the Human Rights Act 1998. We now have the hard right in the Tory Government determined to strip away those rights and leave many people more vulnerable and at risk.

Labour helped many single parents to receive the support that they needed through the Child Support Agency and, with a more diverse society, many more families involve parents of different nationalities. In the unfortunate event of the disintegration of a family unit, it would be a tragedy for a family to lose out on maintenance support if one parent were forced to leave the UK.

There are still many complex issues to arise from the EU result and, for the Scottish Government, lots of strenuous negotiations will take place with a Tory Government that appears to be willing to risk many safeguards and our citizens' human rights.

When people were asked to vote in the EU referendum, many were misled by the arguments of the leave campaign, which sought to split communities and families on issues of immigration and EU contributions. Scottish Labour is committed to maintaining our access to the single market and to the criminal justice mechanisms that protect Scotland and the UK.

No matter how the country voted, nobody voted to put our security and justice systems at risk. Now the challenge is for the Scottish and UK Governments to work together to minimise any impact that Brexit will have on our people's security.

I reiterate our support for the Government motion and ask members to support Claire Baker's amendment.

16:37

**Oliver Mundell (Dumfriesshire) (Con):** I close the justice debate for the Conservative Party as an unapologetic Brexiteer, a proud Scot and—yes—a committed unionist. Nothing that I have heard in this chamber today has shaken my underlying optimism and belief in the boundless capacity, skill and potential that our legal and criminal justice system has to cope with the challenges ahead, and to overcome them. Maybe I have more confidence than the Scottish Government, but

Scotland is not too wee to make a success of Brexit in terms of the justice portfolio and more widely.

However, if we are to achieve that, we need to stop dithering and to start looking for and putting in place the correct transitional measures, and exploring the opportunities that exist. That is a task not just for the UK Government, but for the Scottish Government—in particular, within the justice portfolio because, as Mary Fee eloquently said, Scotland has a separate legal system. The SNP is trying to pull the wool over the eyes of the people of Scotland: its saying that considerations about what is best for the Scottish legal system would be left to Westminster to decide is a little bit pathetic when responsibility for that is devolved to this Parliament.

What we need from ministers are principled goals and objectives on how we take matters forward for the Scottish legal system and criminal justice in our country. I am sure that Mike Russell will fill us all in and show the UK exactly how it is done.

**Stewart Stevenson:** Margaret Mitchell said that we should not reveal the UK negotiating hand to any degree. Is Oliver Mundell taking a different view in relation to Scotland?

**Oliver Mundell:** Yes, I am. The Scottish Government is in a different position from the UK Government, which will have to go into a room with 27 other member states and make the case on behalf of the whole United Kingdom. The role of the Scottish Government—it can make a real difference for the people of Scotland on this—is to set clear goals and objectives on which it wants the UK Government to deliver, so that people beyond this Parliament can assess whether the deal that is done delivers for people in Scotland.

**Stuart McMillan:** Will the member take an intervention?

**Oliver Mundell:** I want to make a little progress first. I am prepared to come back to the member

I think that we have been shown the way. I have sat through the whole debate and heard countless members refer to the Law Society of Scotland's briefing paper. It is a sad indictment of this Parliament that we are relying on professional bodies to identify the issues and provide the bulk of information and detail on them, while we hear the same speech over and over again, as members trot out lists of grievances and problems without offering constructive solutions.

Maybe I will be surprised during the cabinet secretary's closing speech: we might hear constructive suggestions that we can take forward. However, we have heard no such suggestions yet, after a miserable month—

**Stuart McMillan:** Will the member take an intervention?

**Oliver Mundell:** I want to make a little more progress.

We have had a miserable month of hearing from people that everything is awful, and that if only people would listen to them things would suddenly and miraculously be fixed. However, while the Scottish Government has been running round like Chicken Licken, telling the people of our country that the sky is going to fall in, business people, professionals and hard-working people in our country have shown how to get on with their day jobs, without blinking or buckling.

I think more than ever that the SNP's contempt for Brexit is driven not by genuine concern that the European arrest warrant or Europol systems are under threat, but by self-interest, as Douglas Ross said. If the SNP is to have a credible voice, stand up for the people of Scotland and speak out on legitimate concerns about the future of the justice system, it needs to acknowledge the complexities in the electorate—some of which might get in the way of its slow march towards independence.

For a start, the Brexit debate has broken seemingly unbreakable alliances in the separatist movement, thereby revealing that for a great many people who passionately believe that Scotland should go it alone, that means leaving behind not just the United Kingdom but the European Union. I find it bizarre—I am sure that many members agree—that I feel compelled to speak out on behalf of SNP voters who voted to leave the EU, as I did, and whose views are being completely discounted as the Government pushes ahead with independence as its priority, instead of listening to people's legitimate concerns about the European Union.

**Gillian Martin (Aberdeenshire East) (SNP):** How many SNP supporters have been in touch with the member to ask him to speak for them today?

**Oliver Mundell:** I have a nice simple answer to that: two. I want to get back to my day job, but instead I find that SNP supporters—

**Stewart Stevenson:** Two!

**Oliver Mundell:** Well, it is quite unusual for SNP supporters to want to speak to a Conservative MSP. I think that most people would acknowledge that. I find it odd.

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

**Oliver Mundell:** I am still responding to the previous one. I want to get on with my day job and push the issues that matter to constituents in

Dumfriesshire, instead of focusing only on issues to do with Brexit.

Although Jenny Marra and Liam McArthur will probably want to dissociate themselves from many of my remarks, I agree with them on their points about the need to focus on the issues that matter. Quite frankly, the Scottish Government's record on some of the issues relating to justice is very poor. We are hearing about the closure of police stations, including eight in Dumfries and Galloway.

This is about proportionate use of time. If we were hearing something new and different, or constructive suggestions about how to take the process forward, it might be worth our while to have this series of debates. Instead, however, we seem to be in a loop, making the same tired arguments that were hashed out during the referendum process.

