



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Thursday 1 November 2012

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# Scottish Parliament

Thursday 1 November 2012

[The Presiding Officer *opened the meeting at 11:40*]

## General Question Time

### Prisons (Drug Use)

**1. John Scott (Ayr) (Con):** To ask the Scottish Government what it is doing to reduce drug use in prisons, in light of recent statistics suggesting that the number of recorded drug finds is set to rise this year. (S4O-01416)

**The Minister for Community Safety and Legal Affairs (Roseanna Cunningham):** I have asked Colin McConnell, chief executive of the Scottish Prison Service, for his comments in regard to this. He has indicated that a number of factors have impacted on the number of drug finds, including the use of additional drug dogs, additional intelligence-led searching and the opening of HMP Low Moss. Additional drug finds are also indicative of the success of those targeted measures.

The Scottish Prison Service has a substance misuse strategy in place that reflects the aims of the national drug strategy in “The Road to Recovery: A New Approach to Tackling Scotland’s Drug Problem”. The strategy focuses on robust security systems to divert, disrupt, detect and deter the supply of illicit substances and it supports the provision of treatment services to encourage prisoners to reject the illegal drug culture.

Following legislative change in 2011, national health service boards are now responsible for the delivery of health and addiction services to prisoners, based on assessed needs.

**John Scott:** I thank the minister for her answer. In a response to a written question from John Lamont it was revealed that there are almost five drug discoveries in Scottish prisons every day and that that figure is set to rise from the 2011 figure.

The nearest prison to my constituency is HMP Kilmarnock, which has the second-worst rate of drug finds of any Scottish prison—it is estimated that there will be 213 finds by the end of 2012. My constituents are horrified by the news that so many drugs can get into what is supposed to be a secure environment. What will the Scottish Government do to address that problem and will it consider the introduction of mandatory drug testing in prisons, which the Scottish Conservatives have been calling for for some time?

**Roseanna Cunningham:** As I indicated in my original answer, a number of things are already being done that have resulted in an increasing number of drug finds. It is important for people to take it on board that sometimes the figures are evidence of the success of the work that is being done.

Another initiative that is being rolled out is called prison watch, which has proved very successful in HMP Edinburgh and which we hope can be rolled out to many other institutions. It has reduced the presence of illicit substances and products in prisons by a significant factor. It is not yet available in the surrounds of HMP Kilmarnock, but I will advise the member when that is the case.

An addiction testing policy is already in place in prisons. A sample of prisoners are tested for a range of illegal substances—annually, on reception into and on liberation from prison, as well as during their time in prison—to assess drug use. Testing is not currently done across the entire prison population. If that is what the member is suggesting, resource issues would have to be closely looked at. Testing the entire prison population on a regular basis would be resource intensive indeed. I would want to discuss with the member the precise details of how he imagines that that would work.

**Margo MacDonald (Lothian) (Ind):** Do the minister and her colleagues feel the need to review the use of drugs in Scotland in a wider sense, rather than pick on particular initiatives as they pop up?

**Roseanna Cunningham:** I am not entirely clear what the member intends with that question. The recovery strategy that the Government put in place in 2008 has delivered enormous changes to the way in which things are managed in Scotland and has resulted in great advances. However, it is ongoing and is constantly the subject of internal review. Indeed, as part of that, we are looking quite closely at the issue of opiate replacement therapy. In that sense, review of the drug strategy in Scotland is constant.

### Higher Education (Computer Science and Software Engineering)

**2. Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** To ask the Scottish Government whether it plans to encourage more undergraduates to study computer science and software engineering. (S4O-01417)

**The Minister for Learning, Science and Scotland’s Languages (Dr Alasdair Allan):** Education in science, technologies such as computing, engineering and maths is a priority for the Scottish Government as those areas are key drivers of Scotland’s future economic prosperity.

The Government is keen to encourage more school pupils to consider a career in science, technology, engineering and mathematics and we are doing various things to incentivise that.

We provide about £2.5 million to support the four science centres in Glasgow, Edinburgh, Dundee and Aberdeen, which together reach about 600,000 people every year. We also spend £220,000 supporting 18 science festivals in towns, cities, islands and regions across Scotland. Through the Scottish Further and Higher Education Funding Council, we will fund a further 1,200 STEM places at Scotland's universities over the next three years.

**Willie Coffey:** The minister will be aware of the new opportunities that are opening up for software developers with the arrival of 4G mobile services, and of Scotland's already strong position in the creative industries, which is exemplified by the fantastic achievements of Gordon Cameron and his work with Pixar on the movie "Brave", and the Masters course on gaming that is offered by the University of Abertay.

Does the minister see an opportunity to further promote software engineering to Scotland's young undergraduates and thereby to capitalise on the exciting future for the industry in Scotland?

**Dr Allan:** I certainly agree that the examples that the member gave—4G and the film "Brave"—provide great opportunities not only to showcase the talent that exists in our computing and software engineers in Scotland but to make a wider audience aware of the careers that exist within the profession.

### Portobello High School

**3. Kezia Dugdale (Lothian) (Lab):** To ask the Scottish Government whether it has had discussions with the City of Edinburgh Council regarding the future of Portobello high school. (S4O-01418)

**The Minister for Local Government and Planning (Derek Mackay):** The Cabinet Secretary for Finance, Employment and Sustainable Growth and I have offered to meet council representatives to discuss possible options, work through next steps and consider what appropriate support the Scottish Government can provide to assist the City of Edinburgh Council to fulfil its responsibilities.

**Kezia Dugdale:** Will the minister clarify whether he is looking at the power to advance wellbeing in those discussions? Can he assure my constituents, who have a deep sense of anger and disappointment that the school has yet again been delayed, that the Government will do everything that it can to see the new Portobello high school built on the park as soon as possible?

**Derek Mackay:** I thank the member for the constructive tone in which she asked the question. The SNP Government is outcome focused. We will work to try to deliver the aspirations of the City of Edinburgh Council, and its preferred site is indeed the park. The problem has come about because of a legal determination. We will work through the options.

The exploratory consultation on the community empowerment and renewal bill covers the issue of common good land, but it might not be timeous enough to give rise to a solution to this particular issue.

I guarantee that the Government will be proactive and take a constructive approach to the meeting with the City of Edinburgh Council. I am informed that it has been scheduled for 13 November. I will be happy to update the member on the outcome of those discussions.

### Schools (Science)

**4. Iain Gray (East Lothian) (Lab):** To ask the Scottish Government what steps it is taking to encourage the take-up of science subjects in secondary schools. (S4O-01419)

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** We want to maintain our record of high uptake and achievement of science qualifications. As part of that, our recent response to the science and engineering education advisory group report highlights our priorities of building the expertise of teachers, ensuring that pupils experience science learning that is inspiring and relevant, and developing young people's awareness of pathways into science, technology, engineering and mathematics careers.

We are also promoting broader science engagement for young people through the science centre network and the talking science grants scheme.

**Iain Gray:** The work of SEEAG is indeed welcome, as is the formation of its successor body, the science, technology, engineering and maths education committee, to ensure that its work continues. However, is the minister aware that it could be undermined by an unintended consequence of curriculum for excellence? CFE allows S3 pupils to choose between five and eight subjects to study, and where education authorities have chosen the lower end of that curricular range, parents and teachers have reported to me concerns that it becomes impossible for students to pursue two sciences and very possible for them to choose none at all at an early stage in their school careers. If that happens extensively, serious consequences for Scottish science lie ahead.

Will the minister investigate those concerns and either intervene or provide evidence that they are not, in fact, the case?

**Dr Allan:** I am always happy to speak to school communities and parents who want to know how the curriculum for excellence and the new qualification system will develop. However, I have to say that the picture across Scotland is definitely one of increasing rather than decreasing the choices available to pupils and of strengthening the experience of a broad general education, including a broad science education in the first three years of secondary school.

There is no evidence that science subjects are being squeezed out. For instance, recently the idea was raised with me that fewer pupils might be able to study three sciences at the end of their fourth year, when they do exams. Less than 2 per cent of pupils did that under the old system and there is no evidence to suggest that pupils' choices are being restricted in that way. However, if the member knows of any concerns that parents have about courses, I am more than happy for them to be raised with me.

**Murdo Fraser (Mid Scotland and Fife) (Con):** In the Scottish Government's draft budget for 2012-13, spending on science is to be cut from £6 million to £3.6 million. How does that cut fit with the minister's warm words and his commitment to science?

**Dr Allan:** I would take the criticism more seriously—

**Murdo Fraser:** Why does he not answer the question?

**Dr Allan:** I would take the criticism more seriously were it not coming from a party that has just cut the capital budget for Scotland by a third. If he wants that in decimal terms, it is 33.3-something per cent.

### **Edinburgh to Tweedbank Railway Project**

**5. Jim Hume (South Scotland) (LD):** To ask the Scottish Government when an agreement will be in place appointing Network Rail as the authorised undertaker of the Edinburgh to Tweedbank railway project. (S4O-01420)

**The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon):** We expect an agreement to be concluded with Network Rail shortly.

**Jim Hume:** "Shortly", yes. Today, just as on Tuesday, the cabinet secretary has refused to tell us when an agreement with Network Rail—without which main works cannot start—will finally be reached. After a botched tendering process and five and a half years of Scottish National Party

governance, the people of the Borders and Midlothian are no closer to seeing trains in their communities. Will the cabinet secretary today reaffirm the First Minister's pledge to me last September that the Borders rail project will be delivered by the end of 2014 and on budget?

**Nicola Sturgeon:** The agreement with Network Rail will be concluded shortly and the Minister for Transport and Veterans will make the appropriate announcement in due course. The target date that Jim Hume referred to remains the Scottish Government's target date, and the Scottish Government remains absolutely committed to the Borders rail project, which will be to the benefit of people across the Borders.

I find it astonishing that a member of a party that was in government in this Parliament for such a long time and failed to deliver the Borders rail project finds it acceptable to stand up and criticise the Government that is getting on with the work of delivering that project for the benefit of the people that it will serve.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** It is a pity that Mr Hume was not here for topical questions this week.

Is the minister aware that many people in my constituency believe, like me, that even if it takes a little longer and a little extra money, to build in three years—as Nicola Sturgeon said—what the Liberal Democrats failed to deliver over decades will be a remarkable achievement for the Scottish Government?

**Nicola Sturgeon:** Yes, I am. This Government will deliver the Borders rail project and we will do that with the competence that this Government has demonstrated on transport projects previously in our term in office. When the railway project is complete, people who enjoy the use of it will reflect on the fact that previous Administrations failed utterly to deliver in the way that this Government will have done.

### **National Health Service Estate (Energy Efficiency)**

**6. Aileen McLeod (South Scotland) (SNP):** To ask the Scottish Government what steps it is taking to improve the energy efficiency of the national health service estate. (S4O-01421)

**The Cabinet Secretary for Health and Wellbeing (Alex Neil):** We are in an on-going dialogue with NHS boards through the NHS health facilities Scotland advisory groups, which provide advice and support to NHS Scotland on energy efficiency matters.

We have in place a number of initiatives to improve the energy efficiency of the NHS estate

such as the HEAT—health improvement, efficiency and governance, access and treatment—target for carbon emissions reduction and continuing energy efficiencies; funding for eco-hospitals, which comprises an investment of £24 million over the next three years to make NHS hospitals and facilities more energy efficient; and the central energy efficiency fund, which is a revolving fund that was launched in 2005 with an initial capital budget of £4 million.

**Aileen McLeod:** I note with optimism the announcement of the NHS Scotland carbon reduction programme, which will release £4 million a year for investment in patient care in Scotland. Indeed, in that respect, I also highlight the announcement of the new Dumfries and Galloway royal infirmary. Does the cabinet secretary agree that as this will be Scotland's newest hospital we have a very real opportunity to make it the nation's most carbon neutral?

**Alex Neil:** Through the project approval process, we will seek to ensure that the design for the new Dumfries and Galloway royal infirmary is taken forward utilising appropriate technologies and materials to deliver a sustainable, low-carbon hospital facility.

#### **Further Education (Community Business Set-up and Management)**

**7. Margo MacDonald (Lothian) (Ind):** To ask the Scottish Government whether it will discuss with the further education sector the feasibility of establishing short courses on the setting up and management of community businesses and credit unions. (S4O-01422)

**The Minister for Youth Employment (Angela Constance):** We expect colleges to keep their provision under continual review and ensure a very sharp focus on meeting the needs of the employers, learners and communities that they serve.

With regard to direct support for the development of social enterprise, we are providing the Scottish Social Enterprise Academy with £300,000 in each of the next three years to deliver a learning and development programme for the third sector. That funding includes £80,000, again in each of the next three years, for social enterprise in education to reflect one of the academy's key objectives under this theme, which is to increase awareness of social enterprise in the further education sector.

**Margo MacDonald:** I thank the minister for her reply, most of which pleased me mightily. However, I am not absolutely sure whether I will be able to tell people that they will have local access to courses. After all, the important point is to encourage people to learn in order to enable

them to come back and set up organisations in their own communities. Is provision likely to be local and to be spread right across the colleges?

**Angela Constance:** Ms MacDonald's very good point is based on the premise of the value of credit unions and, in particular, local credit unions. I know that Ms MacDonald is very familiar with the West Lothian Credit Union, the strength of which is its local base, and I hope, therefore, that she will find what I am about to say pleasing.

Under the learning and development programme for the third sector that I mentioned in my previous answer, 70 college staff will attend two understanding social enterprise programmes in 2012-13 with a wider roll-out in both 2013-14 and 2014-15. Understanding social enterprise programmes for young people in need of additional support will also be piloted at Edinburgh College and other student events will also be held. I am happy to provide further detail in correspondence.

#### **Sewerage Network (Persistent Flooding)**

**8. Kevin Stewart (Aberdeen Central) (SNP):** To ask the Scottish Government what obligations Scottish Water has to deal with persistent flooding from its sewerage network. (S4O-01423)

**The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon):** First, I express my sadness at the sudden death this week of Scottish Water's chief executive, Richard Ackroyd. Richard led Scottish Water with skill and distinction and my thoughts and those of my predecessor, Alex Neil, and indeed the whole Scottish Government are with his family, friends and colleagues at this extremely sad time.

As a responsible authority under the Flood Risk Management (Scotland) Act 2009, Scottish Water is, in particular, responsible for assessing the risk of flooding from sewerage systems resulting from higher than usual rainfall and then working with local authorities and the Scottish Environment Protection Agency to look for opportunities to reduce those risks.

**Kevin Stewart:** I, too, pass on my condolences to Richard Ackroyd's family and those at Scottish Water.

Scottish Water has offered no short-term solution to a persistent issue that is having a major effect on businesses in Aberdeen's merchant quarter. Does the cabinet secretary agree that that is not good enough and that Scottish Water must act to resolve the situation?

**Nicola Sturgeon:** I am aware of the particular issues in Aberdeen's merchant quarter. Scottish Water has undertaken some investigations to



understand the reasons for the flooding, particularly in light of recent storms, and I understand that it has offered to meet Kevin Stewart to provide him with the result of its investigation. I encourage the member to take up that offer; indeed, if it would help, I would be happy to meet the member after that meeting. I agree with him that it is important to residents and businesses in the area for matters to be resolved as quickly as possible.

**The Presiding Officer (Tricia Marwick):** Before we come to First Minister's question time, members will wish to join me in welcoming to the gallery the Speaker of the National Assembly of Guyana, the Hon Raphael Trotman MP. *[Applause.]*

## First Minister's Question Time

12:00

### Engagements

**1. Johann Lamont (Glasgow Pollok) (Lab):** In welcoming the First Minister back to his place, I ask him what engagements he has planned for the rest of the day. (S4F-00932)

**The First Minister (Alex Salmond):** I have written to the Government and the President of the United States, expressing the sympathy and solidarity of Scotland in relation to the extraordinary weather conditions that have engulfed the eastern seaboard.

Later today, I will have meetings to take forward this Government's programmes for Scotland.

**Johann Lamont:** I am sure that in that letter, our sensibilities and sympathies go, too, to the people of America in these difficult times.

Last week, the Deputy First Minister's spokesman said that there was a "cast-iron position" that an independent Scotland would retain the pound. I congratulate the First Minister on gaining such unequivocal agreement. When was the agreement with the Treasury and the Bank of England reached? When and where was it signed? When did negotiations start?

**The First Minister:** I am sure that even Johann Lamont has heard that the Secretary of State for Scotland pointed out that there was no legal bar to Scotland having sterling as its currency. The proposition that we put forward for a sterling zone is an extremely reasonable one. I am not certain what the Labour Party's position is on what the currency of an independent Scotland should be, but we think that it suits the interests of Scotland and the rest of the United Kingdom to have a sterling zone.

In terms of Scotland's interest, there is an argument for continuity of the sterling position. In terms of both countries' interests, it is what would be called an optimal currency area in terms of the productivity of both countries—*[Interruption.]*

**The Presiding Officer (Tricia Marwick):** Order.

**The First Minister:** It is not my description; it is the description of the Institute for Fiscal Studies. *[The First Minister has corrected this contribution. See end of report.]*

Lastly, on the question of why it would be in the interests of the rest of the UK, revenues from Scotland's resources would of course come to Scotland, but it would also afford some £40 billion protection to the balance of payments of the sterling zone. I think that the rest of the UK would

be biting our hands off for Scotland to retain sterling membership.

**Johann Lamont:** In the First Minister's own words, that was a very, very convincing response

"in terms of the debate".

There is not a legal bar to a lot of things, but that is a different point altogether from a cast-iron guarantee. Hope, expectation and, "It would all be great if they could just agree with it," are not the same as a cast-iron guarantee. Surely even the First Minister understands that.

Let me recap. According to the First Minister, we will be in the European Union, without having to apply, and we know that without asking any other member state or asking anyone for legal advice; we know that we will not have to have the euro, and we do not need to ask about that either; and we know that we will keep the pound, and we do not need to ask anyone about that either.

I ask the First Minister: without looking at the long-range forecast, what will the weather be like in an independent Scotland? [*Laughter.*]

**The Presiding Officer:** Order.

**The First Minister:** In the interests of a serious debate on the issue, if Johann Lamont managed to cast her eye over the evidence of Graham Avery to the House of Commons Foreign Affairs Committee, she will recall that Graham Avery is a senior member of St Antony's College, University of Oxford, a senior adviser to the European Policy Centre and an honorary director general of the European Commission. He points out that

"Scotland's 5 million people, having been members of the EU for 40 years; have acquired rights as European citizens ... For practical and political reasons they could not be asked to leave the EU and apply for readmission".

I know that this is very inconvenient for the political weather that is facing the Labour Party, but it does rather put the lie to the scaremongering campaign of Labour and its unionist colleagues in the Conservative Party.

**Johann Lamont:** In the interests of a serious debate, the First Minister ought to stop finding someone that he alleges agrees with him and quoting them in this place. There are many different positions on the matter, including that of the First Minister's back bencher John Mason, who said on Tuesday that

"all these things are subject to negotiation"—[*Official Report*, 30 October 2012; c 12703.]

and they are not definite.

The charge at the First Minister's door is that he asserts things for which he has no evidence.

It is about time that the First Minister got serious about the future of Scotland. The First Minister

thinks that he can treat the people of Scotland like fools and that we will believe everything that he says when, after last week, no one trusts a word that he says.

I understand why the First Minister did not turn up to Tuesday's debate to defend his reputation. It was because even he knows that he no longer has a reputation to defend.

What is it that the First Minister is so scared of that he cannot ask the Bank of England about the pound and cannot ask other EU members about Europe? Is it just that he cannot face the truth when he is presented with it?

**The First Minister:** On the question of sterling, I ask Johann Lamont to remember that we have set up a fiscal commission with two Nobel laureates in economics to pursue that matter. That seems to me to be a pretty serious contribution to the debate.

I have read out Graham Avery's credentials. Given that he is an honorary director general of the European Commission, I suspect that he knows rather more about these issues than even Johann Lamont does.

On the issue of trust and the serious debate that Johann Lamont thinks that she wants to argue for, I point out that these matters have been tested not only in the Scottish elections last year but in the social attitudes survey, which tests the trust in the Scottish Government against the trust in the United Kingdom Government—that is running at 64 per cent compared with 24 per cent.

Of course, there is also the question that YouGov asked last week, which concerned who people trusted to stand up for Scotland. Johann Lamont's figure was 6 per cent. Therefore, on behalf of the other 94 per cent of the people of Scotland, I say that the reason why people do not trust the Labour Party in Scotland is that it stood on manifesto commitments to defend the freeze on council tax, to defend free tuition and to defend free prescriptions and a free health service, yet Johann Lamont is in the middle of tearing up every single one of those commitments. Labour is the first political party to betray its commitments when it is in opposition—an extraordinary achievement.

If the Labour Party wants to regain the trust of the people, why not have that debate on the issues that face this country, and why not acknowledge that oil-rich, gas-rich, energy-rich and fishing-rich Scotland will be welcomed with open arms in the European Union?

**Johann Lamont:** In the debate about Scotland's future, I stand with Campbell Christie in saying that, in tough times, we should look at competing good demands and ensure that those

of us with the broadest shoulders are the ones who take the heaviest burden.

The First Minister says that he is setting up his fiscal group. However, surely it would have been an idea to pursue the matter of whether we are going to have the pound with the Bank of England and the Treasury. They are the people who will decide that matter.

Of course, the First Minister has long sought international profile and, my goodness, he has got it.

*The Washington Post*, the newspaper that exposed—[*Interruption.*]

**The Presiding Officer:** Order.

**Johann Lamont:** Members may have read it.

*The Washington Post*, the newspaper that exposed Richard Nixon's corruption, knows a chancer when it sees one—[*Interruption.*]

**The Presiding Officer:** Order.

**Johann Lamont:** It has made a serious charge. *The Washington Post* said—[*Interruption.*] I am sure that Scottish National Party members have read this quote; I would like to share it with others. *The Washington Post* said:

"Mr. Salmond's cheerful assurances that Scotland could quickly join the European Union while retaining the British pound as its currency remain to be tested; London would have a veto over both. EU states might demand that Scotland commit to the wobbly Euro; if the pound were split between two nations, it could become subject to the same troubles that have afflicted the European currency."

These are serious matters being addressed by serious people. If *The Washington Post* can see that from Washington, why can the First Minister not see it from here?

**The First Minister:** Those who have read the editorial of *The Washington Post* will realise that it made almost as many mistakes on points of fact as Johann Lamont did in the week.

I welcome the contribution of newspapers in the United States of America to the Scottish political debate—*The Washington Post* is not alone. The *Los Angeles Times* of 22 October stated:

"Arguably the most important difference would be that an independent Scotland would be master of its own economy and natural resources."

I very much agree with that. This quote from *The Wall Street Journal* is particularly apposite for Johann Lamont:

"All too often this debate rarely gets past the sneering view that Scotland would be too poor ... or too small to stand on its own two feet outside the U.K. But the claim that ... Scotland is a subsidy junkie has already been proved a myth. New accounts of revenue and expenditure from Treasury data show Scotland regularly gives more than it receives from U.K. coffers."

If that is known and understood by *The Wall Street Journal*, why has that news not reached the Labour Party in Scotland?

I am fascinated by Johann Lamont's approach to this serious political debate at this point in her leadership. I came across an interview that she did with *The Guardian* just a year ago in which she talked about her great frustration. She said:

"What I'm more frustrated by is the politics where you play the man not the politics".

After a few weeks in which Johann Lamont has managed to call me stupid, Wee Eck, a sucker, devious and a corkscrew, given what she said in that interview it is no wonder that nobody believes a word that she says. [*Applause.*]

### Secretary of State for Scotland (Meetings)

**2. Ruth Davidson (Glasgow) (Con):** To ask the First Minister when he will next meet the Secretary of State for Scotland. (S4F-00929)

**The First Minister (Alex Salmond):** I have no plans to do so in the near future.

**Ruth Davidson:** It is nice to see the First Minister back in his chair in the chamber. When he ducked out of the debate on Tuesday—a debate about his conduct—he avoided a sadly very necessary reminder that the nation needs to be able to trust when it comes to every aspect of his independence plan.

We know now that the First Minister has no legal basis for his claims about Scotland's place in Europe. As for the economy, I repeat what the head of Scottish Financial Enterprise told a Lords committee last week—another appointment that the First Minister ducked. Owen Kelly said of the Scottish Government:

"It's aimed at persuading, rather than providing"

an

"authoritative conclusion ... I struggle to see how they have the authority to tell us anything."

That is Europe and the economy—what about defence? The First Minister says that an independent Scotland can be a fully committed member of NATO but kick the nuclear submarine fleet out of Faslane. Can he tell us what facts or advice he has sought or received to support that assertion?

**The First Minister:** Ruth Davidson will find the question of Scotland's NATO membership published in the constitutional documents and the policy positions of the Scottish National Party. The argument for how a non-nuclear state can be a member of NATO surely is evidenced by the fact that 25 out of the 28 member countries of NATO are non-nuclear at present. So, we have the fact in the existence of 25 such countries.

I was extremely interested by the interview with Philip Hammond earlier this week, on “Good Morning Scotland” I think, in which in the space of one interview—actually, in the space of one question—he first said that he had no contingency plans for Scotland becoming independent and then at the same time said that he had contingency plans for every eventuality. I suspect that Ruth Davidson should use her extraordinary influence within the Conservative Party to follow the recommendations of the House of Commons select committee and suggest to Philip Hammond and the rest of the UK Government that it would be very wise indeed to have contingency plans, because I believe, as a majority in this chamber does, that Scotland will vote for independence in two years’ time and that nuclear weapons are on their way out of Scotland.

**Ruth Davidson:** The First Minister’s answer on evidence for SNP policy is to look at an SNP policy document. Brilliant. That goes further than the non-answer that we got on Tuesday from his deputy leader.

I wrote to the First Minister—he may remember—about the legal position in relation to NATO. What I got back was a letter from a junior official saying that all will be revealed in 2013 and—wait for it—it will all be fully in accordance with the legal advice received by Scottish ministers. We know what that means. I asked the Ministry of Defence what discussions had taken place with the Scottish Government and what work has gone on to stand this up. The answer? None. There has been no contact between the Scottish Government and the MOD. There are no facts to support Mr Salmond’s claims.

It is not just the Conservatives who have noticed. The First Minister needs to look behind him: Jamie Hepburn said that it is “nigh-on impossible” to remove nuclear weapons under pressure from NATO; and Sandra White said that it is “hypocritical” to be anti-nuclear and pro-NATO. Perhaps Councillor Norman MacLeod summed up SNP policy best when he said that, on this and on other issues, it goes into “unsubstantiated assertion”. The nation owes Councillor MacLeod a debt of gratitude for summing up what we already know. Even the First Minister’s own side recognises that this First Minister asserts as facts things that he does not know to be true.

We know that we cannot trust the First Minister on defence, we know that we cannot trust him on the economy and we certainly cannot trust him on Europe. How can Scotland trust him on anything ever again?

**The First Minister:** As Ruth Davidson will recall, the Select Committee on Scottish Affairs concluded just a few days ago—incidentally, I do

not agree with any of the types of politics of the members who contributed to its report—that of course it would be possible to remove nuclear weapons from Scotland. That committee includes a number of Conservative members. Obviously, it cannot include any Conservative members from Scotland because there are none outside Government at present, but that was the committee’s conclusion. My evidence was that 25 out of 28 NATO member countries are non-nuclear. That seems to me to be pretty convincing evidence.

As far as divisions in a party are concerned, I do not think that Ruth Davidson is in a splendid position to comment on that at present. The difference is that this party has open debate at its annual conference, whereas what happens in the Conservative Party is that there is a group of about 50 MPs intent on bringing down their Government at Westminster, and they seem to be doing a splendid job.

On Tuesday, of course, I was giving a speech on renewables policy to the renewableUK conference. At the same time, the UK minister John Hayes gave a speech, which he then did not give, which was then leaked to *The Daily Telegraph* and the *Daily Mail*, and which was then contradicted by his boss at 10.30 yesterday morning and by the Prime Minister at Prime Minister’s questions. Today, his predecessor has entered the debate to disagree with his successor. In the context of the chaos and confusion on UK energy policy on Tuesday, I think that the policy of the Scottish National Party looks pretty firm and pretty consistent.

On the question of trust, I mentioned the 6 per cent who believe that Johann Lamont stands up for Scottish interests. Ruth Davidson is up there challenging—it was 5 per cent for her.

**The Presiding Officer:** We will have a constituency question from Tavish Scott.

**Tavish Scott (Shetland Islands) (LD):** Is the First Minister aware that the National Union of Rail, Maritime and Transport Workers is balloting the crews who serve on the Orkney and Shetland ferry service, that the islands potentially face industrial action over the Christmas holiday period and that that would have a devastating impact on families and students returning home for Christmas, on the goods and perishable products that need to move into the islands and, in particular, on the salmon, mussels and white fish that are exported from the islands at that key time for those industries?

Will the First Minister undertake to ensure that the Government looks into the issue, and makes sure that the strike does not happen, so that we

can look forward to a Christmas without disruption?

**The First Minister:** The Government is aware of the possibility of industrial action, and it will do its utmost to avoid any such action, which would severely inconvenience people in the northern islands.

Of course, the RMT has balloted for industrial action a number of times recently, and many of those disputes have been settled. I am sure that all members in the chamber believe and hope that the latest dispute will be settled as well.

**Claudia Beamish (South Scotland) (Lab):** What discussions has the Scottish Government had with National Museums Scotland about the potential closure of the national museum of costume, which is vital to the local economy of Dumfries and Galloway in my region? That museum is part of a strong network involving the area's tourism infrastructure, and its closure would be a serious loss to the local economy.

**The First Minister:** I am aware of the issue. I undertake that Fiona Hyslop, the Cabinet Secretary for Culture and External Affairs, will contact Claudia Beamish. If Claudia Beamish seeks a meeting, that meeting will be granted so that the issue can be discussed in detail.

### Cabinet (Meetings)

**3. Willie Rennie (Mid Scotland and Fife) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-00930)

**The First Minister (Alex Salmond):** Issues of importance to the people of Scotland.

**Willie Rennie:** The First Minister and I agree that it would be unlikely that an independent Scotland would be excluded from the European Union.

**Members:** Unlikely?

**Willie Rennie:** I am afraid that the SNP has missed the point; the issue is the terms. Has the First Minister secured any agreements with the 27 countries of the European Union to show that they will approve his detailed terms for Scotland's place in Europe?

**The First Minister:** I do not know whether Willie Rennie has caught up with today's news that the Government at Westminster—I should not call it "his Government"—which he supports has confirmed that it will not take up the European Commission's offer of advice on the matter. That puts him in a strange position, as far as clarity is concerned.

I referred Johann Lamont to Graham Avery's paper a few moments ago. I refer Willie Rennie to it, too—in particular, to the second-last sentence, which states:

"Such solutions would, in fact, be in Scotland's interest since it could expect to obtain a better deal as a member state with a full voice and vote in the EU than in the pre-independence period."

That view, which is from an independent academic, seems to me to be a pretty strong statement of our belief that Scotland would be better as a member state of the European Union than it is as a subsidiary part of a state that does not—as I see from various events in the coalition Government—seem to be particularly enthusiastic about European Union membership, at the moment.

**Willie Rennie:** The First Minister must get agreement from 27 countries—not just the opinion of the European Commission. Mr Avery said that Scotland's terms of membership would be subject to agreement with the 27 other Governments, so it is hard to believe that the First Minister does not have one single agreement. He clearly thinks that all 27 countries will just sign up to whatever he wants. The issue is not just about the specific legal advice that he did or did not ask for, or the academic opinion that he either cites or ignores: it is also about the domestic politics of other countries.

The First Minister might not like this, but other people now doubt what he says. They want to know—for sure—what they may lose, before they vote in any referendum. He has no agreements with other countries, so when does he expect to get them, or will it be "Vote first and ask questions later"?

**The First Minister:** I really suggest that Willie Rennie pay more attention when reading Graham Avery's paper. The key point that it makes is that Scotland's position will be negotiated from within the European Union. He also goes on to express the view—which I read out to Willie Rennie—that the position as an independent state would be rather better than the position that we have presently.

Why is that important to this debate? It is because it rather gives the lie, and the counterbalance, to the arguments of people whom Willie Rennie would not, I am sure, want to follow, because he says that he is absolutely sure that Scotland would become a member of the European Union. Was not it Lord Wallace who was, a few weeks ago, openly speculating about Scotland's being shunned and put out of the European Union? Perhaps the Liberal Democrats should come to the chamber once they have a consistent policy among their few members in

Scotland. At the moment—this is a fairly modest assertion—[*Laughter.*]

**The Presiding Officer:** Order.

**The First Minister:** At the moment, there is a good deal of uncertainty about the United Kingdom's membership of the European Union. Why is that? It is because the partners in the UK coalition Government include a sizeable group of members who want to leave the European Union. Given that Willie Rennie is part of a party that is in government with a great deal of people—perhaps even Cabinet ministers—who want to leave the European Union, he is not in a good position to come to the chamber and lecture us on our European credentials. Scotland is a European nation and intends to stay one. Resource-rich, energy-rich and oil-rich Scotland will be welcomed in Europe.

As I mentioned the figures to the other two party leaders, I can hardly resist telling Willie Rennie that, while Johann Lamont got 6 per cent and Ruth Davidson 5 per cent, his total in the YouGov poll was 2 per cent.

#### **Trident Replacment (Economic Benefits)**

**4. Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** To ask the First Minister what the economic benefits for Scotland are of replacing Trident. (S4F-00945)

**The First Minister (Alex Salmond):** Scottish taxpayers currently pay £163 million a year towards the running of Trident. That money could be spent on 3,880 nurses, 4,527 teachers or a host of new schools and hospitals in our communities. That is even before we consider the extra £84 million a year that it is proposed be spent on the replacement for Trident over the next 15 years.

This week, the United Kingdom Secretary of State for Defence came up to Scotland and said that he had not even considered that the people of Scotland would vote yes in 2014, and that he plans to foist nuclear weapons on Scotland over the next 50 years. Half a century! Arrogance of that kind is typical of Tory ministers, who believe that they can continue to treat Scotland as a nuclear dump. They are not on.

**Christina McKelvie:** I thank the First Minister for that interesting response. [*Laughter.*]

**The Presiding Officer:** Order.

**Christina McKelvie:** Does the First Minister agree that it is incumbent on all political leaders in Scotland to make their positions known? Yesterday, the Scottish Campaign for Nuclear Disarmament criticised the Labour leader, Johann Lamont, for consistently failing to publicise her views on Trident. That was after one of her own

front-bench members, Neil Findlay, claimed that renewal would be “economically incompetent”.

The Scottish Government's position on Trident, unlike the Labour Party's, is clear. Will the First Minister reiterate it in the hope that the majority of members will speak out and resist the development and dumping of nuclear arms in Scotland?

**The First Minister:** Not only the Scottish Government, but a majority of members have voted to get Trident out of Scotland. That opinion is shared across civic Scotland by the churches, the Scottish Trades Union Congress and civic society, who oppose Trident.

On the UK minister's determination to foist nuclear weapons on Scotland over the next 50 years, I point out that, as I understand it—these things are an ever-moving feast—that policy is not even supported by one half of the Westminster coalition. The Scottish Government, the majority of the Parliament, a majority of the Scottish people and Scottish civic society do not want nuclear weapons to be renewed in Scotland, so cannot we declare as a people and a nation that enough is enough, and that we are not standing for it any more?

#### **National Health Service (Financial Pressures)**

**5. Jackie Baillie (Dumbarton) (Lab):** To ask the First Minister what the Scottish Government's response is to the Audit Scotland report “NHS financial performance 2011/12”, which suggests real-terms budget reductions and growing financial pressures on the NHS. (S4F-00935)

**The First Minister (Alex Salmond):** As Jackie Baillie well knows, the Scottish Government has protected spending in the national health service and ensured that there will be above-real-terms resource funding increases from 2012-13 to 2014-15, just as we committed to do in our manifesto. That is reflected in an average uplift to the territorial health boards of 3.3 per cent in 2013-14, compared to the current Treasury deflator of 2.5 per cent.

The Audit Scotland report highlighted the fact that the NHS broke even and said:

“The relatively small surpluses achieved by boards at the year end highlight the careful management of the financial position”.

**Jackie Baillie:** The First Minister's response reminds me of NHS Lothian's approach to waiting times, which involved a culture of strongly discouraging the reporting of bad news. I hope that the First Minister will not continue to be in denial about the problems that face the NHS.

Does the First Minister agree, therefore, that the cut of more than 2,500 in the number of nurses is

having a direct impact not just on patient care, but on nurses? In today's *Edinburgh Evening News*, we find out that in NHS Lothian 17,500 working days are lost among nurses alone because of stress, which is a record high. Is that not a wake-up call for the SNP and the First Minister?

**The First Minister:** Jackie Baillie knows that sickness absence across the NHS is much lower than it was when Labour was in government. She should also know that, on every indicator, the NHS in Scotland is performing at record levels, which is tribute to the nurses and doctors and every other worker in our national health service.

Jackie Baillie says that I am not a purveyor of bad news, and that is probably true, but she could never claim that title for herself. After all, it is less than a year since she assured us in a press statement that Scotland was

“the superbug capital of Europe”.

Unfortunately for Jackie Baillie, it was found out that the statistics that she relied on related to the period when Labour was in government in Scotland. I do not know—I am open to correction on this—whether Jackie Baillie has ever had the grace and courtesy to apologise for that slight on the NHS. The statistics that she used in claiming that Scotland was

“the superbug capital of Europe”

were based on a survey from 2007, when the Labour Party was in government. Although that was clearly a major mistake by Jackie Baillie, it is surely evidence for my contention that Jackie Baillie and bad news are never far separated.

### Equal Pay

**6. Nigel Don (Angus North and Mearns) (SNP):** To ask the First Minister what progress is being made to ensure equal pay by employers subject to its public sector pay policy. (S4F-00940)

**The First Minister (Alex Salmond):** We are committed to ensuring that pay systems in the public sector are fair and non-discriminatory. Scotland has a strong record in the area. The gender pay gap is smaller and is closing more quickly in Scotland than it is in the rest of the UK. However, the gap still exists. I do not think that that is acceptable, so we will continue to work with key partners to address the issue.

**Nigel Don:** I am grateful to the First Minister for his comments about protecting household incomes through equal pay and the social wage, in public sector pay policy. I note that there was a letter in the *Sunday Herald* a few weeks ago from Bob Holman, one of the Labour Party's renowned anti-poverty campaigners, who considers that universal services are an essential part of Labour policy. Does the First Minister share my surprise

that it seems that the SNP is now the only major political party that maintains that view?

**The First Minister:** That is certainly correct. Those services were considered to be vital in the Labour Party manifesto last year, when Johann Lamont was deputy leader of the party, but are now to be sacrificed in the new Labour policy review.

I think that the social wage is an important concept, as is the living wage, which helps us to close the gender gap in pay. The social wage is part of a social contract with society so that, in these tough times, people can see that the Government is doing its best to help them on things such as the council tax, prescription charges and free tuition. I would have hoped that that would carry the support of the vast majority in Parliament. I think that the Labour Party and Johann Lamont will find out to their cost that that desertion—not just of their manifesto, but of those key principles—will cost the Labour Party dear in Scottish politics in times to come.

## Organ Donation (Presumed Consent)

### The Deputy Presiding Officer (Elaine Smith):

The next item of business is a members' business debate on motion S4M-04418, in the name of Kenneth Gibson, on time to introduce presumed consent. The debate will be concluded without any question being put.

#### *Motion debated,*

That the Parliament regrets what it considers the tragic death of 43 people in Scotland last year while awaiting an organ transplant; applauds the Respect My Dying Wish campaign by NHS Greater Glasgow and Clyde urging people who wish to donate their organs after death to tell their loved ones of their desire so that their wishes can be respected, and recognises calls to introduce a system of presumed consent to help save the lives of more people awaiting organ transplant.

12:35

**Kenneth Gibson (Cunninghame North) (SNP):** I thank the 43 members, many of whom will speak this afternoon, who signed the motion that has brought the debate to the chamber. I also thank the British Medical Association for its comprehensive briefing; Kim Karam for her well-researched book, "Donation: Transplantation: Conversation"; and *The Sunday Times* and the *Evening Times* for their on-going campaigns. I look forward to a constructive debate and I hope that we will make progress today to save lives and reduce suffering for hundreds of Scots each year.

Every year, about 600 to 700 people in Scotland require an organ transplant. Last year, 550 patients received a transplant, and 197 had their sight restored by a cornea transplant. People are encouraged to sign up as organ donors but, although 90 per cent of Scots support organ donation, only 30 per cent are registered donors.

Further, as has been pointed out through the on-going respect my dying wish campaign, the potential for 15 per cent of organs to be donated is lost because some families—usually while they are, understandably, very distressed—do not uphold the wishes of deceased relatives who were registered organ donors. Many families subsequently regret that, often only a day or two later.

Every death is a tragedy yet, through organ donation, one deceased person could give a new lease of life to a dozen or more people. The lungs, liver, heart, pancreas and kidneys are some of the organs that can be successfully transplanted.

Despite rising numbers of donors, it is a sad fact that Scotland lags behind much of Europe, and demand for organs rises year on year. It is encouraging that the organ donation rate in

Scotland increased from 9.8 deceased donors per million population five years ago to 13 donors per million last year, but that pales in comparison with France, where there are 23 donors per million, or Spain, which has 35 donors per million.

Tragically, as a result of organ shortages, 43 Scots died last year because an organ was unavailable. The situation is most acute for patients who await a liver transplant, and one patient in five dies while waiting.

Parliament must tackle the problem. As many members know, introducing presumed consent was debated in the Parliament most recently in January 2008. Many United Kingdom Government and Scottish Government drives have been made to increase the number of donors, but it is now time to take more effective action. I fully agree with the statement of Sheila Bird and John Harris in the *BMJ*, who argued:

"Twenty years after the UK's first confidential audit, we continue to jeopardise substantial quality adjusted life years ... for those awaiting transplantation by chasing a holy grail of enhanced consent by means other than presumption."

The previous UK Government set up the organ donation task force, which looked into the possibility of establishing an opt-out system. Controversially, the task force recommended no change to current policy and argued for a renewed effort to increase the number of donors who opt in. The task force suggested that that might be achieved through the establishment of a UK-wide team of hospital-based organ champions. I will return to that point later.

It would perhaps be convenient to leave the argument at that and simply defer to the final recommendations of the task force, which Parliament debated in March 2008. However, the task force had commissioned research on the impact of presumed consent on donation rates, which it appeared to contradict directly. For example, the assessment team found that presumed consent policies generally lead to increases of about 25 per cent in the number of donated organs. It concluded:

"Presumed consent is associated with increased organ donation rates, even when other factors are accounted for."

It is clear from myriad studies that there is growing public support for a shift towards presumed consent—support is reported to be as high as 70-plus per cent. Presumed consent also enjoys the support of the British Medical Association, the Scotland Patients Association, the British Heart Foundation, the Royal College of Surgeons, the Cystic Fibrosis Trust, the Scottish Kidney Federation and the National Kidney Federation, among others.

Of course, organ donation is a sensitive issue, and it is important that patient autonomy remains.



We could move to a policy of soft presumed consent, which makes the wishes of patients and families paramount and protects children and people who do not have the capacity to decide. The preferred soft opt-out policy that the British Medical Association has put forward would safeguard such rights.

A soft opt-out allows people who do not want their organs to be donated to sign up to a database, which would make it explicitly clear that donation is against their wishes. That would be complemented by an additional safeguard whereby, if an individual had not opted out, family members would be consulted to ascertain whether they knew of any objections. Furthermore, all relatives would be advised before organ removal, which would not proceed if it caused distress to relatives, such as those with certain deeply held religious convictions.

Before such a system was introduced, a high-profile information campaign to make the public aware of it would be essential. I understand that, in 2011-12 alone, the Scottish Government spent £0.5 million on raising awareness of and encouraging organ donor registration, and a new campaign was launched only three days ago. There is no reason why such funding could not be used to inform people of the change; media coverage would undoubtedly help, too.

Across Europe, 24 countries have a form of presumed consent. As has been demonstrated in Spain, Belgium and France, soft opt-out has a number of benefits: not only does it respect the rights of patients and families but the donation rates are much higher than they are here or, indeed, in countries such as Austria, where hard opt-out policies in which relatives have no say are pursued. Although this is of secondary importance, it is worth noting that maintaining an opt-out database could be less costly than maintaining the current one, especially when one considers that fewer people would be likely to opt out of organ donation than those who currently opt in.

The Spanish model of organ donation and transplantation is regarded as among the most successful in the world. Spain has the highest rate of organ donation ever reported across an entire population, and—crucially—it has maintained that success for many years. It has overseen discernible increases in organ donation and transplant activities since its overarching and consistent framework was established in 1989. That framework incorporates a network of highly motivated hospital doctors who personally take charge of the donation process—a task that involves opening up an empathetic dialogue with relatives of the deceased at the earliest possible opportunity. That role could be fulfilled by the

organ champions that the organ donation task force called for a few years ago.

The donation rate in Spain has risen from 14.3 per million in 1989 to 35 per million now with the implementation of that model, and other countries have endeavoured to set up similar systems. In Italy, for example, organ donations per million in Tuscany quadrupled in a decade after the establishment of a similar programme.

After many years of discussion and debate, it is time for the Scottish Government and the Parliament to take decisive action to improve the life chances and quality of life and to reduce the needless suffering of hundreds of Scots. The soft opt-out option would save dozens of lives every single year. I know that the Cabinet Secretary for Health and Wellbeing backed such a policy in a previous life, and I hope that the minister will do so today.

**The Deputy Presiding Officer:** This is a popular debate, so speeches should be a maximum of four minutes. If members were to take a bit less time, I would be obliged to them.

12:42

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I congratulate Kenny Gibson on securing the debate and apologise profusely to you, Presiding Officer, and to him and my colleagues, as I will have to leave the chamber at the conclusion of my speech.

I know that Mr Gibson will not take it amiss when I say that I do not often find myself able to support the parliamentary motions that he lodges, but he has my full support on the motion and issue that we are discussing.

Some 650 people in the UK are waiting for a donor organ. That is 650 people who are unable to live their lives to the full and who have to cope with pain and discomfort every day, and 650 people and their families who are living with stress and anxiety in wondering when or if an organ that is a match for them might become available. Those 650 people know that, with the medical advances of recent years, a replacement organ is likely to be successful and to transform their life, freeing them from the restrictions that their ill health imposes. Often, a replacement organ allows people to go back to work and to live a full and meaningful life.

It is significant that, when asked, some 90 per cent of people support organ donation, but fewer than 50 per cent are registered on the national health service organ donor register. There is an even more depressing figure. As Mr Gibson said, Scotland has one of the lowest organ donation rates in the world, at approximately 13 per million. That suggests to me that people in Scotland are

dying unnecessarily because some of us simply have not got round to signing up as donors.