**Stuart McMillan:** Third time lucky. I thank Mr Mundell for taking the intervention.

Surely he can agree that, with the plethora of issues that are being raised because the UK is leaving the European Union, it is imperative that members of this Parliament have an opportunity to have their say and to raise issues and concerns. He has mentioned the concerns of the two SNP voters who have, apparently, contacted him. This Parliament is one of the platforms at which issues can be raised; it is imperative that it has the opportunity to do that so that the Scottish Government can then talk to the United Kingdom Government about them.

**Oliver Mundell:** I agree, but like Stuart McMillan's colleague Gil Paterson, I think that this is about proportionality. How much time do we want to spend talking round and round on the same issues without making any positive suggestions or moving the debate substantially forward? It is essentially the same debate that we have been having on the EU. In its motion, the Government has cut out the word "environment" and inserted the word "justice". The debates are not taking matters forward. We have the same minister coming to the chamber to answer the questions on each of the topics. As members have said, it is becoming a bit like groundhog day.

Stewart Stevenson raised an interesting point about ignoring his own party. Here in Scotland, people want the relationship to change. He said that the result shows nothing, that we cannot read anything into the question that was on the ballot paper and that the referendum does not answer lots of things; however, it shows one thing. It shows that people in Scotland want our relationship with the EU to change. Instead of talking about the benefits of allowing Scottish courts—

**Michael Matheson:** Sixty two per cent voted to remain.

**Oliver Mundell:** Yes—but 38 per cent vote not to remain. If the cabinet secretary wants to intervene, I will be happy to let him.

**The Deputy Presiding Officer (Linda Fabiani):** You have to close, please, Mr Mundell.

**Oliver Mundell:** More than a million voters in Scotland voted to leave. I know—as I have said before—that the SNP wants to airbrush them out of history, but that is more voters than put a cross next to its party leader's name on the second vote—

**The Deputy Presiding Officer:** You must close now, Mr Mundell.

**Oliver Mundell:** In short, rather than hearing that the EU is a utopia, that everything that it ever did was great and that it has a divine right to exist, I want to hear from Scottish Government ministers—

**The Deputy Presiding Officer:** Mr Mundell, you must close.

**Oliver Mundell:** I want to hear from Scottish Government ministers what their detailed plans are for justice and—

**The Deputy Presiding Officer:** Mr Mundell, I ask that when I say that you must close, you close, please.

I call Mike Russell. You have up to 11 minutes, Mr Russell.

16:48

**The Minister for UK Negotiations on Scotland's Place in Europe (Michael Russell):** Thank you, Presiding Officer. I start by genuinely commending Oliver Mundell for his speech. He certainly lifted the debate beyond the depths to which it had sunk with his party, because he addressed the key issue. I want to be quite genuine about this: I am a passionate believer in the EU and will not resile from that, just as I acknowledge the position that he took in saying before the vote that he wished us to leave the EU. That is an advance on some of his colleagues, who are now rewriting the history of their position on the matter. I am a solid believer in the EU, and if Oliver Mundell had been in Parliament to hear me argue for it before the election, he would have heard the same thing as he has heard after it.

We have had half a century of peace in Europe. That is a remarkable achievement. The EU has prevented war and it has been economically beneficial for the whole of these islands. We have only to look at the UK's positions before accession and afterwards to see the remarkable effect that it

had. That cannot be denied. It has been an enormously positive force for social protection and human rights, and can continue to be so.

I could go through all the advantages, and I would be happy to do so in a debate. However, I also want Mr Mundell to acknowledge—because I am dealing seriously with his points, as they need to be dealt with—the democratic imperative to which the Government is responding from the Scottish electorate, which will be a difference between us. The Scottish electorate voted 62 per cent to 38 per cent to stay in the EU. We are responding not just to the mandate that we had in the election in May, in a manifesto in which we specifically said that Scotland's being removed from the EU against its will could trigger an independence referendum, but to the mandate in the referendum, and we are responding to Parliament in preparing the options. We will come to the chamber with the preferred option, as the First Minister has said, but it must be informed by debate, discussion and research. That is one of the purposes of these debates.

**Oliver Mundell:** Does Mike Russell accept—and was it not implicit when Nicola Sturgeon toured the television studios and in comments that she has made several times on the issue—that, although the SNP manifesto talked about

“a material change in circumstances”,

there also needs to be a material change in the fundamental level of support for the proposition of independence for the SNP to have a mandate in Parliament to take that forward?

**Michael Russell:** We have not yet brought an independence referendum bill to Parliament. When and if we bring the independence referendum bill to the chamber, we will confront the issue of support. The manifesto specifically referred to Scotland—[*Interruption.*]

Presiding Officer, it is rather difficult to have a serious debate when the member who is sitting beside Mr Mundell keeps waving his hands in the air. It would be useful if we could address the serious points that Mr Mundell raised, and to which I am responding. Mr Mundell raised the level of the debate, for which I pay him tribute.

When and if the referendum bill comes to Parliament, we will discuss support. However, that was in our manifesto and there is a commitment to honour the decision of Scottish voters. In addition, Parliament has asked us to address the matter, which is why we are having these debates.

I regret that the tone among Tory members has been, “Why are we bothering with these debates?” They are vital and we would have been criticised had we not offered Parliament the opportunity to consider, debate and discuss the key devolved

areas in the context of Brexit in order to ensure I understand, in undertaking the task of representing Scotland in the negotiations, the issues about which members are concerned.

I am now worried, because it appears that the mainstream voice of the Tories on justice is not Mr Mundell, who spoke very well, but Margaret Mitchell. That should worry every member of this Parliament. Margaret Mitchell was the original Brexiteer before the election and is now the Brexiteer who is speaking for the Tories on justice matters. However, I think that saner counsels on justice may prevail. We must recognise the real issues that are at stake and—I say this with the greatest respect to Margaret Mitchell—they are not the issues that she raised. The issues that Liam McArthur, Claire Baker and the cabinet secretary raised are the real issues in the debate.