That is why I support the motion, why I was so pleased to sign up to the *Evening Times* campaign, and why I congratulate NHS Greater Glasgow and Clyde on its respect my dying wish campaign. I recognise, as Mr Gibson does, that there must be safeguards to ensure that vulnerable people are not exploited or coerced, and I believe that young people under 16 should be exempt. There will, of course, be people whose religious beliefs do not allow organ donation, and there will be occasions when bereaved individuals have extreme concerns about their loved one's organs being harvested. We must respect those views, but sensible solutions work elsewhere and they can work here, too.

In my lifetime, the first organ transplant took place in the UK, the world's first heart transplant was carried out and the organ donor scheme that we have today was launched. We have come a long way, but it is time to go further and adopt the kind of scheme that has increased organ donation in other countries by between 25 and 30 per cent. If we achieved the same percentage increase, we would take 195 people off the waiting list. Surely, for the sake of those 195 people and their families, it is time to change to a system of presumed consent. I sincerely hope that Kenny Gibson's motion leads to progress on the matter, and I look forward to playing my part in future debates on legislation in the area.

12:45

**Dennis Robertson (Aberdeenshire West) (SNP):** I congratulate my colleague and friend Kenneth Gibson on bringing this members' business debate to the chamber.

If I may, I will present a personal story. Members might recall that, in February this year, I related in the chamber the story of my daughter Caroline, who died 21 months ago. Her wish was to donate her organs so that other people would have the gift of life, or perhaps of recovering sight. As a youngster, Caroline had a firm belief that that would be her wish. Unfortunately, she did not realise that she would have that wish at such a young age.

Caroline's condition meant that her organs could not be used. However, she had healthy eyes, and the tissues from her corneas were transplanted.

Many people are perhaps not aware that, when people agree for the organs or tissues of their loved one to be removed and transplanted, they undergo a process during which they have to complete an authorisation and patient assessment. That came as a surprise to me and my family.

Having just lost our daughter—for Fiona, it was her sister—we were presented with the assessment. We had the support of the chaplain at Aberdeen royal infirmary, James Falconer, to whom we are eternally grateful, and we also had a transplant co-ordinator who sat with us and explained the process.

The process is an administrative one that I suppose takes away the personal issues. There was a great deal of explanation and sensitivity. To an extent, there was an apology that we had to go through the process, but we had to go through it to ensure that everything was correct and that we could proceed with the donation of Caroline's organs or corneas. That is when we learned that Caroline's organs were not suitable for transplant.

I believe that the process ensures that organ donation is carried out only when there is consent. Therefore, with presumed consent, which I support fully, the soft option is available. There is a built-in safeguard in case the families, relatives or partners, or others who are next to the person who has just lost their life, do not wish to proceed.

I feel that my daughter gave life to another, not because she saved a life but because she has perhaps given someone the ability to lead a new life. I hope that her corneas have given someone the sight that allows them to live their life as fully as possible. We should support presumed consent. Like Patricia Ferguson, I sincerely hope that, one day, we can support legislation on the issue. Once again, I congratulate Kenneth Gibson on bringing the issue to the chamber.

12:49

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I congratulate Kenneth Gibson on lodging an important motion, and I apologise to him, to the Presiding Officer and to the minister, because I must leave the chamber shortly. I am sponsoring the launch of the national dementia carers action network, which takes place in committee room 3 at 1 o'clock.

The figure of 650—the number of patients who are waiting for a transplant in the UK—has been much quoted. We should also remember that 43 people died last year while waiting for a transplant. In view of the figures, I take an entirely pragmatic view of the subject and will support any policies that bring about more organ donations. In coming to such a decision, I would want to listen, in particular, to people who are closely involved with the service and to look at the evidence from other countries.

A figure that was perhaps not well known until relatively recently is that 15 per cent of potential organs for donation are lost because relatives do not follow the stated wishes of their loved ones.

That figure led to the establishment of the respect my dying wish campaign, which was launched recently. I strongly support the campaign, and I am sure that all members are impressed by how it is using Facebook and Twitter to get the message out. Along with many people, I have done everything that I can do to promote and support the campaign.

I do not think that any member would not support the campaign. However, an interesting point is that the leader of the campaign, Professor Kevin Rooney, is not persuaded of the benefits of an opt-out system. In *The Sunday Times* on 7 October he is quoted as saying that such an approach could be counterproductive. He went on to say:

“As pro-organ donation, I think you risk losing more people than gaining them.”

Those words gave me pause for thought. The point is that relatives are much more likely to agree to organ donation if their loved one had previously expressed a positive view. Indeed, figures from the campaign back that up. It appears that 90 per cent of relatives will say yes if the person had expressed a positive view, whereas only 40 per cent say yes if no such view had been expressed.

Under the current system, relatives' views are always respected. That is not necessary under the Human Tissue (Scotland) Act 2006—which introduced the concept of authorisation—as, strictly speaking, the views of relatives can be overridden. However, I think that we are all speaking about a context in which relatives' wishes are respected.

I am therefore a little worried about the loss of a positive list, given the evidence that relatives are much more likely to say yes if their loved one had expressed a positive wish to donate, as opposed to failing to express a negative wish—if that is the correct way to describe the opt-out system. The issue gives me pause for thought.

As I said in a previous debate on the matter, it appears that Belgium has two lists: an opt-in list and an opt-out list. The system seems cumbersome and I do not entirely see how it would work successfully in practice, but I am told that Belgium is the most successful country in Europe in terms of organ donation, so perhaps we ought to look at the system, which gets round the problem that the lack of a positive list would cause by having two lists.

I am entirely open-minded about opt-out and I would certainly support it if I was convinced that it would lead to more organ donation. I certainly have no objection in principle to an opt-out system, but I am not fully persuaded—although, of course, I will read the other speeches in the

debate later. I conclude by saying that I am a strong supporter of the respect my dying wish campaign, which I hope goes from strength to strength.

12:54

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** As other members did, I congratulate Kenny Gibson on securing this important debate.

Coming as I do from a substantially medical family, the demise of people is something to which I have been close for much of my life. The motion asks that the Parliament

“recognises calls to introduce a system of presumed consent”,

but I would go further and support a position of positive advocacy for presumed consent, coupled, of course, with respect for people who regard the remains of deceased relatives differently from the way in which I do.

Malcolm Chisholm made international comparisons, and it is important that we look further at them. One of my nieces is the transplant co-ordinator for Queensland in Australia. When my father-in-law died at a comparatively early age some 40 years ago, his entire remains were donated for medical research and the training of medical students. It was interesting that we had his funeral in the absence of a coffin, which changed the dynamic and emotional charge for all who attended, because we were in a much more positive place, thought more about my late father-in-law's achievements and contributions, and were less fixated on his remains.

My mother-in-law, who died much later, wished the same for her, but for practical reasons we were unable to have her preserved for research within the 48-hour limit that applies, because she had the grave misfortune to die on the first day of a three-day weekend—sometimes those things happen. My wife and I have left instructions that others are to have the use of any and all our remains.

Each of us will have achievements in our lives that we can look back on with pride and, if we are lucky, others will remember them after we depart and confer on us a degree of immortality. However, how much more our contribution is when we allow someone else to live after we no longer do. Modern medical technology can keep many living beyond the point of failure of critical organs. Most of us will be familiar with kidney dialysis, but fewer will be aware of the professional, social and practical cost of living on dialysis. When a kidney failure sufferer gets a transplant, it not only prolongs their life but dynamically changes it.

The majority of people in our country die without making a will. We have substantial evidence that people are broadly reluctant to engage with the issue of their own mortality—we know that people simply like not to think about it. Like others, I think that it is time to think positively about two actions. First, we should give legal force to the deceased's clearly expressed desire for their organs to be used after their death. We must consider making their wish in that regard paramount. After all, we can make a will about our tangible assets, so it is time to think about doing the same for our mortal remains.

Secondly, we should move to the presumption that the organs of the newly deceased may be re-used. There would have to be strong protections for those of faith or other beliefs to ensure that it is not a repugnant act for those affected. It is not a matter for hasty legislation and we would need to consult widely, but other countries have done it and we ought to be able to.

From personal experience, I know that national health service staff find it delicate and difficult to talk to people about imminent demise. We must consider training NHS staff in that regard.

As I said, other countries have moved to the presumption of organ donation and it is time for us to do likewise. The respect my dying wish campaign is absolutely excellent and, like others, I am happy to support it.

12:58

**Anne McTaggart (Glasgow) (Lab):** I thank Kenny Gibson for securing the debate. I am delighted to take part in this important debate on presumed consent for organ donation in Scotland. I know that the subject is particularly sensitive and I recognise that a wide range of views are held on the proposed adoption of such a system.

I acknowledge the serious and difficult circumstances that are faced by thousands of people who are currently on the waiting list for organ transplant operations. I am sure that people on all sides of the debate would agree that positive actions need to be taken urgently to address that situation. At this time, more than 600 Scottish people are on the waiting list for a transplant operation, and on average three people die each day as a result of no suitable organs being available in time.

The campaign to raise awareness of the issue by NHS Greater Glasgow and Clyde and the *Evening Times* has highlighted some of the key issues that need to be fully considered in the course of the debate, principally whether an opt-out system would result in a greater number of organs being made available for transplant and how many lives would subsequently be saved.

As we heard in earlier speeches, about 40 per cent of people in Scotland have signed up to the organ donation register. That compares favourably with a number of international examples of opt-in systems that are similar to the UK model of the organ donation register. However, international examples of opt-out systems show that organ donations tend to be between 25 and 30 per cent higher under such systems, compared with systems in which individuals have to register to donate. That trend has been consistent, and it illustrates that the adoption of a new system in Scotland could play a vital role in saving lives.

Recent studies of public support for organ donation have found the intention to register to be as high as 90 per cent while actual registration is as low as 25 per cent in some parts of the UK. That is strong evidence that an opt-in system could increase access for those who are unaware of the current process and encourage greater awareness of the impact that organ donation can have. I believe that many more Scots than are currently on the organ donor list would be in favour of registering. They might have not registered only as a result of a lack of information or the time constraints that are involved in their leading busy and active lives. The comparatively high percentage who have already registered as donors suggests that our population is receptive to the idea of organ donation and that many more would be comfortable with being added to the list of potential donors in the future.

Although I support the adoption of an opt-out process and believe that the benefits of such a system would outweigh the administrative challenges of its operation, it would have to be accompanied by high-quality and readily available information on how to opt out. It would be unacceptable to have large numbers of people registered as donors who would be unhappy with that arrangement, and it would be unacceptable to cause unnecessary distress to families after the death of a loved one. That is why the process of opting out should be made simple and patients should routinely be asked for their continued consent at all available opportunities.

It is clear that we have a crisis in organ donation in Scotland and tough decisions have to be made to rectify that devastating reality. An opt-out system would act as a prompt for those who are in favour of registering to have the process completed for them, and many lives would undoubtedly be saved as a result.

**The Deputy Presiding Officer:** Given the number of members who still wish to speak in the debate, I am minded to accept a motion without notice from Kenneth Gibson, under rule 8.14.3, that the debate be extended.

*Motion moved,*

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

*Motion agreed to.*

13:03

**Jamie Hepburn (Cumbernauld and Kilsyth) (SNP):** I join others in congratulating Kenny Gibson on securing the debate, and I thank the Cystic Fibrosis Trust, the Scottish Kidney Federation, the British Heart Foundation Scotland and British Medical Association Scotland for their informative and helpful joint briefing. I hope that Dennis Robertson does not mind my singling him out, but I also want to thank him for his moving testimony. I appreciate his having the strength of character to come here and talk about what can only have been a very painful experience.

We had a debate on the issue previously, on 24 January 2008. It was a members' business debate that was secured by our departed colleague, Lord Foulkes. I recall that Kenny Gibson spoke on that day, too. In that debate, I said that part of my motivation for speaking was that I have a friend with cystic fibrosis, who may some day require a lung transplant. That also forms part of my motivation today. I said:

"He is presently in pretty good health and in pretty good shape, but it is quite conceivable that, some day, he will need a lung transplant."—[*Official Report*, 24 January 2008; c 5559.]

He contacted me in the past few days to say that he will be assessed for a lung transplant on 17 December. Obviously, I wish him well. I have to say, though, that even if he is assessed as requiring a lung transplant, under our current system there is no guarantee that he will get it.

Nothing has changed since the debate in January 2008 to alter my view that the time is right to go for a system of presumed consent. Indeed, if anything my belief is deeper, given the experience of the intervening period. As Patricia Ferguson mentioned, some 650 individuals in Scotland are waiting for a donor organ. Indeed, the briefing that I mentioned states:

"Every day, throughout the UK, three people die waiting for a donated organ."

I make that to be more than 5,000 people who have died across the UK in the period since we had the debate in 2008. Members will forgive me if my calculations are slightly wrong, but that is a significant number of people. Of course, not all those lives would have been saved if we had had a system of presumed consent, but I believe that many could have been.

We know that support for donation exists and that it is widespread. Kenny Gibson made the point that up to 90 per cent of people support

organ donation, but for whatever reason less than half of Scotland's population is registered on the NHS donor register. We have to square that circle, and the question is how we do that. There is big support for donation but lower levels of registration, so it is right to consider how we increase organ donation. I reflect on the fact that 70 per cent of the population support an opt-out scheme.

I will finish by touching on some concerns that have been expressed about such a scheme. It has been suggested that some people have philosophical, moral or religious objections to any opt-out scheme. If those individuals seriously hold such strong beliefs, I cannot see how they will do anything other than opt out. Regarding those who are unable to consent, it is clear that we can design a system so that those who cannot consent will not be included. Those people would be under the age of 16 or 18—there is perhaps an argument for either age. Vulnerable adults would of course not be included in the system. The great red herring has not been thrown out today, I am glad to say, but I have heard it said that some doctors will wilfully neglect some patients so that they can get their organs for other patients. That will clearly not happen and it runs counter to the Hippocratic oath.

We hear those concerns, but it is not beyond us to design a system that takes account of them. I congratulate Kenny Gibson on securing today's debate and I hope that it is not long before we debate legislation on this matter.

**The Deputy Presiding Officer:** Thank you. Once again, I appeal for brevity.

13:07

**Drew Smith (Glasgow) (Lab):** I congratulate Kenneth Gibson and thank him for bringing forward this debate.

A few years ago I had the chance to be a bone marrow donor, but that experience is not what I want to talk about today. Rather, I simply say that to put what I will say in context. By making a blood donation, a marrow donation, or perhaps a living kidney donation, we are giving a gift and we are benefiting from a unique and rewarding opportunity. It is a gift that is in our own gift.

An organ donation after death should be no different, but Kenny Gibson was right to say that under the current system we have no guarantee that decisions taken in life will be respected in death. We know that 90 per cent of Scots support organ donation, but that fewer than half of us carry the donor card. However, only a tiny percentage of us will die in circumstances in which organ donation might be possible. At present, the gift is

not our own, but rather might be for our relatives to make for us.

Despite progress in improving our system, the fundamental problem with our register and the way in which we ask people to make this difficult choice remains. I believe that a change from an opt-in to an opt-out register would help to support families who are unsure of what they should do—and we know that many families who say no go on to regret the choice they made for their loved one. Such a change would mean that those who wish to donate could have greater confidence that their wishes would be respected and we know, because the evidence tells us, that it would increase the number of donations.

That simple change would save lives. The change would be simple and there is evidence that 70 per cent of us already support such a move, even though we have not yet had the detailed debate that might reassure many of those who have concerns. The change is not one that I instinctively supported, but I came to understand it as others helped to bust the myths of so-called presumed consent. Whether there is an opt-in or opt-out register, the fundamental choice remains the same. The choice to give remains something that we should celebrate, not take for granted.

Faced as lawmakers with 650 people on organ waiting lists, we have the responsibility not to remove the choice but to make the choice as easy as possible. More than 40 members have signed this motion—I make an effort to sign as many of Mr Gibson's many motions as I can—and almost 60 of us signed a previous motion recognising the *Evening Times* campaign on this matter, which was supported by 10,000 of the paper's readers.

With the Government's support, we could make this change and save lives. I called the change simple, but I acknowledge that reassurance would be required. As Patricia Ferguson and others have pointed out, safeguards would be complex; new procedures would need to be detailed; and, as Kenny Gibson rightly made clear, a significant public information campaign would be essential before we could use any new register. Even if we all agreed today to do this, change would be years off and, in the meantime, more people will die.

For that reason, I consider the debate to be both timely and urgent. As the new Cabinet Secretary for Health and Wellbeing has previously indicated his personal support for opt-outs, I hope that the minister will indicate when he sums up whether the Scottish Government will introduce a bill to achieve the change that we seek. If the Government is not minded to legislate, I can tell the chamber that I have had initial discussions with the non-Government bills unit and the BMA and am considering lodging as an alternative way

forward a proposal modelled on the bill that Labour has introduced in the Welsh Assembly.

At this week's meeting of the Health and Sport Committee, the cabinet secretary said that although he often looked to the Opposition for ideas he very often did not like the ones he saw. In truth—and as speeches from all round the chamber have demonstrated—this is not a party-political matter, but I ask the Government to meet me, perhaps Mr Gibson and any other member who would like to be involved in making this change happen. After all, this change, which is in our gift, would save lives.

13:11

**Jackson Carlaw (West Scotland) (Con):** As with the debate in 2008, I am speaking personally on this matter. Funnily enough, in the previous debate, I took very much the same line as the Government: I am certainly sympathetic to the arguments that are being promoted but, at that point, I was not persuaded that the correct approach was to change the law.

I thought that Kenny Gibson very effectively set out the medical imperative underpinning all this and the Government is to be congratulated on the actions that it has taken over the past few years to improve the opt-in for many people. Its campaign was successful and another one is now under way. Of course, the lesson might be that our campaigns have to be sustained and that we have to find ever more imaginative ways and opportunities to encourage people who are applying for documents to opt in at those points. We should also bear in mind one consideration that was highlighted in 2008, and which is still pertinent, when we cite Spain as one of the nations whose example we should be following. The fact is that other countries are much more effective than we are in processing and using the donations of organs that many people have offered.

I am slightly uncomfortable with the process that has been identified in the briefing and detailed in the debate and ask members to consider what it would involve. For a start, every adult member of society would have to be contacted and would have to make a conscious decision, and then all that information would have to be collected and processed without error and established on a database where it could be referred to, again without error. Given everything else that has happened in the health service and elsewhere in life in relation to the security and effectiveness of information systems, I have to say that I am not confident that such a proposition can be delivered. I am particularly uncomfortable with and concerned by the effect on public opinion if it came to be shown that organs were being removed from

people who had sought not to be part of that process but whose information had been incorrectly processed. That would undermine and damage public confidence, which, as members have pointed out, is extremely high and in favour of the principle of organ donation.

I do not suggest that those issues are insurmountable, or that there is not work that could be done to seek a path or a process by which my concerns could be addressed. I do not know whether those concerns are well founded, but they strike me as potential concerns that could have a counterproductive effect. It is a little like Malcolm Chisholm—he identified that he is willing to be persuaded, but is not necessarily yet persuaded that, if we turn on its head the process that currently enjoys 90 per cent public support, we will retain that public support.

I am willing for work to be done, but I would be uncomfortable if we were simply to commit to the proposition that we are about to make a change from the current process to an opt-out process. I remain sympathetic to the opt-out process, but am not yet persuaded of it.

13:15

**Roderick Campbell (North East Fife) (SNP):** I congratulate Kenneth Gibson on securing the debate. Most of the points that I was going to make have been made, so I will try to be as brief as possible.

“You can’t take them with you” is something that we often hear when we talk about organ donation. It is a fundamental truth, nevertheless. Organ donation is an issue that evokes strong emotion. After all, organs constitute our bodies. How much more personal can we get? However, the current position should also evoke strong emotions. When we consider the urgent demand for organs in Scotland, it is a great shame that people are dying without registering to become an organ donor. It is a great pity that many who would be happy to donate their organs in order to save a life did not get round to registering.

Reference has been made to the BMA poll. Other polls have found the figure to be much higher. We need to ask why comparatively few Scots are registered donors and, most important, we need to find a system in which the number of people needing organs more closely matches the number of organs available.

As ever, we would be well advised to look to our neighbours for some guidance when considering solutions. In Europe, more than 20 countries operate some form of opt-out system. As other members have said, Spain has the highest level of donation in the world. Belgium is a close second but Scotland is a long way behind, with only 13

donations per million in 2010. Nevertheless, there are some positives. We currently have a higher percentage of our population on the organ donation register than any other part of the UK. In 2010, 37 per cent of Scots signed up, compared with 29 per cent of people in the rest of the UK. Even in Scotland, there is significant local variation in the percentage of people on the register. In the Highlands, 47 per cent are on the register, but in the Western Isles it is only 28 per cent.

Given the widespread public support for organ donation, the rate of people dying, ultimately unnecessarily, as highlighted in Kenneth Gibson’s motion, is shameful. I agree with other members that we need to look at the issue in a slightly pragmatic way. While I am happy to support the motion, I hope that any future legislative change will strike a workable balance between the strongly held objections of the minorities, particularly those with religious beliefs, and the desperate need of people who are seriously ill in favour of extending their life and improving the quality of their life.

13:18

**Liam McArthur (Orkney Islands) (LD):** It is not often that it can be said, particularly at this time on a Thursday, that Parliament is showing itself at its best, but that has very much been the case in this debate. I join other members in congratulating Kenny Gibson on a compelling speech, and on pursuing the motion with great tenacity, as he does all his motions. I congratulate him on securing the debate.

The motion notes with regret

“the tragic death of 43 people in Scotland last year while awaiting an organ transplant”.

It is probably worth putting on record the gratitude of everybody in this chamber for the work done by medical professionals and others, most important those who make the difficult and selfless decision to donate organs and, indeed, their families. That has resulted in 266 organs being retrieved from 81 deceased donors in Scotland in the past year, and 59 living donors donating one of their kidneys.

I thank the BMA and the other organisations for a detailed and cogent briefing for the debate. Like Kenny Gibson, I thank Kim Karam, who not only is an authority on the issue but acts as a research assistant to my colleague Tavish Scott. I commend her book, “Donation: Transplantation: Conversation”, to all members, not least because its purchase secures a £5 donation to my Movember campaign in aid of prostate cancer, but also because it is one of the most comprehensive and authoritative books on the issue.

Kim Karam refers to an emotionally complex journey. In this instance, she is talking about the journey that is made by somebody who is going

through the process of deciding whether to offer their organs for transplant and those who are in receipt of those organs. However, I think that the phrase also alludes to the challenge that faces legislators. The issue is not just about a legal change. Many members have made that point and Jackson Carlaw made an interesting and persuasive counter-argument in that regard. This is not just about a change in the law; there is a great deal that we need to do around that, not least to stimulate the public debate that, hopefully, this debate forms a part of, but also to raise public awareness and ensure that people debate these difficult, complex and sensitive issues far more thoroughly.

In that sense, I agree with Malcolm Chisholm that the NHS Greater Glasgow and Clyde campaign addresses one aspect that is a shortcoming in the law as it currently stands, which involves people's wishes not appearing to be respected as often as they should be. The use of social media recognises the need to stimulate the debate as widely as possible. Likewise, the *Evening News* is to be commended for its opt for life campaign.

However, aside from the petitions and articles that the campaigns have involved, the important element is the stimulation of the debate. Every member has referred to the widespread public support for organ donation in Scotland and the disconnect between that and the lesser number of people who sign up to the organ donor register. Roderick Campbell rightly pointed out that, in a UK context, Scotland is performing relatively well but, in an international context, we have a great deal to learn.

There are complexities and sensitivities around the issue, as others have said. Any system of presumed consent has to continue to involve the families. It is a leap too far to try to exclude them at this stage. Dennis Robertson, in yet another emotional and powerful speech, set out some of the reasons why that is the case. Children and vulnerable adults fall into the category that we are concerned about. However, we will still have an active decision that must be made.

As Kim Karam has pointed out, discussions about opt-out and opt-in systems should not distract us from discussing the complex issues of organ donation as a whole. The Spanish system works better not because it is an opt-out system but for a range of reasons, including media support, better education, public acceptance of donation as the normal expectation after brainstem death, better infrastructure and having co-ordinators spend longer with families to talk through the process and expectations.

**The Deputy Presiding Officer:** Mr McArthur, you must conclude.

**Liam McArthur:** We are on that complex journey at the moment. I look forward to continuing to take part in these debates, and I congratulate Kenneth Gibson, again, on securing today's debate.

13:23

**Mark Griffin (Central Scotland) (Lab):** I congratulate Kenneth Gibson on securing today's debate on presumed consent. It is a subject about which I feel strongly.

I will be speaking today mainly from my very personal experience of the present organ donation system and I will discuss the tremendous impact that I believe moving to a system of presumed consent could have on the lives of those on the transplant waiting lists, and on their families.

Almost five years ago to the day, a man was given the phone call that he had been waiting on for more than 10 years. He was called and told that a heart was available for him and that he should come into hospital to prepare for his transplant operation. He had taken ill 10 years before, as I said, and had been struggling with the diagnosed heart condition ever since, with his health gradually deteriorating all the time.

That man and his family made the trip to the hospital and said their goodbyes on the Saturday night, full of hope that the operation would lead to a much better quality of life. Unfortunately that was not the case. After the operation he was placed in intensive care, as expected, but the hoped-for recovery just did not happen.

I do not feel that the fact that he did not recover was a result of a failing in the care that he received from the NHS consultants who carried out the operation or the intensive care nurses, who sat vigilantly by his bedside 24/7 during the recovery period. The reason he did not recover was because his kidneys and other organs failed as a result of having had to work harder in the previous 10 years to compensate for the heart condition, and they just were not strong enough to cope with the operation.

A matter of days after the surgery, he died at the age of just 47—a young man given the average age of death. He left behind a wife and a family of four children—two boys and two girls—the oldest of whom was 22 and the youngest of whom lost her dad at the age of 13. Today, he would have been 52 and would have been so proud to meet his first grandson, Charlie, who was born just a few months ago. That is just one of the many family milestones missed over the past five years, and there will be many more in the years to come when his presence will be sorely missed.



Of course, it is naive to expect everyone to survive a major heart operation such as a heart transplant, but it is common sense that, for the person to be given the best chance of survival, they should have the operation as soon as possible after they have been placed on the waiting list. That is where the debate comes in. If we can follow the lead of the Welsh Government and push for a system of presumed consent—a system for which there is broad support in the chamber, albeit that some people have concerns about how that would be worked through, although I think that those can be overcome—we can immediately boost the number of organs that are available for transplant, so that people will get access to operations sooner and, put simply, we can save lives.

I pay tribute to the *Evening Times* for the fantastic work that it has done through its campaign for an opt-out system. During the campaign, it has highlighted research—as have others today—that shows that, although 90 per cent of people are in favour of organ donation, less than half of the population are on the organ donor register. Speaking personally—and echoing a point that was made by Mr Stevenson—I think that the only thing that prevented me from going on the organ donor register previously was my unwillingness, as a young man, to confront my own mortality. That is a silly reason, when you think about it, and we could overcome that by having a system of presumed consent.

Some members will know whom I was speaking of earlier, and others will probably have guessed that the reason that I have been able to speak personally about organ donation is that the man I described was my dad, who was lost to me, my mum and my brothers and sisters at such a young age. That is why I feel so strongly about the subject, why I supported the motion, why I am speaking today and why I would like the Government to introduce a system of presumed consent in Scotland.

13:27

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** I, too, congratulate Kenny Gibson on securing the debate and share his huge regret—as we all do—at the avoidable deaths reflected in the individual stories that we have heard today. I am on the donor register, but I have substantial reservations about the proposal of presumed consent. I will argue caution on presumed consent on two fronts: the principle and the practical.

The principle of consent is that it must be informed and clearly expressed, and the person consenting must have capacity. The proposition is that consent will be presumed in the absence of

registration on an opt-out register. I note in passing that the fact that 90 per cent of the public support organ donation does not mean that 90 per cent of the public want to donate their organs—they may support it for other people.

At the moment, almost 40 per cent of the Scottish people are on the donor register, but we know that that does not mean that the rest do not want to donate. Many of them simply will not get around to it in their ordinary, busy lives. As Mark Griffin said, we also do not like to think of our own deaths, especially when we are very young. If we accept that, why should someone's failing to opt out not also be because, like most people, they simply do not get around to it? We could make opt-out compulsory, but I cannot see—as Jackson Carlaw rightly said—how the entire population could be captured in that way.

**Kenneth Gibson:** The population would be the database and there would be lots of publicity to enable people to opt out if they so wished. There would also be a failsafe with regard to the relatives of any deceased individual.

**Christine Grahame:** I am just coming to that. However, if publicity campaigns for an opt-in system secured only 40 per cent, I cannot see how publicity campaigns for an opt-out system would make the system watertight.

How can we say that someone's wishes are clearly expressed? Further, if we presume consent, we presume capacity and capacity reaches far further—as Liam McArthur rightly said—than simply age. That would be a serious erosion of a basic tenet of consent that consent can be given only if someone has capacity.

Turning to the practicalities, in the short time available I want to quote from a now retired consultant anaesthetist in the accident and emergency department at the Western in Edinburgh who has 30 years' experience of organ donation. He says:

"I think I would find it difficult to re-assure grieving relatives that their loved one who had just died really did want to give his organs based on the fact that he had not registered an opt-out."

So what is being argued for would be counterproductive. He continues:

"at present ... The possibility of organ donation may come up spontaneously from the family, but most often we broach the subject usually after the first set of brain stem death tests. We ask whether the deceased expressed any wishes about donation and what were their views on the matter. It is amazing how hard information about the deceased's wishes as expressed on the donor register removes any doubt, and relatives are immediately able to agree to a donation. I have personally never had a family refuse a retrieval where the deceased held a donor card or was on the register".

That is from a consultant who was involved in the first multi-organ donation in Dundee. As consultant in charge of the general and neuro intensive care unit at the Western from 1998 to 2002, he fostered a positive attitude to donation. He has seen how families have come to terms with their grief at the sudden loss of a loved one and how the gift of the loved one's organs has helped with that. He says:

"Please do not put this goodwill at risk for an unproven benefit in terms of numbers of available organs. If goodwill is lost, the potential losses of available organs could be much greater."

Of course I support the ends, but we must be very careful that the means are not counterproductive.

13:31

**The Minister for Public Health (Michael Matheson):** Like others, I congratulate Kenny Gibson on securing time for this important debate. I thank all members who contributed, particularly those who have shared their personal experience around organ donation, which has been extremely powerful. I recognise that this is a topic on which people hold strong views, but I am sure that all of us share the ultimate goal of finding a way to address the growing shortage of organs for transplantation.

As members are aware, we do not currently have a policy of opt-out here in Scotland and that position is informed by the recommendations of the organ donation task force, which considered the issue in great detail. It may be helpful if I go over some of the reasons why the task force did not recommend a move to an opt-out system. The task force highlighted what health professionals told it about their concerns about the potentially negative implications that a move to opt-out could have for clinical practice, as alluded to by Jackson Carlaw and further referred to by Christine Grahame. There was also a suggestion that, if opt-out were introduced, some intensive care practitioners might opt out of participating in the donation programme. I am sure that all members recognise that that could have potentially very serious consequences, as many of the organ donation task force's recommendations are dependent upon practitioners' co-operation.

Several members have also made reference to experience of such schemes in other parts of the world, in particular in Europe. The task force report commented on the fact that high donation rates in other European countries are often seen as the product of an opt-out system. The task force heard from experts in Spain, which has among the highest rates of organ donation in the world and has an opt-out scheme that was introduced by the Spanish Government back in 1979. However,

those experts were clear that presumed consent was not the reason for their success. Donation rates started to go up in Spain only when changes were made to the transplant infrastructure, not the law on consent. That infrastructure change took place in 1989—Kenny Gibson referred to the increasing numbers of transplants from that point on in Spain. It is also worth noting that the United States, which has a consistently higher donation rate than many parts of Europe, do not have an opt-out system.

**Liam McArthur:** The minister has articulated the point that I made at the end of my speech about there being many other factors to bear in mind when looking at the Spanish example. Nevertheless, a presumed consent arrangement remains in Spain. Presumably, the concerns of the medical professionals that he referred to were the same in Spain, too, but a way was found to get round those and the other issues that Jackson Carlaw and Christine Grahame raised.

**Michael Matheson:** Sure, I appreciate Liam McArthur's point. I am going through the particular points raised to show some of the issues that the task force considered at the time and the complexities in this area. It is reasonable for the task force to have concluded that although moving to an opt-out system might deliver some benefits, doing so also carries significant risks and the potential danger of making the situation worse.

**Kenneth Gibson:** The point that I made in my opening speech was that the task force, in looking at all the different aspects of opt-out policies across Europe, came to the conclusion that, all else being equal, soft opt-out increases the number of organs available for donation by 25 to 30 per cent, which would therefore save lives.

**Michael Matheson:** I do not want the debate to become polarised, with members either for or against opt-out. I am setting out some of the evidence that was presented to the task force when it considered the matter, after which that expert group presented its recommendations.

It may be helpful if I take members through some of the detail of the progress that has been made—of which there has been a great deal—in Scotland in recent years. As a Government, we are committed to implementing the recommendations of the organ donation task force, which have the goal of increasing the number of deceased organ donors by 50 per cent by 2013. In Scotland, we achieved that target one year early. We now have more than 40 per cent of the population on the register compared with the 31 per cent UK average.

We have also developed work to strengthen the infrastructure across NHS Scotland. Specifically, we have appointed seven additional organ

donation specialist nurses; we have employed clinical leads for organ donation in every large hospital across the country; and we have established organ donation committees in every NHS board.

Unlike other parts of the UK, we continue to run high-profile national publicity campaigns to raise awareness about organ donation annually. Members will be aware that I launched the new campaign earlier this week. That campaign encourages people to talk about organ donation and going on the donor register. Importantly, the campaign encourages people who are on the register to explain to their friends and relatives what their views are.

The campaign is supported by a new Organ Donation Scotland website. Between November 2012 and March 2013, we are also sending out 200,000 direct mail packs to Scots about the campaign, and information will be available in supermarkets and shopping centres over the coming weeks and months. As in previous years, I believe that the campaign will prove to be successful.

In Scotland, we have legislation that allows everyone from the age of 12 to make their own decision about whether or not they want to donate their organs. That is based on the principle of authorisation, which is intended to convey that people have the right to express, during their life time, how they wish their body to be dealt with after death. The expectation is that those wishes will be respected. It is telling that Scotland has the highest authorisation rate in the UK for donations after brainstem death. It is just below 80 per cent, which compares very favourably with the UK average of 63 per cent.

Members will recognise that the developments over the past three years have started to make a real difference. In 2011-12, there were 81 deceased organ donors in Scotland—the highest number ever. There were also the highest number of transplants, the highest proportion of our population signing up to the register and the highest authorisation rate for donations after brainstem death. However, for the sake of the 600 or so people in Scotland who are on the waiting list for new organs, we must ensure that those improvements are sustainable.

That is why we have said that opt-out is not completely off the agenda. There is a commitment to review the position throughout the UK in 2013, and we will take part in that review. The Welsh Assembly is currently looking to move to a system of soft opt-out, and I am sure that we will learn more from its experience. However, we must acknowledge that progress has been made without an opt-out system and recognise the real risks that present themselves with such a system.

It is important to emphasise to all members that, no matter our position on opt-out, we share the same overarching aim of increasing the number of organ donors in Scotland. We all want to ensure that as many people as possible can benefit from the wonderful, life-saving gift that organ donors provide. I have no doubt that, over the coming year, we will have more debate and discussion on the issue, and I am grateful for the contributions that members have made this afternoon.

13:41

*Meeting suspended.*

14:30

*On resuming—*

## Drink-driving

**The Presiding Officer (Tricia Marwick):** Good afternoon. The first item of business this afternoon is a debate on motion S4M-04627, in the name of Kenny MacAskill, on drink-driving.

**The Cabinet Secretary for Justice (Kenny MacAskill):** Today's debate on drink-driving is timely, as we are entering the final phase of our drink-driving consultation, which closes on 29 November.

As members know, our consultation seeks views on our proposals to reduce the drink-drive limit in Scotland. The current drink-drive limit has been in force since the mid-1960s. Although social attitudes towards drink-drivers have hardened over the years, it is tragic that the latest figures show that an estimated 30 lives continue to be lost on Scotland's roads each year as a result of drink-driving.

The consequences of drink-driving can be tragic. The impact of drink-driving accidents can shatter families and communities, and we must take action to reduce the risk on our roads.

Last week, the "Reported Road Casualties Scotland 2011" report was published. I will give some key findings from it. It was estimated that 750 casualties in 2010 were due to drink-drive accidents. About 20 deaths were estimated to be due to drink-drive accidents in 2010, which is a similar proportion to that in Great Britain as a whole. That is a fall from the 2009 figure, but the average for the past five years remains 30 deaths. The number of casualties that result from drink-drive accidents has fallen by 35 per cent since 2000—from some 1,150 in 2000 to 750 in 2010—but the figure is still too high. In 2011, 3.4 per cent of drivers who were involved in injury accidents and who were asked to take a breath test registered a positive reading or refused to take the test.

We welcome any reduction in the number of casualties, but I still find the figures unacceptably high. In particular, the number of deaths on our roads is far too high. Each year for the past five years, 30 families on average have had to contend with and cope with the loss of a loved one because someone thought that it was acceptable to have a drink and then get behind a wheel and drive. Despite repeated warnings, some people are still intent on getting behind the wheel of a vehicle while they are under the influence of alcohol. That is reckless and totally unacceptable, and it is putting lives at risk.

The people of Scotland are fed up of drink-drivers and their poor excuses. It is remarkable and tragic that a significant minority of drivers still ignore the warnings. Drivers are repeatedly told of the consequences of drink-driving and drug-driving through the summer and festive campaigns, which make it clear that drink-drivers and drug-drivers will be met with the full force of the law. They will lose their licence; their vehicle can be seized and crushed; they can incur a fine; and they could face a lengthy prison sentence.

Despite that, hundreds of accidents still occur each year and carnage takes place on our roads as a result of the selfish actions of drivers who get behind the wheel while significantly impaired and who pose a severe risk to themselves, other motorists and pedestrians. The question must be asked: does the current drink-drive limit provide a sufficiently clear message that drinking and driving is unacceptable?

We believe that the current limit has had its day. The time is right for a change that will bring Scotland into line with the vast majority of Europe. If we look at the drink-driving limits across Europe, we see—as our consultation paper confirms—that only the United Kingdom and Malta have a legal blood alcohol concentration limit of 80mg of alcohol in every 100ml of blood.

Our European neighbours have not lowered the drink-drive limit on a whim; they have taken that action to address problems with drink-drivers on their roads. We have long called for a reduction in the drink-drive limit, and we would like to follow in their footsteps.

The day after we launched our consultation, the British Medical Association welcomed our proposals. We should listen to those who deal with the horrific effects of drink-driving. Dr George Fernie, who is a member of the BMA's Scottish council and a police surgeon, said:

"the BMA has been lobbying for a reduction in the drink driving limit for some time and, with the devolution of this power to the Scottish Parliament ... is pleased to see some progress on this important issue. We believe that such a move will help prevent deaths and reduce the number of lives ruined by drink-driving.

A reduction in the limit ... would be in agreement with the best available evidence on the effects of alcohol on driving."

Our consultation shows that we are making early and effective use of the power that has been devolved by the Scotland Act 2012 to reduce the drink-drive limit. We welcome having the power to set the drink-drive limit but believe that the act was a missed opportunity. The very limited transfer of powers on drink-driving did not go far enough. We wanted a package of powers to be devolved that would allow us to consider whether the police should be able to carry out breath tests on drivers

at any time, anywhere. We called for powers to consider differential drink-driving limits—for example, for young and novice drivers—and sought powers to consider changing the penalties for drink-driving. None of those crucial powers was devolved by the UK Government.

**Lewis Macdonald (North East Scotland) (Lab):** I acknowledge the points that the cabinet secretary is making, but will he confirm that the Government has no intention of delaying legislation in the area pending further discussions on the devolution of further power?

**Kenny MacAskill:** Absolutely. We are pressing on as expeditiously as we can. I recall that we called for the changes when others were in power in the Parliament—we have done so as a party and as a Government. The powers were not devolved when others were in power, and we were not supported by the Administration at that time. Having got the power that we have, we will not look a gift horse in the mouth, and we will proceed as quickly as we can to implement a change in the drink-driving position.

The change will be dealt with not in primary legislation but in subordinate legislation, and the only matter is one that I have commented on publicly. There are technical challenges that the police face in dealing with the recalibration of the equipment. That is a natural consequence of varying the limit, but we will work with the police. They are on the case and, as soon as they have made the necessary change and the legislation is passed, we will implement it. However, we think that an opportunity has been missed.

As Mr Macdonald asked a question, perhaps it would be remiss of me not to say that I got a letter from him yesterday on rehabilitation matters, which are also reserved to the United Kingdom Government. If he wants to join me in asking the UK Government to devolve the powers over those matters as well, I will be happy to add them to the list of outstanding matters that we think would be better dealt with by the Scottish Parliament.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** The interests of my many English friends and relatives are at the heart of my question. Is there any indication that, south of the border, people are looking for us to try out what has been proposed and that if it is successful—as we believe it will be—they will follow us so that the UK can benefit from our pioneering?

**Kenny MacAskill:** I am not aware of that. We made an offer some time back and said that, if the United Kingdom Government was not prepared to devolve the powers in question, we would be happy to undertake a pilot, but as far as I am aware there has been no change in perspective. That may not be the case, but my understanding is

that that is the situation down south. However, I can confirm that the Association of Chief Police Officers south of the border firmly supports the proposal. Significant sections of society down there would welcome it.

Earlier this month, I wrote to Patrick McLoughlin MP, the UK Secretary of State for Transport, to ask for the transfer of further powers on drink-driving to be considered. The drink-driving limit is important, but it must be seen as only one part of efforts to tackle drink-driving.

We are in the midst of a consultation. Although the full results will not be known until after the end date and when the responses have been analysed, it might be helpful to provide a flavour of some of the key issues that are emerging.

Many people who have responded to the consultation agree that the Scottish Government should be handed more powers to tackle drink-driving.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** Did the Scottish Government make detailed submissions to the committee that considered the Scotland Bill about the particular powers to which the cabinet secretary has referred?

**Kenny MacAskill:** I cannot remember the precise details, but I have been writing to the UK Government on the issue for a considerable time. When the issues were first raised, we asked for increased powers. I cannot say whether that went to the Scotland Bill Committee, but I can say that the UK Government—and, I would hope, others—will be under no illusion as to what is being sought.

Many respondents to the consultation consider that effective and well-thought-through marketing campaigns are a critical accompaniment to a lower drink-driving limit, although other actions are necessary.

We acknowledge the concerns of some that a lower drink-driving limit might have an impact on trade for pubs and restaurants. We can understand that, especially in the current economic climate, some businesses might have concerns, but I know that pubs or restaurants would not want their customers to place themselves or other road users at risk. I am confident that if people act responsibly—for example, by nominating a designated driver—there should not be a widespread impact on pubs and restaurants.

We are trying to achieve a behavioural change so that people do not contemplate drinking and driving. Scotland has an uneasy and unbalanced relationship with alcohol, and when people drink and drive it can be a lethal concoction. Our central message is and always will be: “Don’t drink and drive.”

The risks of drink-driving should not be underestimated. Evidence shows that people with a blood alcohol concentration of between 50mg and 80mg are six times more likely to die than those with zero blood alcohol. Although any level of alcohol can impair driving and people can react differently to alcohol, evidence shows that, at around the 50mg per 100ml level, impairment in driving manifests itself through a much increased likelihood of involvement in accidents.

The BMA has highlighted that, for drivers with a reading of 80mg of alcohol per 100ml of blood, the risk of a road traffic crash is 10 times higher than the risk for drivers with a zero blood alcohol reading.

**Jenny Marra (North East Scotland) (Lab):** Does the cabinet secretary agree that the more police officers that we have in offices doing backroom duties, the fewer there will be on the streets to detect drink-driving?

**Kenny MacAskill:** I recall that the Association of Chief Police Officers condemned the coalition Government cuts of approximately 18,000 officers, but there was faint support for Labour—which also condemned the coalition for cutting that number and said that it would simply cut 10,000 officers. At the end of the day, we need to support a visible law enforcement process.

It is estimated that between three and 17 Scottish lives could be saved per year. That is why we comment on the issue.

The UK Government's Crime and Courts Bill, which was introduced earlier this year, contains provision that will create a new drug-driving offence. That is a reserved issue, but we will seek to work with the UK Government to deal with that somewhat separate but tangential aspect. We wish to have the powers to deal with that, but in the absence of those powers we will work with the UK Government to ensure that we address the matter. Members will be aware that drug-driving is a complex area, which is why the panel that is addressing the matter, which will report shortly, is composed of academic and scientific experts in the field of alcohol and drug misuse. We will seek to work with all partners and agencies.

Scotland has a continuing problem with drink-driving, but it is a problem that we are determined to address. Drink-driving remains a constant hindrance in our efforts to make Scotland's roads and communities safer, and it continues to be the cause of far too many accidents, injuries and deaths on our roads. One life lost is one too many. We have a duty to those who have lost their life as a result of the mindless actions of those who drink and drive, and we must tackle the scourge of drink-driving head on. I hope that members will support our efforts to win the battle against drink-

drivers and that they will support the proposal in our consultation to reduce the drink-driving limit.

I move,

That the Parliament welcomes the Scottish Government consultation paper on reducing the drink drive limit, which sets out its proposal to reduce the limit to help make Scotland's roads safer and introduce a limit that would bring Scotland into line with most of the rest of Europe; notes the Scottish Government's continued efforts to secure a more extensive set of powers over drink driving from the UK Government to tackle the scourge of drink driving, and encourages all interested persons to make a response to the drink driving consultation.

**The Presiding Officer:** We have a bit of time in hand, so if members are willing to take interventions we can compensate them for their time.

14:45

**Lewis Macdonald (North East Scotland) (Lab):** Thank you, Presiding Officer.

I start with the central issue: the limits on blood alcohol concentration for drivers. We think, as ministers do, that there is a strong case for early legislation. It was Labour at Westminster who commissioned Sir Peter North to consider the case for change across Britain, and the current Westminster Government's decision to reject his recommendations is the reason why we are having this debate in the Scottish Parliament.

In the context of that decision, Labour welcomed the devolution of powers under the Scotland Act 2012 to alter the drink-driving limit. I hope that Stewart Stevenson will agree that this is an area on which Scotland can give a lead, as we did on smoking in public places, which a future UK Government might follow.

We welcome the Scottish Government's decision to consult on a reduced limit of 50mg per 100ml of blood. However, ministers need to address the resource implications of the changes that they propose and should treat their consultation process with the respect that it deserves. The Scottish Government's priority should be to take forward change on the basis of the powers that it has, rather than making the argument for the powers that it would like to have.