I will briefly go through those issues. Brexit puts at risk a range of co-operation across both civil and criminal law—in police co-operation that exists for tackling organised crime, in helping to keep our citizens safe and, which is vital, in helping people to live and work across the EU. Liam McArthur drew attention to terrorism, but he went on to draw attention to the family court issues and the commercial law issues that are the bread-and-butter issues for doing business in and living in countries across the EU.

People take advantage of those legal systems and protections day after day. Labour members also drew attention to those. Unless we are in a position to ensure that those legal systems and protections can continue as they are, the disruption will come not in matters of security and terrorism, because those are often matters of domestic activity and protection. The disruption will come when individuals cannot get resolution in commercial disputes, when they cannot sign and enforce contracts, and when they cannot get resolution in matters of family law, divorce and difficult personal matters. There is no reason why those matters should be disrupted. That is at the core of the debate, which is about a series of choices.

We hear from the born-again Brexiteers that, in some senses, what happened was inevitable—it had to happen and the changes had to take place—but that is absolutely not true. We must now consider the balance of advantage. Where does the advantage lie? Is there any great advantage in not being part of, or being only an associate part of, the legal arrangements in question, or is there greater advantage in being part of them? The European arrest warrant is a very important case in point. There are countries outside the EU that have negotiated their own arrangements—Norway and Iceland are examples—but it has taken them far longer to

negotiate and set up those arrangements, and the system operates in a much less satisfactory way for those countries. Parliament has heard repeatedly about cases in which it has been possible for action to be taken almost instantly. That is not just because of the procedures that exist; it is to do with the ability of individuals to co-operate.

The fact that Eurojust's prosecutors sit in the same building as those of the International Court of Justice means that they can build and develop relationships that allow justice—not just family and commercial justice, but criminal justice—to be well served. Why would we disrupt those arrangements? Any weakening of those arrangements will cause disruption.

**Oliver Mundell:** I thank the minister for his kind comments. I will be slightly less kind in reply. I think that he is doing just what I said: identifying issues. We have still not heard a single constructive suggestion about how the Scottish Government is going to protect the rights that he is talking about.

**Michael Russell:** The constructive suggestion that I am putting to Mr Mundell and other members is that we should first recognise the difficulties that exist instead of sweeping them under the carpet and saying that they do not really matter to us. We should then consider what structures we could put in place to avoid those difficulties.

We will bring to Parliament—the First Minister has committed herself to doing this—our preferred alternative, although the better alternative would have been not to have gone down this route in the first place. The best alternative would be not to be in the position that we are in.

**Oliver Mundell:** Does not Mike Russell accept that that ship has now sailed?

**Michael Russell:** That ship has 62 per cent support in Scotland; it has majority support. That is the voice of our constituents, who are saying that they did not want what happened to happen.

**Oliver Mundell:** There is a big difference between saying that the majority of people in Scotland did not want to leave the EU—I accept that that is the case—and saying that 62 per cent of people in Scotland want to disrupt the Brexit process and back the Scottish Government's plan to stir up tensions.

**Michael Russell:** I do not regard representing the issues and interests of the people of Scotland as stirring up tensions. If the Tory party understands representing the interests of the people of Scotland to be stirring up tensions, no wonder Tory members are so bad at their day job, because it is their day job to protect the interests of their constituents and of Scotland. That is what

the Scottish Government will do. On our watch, we will never let down the people of Scotland. [Interruption.] Their vital interests lie in making sure that whatever settlement is reached ensures that their life is not disrupted in terms of prosecution or of the protections that come from the European arrest warrant and from the arrangements on family law and commercial law.

We have an opportunity to make sure that we develop a distinctive position—that is what this series of debates is about. Members who criticise the debates are trying to walk away from their responsibilities. I encourage them to stick with their responsibilities, because it is only through these debates and the discussions that we are having that we will formulate the robust position that Scotland must have to get not the best—unfortunately, the best appears to be eluding us at the moment—but as much as we can for Scotland in the discussions ahead.

## Business Motion

17:00

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-02258, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revised business programme for tomorrow.

*Motion moved,*

That the Parliament agrees to the following revisions to the programme of business for—

(a) Wednesday 2 November 2016—

after

2.00 pm                      Portfolio Questions  
Economy, Jobs and Fair Work;  
Finance and the Constitution

insert

*followed by*              Ministerial Statement: Response to Audit  
Scotland NHS 2016 report, and service  
development

delete

5.00 pm                      Decision Time

and insert

5.30 pm                      Decision Time

(b) and Thursday 3 November 2016—

after

*followed by*              Business Motions

insert

*followed by*              Parliamentary Bureau Motion: Approval  
of an SSI – Council Tax (Substitution of  
Proportion) (Scotland) Order 2016  
[draft]—[Joe FitzPatrick.]

*Motion agreed to.*

## Parliamentary Bureau Motion

17:00

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of a Parliamentary Bureau motion. I ask Joe FitzPatrick to move motion S5M-02259, on the suspension of standing orders.

*Motion moved,*

That the Parliament agrees that, for the purpose of consideration of the Council Tax (Substitution of Proportion) (Scotland) Order 2016 [draft] on Thursday 3 November 2016, in Rule 10.6.5 of the Standing Orders, the second and third sentences are suspended.—[Joe FitzPatrick.]

**The Presiding Officer:** The question on the motion will be put at decision time.

## Decision Time

17:00

**The Presiding Officer (Ken Macintosh):** There are four questions to be put as a result of today's business. I remind members that, if the amendment in the name of Douglas Ross is agreed to, the amendment in the name of Claire Baker will fall.

The first question is, that amendment S5M-02203.2, in the name of Douglas Ross, which seeks to amend motion S5M-02203, in the name of Michael Matheson, on the United Kingdom referendum on European Union membership: impacts on justice and security in Scotland, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### For

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

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)

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

Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 29, Against 93, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that amendment S5M-02203.1, in the name of Claire Baker, which seeks to amend motion S5M-02203, in the name of Michael Matheson, on the UK referendum on European Union membership: impacts on justice and security in Scotland, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

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



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

#### Against

Balfour, Jeremy (Lothian) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (South Scotland) (Con)

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

**The Presiding Officer:** The result of the division is: For 94, Against 29, Abstentions 0.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that motion S5M-02203, in the name of Michael Matheson, on the UK referendum on European Union membership: impacts on justice and security in Scotland, as amended, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

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

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

### Against

Balfour, Jeremy (Lothian) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)

Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (South Scotland) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Thomson, Ross (North East Scotland) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 94, Against 29, Abstentions 0.

### *Motion, as amended, agreed to,*

That the Parliament acknowledges the result of the UK referendum on EU membership in Scotland; recognises the continuing importance of EU membership to Scotland; acknowledges the benefits to the justice system of EU-wide cooperation and the extent to which the current Scottish justice system is shaped and informed by EU law, as well as the benefits to Scotland's mixed legal system, which includes civilian elements; notes that any repeal of the EU justice and law enforcement measures will have an impact on the effectiveness of law enforcement and an increase in costs in law enforcement procedures due to the lack of harmonised systems and standards already established; acknowledges the pivotal role played by EUROPOL in facilitating and supporting the international cooperation necessary to combat cross-border crime and terrorism; resolves to promote Scotland's willingness to continue to collaborate with European partners; calls on the Scottish Government to undertake a full analysis of the impact of leaving the EU on Scotland's independent justice system, to protect against any unforeseen consequences and to fully inform the negotiation process, and calls on the UK Government to ensure that Scotland has a role in the decision-making, as well as full involvement in all negotiations between the UK Government and the EU, to protect Scotland's independent justice system.

**The Presiding Officer:** The final question is, that motion S5M-02259, in the name of Joe FitzPatrick, on the suspension of standing orders, be agreed to.

### *Motion agreed to,*

That the Parliament agrees that, for the purpose of consideration of the Council Tax (Substitution of Proportion) (Scotland) Order 2016 [draft] on Thursday 3 November 2016, in Rule 10.6.5 of the Standing Orders, the second and third sentences are suspended.

## Cub Scouts 100th Anniversary

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a members' business debate on motion S5M-01815, in the name of Jeremy Balfour, on the 100th anniversary of the cub scouts. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament welcomes the 100th anniversary of the Cub Scouts; congratulates Scouts Scotland on a year of fun, adventure and friendship to celebrate the centenary; notes that Scouting began in 1907 and the adventure of Scouting was extended to a younger audience in 1916 when Wolf Cubs were introduced, which later became the Cub Scouts in 1967; notes that Cub Scouts across the country have been holding events to celebrate, including Craigalmond and Braid districts, which both held adventure camps at Bonaly Outdoor Centre with over 150 Cubs at each camp, and further notes that, on 16 December 2016, the date of the anniversary when Wolf Cubs first launched, Cubs across Scotland and the UK will host promise parties where Cubs and former Cubs will retake their promise and launch the next 100 years of Cub Scouts.

17:05

**Jeremy Balfour (Lothian) (Con):** It is a great pleasure to open this members' business debate on the 100th anniversary of the cubs. I thank all the members from different parties who supported my motion. I also give a big welcome to the cubs, their parents and leaders from Lothians who are in the public gallery this evening.

I think that the first public promise I gave was when I joined the cubs a few years ago. I still remember the words:

"I promise that I will do my best  
To do my duty to God and to the Queen  
To help other people  
And to keep the Cub Scout Law".

Scouting began in 1907 and in January 1914 a pilot programme for younger boys, named wolf cubs or junior scouts, was launched. Within 12 months, 10,000 boys had already joined. After a two-year trial, it was decided to give wolf cubs official standing in the Boy Scouts Association. On 16 December, a launch was held in London.

When the cub section was formed in 1916, it was for eight to 10-year-olds, and they were called wolf scouts. It was not until 1967 that the name changed to cub scouts.

Cub scouts have always been at the heart of the community and that has always been part of what they do. During the war, cubs joined many different communities to help out with cooking and first aid, and many of them knitted socks and other things for armed forces in the trenches. When children were evacuated, their cub pack often

went with them so that they had familiar surroundings in difficult times.

Community is still at the heart of scouting today. Last week was the scout community week. Those of us who are slightly older will remember it as bob-a-job week. Cubs helped out with planting bulbs, picking litter and different local events. Cubs have been making a difference in our communities for 100 years.

This year sees a special focus on four key issues: improving the lives of those who are affected by dementia; improving the lives of the disabled; improving the mental wellbeing and resilience of families; and, as a global movement, ensuring that people everywhere have clean water and sanitation.

As well as fun, friendship and adventure, the cub scouts are also being prepared for life. In the cub scouts, young people get a chance to try out lots of different activities and have many adventures. Children and young people get the opportunity to learn to love that type of thing by working together. The cubs believe that adventure is part of a vehicle for that. I remember very clearly that, on my first night, I scraped both knees and got three stitches thanks to the games that we played.

It is good to learn how to play in the woods, to build dens, to go on walks and to go camping. Being in the cub scouts allows young people to take part in individual activities and in team-building by doing things together. They learn how to work out how to take responsibility, make choices and take risks.

Scouting has been and is an activity for all. It has been developing non-formal education for young people for more than a century, and it helps them to achieve their potential. Preparing cubs for their future, whether in higher education or employment, is at the heart of the movement. It is not just preparation for camping; it is preparation for life.