**Kenny MacAskill:** Is the member opposed to the devolution of all those powers or just some of them?

**Lewis Macdonald:** I am not in principle opposed to the devolution of powers in the area, but I am concerned that legislation should be introduced using the powers that are already devolved, to provide the basis from which we go forward. Random testing was one of the North recommendations, and North was able to elicit strong evidence for that; other issues that the

cabinet secretary raised are less firmly evidence based. However, at this stage the priority is not the debate around other powers, but the need to ensure that the powers that we have can be implemented effectively.

When we debated the Carloway report a few weeks ago, I made the point that we cannot have a realistic debate about law reform without considering the practical context in which the justice system operates. The same is true of changes in the law that widen the scope of offences or increase the powers and duties of the police. That is why our amendment highlights the link between limits and penalties for drink-driving and the justice system's capacity in practice to deal with an increased number of cases. Changes in the law and the resourcing of the justice system need to be considered together.

Jenny Marra raised the widespread concern about the risk of police officers being withdrawn from the front line because of staff job losses in the service. We know that nearly 1,000 jobs have already gone.

**Kenny MacAskill:** Yvette Cooper was prepared to say that she would reduce the number of police officers south of the border by 10,000. Given the position that Mr Macdonald is taking, is he prepared to say by how much Labour would reduce the number of police officers in Scotland?

**Lewis Macdonald:** It is bizarre that the cabinet secretary responsible for the justice system in Scotland wants to debate only the justice system in another jurisdiction. That seems to be a weak defence of his position, which is to defend a particular number of police officers, with no regard to the jobs that they actually do. There is evidence that many of the police officers of whom Mr MacAskill is proud to boast are doing civilian jobs.

Indeed, during the passage of the Police and Fire Reform (Scotland) Bill, the cabinet secretary told the Parliament that he supported a decision in Lothian and Borders Police to replace civilian custody officers with police officers, which put police officers in a civilian role. That is why his interventions are not acceptable or to the point. We know that jobs are going. The new chief constable, Stephen House, told the Justice Committee only last week—[*Interruption.*]

I think that a minister is making an intervention from a sedentary position. I would be happy to take an intervention from Roseanna Cunningham if she has something to say in this debate.

**The Minister for Community Safety and Legal Affairs (Roseanna Cunningham):** Can the member indicate what this has to do with the drink-driving limit?

**Lewis Macdonald:** Certainly. I am sure that the minister's semaphore to the Presiding Officer will not be necessary, because our amendment is in the *Business Bulletin* and it states clearly that we regard the strengthening of the scope of offences and the role and duties of the police as intrinsically linked across the board. Changes to the law cannot be made without ensuring that the justice system is fit to deliver the changes.

**Kenny MacAskill:** I am not aware that the police's view is that random testing is an integral part of enforcing the law. The police welcome a reduction in the drink-drive limit and think that it should be tied in to other measures, as in the North report, which the member mentioned. Will the member give an assurance that he supports that proposal and would welcome the powers being devolved?

**Lewis Macdonald:** Can the cabinet secretary, who is in charge of the justice system, give us a guarantee that police officers will not be withdrawn from carrying out front-line tasks of this type in order to cover jobs that are currently done by civilian staff?

We know that it is not just about the police service and that there are issues for the justice system more widely. We know from our constituents that Scotland's courts already face delays, with churn holding up trials for weeks at a time. That is an unacceptable state of affairs for victims and witnesses.

The proposed court closures across Scotland, budget cuts in the Scottish Court Service and falling staff numbers in the fiscal service must all have implications for any measures that will increase the number of cases brought to court. I am sorry that Roseanna Cunningham clearly does not understand that, but the proposals around the drink-driving law must be considered in the context of the justice system's resources.

The Scottish Government's consultation on drink-driving still has some weeks to go. It may well produce new evidence or fresh perspectives on the issue and it will undoubtedly highlight some of the practical issues that are bound to arise. The fully informed debate on the issue cannot happen until the consultation closes and the Government publishes its response.

In matters of this kind, public opinion is important. I agree with much of what Kenny MacAskill said on the matter, because the vast majority of drivers recognise that driving while under the influence of alcohol is antisocial and a potentially lethal thing to do. Only a small number of people set out recklessly to disregard the law, but many drivers do so inadvertently, so the question of where the limits are set and how widely they are supported is central to the debate.

The decision on that must be based on evidence and, like the original introduction of drink-driving limits, it must be capable of effective enforcement and command the respect of the vast majority of drivers. The evidence suggests, as the cabinet secretary has said, that drivers are five times more likely to be involved in an accident when they have a blood alcohol concentration of 80mg per 100ml, which is the current level, compared with a level of 50mg per 100ml. That is the fundamental basis of the case for change.

However, it is important to acknowledge that there are other views. There is an argument that the level of accidents would be reduced further with a policy of alcohol levels at or close to zero, but I do not think that either the Government or Labour will support that. The British Medical Association will not support that view either and has highlighted some of the respects in which the policy could catch people who were not in any sense intentionally flouting the law, whether it be because of the alcohol content of mouthwash or because of the consequences of medical conditions such as diabetes. There are therefore clear arguments against a zero-alcohol approach.

There are also legitimate concerns about enforcement in that respect and about how to ensure that priority continues to be given to detecting and detaining drivers whose blood alcohol concentrations are particularly high. The arguments around enforcement and priorities are not arguments for doing nothing, but they emphasise the importance of an evidence-based and proportionate approach. Part of what makes for a proportionate approach is to measure our objectives against best practice elsewhere. As Kenny MacAskill said, countries in Europe and beyond have plumped for the 50mg limit as effective and enforceable, so for Scotland to lead the UK in that direction would be in line with international standards.

That in turn contributes to the need for changes to command consent in the wider community. When drink-driving limits were first introduced, there was broad support for the change, even though it took time for them to be universally accepted. The evidence that was gathered for the North inquiry showed that the public are willing to accept the introduction of a lower drink-driving limit, even if there is not yet whole-hearted support for it. It will be important to understand better where Scottish public opinion stands once the current consultation has closed.

My guess is that many drivers who would accept an effective limit of a single alcoholic drink, as is proposed in the Government's consultation, would believe that it was not proportionate for people to face the loss of a driving licence, the loss of a vehicle, a fine or even imprisonment for a blood

alcohol concentration that would be legally safe in many other European countries. It is important that public sympathy continues to focus on the victims of irresponsible drink-driving, rather than on drivers who are banned on the margins of legal acceptability.

I recognise that a reduction in the blood alcohol concentration limit will require resources not just for enforcement, but for driver education. The cabinet secretary helpfully raised on my behalf the issue that I wrote to him about, regarding drink-drive rehabilitation schemes such as that which is provided by Alcohol Support Ltd in Aberdeen but which are otherwise provided in Scotland by private companies that are based elsewhere in Britain. Such schemes offer offenders the opportunity to have their other penalties reduced if they undertake appropriate driver education. Ministers should consider supporting such schemes more widely as part of the process of making tougher limits work. I suspect that that could be achieved on the basis of executive rather than legislative devolution, and I hope that the cabinet secretary will tell us at the end of the debate whether he has explored or is willing to explore that possibility with UK ministers.

We welcome debate on what else can be done in the field, such as random breath testing, but we do not believe that action should be delayed for longer than is necessary or pending any further devolution of powers. The powers exist to legislate on drink-driving limits and we believe that they should be used. I welcome the cabinet secretary's confirmation that legislation will not be delayed and I look forward to the measure being brought forward as soon as is practicable after the completion of the consultation process.

I move amendment S4M-04627.2, to leave out from "notes" to second "drink driving" and insert:

"believes that a robust justice system is essential to the effective enforcement of a reduced drink driving limit and that this will be undermined by police officers being taken off the front line to cover reductions in police support staff and by closures of local courts; calls on the Scottish Government to guarantee that police officers will not be taken off the front line to cover reductions in support staff and to review its plans for the courts and fiscal services in advance of legislative changes in this area".

14:56

**Alex Johnstone (North East Scotland) (Con):**

Over the past week or two, there have been a number of very heated debates in the chamber. Quite often, we in our different political parties have sought to deliberately misunderstand and sometimes misrepresent the arguments that have been put forward on our particular positions. However, I come to the chamber today specifically to talk about the issue of drinking and driving. Like the cabinet secretary, I believe that it is a scourge



in this country. I am of a generation that comfortably believes that it is wholly unacceptable for a person to consume any alcohol if they intend to drive. For that reason, I believe that it is important, significant and welcome that the Scottish Government has brought forward a consultation on the matter and is considering legislating in the area.

I will endeavour to ensure that everyone in the chamber understands the point that I want to make so that they genuinely recognise what it is that the Conservatives seek in this debate.

If we look at the performance of the police in the past 10 years, there is a clear indication that the number of cases of drinking and driving is falling. I believe that that is due to the hard work of our police forces and our justice system, and it shows that hard work can pay off. I genuinely support the annual Christmas campaigns to discourage people from drink-driving. The fact that the numbers of people who are caught during those campaigns tend to rise and fall from one year to the next is likely to reflect the commitment and effort by individual police forces during Christmas periods rather than being a trend. By and large, people who drink and drive understand that what they are doing is inappropriate.

As I state in my amendment, a case may exist for the proposed reduction in the limit that we enforce. However, I have concerns. The people who are drinking and driving and causing many of the accidents, injuries and deaths are already two, three or five times over the legal limit as it stands. The onus is therefore on the Government to demonstrate clearly that those whose blood alcohol level lies between the proposed new limit and the current limit represent the problem that it claims them to be.

**Stewart Stevenson:** This is a genuine inquiry to which I do not know the answer. Alex Johnstone said that the high-tariff drinkers are responsible for most of the accidents. Can he point to the evidence that he drew upon to say that? I would like to read it, if it exists.

**Alex Johnstone:** I am aware that there is statistical evidence that indicates that the risk increases at levels below the current limit, but if Stewart Stevenson will bear with me for a minute he will hear that that is not the point that I am trying to make. I am trying to make the point that the success of the police force to date in pursuing those who are well in excess of the current limit is something that we should praise. I am concerned that if we reduce the limit, there may be a change in that focus.

I will give members an example. At the moment, I believe that the right place for the police to enforce the law is on our streets on a Friday or

Saturday evening, when those who have consumed large amounts of alcohol mistakenly get behind the wheel of a car, to the risk of the public. A lower limit may raise the spectre that the most productive place to enforce the drink-driving limit might be a supermarket car park on a Sunday morning, where a hard-working mother who had one glass of wine too many after she got the kids to bed on Saturday night may find herself still slightly above that lower limit—something that is a concern today. Nonetheless, the likelihood is that a change of focus in terms of productivity as far as catching drink-drivers is concerned may result in those who currently exceed the limit excessively not being caught, as they are today.

**Dennis Robertson (Aberdeenshire West) (SNP):** Is Alex Johnstone genuinely saying that if a person is above the limit, even if it is the day after having had one glass too many, that is okay? I believe that if someone is impaired by alcohol and they have had one glass too many, they should not be behind the wheel—certainly not if they have children in the car.

**Alex Johnstone:** I agree completely with that premise and I believe that I pointed out at the beginning of my speech that that was my concern.

My concern is to ensure that those who are responsible for enforcing a lower limit do not change their focus to a different group and leave those who are currently the problem in a situation where they are less likely to be caught and less likely to be pursued.

**Mark McDonald (North East Scotland) (SNP):** Will the member take an intervention?

**Alex Johnstone:** Yes, I will take one last intervention.

**The Presiding Officer:** Very briefly, Mr McDonald.

**Mark McDonald:** Does the member not accept that anybody who is over the limit for drink-driving is the problem?

**Alex Johnstone:** That is absolutely the case, which is why we are discussing today where that limit should be and whether the changing of that limit might have effects that are not the first things that come to mind. I am genuinely concerned that there may be some unintended consequences and that if we move ahead with legislation that changes the limit at which we enforce drink-driving levels in Scotland, we do so in such a way that we do not let some current offenders off the hook.

As the Labour Party amendment says, it is essential that police and court resources are adequate to achieve the objective. If we are to change the drink-driving limit, it can be assumed that additional resources would be required to

cover the responsibilities that would fall to the police.

It is my belief, as I said at the outset, that we should not tolerate drinking and driving in Scotland and that the limit should be set in such a way that we save more lives and prevent more accidents. It is up to the Government and the minister to demonstrate that the impact of drivers below the current limit is sufficient to spread that load and effort, and to ensure that, as result of this change, police effort will not be refocused on a group that is less likely to cause accidents than the one that may be protected by the change.

I look forward to hearing the minister's response to that and I look forward to my party's continued consideration of this proposal, which we take seriously. We look forward to legislation being published.

I move amendment S4M-04627.1, to leave out from “, which” to second “drink driving” and insert:

“; praises the successful efforts of Scotland's police forces in tackling drink driving, which has led to the number of drink driving offences recorded by the police falling by 37% since 2002-03; acknowledges that, while a case may exist to lower the drink drive limit, any change must not be implemented until its effect on police efforts to focus on the most dangerous examples of this serious crime is fully explored and properly identified; urges the Scottish Government to fully consider whether lowering the drink drive limit will have unintended consequences in criminalising less serious behaviour and diverting police resources away from the most serious offences”.

**The Presiding Officer:** We now move to the open debate. I remind speakers that they have six minutes; however, as I have indicated, I am prepared to give additional time to those who take interventions.

15:04

**James Dornan (Glasgow Cathcart) (SNP):** On lowering the limit, I know from personal experience—I make it clear that the person was not me—at least one person who suffered justifiably because they had a couple of pints and their judgment was impaired. They thought that nothing would happen if they went down the pub, had a couple of pints and came back up the road, but they lost their licence and nearly lost their job and their house. The evidence clearly suggests that there is a really strong case for thinking about lowering the limit.

Funnily enough, on a similar note, when I was young, drink-driving was never legal but was deemed to be acceptable. I remember as a young boy in the late 1950s and early 1960s people drinking at house parties, and the extremely rare person who had a car thinking nothing of driving it, despite the amount that they had had to drink. If I fast-forward 10 or 15 years, I shudder to think of

the number of times when, as a young man, I was run home from the pub or driven to a party by someone who was clearly over the limit, sometimes by much more than a wee bit. When we are young we consider ourselves to be immortal. Unfortunately, I can think of at least two young men who, in their early to mid 20s—the prime of their lives—found out that that is not the case.

Given that one in seven accidents on our roads is connected with drink-driving or drug-driving and that more than a third of those involve young drivers, we clearly need to do all that we can to protect those predominantly young men from harming themselves and others. As for the argument that it is okay to have just one, I believe that if people are not allowed or are scared to have one because it will take them over the limit and they might get pulled over, they might not even start drinking. A lot of the problems stem from people going to meet their mates, thinking that they will have one but then staying for three and four because they think that they can handle it. That is when something happens and somebody suffers.

That is why I welcome the fact that the Scottish Qualifications Authority has, in conjunction with the Driver and Vehicle Licensing Agency, introduced a safe road user qualification to educate fifth-year and sixth-year pupils in responsibility in driving, and to foster among them an understanding of when they are fit and, more important, unfit to drive. Part of the course, which is being taught to great effect by campus police in Glasgow and across Scotland, encompasses discussion about and debate over what the drink-driving limit should be set at. Such discussions bring home the fact that we have a responsibility and duty not only to keep ourselves out of harm's way but not to put others in it. Obviously the more we can do to target the most-at-risk groups—of which young people are certainly one—the better.

**David Stewart (Highlands and Islands) (Lab):** Will the member give way?

**James Dornan:** Yes, I will—if the intervention is about drink-driving.

**David Stewart:** I thank James Dornan for his comments about young people and education. Does he share my view that a graduated driving licence such as exists in New Zealand, which ensures that young drivers must get more experience before they get a full unrestricted licence, is a good way forward?

**James Dornan:** We could be looking at a number of things, but I think that we should concentrate on drink-driving and then examine how we might improve safety among young drivers, which is certainly a major issue.

Of course, such chances and risks were not—and are not—just taken by young men or only or even mainly by the poor, the unemployed or the uneducated. I know an eminently intelligent guy with a very respectable job and a lovely family who, every night on his way back from work, would go to his local club for two pints before heading home. Think about it: every night he took the risk of being stopped by the police and losing his licence and probably his job, just for the sake of a couple of pints. Of course, he could handle it. It is madness.

In addition to the highly successful campaigns and education programmes that we have had over the years, we need the power of random stops. The person in the case that I just mentioned and many of the young male drivers we have been talking about are convinced by our infamous macho culture that they can handle their drink. Surely if they knew that it was possible and even likely that they might be pulled over to be tested it would make them think again. That is why I support the cabinet secretary's letter to Patrick McLoughlin, the Secretary of State for Transport, asking for this power, among others, to be introduced by the UK Government or devolved to the Scottish Parliament.

Any death as a result of drink-driving is one too many, and it is clear that the permitted limit plays an important role. The Government's consultation proposal that the limit be reduced to 50mg of alcohol per 100ml of blood has been approved by almost every country in Europe except—as the cabinet secretary has made clear—Malta and the UK. I believe that the Republic of Ireland has recently lowered its limit and that Northern Ireland would like to do the same.

The British Medical Association says that people are six times more likely to die with a blood alcohol concentration of between 50mg and 80mg of alcohol per 100ml of blood than if they have zero blood alcohol. What more evidence do we need to support the reduction?

Times have changed. There is more traffic on the roads, more people are driving now than was the case 30 years ago and there has been a reduction of the age at which drivers can get their licence. Traffic is generally faster and there are more hazards for drivers to negotiate.

However, there is no doubt that the culture has changed for the better. When someone who is out with their mates refuses a drink because they are driving, there is now much more acceptance of that and they no longer face pressure to have one. I put it on the record that I do not drink. I do not want people to go away thinking, "That guy's never out of pubs."

Drink-driving offences dropped by more than a third across Scotland between 2002-03 and 2011-12. The number of fatalities caused by drink-driving has halved in the past 10 years and there has been a similar drop in the number of serious injuries. However, we are not there yet, because people continue to drink and drive and we continue to have fatalities and casualties, as a result. As the cabinet secretary said, too many people are still being found behind the wheel having taken a drink.

Although there has been a sustained change for the better in attitudes to drink-driving, it is still a serious problem. We have heard about the number of deaths and serious accidents that are related to drink-driving that happen every year in Scotland.

We need to adopt a multifaceted approach to tackling drink-driving. Until such time as we have the necessary required powers, we must use all the methods that are at our disposal.

As has been said, the change needs to come through sustained education about the risks of drink-driving along with—which is, perhaps, most important—a change in culture so that society views it as being taboo to have an alcoholic drink and then get behind the wheel. A zero blood alcohol level would be enforced not by the law but by peers, families, friends and communities.

When I think back to 30 or 40 years ago, most people would not have thought twice about getting behind the wheel having had a few drinks. Today, the idea of driving my sons or, even worse, my grandchildren with even the smallest amount of alcohol in my bloodstream makes me shudder.

As a Parliament and as a Government we have made great strides to make Scotland a safer place, but we still have a bit to go. I welcome the Scottish Government's consultation, look forward to repatriating the powers that we require to make us an even safer country when we are on our roads, and urge everyone across the chamber to put aside party differences, take part in the consultation, welcome the cabinet secretary's request of Mr McLoughlin for action and support the motion.

15:12

**Dr Richard Simpson (Mid Scotland and Fife)**  
**(Lab):** It is an uncomfortable fact that Scotland has a difficult relationship with alcohol.

Alcohol consumption per head in Scotland is among the highest in the world and is 23 per cent higher than in England or Wales, despite similar pricing and availability. The effects of harmful levels and patterns of consumption are seen every day on Scotland's streets, in our criminal justice

system and in our national health service. I hope that at some point we will have a full debate about the justice approach in general. This debate is focused on drink-driving.

Across the United Kingdom, there were 19,470 accidents and 1,640 deaths in 1979 as a result of drink-driving. By 2008, the figure had gone down to 8,640 accidents and 430 deaths. That is a very welcome reduction following the introduction of the original policy by Barbara Castle in the 1960s. However, the rate of reduction has flattened and there is even a suggestion that it may be beginning to rise again, so it is time for us to refresh our attack on drink-driving.

Despite our high levels of consumption, our legal limit for driving under the influence of alcohol remains one of the highest in the world, at 80mg per cent of alcohol. Reducing the legal limit to 50mg would bring Scotland into line with a majority of European states, including Germany, France and Italy, and could possibly save as many as 17 of the 30 lives that are lost in Scotland each year.

Many countries that are similar to Scotland economically and demographically have established 50mg as the legal limit. Does that help? We know that levels above 50mg are associated with four times the rate of accidents. In answer to Alex Johnstone's question, the rate rises even more at about 80mg, but the rate of accidents is four times as much above 50mg as it is below 50mg. That is the justification for the policy.

The centre for public health excellence's 2010 study analysed data from 15 European countries and concluded that the adoption of a 50mg limit reduced alcohol-related driving death rates by about 11.5 per cent among young people. In Australia, where drink-driving is one of the main causes of road fatalities, lowering the limit to 50mg reduced fatal accidents generally and, specifically, produced an 18 per cent reduction in Queensland.

The case of France illustrates that the implementation of blood alcohol limits can be effective only when coupled with publicity and visible enforcement of the laws. The French Government has cracked down on drink-driving, and has replaced the previously relaxed attitude. Strict penalties and frequent roadside sobriety checks are commonplace in France.

In Sweden, drink-drivers always receive a form of custodial sentence. This is not new. Sixty years ago, when I was a child in Perthshire, we had a refrain: "30 days hath September, April, June and November". I will not complete the refrain, but it involved remembering how long the months were, and we added something at the end, which was, "and Sheriff Prain." Sheriff Prain jailed everyone who was caught drink-driving in Perthshire, which

meant that people tended to drink less when they were in Perthshire.

UK citizens are less likely than other European citizens to know what the legal drink-driving limit is. Even if the limit was more widely known, the actual risk of being detected and sanctioned for drink-driving is low in the UK. France is now going further and has passed a law that makes it mandatory, from this month, for drivers to carry a breathalyser kit in their vehicles. That will have the effect of making the public even more aware of the law.

A change of threshold on its own is not enough. We need more publicity and a campaign that runs not only at Christmas. Further, we need proper enforcement of the laws. I hope that that will occur.

Introducing a new drink-driving threshold without additional resources could seriously hamper any benefit being gained. The benefits are not just in driving, but in changing the culture. France not only curtailed drink-driving and increased enforcement of the law, but introduced the loi Évin to curtail advertising. Interestingly, the French took no measures in relation to price. The effect of all those methods was to change the culture in France, which resulted in a halving of the number of deaths from cirrhosis from twice the European Union average to the EU average. In the same period, the levels in Scotland have gone from the average to twice the average. We need to make a change.

The United States maintains a nationwide 80mg limit. Recent legislation there has focused on programmes to detect drink-drivers rather than on lowering the legal limit. Interestingly, to prevent recidivism, some states require the use of ignition interlock devices, so that a driver must blow into a breathalyser to start their car. As some members have said, people who reoffend are a problem. They do not take the lesson that they should have learned from their first licence suspension or fine. We may need to deal with that in the future.

Will a 50mg threshold achieve the correct balance? The legal limit is set at zero in some European countries, including the Czech Republic and Hungary, but that is not always easy to enforce. The smallest remnants of alcohol from the night before, the ingestion of cough medicine or even the use of mouthwash could put a driver over the limit, so that is not appropriate.