The encouraging thing in Scotland is that the figures are increasing. Figures released in April this year show that, after 10 consecutive years of growth, Scouts Scotland now has the highest membership numbers this century. The continuing popularity of the scouting movement means that there are now 46,095 members in Scotland. That is up by 3.9 per cent on last year and makes the scouts the largest coeducational movement in Scotland. The cubs currently has 12,549 members and was the fastest-growing section. The only reason that they cannot take more is not the lack of children but the lack of adults who can volunteer to look after the packs.

Cub scouts across Scotland are taking part in activities to mark the centenary. Later this month, I

hope to attend my old pack celebration here in Edinburgh. Hundreds of events have already been held this year: adventure camping has taken place and people have learned how to do archery, climbing, giant games and far more.

Later in the year, the official birthday of cubs will be on 16 December—the date when the wolf cubs were launched in 1916. Cubs and former cubs from across the country will retake their promise at 7.16 pm on 16 December to mark the centenary and to launch the next century of cub scouting. Activities will take place across our country.

I am happy that this debate is taking place, and happy to celebrate the 100th anniversary. It is a wonderful milestone. It is a wonderful acknowledgement of youth development. I am proud to be a part of this history and wish the cubs lots of luck with their on-going celebrations.

Here's to another 100 years of growth and making the world a better place.

17:12

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I will start by congratulating Jeremy Balfour on giving us the opportunity collectively and individually to revisit, in my case, the many decades that have passed since I was a boy scout.

A 100th anniversary is very significant. Let me like others wish them a very happy anniversary on 16 December, a very happy birthday.

The purpose of the cub scouts is to support young people in their personal development and empower them to contribute to their community. You may find this difficult to believe, but I was a shy, introverted young man when I joined the cubs—absolutely true, just believe me. The cub scouts were a very important part of my personal and social development.

I learned lots of useful skills: how to make a tinker's oven, so that you could cook a rabbit by coating it in clay, digging a hole, sticking it in the hole, putting a fire on top of it and coming back an hour later and deliciously eating said rabbit. This was prefaced by how to cook a potato by throwing it on a fire and then peeling the burnt bits off afterwards, a start to a culinary expedition that I have continued throughout my life with no success whatsoever, as my wife would tell me.

I have the scars, physical but fortunately not mental, on my body, like so many other cub scouts. They are not, as in Jeremy Balfour's case, on my knee but on the end of my tongue. I had been tied up and I was hopping across the floor. Someone pulled the rope around my legs while I was in mid-air, causing me to pole-axe and, when my chin hit the floor, my tongue was impaled on

my front teeth. The scar is still there; you can come and see it if you wish.

Baden-Powell, who brought the idea of scouting from South Africa and his experiences there, has inspired generations of cubs, scouts, guides and so on.

Corey Tocher, a cub scout leader in Peterhead, exemplifies the spirit of the movement. Just a few months ago, Corey travelled down to London to donate stem cells for the Anthony Nolan trust. He has made a donation that might save somebody's life. His values and the values of the scout movement are part of him and of all who are in his cub pack. Those values translate into a way of life. The promise, which was originally Christian, now encompasses people of all faiths and those of none. The scout movement now allows girls to join the scouts.

The scout law states:

"A Scout belongs to the worldwide family of Scouts."

It continues:

"A Scout has self-respect and respect for others."

In my time, I used to correspond internationally and swap badges, and I ended up with a blanket that was covered in scout badges of one sort or another. That was part of becoming aware of the world and of becoming aware of my potential and the potential of other people.

It is terrific to be able to step back to that period in the 1950s when I was a cub, and it is terrific to see that the organisation continues to grow and thrive to this day. I wish it all the best for the next 100 years.

**The Deputy Presiding Officer:** Thank you, Mr Stevenson. I fear that there is not a queue to examine your tongue.

17:16

**Rachael Hamilton (South Scotland) (Con):** As a former brownie and girl guide, it is a pleasure to take part in this members' business debate, which marks a tremendous achievement in the history of cub scouts. I thank Jeremy Balfour for bringing it forward. I do not want to compete with Stewart Stevenson, but I learned how to slice a banana, fill it with chocolate, wrap it in silver foil and bake it in a fire—and I had two blankets covered with badges.

One hundred years is a long time and it is testament to the great work that is being done that we are here giving accolades to the organisation for such an achievement. Unquestionably, the cub scouts will continue to evolve and will last in perpetuity.

After a career in the army and a successful book named "Aids to Scouting", in 1907, Robert Baden-Powell held an experimental camp on Brownsea Island in Dorset to try out his ideas. He brought together 22 boys, some from private schools and some from working class homes, and took them camping under his leadership. That is considered to be the starting point of the scout movement. Global membership now stands at 31 million girls and boys aged between six and 25, in 216 countries.

I am pleased that the 100th anniversary will see a strong focus on participation in activities. The promise parties that will be held are important. The idea is to renew the promise that has made such a success of the scouts. It is the sense of identity and commitment to scouts doing their best and doing good that has created such a strong positive legacy.

Thanks events, which will take place across the United Kingdom, will recognise all the people who have made the cub scouts a success over the years and will celebrate their voluntary contribution. I pay particular tribute to Sir Garth Morrison of West Fenton, who held many positions. He was area commissioner for East Lothian, chief commissioner for Scotland and chief scout for the UK and overseas territories. Later, in 2007, he was appointed to the Order of the Thistle by the Queen and was knighted for his contribution to voluntary work. Sir Garth received those accolades because he helped to grow the scouting movement in Scotland and the wider world. He made it more appealing by tackling stereotypes and played a key role in the inclusion of girls. He even relaxed the dress code of the uniform.

Another such person is Jack Robb from the Borders, who was the district commissioner for Roxburgh and who in 1968 founded the brass monkey camp, which is of course how the famous brass monkey neckerchief came to exist. It is awarded to Borderers who have valiantly spent a night under canvas in November, December, January or February. Certification from their leader is needed as proof to gain membership of the brass monkey group. Jack Robb created a positive legacy that is present today throughout the Borders and other South Scotland scout groups.

The Borders has groups from Eyemouth to Hawick. The Kelso scout group provides an example of the interesting and inspiring work that is done in the Borders. Members of the group recently became space biologists when they sowed seeds that had ventured into space. They will grow those galactic seeds alongside normal seeds and log the differences. Such a story is a shining example of the work that scouts do.

Scouts are of course present in East Lothian—the Dunbar group recently ventured to Wintercamp at Kielder, where they drove tanks, like our leader Ruth Davidson did.

Clearly all those groups do fantastic work to develop new skills and provide fresh and exciting experiences for members. I am thrilled by the depth of opportunity that the scouts provide in South Scotland. May it continue for another 100 years.

Such stories clearly reflect the importance that we place on such groups. Scout groups make up the core fabric of each community that they reside in, bringing together those from all backgrounds and promoting the core promises of doing their best and doing good for the community.

I can only reiterate what I said in my opening remarks. I am delighted to take part in the debate and highlight the great work that the scouts have done for the last 100 years. Long may their good work continue.

17:20

**Jenny Marra (North East Scotland) (Lab):** I thank Jeremy Balfour for bringing this very joyful debate to the chamber. I congratulate the cub scout movement on its 100th birthday. From this position, I can spot six cub scouts in the public gallery. I think that everyone aspires to celebrate their 100th birthday; to live that long but to maintain the beauty and vibrancy of being around 8 to 10 years old is something that I think we all aspire to.

I want to talk a little bit about the values of the cub scout movement. Many children across the country and across the world who have been involved in Baden-Powell's movement have learned invaluable skills, allowing them to take teamwork, problem solving, fitness, loyalty and discipline through their lives.

I saw those values and skills in action just a few weeks ago when, for the movement's 100th birthday, I spent a lovely Monday evening visiting the 20th Dundee cub scouts group. We had a fantastic evening. We made paths outside out of sticks and stones and did a little bit of path-finding, and we played games inside. I also saw some of the training that the very dedicated leaders were putting the boys and girls through for their competitions.

The 20th Dundee scouts group won awards at the camps that are mentioned in the motion and the community that the group is in really values the work that those leaders do. I would like to pause on that point for a minute, because I think that the whole country owes a great debt to the leaders of the cub scout movement, the scout

movement and indeed the rainbows, brownies and guides movement. Those people give up many hours of their week—countless evenings—and I know that many of them have a lifelong commitment to the movement on a voluntary basis. Some started out as cubs and scouts themselves and have taken their commitment to the movement right through their lives. That commitment and experience are absolutely invaluable and those people should be saluted for the service that they give our communities.

Let us be under no doubt that communities across the country need these groups. Although I was aware that this was happening, I was saddened to discover during my visit to the scouts group that night that there were fewer cubs, scouts, brownies and guides groups in Dundee than there were when I was a brownie and then a guide at the 31st Logie and St John's Cross group. However, it is good to have events such as this debate in the Parliament and I was very pleased to hear Jeremy Balfour say that the numbers are going up. That is very important because all children need to have access to the great values and opportunities that the movement provides.

On a personal level, I have very happy memories of going to brownies on a Friday night, with my brother going into the cub hall next door—at that time, it was not a co-ed organisation. I would skip out afterwards for a can of ginger beer and a sherbet lolly—habits that I still like today.

For lots of young people in communities across the country, the movement brings great joy and great values. Re-taking the promise is a fitting way for current cub scouts—and retired cub scouts such as Stewart Stevenson and Jeremy Balfour—to rekindle their love of the movement and to remember its value.

17:25

**David Torrance (Kirkcaldy) (SNP):** I refer members to my entry in the register of members' interests and thank Jeremy Balfour for securing this debate on the 100th anniversary of the cub scouts. I also welcome members of the Scout Association to the chamber today.

I have been involved with the scout movement for most of my life and remain committed today, as a leader in the fifth Fife scout group in Kirkcaldy—try saying “fifth Fife scout group” fast.

As a young boy of eight, I recall attending my first cub meeting. The Akela or leader of the pack, a lovely woman called Mary Pearson, took me through an introduction to scouting before showing me to my six—the greys. Never did I think on that cold March night in 1969 that my first steps into scouting would lead me on such an incredible journey—one that would last for the rest of my life.

Scouting was started in 1907 by Lord Baden-Powell of Gilwell, following an experimental camp on Brownsea Island, which 20 boys attended. In a very short time, scouting became extremely successful across the whole of the UK. As boys were required to be aged 11 or over to participate, scout groups were faced with the growing problem of younger siblings who also wanted to be part of this grand adventure. To resolve the problem, in 1916, Baden-Powell created the wolf cubs for younger boys who were keen to join the scout movement.

The wolf cubs are based on “The Jungle Book” by Rudyard Kipling. Leaders take their name from that story and groups are called packs. Packs are comprised of sixes, with one sixer in charge. Every weekly meeting begins and ends with the grand howl. The format of wolf cubs lasted for some 50 years, until 1966, when the chief scout's advance party report made several recommendations. Changes that were implemented in 1967 as a result of that report included changing the name to cub scouts and the adoption of a new progressive training scheme of bronze, silver and gold arrow awards. I remember those awards well, as it was every boy's goal to achieve the gold accolade.

Since 1967, there have been many more variations to the cub section, including badge work and changes to the uniform and how the section is run. The most significant change occurred in 1990, with the introduction of girls into all sections of scouting. That move brought fresh challenges to an organisation that had been male dominated for so long.

The cub scout section aims to be accessible and inclusive and encourages participation from every member of the local community. That is demonstrated in the cub scout promise, which reflects the range of faiths, beliefs and attitudes in Scotland.

While working towards their badges, cubs try a wide range of different activities, with participation and personal development being fundamental. By working together in team activities, the children gain a sense of belonging. While helping each other to succeed, they learn and develop skills that ultimately enable them to become better citizens. Although being a scout is fun, it also teaches real life skills, helping to prepare children for the future and realise their full potential.