We could have a 20mg limit, but I believe that a 50mg limit is correct since it will refresh the policy and, I hope, resume the downward trend.

**Stewart Stevenson:** Is Dr Simpson aware that the 20mg limit is already in UK law—for aviation?

**Dr Simpson:** I was not aware of that. That is—as they always are—an interesting fact from Stewart Stevenson.

In some European countries, a limit of 10mg has been implemented for people who are in the first three years of being licensed. However, although the rate of accidents is much higher among new drivers, the number of accidents that are associated with drink are lower in that age group. I think that there is a better culture around drink-driving among young people than there is among people of my generation.

If we are to shift the culture, we will need to continue a sustained and imaginative advertising and information campaign. General practitioners can play a part in our efforts to change the culture, and the consultation document on my member's bill, "Shifting the Culture", suggests that, if a drink-driving offence is committed, the court should inform the person's GP. I was never informed of any of my patients committing that offence—not once in 30 years of practice—which meant that I did not have the opportunity to discuss with them the dangers of their reoffending.

We have the cross-party acceptance, which Mr Dornan called for, that we should reduce the limit. However, I believe that the Government will have to consider providing the resources to enforce that lower limit, just as the Labour Government gave extra money to ensure that the initial enforcement of the smoking ban was a success.

I hope that the Government will consider supporting the amendment in Lewis Macdonald's name. I support the reduction to 50mg.

15:19

**Mark McDonald (North East Scotland) (SNP):**

At the start of Alex Johnstone's speech, I thought that I was going to agree with everything that he said—and then it all went a bit wrong. I do not understand where he was going with his notion of unintended consequences. To me, if someone is over the limit they are over the limit and need to be dealt with. If Alex Johnstone is suggesting that people will focus on soft targets, I say to him that people who are over the limit are, by definition, a problem and need to be dealt with. Whether they are only slightly over the limit or significantly over the limit, the point is that they are over the limit. I was interested in his view that the real problem is people who are significantly over the limit. A National Institute for Health and Clinical Excellence review in 2010 estimated that, with the proposed new limit of 50mg, road fatalities would drop by 13.8 per cent and road injuries would decrease by 1.4 per cent within six years. I would wager that, if only the people currently significantly over the 80mg limit were the problem, we would

not see that kind of statistic result from dropping the limit.

**Alex Johnstone:** Did that analysis take into account resources? Did it account for the fact that if the resources were not increased they would have to be spread more widely and, consequently, may not produce the expected results?

**Mark McDonald:** Alex Johnstone was reluctant to tell us the background to his statistics and I am quoting the statistics that I have in front of me. Those were the results of the review in relation to reducing the limit.

Like James Dornan, I do not drink—this feels like some sort of inverse confessional—but I used to drink. However, I always took the view that if I was driving somewhere, even for a night out, I would not drink a drop of alcohol. I agree strongly with Alex Johnstone that a person can never tell what the impact of a drink will be on them, as it can affect them differently depending on how much sleep they have had and on how much they have had to eat that day. It can have different impacts depending on the circumstances. It is not just about how alcohol affects the individual, but how it can affect them differently on a day-by-day basis. That is why I think that it is far better to err on the side of not drinking than to take the risk.

I turn to the issue of campaigns and social attitudes. *The Lancet* has described being arrested for drink-driving in Sweden as

"a social and personal catastrophe".

By contrast, the president of the Association of Scottish Police Superintendents, David O'Connor, has stated that

"drink-driving is still seen as socially acceptable in some quarters."

There is, therefore, an attitudinal issue to address. An Ipsos MORI poll on attitudes to the drink-driving limit that I caught sight of today shows that there is strong agreement with the proposal to reduce the drink-driving limit to 50mg. Support for that is strongest in the over-55 age group—at 73 per cent—which bears out James Dornan's testimony about those who remember the hard-hitting anti-drink-driving campaigns. Interestingly, the poll demonstrates that support for the reduction is weakest in the 18-to-24 age group, which emphasises the need for education. It makes the point that we need to focus on a generation who have missed the hard-hitting messages.

There have been some welcome campaigns, such as this year's mourning after campaign in Grampian, which was launched in June. In May, there were 45 arrests for drink-driving in Grampian, which demonstrates the difficulties that are faced. The mourning after campaign called on

members of the public to report drink-drivers. People often know that somebody has left a pub or club with the intention of driving but they do not take the step of reporting that individual. They then find out the next day that the individual was involved in an accident and think to themselves, "If only I'd reported them." It is not just about the attitude of the person who takes the reckless step of drink-driving; it is also about the individuals who are aware that the person is drink-driving and their responsibility to ensure that the person is not allowed to cause damage, harm or a fatality.

**Nanette Milne (North East Scotland) (Con):** Does Mark McDonald have information—I do not have this information—on the blood alcohol levels of the people who were charged with drink-driving in the Grampian campaign to which he referred?

**Mark McDonald:** I may be failing in my clear duty to be the Conservative Party's statistician in this debate, but I am afraid that I do not have those data.

If the Conservative Party's argument is that some drink-drivers may go significantly over the 80mg limit and that that will not change with a reduction of the limit to 50mg, I contend that by having the highest alcohol-limit allowance in Europe—if not one of the highest in the world—we set up an attitude that it is okay to take a drink. The notion that people can take a drink and still be under the limit in some circumstances sets in train the notion that taking a drink and driving is okay, which perhaps leads to more reckless conduct. We need to address that attitude. The notion that dropping the drink-driving limit to 50mg will not affect those who will drink and drive recklessly is not necessarily an argument for not dropping the drink-driving limit, based on some of the statistics that I have read out today.

Another campaign that is run in the Grampian area is the driving ambition scheme, which is a multi-agency effort involving Grampian Police, car maintenance experts, driving instructors and the fire brigade. That wide-ranging course includes a focus on drink-driving, and while those sorts of campaigns and seasonal campaigns—

**The Deputy Presiding Officer (John Scott):** You must wind up.

**Mark McDonald:** Presiding Officer, I have taken two interventions and some members have already spoken for longer than seven minutes.

I will simply say that the education matter is something that needs to be dealt with on a much more targeted basis. I am sure that the cabinet secretary will take that on board.

**The Deputy Presiding Officer:** Many thanks for your co-operation.

15:27

**Dennis Robertson (Aberdeenshire West) (SNP):** When Mark McDonald started talking about Grampian, I felt that I might just remain in my seat and give way to Siobhan McMahon. I have learnt a couple of things this afternoon: first, that James Dornan is much older than I previously envisaged; and, secondly, that Alex Johnstone can actually confuse me in this chamber.

However, this is a very serious matter. As other members seem to have confided whether they drink, let me say that I drink but I do not drive. [*Laughter.*] However, I rely on other people to drive me, so I am always very conscious of whether they have been consuming alcohol if we have been to a function.

I am also the parent of a teenage daughter—a teenage daughter who loves her car. She loves her car because her father bought her the car. My daughter, I believe, is a responsible driver. She will go out and engage with other teenagers and go to parties and so on, but she is always willing to be the driver. It is probably just down to the excitement of her still being a young driver, but she is quite happy to drive other people who are consuming alcohol.

My fear is not about my daughter and whether she consumes alcohol when she drives—I believe that she would not—but for other drivers on the roads who may have consumed alcohol. My daughter cannot legislate for others who are driving. She does not know whether the driver of the approaching car has overindulged in alcohol and whether she needs to take evasive action. The cabinet secretary said that one death or one accident is too many; I agree with the cabinet secretary. Quite often, the accident affects not the driver who has consumed the alcohol but the innocent party who has taken action to avoid that driver.

Mark McDonald referred to an initiative in Grampian. In Grampian, there seems to be a macho culture in that 86 per cent of those who are convicted of drink-driving are male. We need to adjust that culture—we need to change that macho culture in which drink-driving is acceptable, because it is not.

The other disturbing statistic is that the 17 to 35 age group seems to believe that it is okay to drink and drive. That is not okay. We must ensure, if we are to make a real and effective difference, that we educate our young people much earlier about the consequences of drink-driving.

Like others in the chamber, when I grew up between the 1950s and 1970s the culture was that it was okay to drink and drive. It has never been okay to drink and drive, because drink impairs a driver's ability. Perhaps the 50mg limit is still too

high, although I accept that it is better than the 80mg limit. I sincerely hope that a person's ability is not impaired at the 20mg level and that they can still drive responsibly at the 50mg level or I may decide to take a ship, rather than fly, given the information that was provided by Stewart Stevenson.

I support the motion and I sincerely hope that we find consensus across the chamber and that we accept the 50mg limit proposal.

15:31

**Siobhan McMahon (Central Scotland) (Lab):** I welcome the opportunity to speak in an important debate about an issue that I feel strongly about.

Cars are supposed to make our lives easier; for the most part, they do. I, for one, could not get by without mine. However, there is nothing more tragic than when something that is supposed to improve life destroys life. Every car accident that results in serious injury or death is a travesty, especially when the accident is caused by dangerous driving. It is critical that we send out the message that driving that endangers the safety of other road users will not be tolerated.

When a person gets behind the wheel under the influence of alcohol, drugs or any other substance that impairs reactions and judgment, they are putting themselves and, more important, others, at risk.

Over the past half century, societal attitudes towards drink-driving have progressed significantly. The latest Scottish Government figures reveal that casualties resulting from drink-driving have fallen by 17 per cent since 1999. However, that still left 20 people dead in 2010 as a direct consequence of drink-driving, with a further 120 seriously injured.

Against that backdrop, I welcome the proposal in the Scottish Government's consultation paper to reduce the drink-driving limit from 80mg of alcohol per 100ml of blood to 50mg per 100ml, and to bring Scotland into line with the rest of Europe. Switzerland lowered its blood alcohol limit from 80mg to 50mg in 2005 and has seen drink-related road deaths fall by approximately 20 to 30 fatalities a year.

The Westminster Parliamentary Advisory Council for Transport Safety predicted that lowering the UK limit to 50mg would significantly reduce fatalities, a position backed by legal expert Sir Peter North, who has also called for a reduction to 50mg. In a report commissioned by the previous UK Government, he estimated that that reduction could save up to 165 lives in the first year, and as many as 303 after six years. Sadly, however—against the advice of road safety

charities and the British Medical Association and despite support from the Automobile Association and the RAC—Philip Hammond, the Conservative Secretary of State for Transport, rejected the findings of the North report, and opted to keep the current 80mg limit. If, as Mr Hammond asserted, while paradoxically deciding to retain the 80mg limit, drink-driving is socially unacceptable, why not render that impossible in practice?

Even with the limit at 50mg ambiguity remains. Many people are confused about how much alcohol constitutes 80mg. We would be no more certain with the level set at 50mg.

**Dennis Robertson:** If people are confused about how much they can consume, would it therefore not be best that they consume nothing at all?

**Siobhan McMahon:** Absolutely. Like others, I confess that I am one of those people who drink and drive, but not at the same time. The message not to consume any alcohol should be rolled out and people should be in a position to understand what that means.

No one knows what one drink means. Drinking one alcopop is one unit; drinking a pint of cider is 2.4 units. Both are only one drink, and we must be clear on what that means and develop that point. That is further complicated by the fact that the effect of alcohol varies according to, as Mark McDonald said, gender, physique, constitution, fatigue and food consumption. What is safe for one person is not necessarily safe for another.

We need to put an end to the dangerous and outdated perception of drink-driving as socially acceptable while leaving a necessary margin for error to allow for trace levels of alcohol in the blood stream, for the reasons that Lewis Macdonald highlighted earlier.

Many of the additional measures recommended by the Scottish Government require the devolution of further powers, so why not focus on what we can achieve now? My colleague Richard Simpson has already discussed the innovative measures that other countries have adopted and which we already have the legislative power to introduce.

There are a number of other steps that we could take to reduce the incidence of drink-driving. We should certainly explore further restrictions on alcohol advertising, especially on football strips and in stadiums. A large number of fans drive to and from stadiums. They cannot buy alcohol in the stadium and, we hope, have not consumed any before entering, but they spend 90 minutes surrounded by various images and slogans that promote it.

Sport sends out a positive message about the benefits of a healthy lifestyle, but that message is

hopelessly polluted when it is mixed with alcohol. I have no doubt that the end of alcohol sponsorship of sport would have a beneficial effect on the level of drink-driving.

I would also like there to be an increase in advertising warning of the dangers of alcohol consumption generally and drink-driving in particular. Over the past decade, there have been a number of high-impact campaigns accentuating the risks and consequences of drink-driving. I would be interested to learn whether the Scottish Government plans to launch or sponsor similar campaigns in the near future. Such campaigns are prevalent at Christmas but should recur throughout the year.

In addition, we should emphasise the risk of driving the morning after a night of heavy drinking. Alice Granville, policy and research analyst at the Institute of Advanced Motorists, recently observed:

"Many drivers who would not consider driving after a night in the pub fail to recognise the influence of alcohol on their body the next day, or simply choose to ignore its effects ... Drivers need to take responsibility and use alternative means of transport after a heavy night drinking."

It is also important that we do not marginalise the dangers of drug-driving. Although research on the effects of drug consumption on driving skills is comparatively scarce, it is likely to have the same adverse impact on reactions and judgment.

As the Labour amendment states, the Scottish Government must ensure that any measures that are taken are effectively enforced. That necessitates a significant police presence, especially on the roads. It is imperative that front-line police officers remain on the front line. It also demands a robust judicial system. Over the past year, I have been dealing with a tragic case involving the death of a man in an accident that was caused by a motorist who was found to be in possession of banned substances. I have seen the grief that the perpetrator caused and do not believe that the punishment that he received fitted the enormity of his crime.

Driving while intoxicated is a reckless and selfish act; it must be punished to the full extent of the law. If we are to send a clear and unequivocal message, those who are found guilty of driving under the influence of drink or drugs must be made to face the consequences of their actions.

15:37

**Richard Lyle (Central Scotland) (SNP):** The debate is timely. I will bring a historical line to it.

Many people think that drink-driving laws came in only in the past 40 years, but that is not true. In 1872, it became an offence to be drunk while in charge of a carriage, horses, cattle or a steam engine.

**James Dornan:** Was Richard Lyle caught under that legislation?

**Richard Lyle:** We were not as old as that then, James.

Over the years, various other measures have been enacted. In 1925, it became an offence to be found drunk in charge of any mechanically propelled vehicle on any highway or other public place. In 1930, it became an offence to drive, attempt to drive or be in charge of a motor vehicle on a road or any other public place while being

"under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle".

In 1960, that legislation was updated.

The possibility of using blood, urine or breath for alcohol analysis was approached in the Road Traffic Act 1962, also known as the Marples act. Before that act was introduced, successful drink-driving prosecutions relied heavily on the subjective tests and observations of so-called police surgeons.

The Road Safety Act 1967 introduced the first legal maximum blood alcohol drink-driving limit in the United Kingdom. The limit was set at a maximum blood alcohol concentration of 80mg per 100ml of blood or the equivalent, 107 micrograms of alcohol per 100ml of urine. It became an offence to drive, attempt to drive or be in charge of a motor vehicle with a blood alcohol concentration that exceeded the maximum prescribed legal limit.

In 1967, the breathalyser act was given royal assent and, as Richard Simpson said, the then transport minister, Barbara Castle, introduced the breathalyser as a way of testing a person's blood alcohol concentration level at the roadside. The breathalyser's introduction in the UK, along with a heavy Government-run advertising campaign, helped to decrease the percentage of road traffic accidents in which alcohol had been a factor from 25 to 15 per cent in the first year. There were 1,152 fewer recorded deaths, 11,177 fewer serious injuries and 28,130 fewer slight injuries caused by road traffic accidents.

We have all received a briefing from the BMA, which supports a reduction in the drink-driving limit because

"There is clear evidence that this will reduce the number of deaths and serious injury caused by drink driving.

Drivers' reaction times and motoring skills deteriorate after even a small amount of alcohol—and get worse with increased alcohol consumption."

**Dennis Robertson:** I have learned something else—Richard Lyle is probably much older than I thought he was.

Mr Lyle mentioned motor vehicles. Motor vehicles now are probably much faster and more



dangerous than they were in the 1960s, 1970s and 1980s. That means that people are less likely to handle them appropriately if they are under the influence of alcohol.

**Richard Lyle:** I totally agree. As someone who has driven down to Manchester on numerous occasions on the M6, the M74 and the M8 and who has done about 30,000 or 40,000 miles a year, I see people whom I would describe as nutters; I do not know whether that is the right language—

**Alex Johnstone:** I think that it is the right language.

**Richard Lyle:** I have been passed by people driving at 60, 70, 80 or 90mph—I even remember someone passing me at 100mph—in fog. Luckily, the police were about 2 miles down the road and they got him. What a laugh I had when I saw that!

The BMA also said:

“The risk of involvement in a collision rises significantly once the blood alcohol level rises above 50mg per 100ml of blood.”

I listened intently to the speech of James Dornan—it is true that I am slightly older than he is; we will compare ages later—and what he said happened in the 1960s is true. My father was a trumpet player who used to play all round Lanarkshire. He always employed me to drive him, because he liked to drink, but I did not want him to drive. When I was 18, I would get to use his car while he was away playing in a dance band.

It surprises me how many cars are parked outside pubs and clubs nowadays. Some people still believe that it is possible to have a few pints or, indeed, glasses of wine and still be able to drive. I learned a long time ago that if you want to take the car to take your friends out for the night, you must drink only soft drinks. As the designated driver, that is what I do. I know several people who have had only two pints who have been stopped and charged with drink-driving. The lesson is do not do it or take the chance.

Some people do not take the car when they go out for a drink but forget that alcohol can still be in their system the next morning, depending on how long it is since they had a drink. Alcohol stays in the system longer than you think, so people should not drink if they are driving the next day.

I note that, in a recent MORI poll, most people who were questioned supported the proposal that we are debating. That was true of the over-55s, of whom I am one. Drink-driving is a total no-no in today's society. Woe betide anyone who does not take that into account, especially as we approach the festive season. I support the motion.

15:44

**Alison McInnes (North East Scotland) (LD):** The Scottish Liberal Democrats welcome the Government's plan to reduce the drink-driving limit in Scotland to 50mg of alcohol per 100ml of blood.

As we have heard, the UK is something of an outlier in Europe on the issue. Only Malta has as high a limit as our current level of 0.08 per cent blood alcohol content. In the past few years, a host of other countries have reduced their drink-driving limits to the European Commission-recommended level of 0.05 per cent.

I am a wee bit disappointed by the Labour Party's approach to the debate. I do not disagree with the sentiment of Lewis Macdonald's amendment; after all, I have been among the most outspoken critics of the Government's police reform plans. However, I had expected a more consensual debate today, in which we would rightly concentrate on the important issue at hand, which is making our roads safer.

When the Government is doing the right thing, I will stand up and say so. On drink-driving, the evidence speaks for itself, so it is disappointing that Labour has decided to use the debate for point scoring rather than focusing on the safety of Scotland's roads.

**Lewis Macdonald rose—**

**Siobhan McMahon:** Will the member take an intervention?

**Alison McInnes:** Let me make progress.

I am also concerned about the last section of Alex Johnstone's amendment. Intimating that lowering the drink-drive limit could have

“unintended consequences in criminalising less serious behaviour”

moves the debate into dangerous territory. We must not be drawn into accepting that being a little over the limit is all right; rather, we should send a clear message that people should not drive if they have had even one drink, as other members have said.

**Alex Johnstone:** Will the member take an intervention?

**Alison McInnes:** Let me make progress.

Drink-driving should remain a serious concern to us all. Setting a drink-drive limit is not as arbitrary an exercise as it might appear to be in the abstract, and the science behind it is developing all the time. In its study of March 2010, the National Institute for Health and Clinical Excellence found that drivers with a blood alcohol concentration of more than 0.08 per cent were at least 11 times more likely to be involved in a fatal car crash than drivers who had no alcohol in their

blood. With a BAC of less than 0.05 per cent, the risk is reduced to being three times as great.

One of the greatest problems in addressing drink-driving is how hard the levels are to express in easy-to-understand terms. As many members have said, alcohol affects each of us differently. At the levels that we are talking about, the difference for most people from the change to 50mg would be not having a second pint of beer or having a smaller glass of wine. However, the difficulty comes when people judge how much they are affected. Many people do not feel noticeable effects even when they are past the point when they have become legally intoxicated.

In an ideal world, no one with alcohol in their system would get behind the wheel of a car. However, we must recognise that adhering to a zero-tolerance policy would in practice create serious technical and practical difficulties. While keeping our roads and the people who use them safe must be our primary concern, we must strike a fine balance.

Of course, setting the limit is not in itself the answer to reducing drink-driving. We must take a proactive approach in educating drivers of all ages, and particularly younger drivers, and in engaging with people to emphasise that putting themselves and others at risk by driving while drunk is unacceptable.

In the north-east last year, alcohol was a contributory factor in 206 road collisions—6 per cent of all accidents. However, it was a factor in as many as 25 per cent of all fatal accidents. This year, Grampian Police launched its mourning after campaign, to which Mark McDonald referred. That campaign is aimed directly at getting communities involved in reducing drink-driving locally. The hope is that the campaign will encourage people not just to report drink-drivers but to do what they can to prevent people from driving drunk in the first place. We need to encourage such an approach, as only so much can be achieved through action in Parliament.

In his opening speech, the cabinet secretary touched on the possibility of devolving further powers, particularly to set a stricter limit for young or newly qualified drivers. There is a growing evidence base on drink-driving among younger drivers, which other members have mentioned. The most prevalent counter-argument to that approach has been put forward by the Royal Society for the Prevention of Accidents, which refers to

“a risk that young drivers who are subject to a lower drink drive limit may be more likely to drink and drive when they reached the age at which they became subject to the higher limit for other drivers because they thought that they could then ‘drink more and drive’.”

I am more inclined to believe that, once young drivers are in the habit of not drinking before driving, they will be less likely to drink and drive as they get older. In any case, other countries—notably Ireland—have recently introduced a graduated limit, so it will be interesting to reflect on their evidence and experience. I would be happy to work with the Government in revisiting that aspect in the future.

The Scottish Liberal Democrats are content to offer our support for the motion. We look forward to the results of the Government's consultation being published and to the reduced limit being introduced in Parliament.

15:49

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I draw members' attention to my membership of the Institute of Advanced Motorists, which is an organisation that is interested in training drivers for safety.

We now have the ability to change the legal alcohol limit for drivers in Scotland and we can all clearly identify that drink-driving is an obvious hazard. When we combine that with our rather unpredictable weather on dark roads during Scotland's winters, we have a toxic mix that we need to take tent of. Less alcohol in the bloodstream of fewer drivers equals fewer accidents and deaths. Therefore, changing the legal blood alcohol content levels from 80mg to 50mg per 100ml of blood will deliver much at little cost and with no real inconvenience. That is a positive change that I and many others—that is clear from the debate—have supported for a long time.

Countless stories can be told of loss, pain, death and injury resulting from the impairing effects of alcohol on drivers, such as reduced co-ordination, slowed motor skills, blurred vision and poor judgment. We have the opportunity for Scotland to take the lead, just as the Labour-led Administration—to its eternal credit—took the lead with smoking.

The BMA tells us that driving becomes considerably more risky once the alcohol level rises above 50mg per 100ml of blood. Despite a 10 times greater risk than there is with sobriety, we currently let drivers at the 80mg level into cars to drive legally on our streets.

What would a reduction really mean? At 50mg, the crash risk would be dramatically reduced, to a fifth of that at 80mg. That is still double the risk for a non-drinking driver, but it is an enormous advance on the current arrangement. Risk rises steeply with increasing alcohol in the bloodstream. The rest of Europe and a good percentage of the

rest of the world have lowered the levels, and it is time that we did so.