That modern approach has allowed a continual growth of scouting in Scotland. This year's membership census shows the 10th consecutive year of growth, with more than 46,000 members. That success brings additional pressure. Many people forget that all leaders and helpers in the groups are volunteers. The Scout Association recognises that they are its most important asset

and is committed to ensuring that volunteers receive the best possible training and support.

Adults working in scouting across the UK contribute in excess of 364 million hours of voluntary work each year in their local communities. In my district of Kirkcaldy, we have 11 scout groups, with a total membership of 739. Of those, 202 are cub scouts. A number of those members attended the big birthday bash cub centenary camp at Fordell Firs in June. That event was only one of a number that were held to mark that milestone in the group's history.

If it had not been for the skill and enthusiasm of a certain cub leader more than 40 years ago, would my journey through cubs to scouts and venture scouts, and then on to become a leader, ever have happened? The cubs were the starting point of my introduction into scouting, and I have now been involved with the same group for 47 years. I believe that the success of the cub scouts over the past 100 years can be attributed to the drive, dedication and passion of its volunteers. Regardless of the challenges that they are faced with, their commitment to the scouting family is admirable.

I again thank Jeremy Balfour for bringing this debate to Parliament and wish not only the cubs but the entire scout movement worldwide all the best for the future.

17:29

**John Scott (Ayr) (Con):** I thank my party for inviting me to take part in the debate and I congratulate Jeremy Balfour on having his motion on the 100th anniversary of the cub scouts selected for debate.

I do not think that members of my party knew that I was once a cub—it is not on my CV. Perhaps they just assumed that I am the sort of person who, like Stewart Stevenson, would have been a cub a long time ago. I am surprised—indeed, I am disappointed—that Stewart Stevenson no longer thinks of himself as being shy and introverted.

My spell in the cubs in Barrhill in South Ayrshire, in the late 1950s and early 1960s, was my first experience of youth organisations and was character building for me. In those days, the vows to become a cub were important—to me, at any rate. They are still important and are worthy of repetition. The cub scout promise is:

"I promise that I will do my best  
To do my duty to God and to the Queen  
To help other people  
And to keep the Cub Scout Law".

Cub scout law is:

"Cub Scouts always do their best  
Think of others before themselves  
And do a good turn every day."

Together with the motto "Be prepared", that is just about an ethic for life—to strive, essentially, to put others before oneself. It now seems almost an outdated concept, but it is one of a set of ideals that derived from the 20th century.

In 1916, in the terrible year of the battle of the Somme, self-sacrifice for country and others was expected, and was made. Similarly, self-sacrifice for others during the second world war was still uppermost in the minds of my parents in the 1950s and 1960s when I was a child. I grew up with a huge sense of duty to leave the world a better place than the one that I was born into. I suppose that what unites all parliamentarians in our Scottish Parliament, and indeed throughout the United Kingdom and the world, is the desire to improve on what has gone before. That we constantly disagree about how to reach the sunny uplands is more about different route maps for how to get to a promised land than it is about having significantly differing objectives. We should perhaps reflect on that from time to time in the adversarial world of politics in which we live.

Although I was only ever a member of the cubs, since becoming the MSP for Ayr constituency I have become an even greater supporter of our youth organisations. It may surprise some members to know I am an ambassador for the girl guides in Ayrshire. Whenever I meet them, I am impressed by their determination to develop their resilience and character so that they, too, might work in the service of others, as well as for themselves.

In my constituency we have six cub scout groups: the 12th and 14th Ayrshire, which are based in Prestwick; the 18th, 43rd and 100th, which are all based in Ayr; and the 28th Ayrshire, which is based in Troon. I salute those groups today. More groups exist throughout South Ayrshire and in the Carrick, Cumnock and Doon Valley constituency: the 2nd Ayrshire, which was formed in Ballantrae; the 3rd Ayrshire, which is based in Girvan; the 7th, which is based in Maybole; the 31st, based in Loans; the 48th in Dundonald; the 66th in Symington; the 69th in Tarbolton; and the 77th in Dailly. There is a total of 14 groups and I am very proud of all of them.

None of those district scout groups would exist without the many men and women who volunteer to help and lead them. Society owes them a debt of gratitude. As other members, including Jeremy Balfour, have said, we need more volunteers to meet the growing demand for this exemplary organisation among children who wish to be part of it.

I am delighted to support Jeremy Balfour's motion to commemorate the 100th anniversary of the cub scouts. I wish them every success for years to come in their endeavour to build principle and resilience in our children and young people, which is needed as much today as it was 100 years ago.

17:34

**Alison Johnstone (Lothian) (Green):** I, too, congratulate the cubs on this notable birthday and thank Jeremy Balfour for securing the debate.

Like Rachael Hamilton, I was a brownie and a guide but, unlike Rachael Hamilton and Stewart Stevenson, it is fair to say that cooking on an open fire is not one of my skills. Perhaps my colleague David Torrance can help me in that regard.

For years, I watched excited young cubs pass my front door on the way to the local meeting of the 107th Pentland cub pack. Just a few months ago I moved, and I now stay down the hill from the Bonaly centre for scouting for the south-east region. There is always a lot going on there. Friends who are active in cubs and scouts always tell me that demand for places has never been higher and that the only constraint on numbers is the availability of adults and other young people to be leaders. I whole-heartedly back John Scott's comments that we could do more in Parliament to encourage recruitment in the organisation.

One of the remarkable things about cubs is the sheer persistence of some age-old traditions. The 107th Pentland cub pack maintains some of the nicknames that were inherited from Kipling, to which David Torrance alluded. Boys and girls still take the greatest pleasure from activities in which they could have been taking part in the 1920s: camping in old-style tents made by Blacks of Greenock and cooking on and singing songs around campfires. Here in Lothian, cubs are getting out on the Craiglockhart hills and the Pentlands, and out along the Water of Leith. For sure, there are activities that make full use of mobile phones, tablets and apps, but they are all within the context of young people enjoying many of the same things that they have enjoyed for decades.

Other things have changed, too. Cub packs, as we have heard, can have as many girls as boys now, and the scouting movement has recognised the need always to be ahead of the curve in recognising and celebrating difference—in race, religion or disability, for example. Leaders are given clear steers on safeguarding, child welfare and tackling bullying, so that scouting can truly welcome children from all backgrounds.

Scouting is a global movement and the messengers of peace projects are a positive

example of that. Members should have a look at the website and see what the projects are doing to help street gangs to tackle violence in El Salvador. In some of the most difficult conflict areas in the world—Kashmir and Sudan, for example—scouts are making a difference in local communities. That is happening across the globe, so I urge colleagues to watch the video.

Research that has been carried out by the scouting movement has come to a very clear conclusion: young people go to cubs and scouts to go on camps and to get outside, and they leave when they do not get those things. Let us hope that that is a watchword for all our young people and that cubs have as much fun over the next 100 years as they have had in the last.

17:37

**The Minister for Further Education, Higher Education and Science (Shirley-Anne Somerville):** I thank all members, and particularly Jeremy Balfour, for the interesting and positive debate that we have had. The speeches have shown that the memories that children gain in the cub scout movement last a lifetime. I was delighted to hear about the positive experiences that all members who took part had, although I was slightly concerned about the injury count that kept getting mentioned at the start of the debate.

The Government has an ambition for Scotland to be the best place to grow up in, and, I would say, the best country in which to learn. I am delighted that today we have the opportunity to recognise and celebrate cub scouts' contribution to that ambition.

We in Scotland want our nation to flourish, and that cannot happen without ensuring that every young person, no matter what their background, ethnicity, faith or experiences, can find places in which they can belong and participate in wider community activities. In my constituency and in constituencies across Scotland, all the uniformed organisations, such as the cub scouts, the scouts, the girl guides and the Boys Brigade, are delivering a tremendous breadth of activities that contribute to young people's wellbeing, confidence and life chances.

I should declare a personal interest, as I am a parent of a brownie and a beaver. I am not picking up my beaver from her pack tonight because I am contributing to the debate, but she thinks that that is a reasonable excuse for missing the pick-up.

The Government places great value on the significant contribution that youth work makes to help us to realise our aims and our vision for Scotland. As a Government, we want Scotland to be a place where opportunities are open to everyone and where everyone is able to contribute



their talent, skill and commitment. We want to make sure that children and young people in all parts of Scotland—whether in our least or our most affluent areas—have a fair chance to flourish, and we want to build a strong, sustainable economy, support community empowerment and encourage democratic engagement.

One of youth work's great strengths is the opportunities that it gives young people to get involved in social action, in volunteering and in decision making in the heart of their communities. Youth work also has a key role in widening access to learning, in delivering our ambitions for curriculum for excellence, in tackling exclusion and in building the capacity of communities. It has a key role in helping our young people to be the successful, confident, effective and responsible individuals that our nation desperately needs, as well as a key role in contributing to our focus on early intervention and prevention.

At its best, youth work links young people to their communities and engages them in local and national activities and in decision-making processes. It plays an essential role in promoting and enhancing our young people's attainment and achievement and in developing their skills for life, work and lifelong learning. Strengthening the partnerships between schools and youth work practitioners in order to recognise achievement remains a priority for the curriculum for excellence. The cub scouts have embraced the four capacities that underpin the curriculum for excellence and getting it right for every child. They have made the four capacities relevant and ensured that they shine through in all that they do. It is hugely valuable to us that so many young people are preparing to be active citizens and leaders.

Investment in young people in Scotland today is an investment in a better future, and organisations such as the cub scouts provide young people with a wide range of opportunities that nurture and develop their ambitions, their achievements and the skills that they need to succeed in life. The Scottish Government supports the view that closing the attainment gap requires a broad-based effort. The work of the cub scouts plays an important role in supporting our young people's attainment and achievement and in developing their skills for life, work and lifelong learning. Indeed, the attainment challenge is closely aligned with scouting's purpose, values and methods in that scouting exists to actively engage and support young people in their personal development and to empower them to make a positive contribution to society.

Scout youth members are equipped with skills for life, including confidence, team working, leadership, decision making, planning, communication, self-motivation, cultural

awareness and commitment. Those so-called soft skills add value to young people and, balanced with formal education, are integral to reducing the attainment gap.

As Alison Johnstone mentioned, fun, excitement and adventure are key for cubs. Their programme offers a huge variety of activities that allow them to be creative and to get involved in their local communities. As we have heard, cubs are introduced to exciting outdoor skills and take part in adventurous activities as well as camps and residential experiences.

Many members have described what happens in scouting in their constituencies and the importance of volunteers they have met in their constituency work. I add my thanks to the volunteers, without whom the cub scouts and other scouting groups would not be able to function. From my constituency work, I know how important they are.

When I was looking for a local hero for the opening of Parliament, someone suggested Rod Adamson, who has been working in the scout movement for 51 years. Indeed, he started a cub troop in Kirkcaldy—David Torrance's constituency—before the 50th anniversary of the cub scouts, and that cub pack is still going strong.

Such volunteers and troop leaders give up their time and energy week in and week out. They give so much to the young people and to the wider communities that they serve, and we greatly value what they do. As David Torrance said, without their drive, dedication and passion, we would be in a poorer place.

The scouts provide our young people with the skills that they need to succeed in life, to fulfil their ambitions and to contribute positively in their communities, nationally and worldwide. I congratulate everyone who is involved in the 100th anniversary of the cub scouts and it gives me great pleasure to give the motion my whole-hearted support.

**The Deputy Presiding Officer:** Thank you very much. This former brownie and girl guide closes this meeting of Parliament.

*Meeting closed at 17:44.*



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

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