A report that was provided by the International Center for Alcohol Policies demonstrates that, in Austria, Denmark, the United States and Sweden, there was a decrease

“in the number of reported drink-drive trips and injurious or fatal accidents after BAC levels were lowered”.

We know that doing that works.

Lewis Macdonald had a little bit to say about devolution. Devolution is not the core of the debate. Let us do what we can, but it might be useful if whole policy areas were handed over under devolution. As members know, I am in favour of the 100 per cent devolution of everything, but we are not debating that today. However, it would be simpler for the Administrations on both sides of the border if we conducted things in that way.

Richard Simpson made a thoughtful contribution, as ever, on health matters. He talked about France. I have just come back from France. There was a bit of confusion, as I had thought that I needed breathalysers in my hire car and was a bit disconcerted to find that they were not there. I am glad to have found that I was driving legally rather than in terror. I am also pleased to hear that Dennis Robertson does not drive, although I have twice participated in Grampian Society for the Blind's driving day, when blind people and blindfolded members of the Scottish Parliament drive around a race track in a time trial. It is interesting to think about that.

**Dennis Robertson:** Will the member take an intervention?

**Stewart Stevenson:** Of course—if the member will promise that he will be seen driving some time soon.

**Dennis Robertson:** When the driving instructors at the Alford transport museum take their blind or blindfolded members round in the car, they have not been drinking.

**Stewart Stevenson:** Many of the blind drivers have displayed far greater skills than drivers with sight and lots of alcohol in their system have.

We had a history lesson from Richard Lyle. Like many GPs, my father, in the 1950s, used to test people who were brought in as potential drunks to see whether they could walk along a white line. It is clear that Richard Simpson remembers that happening as well. Thank goodness we have moved to a more scientific and much more objective basis of testing.

As we change the limit—as change it we must—we must have an education and information programme that gets home to the difficult-to-reach

groups that are our driving recidivists. I use that phrase advisedly. We must be in a position in which nobody can in practice say, “I didnae ken.” That is never an excuse in law, and it must not be an excuse that people can deploy in practice. The International Center for Alcohol Policies has stated:

“heightened public awareness of drink-driving issues”

is

“largely responsible for decreases in drink-driving infractions following the lowering of”

limits. That is an important point that we need to take account of.

I caution Alex Johnstone, who I think is getting confused about statistics. Of course the risk of people who are three or four times above the limit is dramatically higher—probably 50 times higher—than those who are sober, but that does not alter the fact that most people who are over the limit are near the limit. In numerical terms, those people are responsible for most of the accidents that we seek to reduce.

The world has changed. When my father was a GP in the 1950s, he could prescribe alcohol to his anaemic patients. We used to have samples of Sweetheart Stout and Guinness sitting in the surgery waiting to go out.

I will close with a few comments about aviation. It is worth saying that breathalysers in Scotland are already calibrated to test at the 20mg level. That information comes from answers to questions that I asked of the previous Executive in session 2. An additional requirement that is placed on pilots beyond the 20mg limit is that they are forbidden to drink for eight hours before they fly. Therefore, there are further measures that we can think about in future. I pose the question that, if we want pilots to be at that standard of safety, why would we get into a car with somebody who is operating at a lower safety standard? To save lives and ensure safe travel, we need lower levels and systematic breath testing. I am very happy to support the Government's motion.

15:56

**David Stewart (Highlands and Islands) (Lab):**

I welcome this debate on drink-driving. I will focus my remarks on young driver safety. I will begin by reading part of a blog that was posted on a well-known site only this week, from the best friend of a drink-driver. It states:

“We all enjoy our nights out but my mate takes it way too far, he's never aggressive or anything when he's drunk but last Friday night was the tipping point for many of us that go out.

We found out that after 18 pints of Caffreys, 10 JD & Cokes and various shots of liqueurs that he actually drove

the 3 miles home. All that started at 5pm and ended at 4am.

This has got to stop, if he'd hit anyone or anything then he would never have known about it."

The blog went on:

"My take on it is that if he is stupid enough to do it then he will have to face the consequences, but it's not just him that would suffer ... So would his wife, his three kids and god forbid the poor ... family of the person that he hits."

Having spent years campaigning for driver safety, I have learned a lot about the tragedies that are involved in drink-driving and have spent a lot of time thinking about the solutions to that crucial aspect of driver safety. The trigger for me was the tragic death of two 17-year-olds in March 2010, which were directly linked to drink-driving. After that, I formed a group and led a local campaign in the Highlands and Islands called sensible driving—always arriving.

In that case, during the small hours of a March morning two years ago, a local 17-year-old took out her car. She was under the influence of alcohol. Although she was a learner driver, she went for a drive round Inverness and, while driving, saw a male friend of hers who was only minutes from his home. She offered him a lift, which he accepted. She then accelerated to 100mph, within the town, and struck a tree, killing both of them and, in the process, nearly destroying two families and their many friends with grief. It is a truism that is not depleted by repetition that there is no greater tragedy, no greater sorrow and no greater loss than for a parent to lose a child.

Although drink-driving appears to be a single issue, as many members have mentioned, it is in fact a diverse problem that includes various dimensions such as alcohol abuse, underage drinking and other social concerns, as identified in the North review and the NICE report of 2010. Therefore, the solutions need to be equally intricate and wide-ranging. The issue demands a comprehensive, creative and flexible approach. It is important to view drink-driving in the broader context of the public health implications of alcohol abuse. As a result, the solutions must take into account drinking patterns and groups that are particularly at risk.

As a Highlands and Islands road safety campaigner, I welcome any measures that will improve road safety and reduce fatalities and serious injuries as a result.

Many members cited statistics. It is tragic that every year, one in nine deaths on Scottish roads involves a driver who is over the drink-driving limit. Every year an average of 30 deaths on Scottish roads are caused by drivers who are over the legal limit. In 2010, there were 750 casualties and 20 deaths.

Many campaigning organisations, including Living Streets, which I think wrote to all members, have called for no alcohol consumption before driving, to end what I call the driver's Russian roulette. Is it okay to drive after one pint? A pint and a half? Two pints, or maybe more? Many members raised that issue.

I firmly believe that we must continue to provide a series of measures to tackle a serious issue. In some areas in the north and elsewhere in Scotland, the drunk driver is kept in custody, to appear before the court the next day. Courts can impose immediate disqualification and can seize the drink-driver's vehicle, as the cabinet secretary said.

My campaign, sensible driving—always arriving, represents a chance to target drink-driving before it starts. It is targeted at new or young drivers and we are pushing for the introduction of a graduated licence scheme. Such a scheme would involve measures such as extending the test to cover night driving and driving on dual carriageways. It would include a period of observational driving and limit the number of passengers in the car.

**Stewart Stevenson:** I am absolutely with the member on graduated licences. Does he accept that the issue is not just youth but inexperience and that the approach should apply to drivers in the early part of their driving careers, whatever their age?

**David Stewart:** I agree with the member, who is quite right. Most new drivers are under 25, but new drivers who are over 60, for example, should be part of the scheme.

The proposed scheme involves a number of other measures. In the context of this debate, a key proposal is that there should be as near as possible to a zero alcohol level.

NICE looked at evidence throughout the world on zero tolerance and graduated licence schemes. It asked what would help to reduce alcohol-related injuries and deaths. One study showed that zero tolerance would reduce deaths among underage drinkers by a quarter, which is a fantastic result. Three studies in the United States showed that zero-tolerance laws changed the pattern of alcohol consumption and drink-driving behaviour among young people. Perhaps most interesting was the study of the graduated licence scheme in New Zealand, which showed that for young drivers, crashes were less likely. Crashes were also less likely to happen at night, because of the restriction on night driving, less likely to involve passengers, because of the restriction in that regard, and less likely to involve drivers who had drunk alcohol.

The North review called for reductions in the drink-driving limit, but the UK transport minister said that persistent drink drivers are

"less likely to be deterred by a reduction in the limit than by a greater prospect of being caught".

I was going to ask the cabinet secretary if he wanted to comment on that, but he is no longer in the chamber. Perhaps the minister will comment, in his place.

International best practice suggests that the countries that have the lowest drink-driving figures have three things in common: a long track record of drink-driving limit enforcement, including a low legal limit; a high level of detection; and mass media support for enforcement.

For young drivers, in particular, graduated licence schemes, with restrictions on passengers and night driving and zero tolerance of alcohol, along with increased education, will reduce the carnage on our roads and deaths and injuries among young people throughout Scotland.

16:03

**Nigel Don (Angus North and Mearns) (SNP):** The debate has been more interesting than I feared it would be. I had thought that this might be a very long afternoon on a relatively simple subject, but we have heard interesting speeches.

I have held a driving licence for about 40 years—how deplorable—and I acknowledge one or two things that members have said about the traffic conditions in which we drive. There is no dispute that there is more traffic on the roads—there are a few more roads, of course—but our roads are a great deal better and certainly a great deal safer than they used to be. I see crash barriers and central reservations in places that certainly did not have them once upon a time.

Our cars are seriously safer and more reliable, and I am not just talking about safety belts and airbags. It seems to me that our tyres and braking systems are hugely better than they used to be. It is in that context that we should reflect on the statistics.

**Dennis Robertson:** Will the member give way?

**Stewart Stevenson:** Will the member give way?

**Nigel Don:** I defer to Dennis Robertson first.

**Dennis Robertson:** Mr Don referred to cars being safer, but they are also faster. Part of the problem is that people whose driving ability is impaired by alcohol are driving faster cars, which makes them more dangerous.

**Nigel Don:** Yes, most of them are probably faster, but I recall going up the M1 with my dad driving at 100 mph, so I think that at the upper limit they are probably roughly in the same place.

**Stewart Stevenson:** Does the member agree that evolution is working at a slower rate and that the human being has not improved at anything faintly like the same rate as cars?

**Nigel Don:** I absolutely agree; I am with you on that. I just wanted to put in what I said about faster cars as a part of the background that had not previously been discussed.

There is huge support for what is being talked about. We have heard a lot of the statistics and a lot about the support from professionals, so I do not want to go into that. What I would like to do, though, is to return to a subject that has been discussed, particularly by Dr Richard Simpson. This is not the first time that it has been discussed this week, because we talked about it in the members' business debate on Tuesday.

Law can do some things, but culture does a lot more. I think that James Dornan at the beginning talked about the culture of drink-driving and his own attitude to it, which I share. I think that it is a generational thing. I note that members have referred to younger ages with regard to the issue: Dennis Robertson suggested that it was about the 17 to 35-year-old group, while Mark McDonald said that it was the 18 to 24-year-old group. I do not really know and I do not want to fight about the numbers, but it seems to me that we need some serious research on the issue. If we are going to change the culture, we need to be clear whose culture it is that we are changing, because there will be different messages for youngsters than for those who are our age.

Stewart Stevenson referred to the hard-to-reach drink-driver, but he was not the only one who referred to that issue in the debate. Again, we need to do a bit of research on who that hard-to-reach drink-driver is. I suspect that the police have a pretty clear idea about that, but anything that we are going to do for those drivers' culture needs to be done specifically for them.

I would like to concentrate on some thoughts about what else might be devolved. Again, I would adopt Stewart Stevenson's position on the issue in that I would prefer everything to be given to this country's Parliament to consider, but other issues might well come with that. Again, this is perhaps not the first time that this has been said, but police powers to stop and search would be very useful. I am not generally in favour of giving the police arbitrary powers to stop, but I think that it would be helpful in the area of drink-driving. I suspect that at the moment the police are quite good at stopping the right people, but they probably do so for some other reason, then perhaps check the alcohol level of the driver's breath. It would be very much better if they did not have to do that kind of thing and had a clear opportunity to stop and search in circumstances in which they thought they would

find somebody who is over the limit. I would very much support that.

I noted what Dave Stewart and others said about young drivers, and I entirely take Alison McInnes's point about the fact that if young drivers have a lower level when they start, they will get used to the idea that they are not going to drink. That is a very coherent point, which I would entirely accept. Again, that refers to things that we cannot currently do, but it wouldn't half be good if we could do them in the Scottish Parliament now.

I want to refer to one other thing that would come with that, which is a matter that is very dear to my heart and dear to some of my constituents; it is the fact that we cannot deal with very large vehicles—for example, mobile cranes. Such vehicles are not subject to MOTs and are driving around our roads in Scotland and on roads in the rest of the UK with a very different safety regime from the one for other vehicles. I accept that that has nothing to do with alcohol levels, but it is something that we ought to be able to address. I note from correspondence that I have received that the UK does not want to address it, so I would be very grateful if we had the opportunity to address it in Scotland. I add that to the list of things that we would be able to address were we independent.

I turn briefly to Alex Johnstone's comments about unintended consequences. I was not confused by what Mr Johnstone said. He made a perfectly fair point that I think the *Official Report* will put straight when people read it. He started by recognising that all offences are offences. I can quite understand his point about soft targets for people who are trying to get statistics. However, I do not believe that our police would do that; I think that our police would target the right place. I have sympathy for Mr Johnstone's cause, but I think that the police know what they really should do and that, by and large, they would do it.

16:09

**Clare Adamson (Central Scotland) (SNP):** In 2007, I was nominated on to the Scottish Accident Prevention Council executive. The council has committees that cover road safety, home safety and water safety. My involvement gave me an opportunity to work with professionals in the area, such as road safety officers, the Royal Society for the Prevention of Accidents and the blue-light services, and while I remain no expert in the area, it has given me a personal commitment to accident prevention.

Members have touched on some of the costs of accidents. David Stewart gave a good example of the personal costs of a fatal accident, but I would like to say a little about the financial costs and the

costs to society. The Baker Tilley report for the Institute of Advanced Motorists and the 2009 ROSPA report both sought to estimate the total cost of a fatal accident, including the burden on society from lost production, healthcare costs, social benefits costs and the cost of the blue-light services. The cost to society is estimated to be £1.8 million per accidental death. That is interesting in the context of preventative spend.

However, no figure can represent the personal cost to the families and friends either of the drink-impaired drivers, who damage their own families' security, or of the innocent victims who are affected by the reckless behaviour of such drivers.

I use the term "drink-impaired drivers" carefully, because it takes so little alcohol consumption for impairment to be present in a driver. That is detailed in road safety Scotland's report on drink-driving and drug-driving. It states:

"There is no failsafe guide as to how much you can drink and stay under the limit. Any alcohol, even a small drink will impair driving ability and the only safe course is not to drink any alcohol prior to driving."

It lists the following effects of alcohol on driving ability:

"Impaired judgement of distances. Impaired adaptability of eyes to changing light conditions. Impaired sensitivity to red lights. Severe impairment of ability to react and of concentration."

Those effects exist at the current blood alcohol limit. Even with the proposed limit, there are the following effects:

"Inability to see or locate moving lights correctly. Problems in judging distances. Tendency to take risks."

We have had some discussion about attitudes to sobering up and what represents safe drinking for people who will be driving the next morning. Road safety Scotland has also done some research on that. It states:

"After four drinks during an evening, most motorists who drive the next morning will be over the limit."

It can take up to 12 hours to be safe to drive after drinking one bottle of wine.

It can take up to 12 hours to be safe to drive after drinking four pints of continental lager or ale."

It has also done research on who is drink-driving the morning after, and it states:

"One in three motorists has driven 'the morning after' whilst over the limit."

Half of all young drivers admit to driving in the morning despite excessive drinking the night before.

Half of all male drivers in the UK admit to driving in the last year within two hours of having a drink."

I understand the point that Alex Johnstone was making and I understand that there is an education issue. Although ignorance is no excuse

for driving while over the limit, the more positive message that we can send is that there is no excuse for ignorance. We need to move the debate away from our focus on what the legal limits should be to focus instead on personal responsibility and societal change in our attitudes to alcohol.

ROSPA, which I mentioned earlier, has a long-standing campaign in the area. It seeks the following measures:

“Lowering the maximum blood alcohol limit from 80mg/100ml to 50mg/100ml.

Evidential roadside breath testing.

Wider powers for the police to breath test drivers to enable targeted, evidence led, and high profile random breath testing to increase drivers’ perception of the risk of being caught without necessarily placing additional demands upon police resources.

Wider user of drink drive rehabilitation courses.

Encouragement for employers to set zero limits for staff who drive for work”

and

“Improved public education, in particular to raise awareness of how easy it is to be above the limit, how difficult it is to know exactly how many units of alcohol have been consumed”.

I welcome the fact that the Government has brought forward proposals to lower the limit within the current constitutional arrangement, but we would be able to do much more with further powers in Scotland.

I was questioned earlier in the week by school pupils who were visiting the Parliament. One primary 6 pupil asked me, “What difference have you made as a politician?” It was quite a daunting and difficult question and I probably should not admit to having had to think about it for quite a while. However, I have no doubt that if we support the Government on its motion today, we will be saving lives on Scotland’s roads.

16:15

**Margaret McCulloch (Central Scotland) (Lab):** If anything should focus minds on this debate, it is the reported road casualty figures that we have been hearing from Transport Scotland: 750 casualties and 20 deaths on Scotland’s roads have been attributed to drink-driving in one year alone.

This is not the first time that we as a Parliament have debated Scotland’s relationship with alcohol, but it is the first time that we have done so with the power to determine the drink-drive limit. We have a choice to make and when we make it we have to keep the safety and wellbeing of the Scottish people foremost in our minds.

We are approaching the festive period and every year at this time the Scottish Government and its partners in the police mount a campaign to remind Christmas partygoers about the consequences of drink-driving. In 2010, 7,000 people were caught driving under the influence of drink or drugs, and the figures spiked in December, as they do every year, despite the severity of the penalties.

Offenders face the prospect of not just a ban or a fine but a criminal record, and they could have their car taken from them if they are convicted of the most serious offences. It is a mistake that they keep paying for if they lose their job—or their dignity, when they explain to their family what has happened. However, although the figures are stark and the consequences are clear, we still have some way to go if we are to achieve the culture change and the improvements in road safety that we all want to see.

We know from experience that it is possible to challenge and change behaviour. Not all that long ago, Scotland had a much more relaxed attitude towards drinking and driving, but things changed and now the vast majority of people quite rightly regard drink-driving as unacceptable.

Seat belts are now standard in both front and back seats and although a minority still have not got the message that seat belts save lives, most people have learned to think about their safety when they travel, because of a concentrated effort to educate the public. With this latest consultation, the Parliament has an opportunity to carry that change in attitude through to its logical conclusion.

The Republic of Ireland recently aligned itself with other countries in the European Union by reducing its blood alcohol limit for drivers from 80mg per 100ml to 50mg. The devolved Administration in Northern Ireland has made clear its intention to follow, too. The most common limit across Europe, even in countries that have a more mature and responsible relationship with alcohol than we do, is 50mg, so it makes sense fully to explore reducing limits here.

Evidence from the North report has been quoted for members in a variety of sources and suggests that where a driver’s blood alcohol content is between 50mg and 80mg per 100ml, they are six times more likely to be involved in a fatal accident. Obviously, the risk of a fatal accident is greater if the concentration of alcohol in a driver’s blood is higher but, whatever the concentration and whoever the driver, the dangers associated with drinking, even in modest quantities, and driving are undeniable.

Legislation must reflect the level of danger, so I welcome the consultation and I hope that expert opinion from the BMA, the World Health

Organization and our European neighbours will be taken on board.

Ultimately, responsibility for enforcing a change in the law will fall to the police. As the Labour amendment makes clear, front-line policing in Scotland is being put under real pressure. The Scottish Government should be clear about how it expects the new police service to find resources to engage with motorists and prevent drink-driving through traffic education programmes.

I spoke earlier about the common and recurring campaign over the festive period to target drink-drivers. However, at the moment different police forces support different programmes throughout the year.

In September I asked the cabinet secretary a written question about which programmes would be supported by the single police service. He replied that that would be

“a matter for the Chief Constable”.—[*Official Report, Written Answers*, 21 September 2012; S4W-09599.]

I accept his answer, but given the importance that his own Government attaches to the issue, I would have hoped for some more clarity.

**Dennis Robertson:** Will the member take an intervention?

**Margaret McCulloch:** I will carry on.

I ask the cabinet secretary to look at examples of best practice in preventative spending and driver education from Scotland's existing police forces, with a view to rolling out an effective nationwide initiative when the single police service takes over.

I welcome the consultation and I agree with much of what is being proposed. However, in supporting the Labour amendment, I say that we have to do more than change the law to deal with drink-driving. We have to get behind all those who are responsible for changing the drinking culture and all those who enforce our road safety laws in Scotland to keep motorists and the general public safe from harm.

**The Deputy Presiding Officer (Elaine Smith):** I call John Mason. There is time if you wish to take interventions, Mr Mason.

16:21

**John Mason (Glasgow Shettleston) (SNP):** Thank you, Presiding Officer, I look forward to lots of interventions.

I am the final speaker for the Scottish National Party. One reason for that is that, unfortunately, Dave Thompson cannot be with us due to family illness. He has devoted a lot of time and effort to

this subject and has made progress on it. I commend him for that.

As Margaret McCulloch has just said, we need to look at the whole question of alcohol, although today we are focusing specifically on alcohol in relation to driving. As a number of speakers have said, we accept that we have a problem in Scotland with alcohol. I do not think that it is helpful for us to compare ourselves with England at every turn, but we have to be realistic—we have more of a problem than a number of other countries have, and that certainly seems to include England.

There is not one easy answer. A number of speakers have made the point that we need to change people's way of thinking. That is difficult, but it has been done before—the example of seat belts has been given already. The requirement to wear a seat belt was considered quite draconian when that law was introduced, yet it is now widely accepted and adhered to. Similarly with smoking—it has moved from being seen as very cool right across society to a point where many people now apologise if they smoke, and they go outside.

Our attitude to alcohol can change and that, I believe, is why minimum pricing is so important. It is not just a question of whether we can predict things exactly—whether the policy will affect 25, 50 or 75 per cent of people, or whatever. As Richard Simpson said, the attitude has been changed in France, for example, and it is important that we send out the message that, as much as many of us enjoy alcohol, it is a potentially harmful substance.

**Dennis Robertson:** I did not want to disappoint my colleague John Mason by not intervening.

On culture and attitude, does John Mason believe that, as we come to the festive season, employers have a responsibility to their employees to tell them that they should not drink and drive and that if they are going out to enjoy themselves at a work party, they should leave the car at home and look for alternatives?

Publicans in bars and people in restaurants should perhaps take the car keys from those who come with vehicles and who partake of alcohol.

**John Mason:** That widens the debate. The member makes useful points. I was going to say something later on—I will just say it now—about carrots and sticks. It is not just a question of beating people up on this and a number of other issues. It is also about offering people alternatives and making the alternatives attractive—I absolutely agree that the employer can be part of that.

Public transport has not been mentioned much, but there have been good examples of public



transport initiatives, such as the free buses that have been laid on in some cities around hogmanay. That is a very good initiative, which could perhaps be expanded.

However, a problem in some of our cities, such as Glasgow, where I am from, is that public transport often stops too early for people coming out of nightclubs at perhaps 3 or 4 o'clock in the morning. Taxis are very expensive—I consider them to be quite a luxury and try not to use them. We need a joined-up approach, which should include public transport. Perhaps a good employer could lay on a free bus for staff.

**Mark McDonald:** On a linked but slightly tangential point, when I was at university the student union operated a designated driver scheme whereby people who were driving were given vouchers that they could exchange for free soft drinks. Is that an initiative that publicans and clubs, for example, should consider to encourage responsible driving behaviour?

**John Mason:** Absolutely. Encouraging one person to go without and not to drink is exactly the kind of carrot that we need.

I said that our attitude to alcohol needs to change. The debate is clearly focused on alcohol and driving, but I use the word “our” deliberately, because I confess that, after having had a few drinks the night before, I have driven in the morning, and I have certainly wondered whether I was over the limit. I suspect that over the course of my life I have been over the limit once or twice. As has been said, I suspect that a lot of people who would not have considered driving the night before have taken the risk in the morning.

As James Dornan said, the current limit sends out the message that some drinking and driving is okay. That leads us to decide where we draw the line. My own line has tended to be that I would have one glass of wine with a meal if I am out for a few hours in the evening. However, it is easy to make that one pint of beer, and it is easy for that one pint to become two pints and perhaps for the meal to become only a packet of crisps. We drift along in such a way that the two become acceptable together: we drift into thinking that it is okay to drink and drive. I think that we are agreed that the limit cannot be zero for practical reasons, but the position that we want to move towards is this: if someone is driving, they do not drink.

I confess that since moving into politics my attitude has changed a little bit, because I am fairly sure that getting caught for drink-driving would not do an awful lot for my political career.

**Clare Adamson:** It is interesting that the member feels a personal responsibility as a politician because of the stigma attached to drink-driving. Does he not think that we need to get to a

position whereby the whole of society regards drink-driving as totally unacceptable and attaches a stigma to anyone who is convicted?

**The Deputy Presiding Officer:** Before I ask Mr Mason to continue, I ask members on the benches to my right if they could give him some order for the rest of his speech.

**John Mason:** Thank you, Presiding Officer.

I agree with Clare Adamson's point that the attitude of the whole of society has to change.

People such as James Dornan are a lot older than me, but I can identify with some of the comments that members have made about attitudes changing over time. Dick Lyle talked about driving his father around, and I used to drive my father around, too—it was great to get my hands on the Triumph 2000, I think it was, that he drove at that time.

A whole attitude change is required. I see the change that has taken place in my life, and now I want to move to the position that, when I go out for a meal, I do not have a drink. I think that many of us need to move in that direction, which is why I have said that our attitude needs to change.

The Scotland Act 2012 is pretty second rate on a number of fronts, and many of us would disagree with it on a number of issues. Having been on the Scotland Bill Committee, I find it particularly disappointing that we were given only some powers over drink-driving and not others. I think that that happened because there is a fear at Westminster that if Scotland becomes too different from England, independence becomes inevitable, so even good changes must be resisted if they mean that Scotland would become too different from England.

**The Deputy Presiding Officer:** Mr Mason, I must now ask you to draw to a conclusion.

**John Mason:** I will conclude, Presiding Officer.

I find the Conservative amendment somewhat disappointing. I agree with Alison McInnes's comments about it. The wording looks sensible at first glance, but then we see that it is just about delay, trying to put things off and not actually doing anything. It contains phrases such as

“must not be implemented until”;

it calls for things to be “fully explored”, even though, of course, the cynical might say that nothing ever gets fully explored; it says that the Government must “fully consider” things; and it speaks of “unintended consequences”, although everything that we do has unintended consequences. I suggest that the amendment would not really take us anywhere.

I am happy to support the motion. Thank you for the leniency that you have shown me with regard to time, Presiding Officer.

16:30

**Nanette Milne (North East Scotland) (Con):**

This has been an important and well-informed debate, with significant contributions from all sides of the chamber.

As has been stated, we all agree that one of the greatest scourges of modern society is drink-driving and, indeed, drug-driving, which can devastate the lives and families not only of the victims but of the perpetrators.

Those of us—like myself—who are old enough to remember when the drink-drive limit was introduced in 1966 will recall what a necessary step it was as a response to growing concerns about the number of drink-impaired people getting behind the wheel.

Unfortunately, there are still some members of my generation who almost look back through rose-tinted spectacles at a supposed halcyon age, when it was considered acceptable, especially in rural areas, to have a few drinks at the local pub and then drive home.

**Stewart Stevenson:** Does the member recall that it was even worse than that, in that, until the reform of licensing legislation in the early 1960s, Sunday drinking required people to drive a minimum of 3 miles before they were allowed to drink, under the bona fide traveller rule?

**Nanette Milne:** I accept that. I thought that it was a 5-mile limit, but perhaps the member is right.

**Stewart Stevenson:** We will not argue the point.

**Nanette Milne:** There was a one-for-the-road culture, even when we went out for meals in people's houses. That was quite accepted, and was done by quite responsible people, one of whom I think that I was at the time—and still am. At that time, as Nigel Don pointed out, there was less traffic on the roads than there is today, and people did not drive so fast. Even so, that attitude should not have been acceptable then, and it certainly is not acceptable now.

Many of us will be aware of the work of the Campaign Against Drinking and Driving, which was founded in 1985 by John Knight and Graham Buxton—two fathers who lost children in road crashes that were caused by drunken drivers. All of us will have been affected by the hard-hitting advertisements on television, especially at Christmas, which reinforce the message that it is

simply not worth it to drive having drunk alcohol. However, people still do drink and drive.

The key message is, simply, do not drink and drive, and it is a message that I and many other people adhere to. I have some sympathy with the argument that that approach should be mandatory, given the fact that people cannot accurately estimate a safe level of alcohol consumption. I also recognise that each person's metabolism and tolerance level are different. However, those are debates for another day, although they were touched on by Mark McDonald in his speech.

Clearly, a case can be made to lower the drink-driving limit, but our amendment seeks to highlight other measures that might achieve an even more effective response to the serious crime of drink-driving. I very much welcome the consultation that was launched by the Cabinet Secretary for Justice. I fully acknowledge the fact that the drink-driving limit has remained unchanged since the 1960s and that, at 80mg per 100ml of blood, the current level is among the highest in the world. In comparison with other European countries, where the level is 50mg per 100ml, the limit here seems excessively high, especially when we consider that our near neighbour, the Republic of Ireland, lowered its limit last year from 80mg to 50mg, and to 20mg for learner, newly qualified and professional drivers.

The Scottish Government obviously believes that lowering the limit will have a positive effect on reducing the number of incidents of drink-driving, and I hope that a lowering of the limit will result in fewer accidents caused by drink-driving. However, given the number of drivers who continue to ignore the existing limits and who drive when they are significantly over the limit, I am not yet wholly convinced that that will prove to be the case.

I feel strongly that scarce resources should be focused on those who blatantly flout the existing law, getting behind the wheel with levels three or four times the limit, and on the unknown number of people who drive under the influence of drugs.

The Government's consultation document suggests that lowering the limit will result in between three and 17 fewer deaths a year. However, although the number of deaths caused by drink-driving is still far too high, it has been on a downward trend and has halved from 40 in 2000 to 20 in 2010. That is testament to the unremitting efforts of Scotland's police forces and their many high-profile campaigns, particularly at festive times, to highlight the dangerous consequences of drink-driving.

Richard Simpson made some interesting points, and I agree with him that any reduction in the limit will have to be very widely advertised. His

example of what is done in France has given us serious food for thought.

I commend another Grampian campaign—the safe drive, stay alive campaign—which is run regularly by the fire and rescue service and the police. Secondary school pupils are given a graphic presentation of the aftermath of a serious road accident and then meet the survivors of the accident. The relatives of victims who did not survive are also present. The campaign does not focus particularly on alcohol, but it deals with drink-driving as a significant issue. The event is held in the beach ballroom in Aberdeen, with a spanking new sports car on display outside the ballroom as the pupils enter. They go through that very emotional presentation—I have seen teenagers reduced to tears during the presentation—and when they come out the spanking new car has been replaced by a seriously damaged wreck. Believe me, that has an impact on the kids. It is a fantastic campaign.

Many young drivers, such as Dennis Robertson's daughter, are responsible but others are not. I fully agree with him that drivers in the 17-to-35 age group need to be educated about their responsibilities when they get behind the wheel of a car. I also agree with Stewart Stevenson's comments about the drivers who refuse to acknowledge the risks of drink-driving.

I liked John Mason's comments about carrots and sticks and the merits of readily available, cheap public transport to encourage people to leave their cars at home when going out for a social evening involving alcohol.

David Stewart made some excellent points about young drivers. I commend his commitment and his on-going efforts to educate young drivers as they set out on their driving careers.

The concerns that my colleague Alex Johnstone expressed relate to the question whether resources will be diverted if the existing limit is reduced and if the police target those who are just over a newly reduced limit rather than those who are well over the current limit. People who are three or four times over the current limit would become five or six times over a newly reduced limit, and we should be targeting those drivers. I reiterate that any form of drink-driving is a serious offence. However, with budgetary constraints, we need to examine the best use of police resources. As Alex Johnstone has postulated, that may not be to pursue those who are marginally over a reduced limit at the expense of pursuing those who are significantly over the current limit.

**Clare Adamson:** Will the member take an intervention?

**Nanette Milne:** I do not think that I have time.

**The Deputy Presiding Officer:** I am sorry, but the member will have to close now.

**Nanette Milne:** Siobhan McMahon mentioned people driving under the influence of drugs, which is a related area on which I would like to hear more from the cabinet secretary. I pay tribute to the UK Government for the legislation that it introduced last year to deal with that serious crime and I believe that it is an issue that we should look at seriously.

Scottish Conservatives welcome the consultation and much of what the cabinet secretary and other members have said this afternoon. However, we urge the cabinet secretary to give full consideration to any possible unintended consequences of lowering the drink-drive limit, such as the diversion of police resources away from the pursuit of those who are flouting the present law. We encourage all interested individuals and organisations to contribute to the debate and to respond to the Government's consultation. We await its outcome with interest.

I commend the amendment in Alex Johnstone's name.

16:39

**Jenny Marra (North East Scotland) (Lab):** On behalf of the Labour Party, I very much welcome this afternoon's debate, which has been interesting and wide-ranging. As representatives in this Parliament, we all have the important privilege of representing our constituents and we know from the stories that we hear in our communities that our roads are too dangerous. There are far too many accidents. The families who have lost loved ones or whose children have been injured on our roads are a stark reminder that we must do everything possible within our power to make our roads safer.

**Stewart Stevenson:** I hope that the member will not regard me as being unduly picky, but does she agree that, while there are dangers created by roads, primarily these days the danger is from those users of the roads who are in cars? The design of roads has improved in a way that the design of drivers has yet to do.

**Jenny Marra:** I agree with the member that he is being a little picky. I was making the wider point that there are far too many accidents on our roads. I am sure that he will agree that they are caused by a variety of factors, but that it is always more upsetting and more tragic when accidents are fuelled by alcohol consumption, and that is why this afternoon's debate is particularly pertinent.

At some moments during the afternoon, I was struck that the debate was perhaps becoming a bit

of a confessional session for some SNP back benchers, who informed us of their propensities to drink and of their drinking habits. Things reached the stage at which I thought that we would get a student union story from Mark McDonald. I am very glad that he saved us all from that.

I will turn to some of the important points made in the debate. I am pleased that I have two colleagues behind me on the Labour benches who are very experienced in this area: Richard Simpson, who is an alcohol expert, and David Stewart, who has a long track record on campaigning on these issues in the Highlands and Islands. David Stewart brought to our attention some of the best practice in this area across Europe. As we come to the end of this afternoon's debate, it is worth remembering what he said about the fact that the places with the lowest drink-driving figures in Europe have three things in common: the legal limit that we are debating this afternoon; mass media support for enforcement; and the high risk of detection.

On the subject of the high risk of detection, I hope that the cabinet secretary will appreciate my drawing his attention to our amendment, which highlights the need to ensure that our police are properly on our streets, not doing civilian jobs, if we are to maximise the risk of detection.

**Kenny MacAskill:** Does the member accept that the argument made by ACPOS and by serving police officers is that the police are on the streets, and that they want the powers to be able to pull over these hard-core drink-drivers? That is why random testing is so important.

**Jenny Marra:** Clearly, random testing is a debate for another afternoon, if the cabinet secretary would like to bring that to the chamber. He knows that we on this side of the chamber do not agree that police officers are on the street as much as they can be rather than in backroom jobs. I will come back to that at the end of my closing remarks.

My colleague Richard Simpson, who made an eloquent speech, drew our attention to some international examples of what happens elsewhere, which I think are worth considering as we look at new limits for Scotland. He looked to Australia, where the reduction in the blood alcohol limit has reduced road fatalities. He also looked to Sweden, where I understand drink-drivers are given a mandatory custodial sentence. He also gave a very pertinent and interesting example of local powers when he talked about how, when he was young, the local sheriff in Perth gave custodial sentences for drink-driving—something that the cabinet secretary may wish to reflect on. He also drew our attention both to the other side of the Atlantic, where the United States of America maintains its 80mg limit, and to the Czech

Republic and Hungary, which are on the other side of the debate in that they take a zero-tolerance approach. I was convinced by the arguments that that approach is not the way to go, and there was consensus about that across the chamber.

I was interested in the points that were made about the three-year 10mg limit for some new drivers in European countries and the idea of graduated conditions when people gain their licence. The point that young drivers have a lower record of drink-driving than older drivers is something that the Parliament should take note of. Perhaps when we consider mass media interventions and advertising campaigns, we should specifically target that older population that seems to have more of a problem with drink-driving.

David Stewart talked eloquently about his campaign—sensible driving, always arriving—which he has been running in the Highlands for some years. He also talked about the sensible approach of targeting drink-driving before it starts, the graduated licence scheme, the zero alcohol level for new drivers, and the no passengers requirement.

**Kenny MacAskill:** The Government fully agrees with David Stewart. Given that Northern Ireland is moving towards a graduated licence scheme, if the Scottish Government gives an undertaking to ask the UK Government to implement that across the UK and, if the UK Government does not do that, to ask for the powers to do it ourselves, will Jenny Marra support us?

**Jenny Marra:** As I said earlier, we are happy to discuss that matter.

**Kenny MacAskill:** And if we ask for that power?

**Jenny Marra:** We discovered earlier that a lot of the powers that the cabinet secretary says that he has been asking for were not put before the Scotland Bill Committee. Perhaps he would like to come back to the chamber and clarify that issue.

Some of the measures should be discussed UK-wide.

**Stewart Maxwell (West Scotland) (SNP):** As a member of the Scotland Bill Committee, I point out that we recommended a wide range of powers on drink-driving and on other matters that should be devolved to this Parliament. Of course, we did not get the Labour Party's support for those proposals.

**Jenny Marra:** I do not think that Stewart Maxwell was present for all the debate. [*Interruption.*] He was watching it on television—okay. Perhaps I will move on to my closing remarks.

My colleague Siobhan McMahon made interesting points, including about what is meant

by one drink—we need to address that in our advertising campaigns. Mark McDonald's idea about free soft drinks in pubs is very good—I have mooted it before—and it is one that I support.

We must also remember Siobhan McMahon's point about how the effect of alcohol varies depending on gender, body mass, tiredness, and how much food has been eaten. I also liked Nanette Milne's point about the educational campaigns that she has seen working in Aberdeen.

When the cabinet secretary makes his closing remarks, I ask him to consider seriously our amendment, which draws attention to the need for police on our streets, so that the alcohol limit can be properly enforced. However, I support the Government's commitment to lowering the blood alcohol limit.

16:48

**Kenny MacAskill:** In the main, this has been—as Jenny Marra mentioned—a remarkably consensual debate, aside from the more confessional aspects, whether to do with age or drink. Some points were made in jest, but many had good aspects.

There have been great contributions from across the chamber. Many Labour members who spoke to the issue—not necessarily to their party's amendment, which has little relevance—made good speeches; Dr Simpson, David Stewart and Siobhan McMahon all made comments with which I fully and heartily agree. Equally, James Dornan, Dennis Robertson and, indeed, Alison McInnes all raised sound matters that demonstrated the consensus.

We are at the end of a stage in a journey. Tribute was correctly paid by John Mason to Dave Thompson, who raised the issue of the drink-driving limit. I first raised the matter with the UK Government back in 2007; five years on—better late than never—we are there.

It is right to reduce the limit to 50mg. Many members—Richard Simpson, in particular—made points about why we should not go to 0mg, but there are clear reasons why we should reduce the limit. Here is the answer to the point that Alex Johnstone made: evidence that the British Medical Association submitted in 2010 to the House of Commons Transport Committee's inquiry into drink-driving and drug-driving law indicated that the relative risk of drivers with a reading of 80mg of alcohol per 100ml of blood being involved in a road traffic crash was 10 times higher than that for drivers with a reading of 0mg, whereas the relative crash risk for drivers with a reading of 50mg per 100ml of blood was twice that for drivers who had a zero blood alcohol reading.

**Alex Johnstone:** I fully accept the statistics that the cabinet secretary has provided. Does he envisage that enforcement of the lower limit will require additional resources or will it result initially in existing resources being spread more thinly?

**Kenny MacAskill:** I will come on to that. The police have asked for a lowering of the limit in order to save lives, and for further powers for random testing to enable them to target drivers. Those measures join together.

Many members, in particular Dennis Robertson and James Dornan, made comments about a change in attitude and culture. All of us of a certain generation—we have been making such confessions—recall that there was a change. Members have commented on how, at one stage, it was viewed only as bad luck to be caught drink-driving. Drink-driving was fairly routine, although it was not necessarily the norm. It was entirely unacceptable, but it was viewed as a matter of bad luck if one was caught. In the 1970s, the message was driven home that it was entirely unacceptable because of the deaths and carnage that it caused.

Alex Johnstone made a fair point that progress has been made, and Richard Simpson also touched on that. Nobody denies that we are reducing death and carnage on the roads. Things are better, but we will still have to address two aspects, to which I will return.

As Stewart Stevenson and others said, roads and cars have changed. The vehicles that we possess are now significantly more powerful and can, even with much smaller engine capacity than previous vehicles, accelerate more quickly. Many of us who have been involved with the police or fire service also know that some measures that have been introduced to improve the safety of vehicles have had unintended consequences in terms of brain injuries. Sometimes, things that were built to make a vehicle safer and stop it being crushed cause head injuries when drivers are flung forward into them.

We accept that, although progress has been made, we face a hard core, and we face difficulties despite the continuing festive campaigns. I make the point to the Labour member who raised the matter—I cannot remember who it was—that it is important that we have those campaigns, but it is not for me to direct them, because I do not have the required specific knowledge, nor is it for the Government to direct them. We take the advice of the police and RoSPA. We work with them and ensure that we drive the message home, whether at Christmas, in the summer or—as Nanette Milne said—through the police, the fire brigade or others working with youngsters. I assure members that we will seek to build on those actions; they will continue, but they will be led by the experts.

We face a difficulty in two respects on the roads. One is the hard-core section of our society that seems to think that the drink-driving laws do not apply to it. Doubtless, those people think that many other laws do not apply to them either, and they will ignore the warnings and consequences. They are prepared to take that chance. The way to deal with them is to give the police the powers for random testing. That would ensure not only that the incidence and likelihood of being caught would increase, but that the hard core would know that. Richard Simpson made the point that the progress that has been made in France relates to the likelihood of being caught and of a conviction being secured. The hard core thinks that the law does not apply to it, and those people want to avoid being dealt with by the law. That gives us the basis for driving forward the approach that we must take with them.

Points were also made regarding young drivers. Dennis Robertson's daughter is, doubtless, a sensible driver; as he correctly said, the overwhelming majority of young people are sensible not only in how they drive, but in how they behave. However, there is a hard-core minority of young people who flout the law, as with the hard core of their older peers.

Mark McDonald commented on statistics; he might not have been able to provide them for the Conservative Party, but he was able to provide from an Ipsos MORI poll some that show that some of the messages that got through to my generation when we were aged between 18 and 24 or 35 need to be reviewed, reiterated and driven home once again to people in that age group now. We must renew the messages that we send out to young drivers and to the hard core of drink-drivers.

On young drivers, I am open to David Stewart's suggestion. I believe that graduated licences should be considered and that the scheme should address alcohol consumption. That matter would have to be consulted on, then come back to Parliament for debate. The Northern Ireland Government is moving to take action on graduated licences, which will address alcohol levels and allow other restrictions to be imposed. Given that often in all areas of this country young people kill themselves and their friends as a result of drink-driving, it is incumbent on each and every one of us to tackle the cause of the tragedies that have been articulated by members during the debate.

I agree with David Stewart, which is why I say to Jenny Marra that I will ask the UK Government to consider introducing the measures that the Northern Irish are to implement. If it refuses to do so, I hope that Parliament will recognise that, if graduated licences make sense and will save

lives, we must be given the powers to progress the idea.

The issue that we are discussing is not a constitutional one; we are making progress on it because the Scotland Act 2012 has given us the ability to do so. I remind Lewis Macdonald and Jenny Marra that the matter was raised initially with the Labour UK Government with a view not to its giving us the powers, but to its taking action. As on aspects of firearms law, we have said that if the correct law can be implemented more quickly by the UK Government on a UK basis, that is a good thing, which we will accept without standing on ceremony. However, if the UK Government will not take action, whether on air weapons, the drink-driving limit, graduated licences or random breath testing, it is incumbent on the Scottish Parliament, as the democratically elected representative body of the Scottish people, to act and to seek those powers.

**Lewis Macdonald:** Can I take it from what Mr MacAskill says that he will report back to Parliament on the progress that he makes in discussions with the UK Government on graduated licences and related matters, so that we can consider them further?

**Kenny MacAskill:** Absolutely. I will be happy to do that. The same discussions will take place between me and Patrick McLoughlin as took place between me and Labour ministers. We simply ask that action be taken. If the UK Government will take it, that will be fine and dandy—we will be happy with that, and on we will go.

Nanette Milne correctly raised the issue of drug-driving, the responsibility for which is currently reserved. Siobhan McMahon commented on it, too. Ultimately, I want such matters to be dealt with by elected representatives in this chamber, but I give members an absolute assurance that we will work with the UK Government. We must wait for the research. Drug-driving is a complicated issue. How we should address it is not a simple matter; it is much more complicated than how we deal with liquor and alcohol. We will seek to work with the UK Government. [*Interruption.*]

**The Deputy Presiding Officer:** Excuse me, cabinet secretary. There is a bit too much chat going on.

**Kenny MacAskill:** I must issue the caveat that if action is not taken south of the border, despite the position that has been enunciated by Peter North and others, we reserve the right to seek the powers to make progress, because the issue is an extremely complicated and difficult one that we must address.

We are talking about saving lives; it is clear that about 30 lives a year could be saved. That is not a huge number, but the trauma for families is great

when a loved one is lost, as Dennis Robertson said. Feelings run deep, not only in families but in communities, especially in rural areas, as Alex Johnstone will be aware. For good reason, people in many rural areas have to use vehicles.

John Mason correctly identified that alternative strategies must accompany the law. The issue is not all about enforcement—much of it is about education—but we must tackle it.

The confessional aspects of the debate aside, I welcome the consensus that we are heading in the right direction. I believe that the outcome of the consultation will be that 50mg is the correct limit to adopt. If we are to make progress, additional action must be taken. The UK Government has declined to do so, so we require the relevant powers. I look forward to discussing the matter with Labour members and other members as we seek to reduce the drink-driving limit and to make Scotland safer.

## Parliamentary Bureau Motions

17:00

### **The Deputy Presiding Officer (Elaine Smith):**

The next item of business is three Parliamentary Bureau motions. I ask Joe FitzPatrick to move motion S4M-04649, on committee membership, and motions S4M-04650 and S4M-04651, on substitution on committees.

### *Motions moved,*

That the Parliament agrees that Alison Johnstone be appointed to replace Patrick Harvie as a member of the Economy, Energy and Tourism Committee.

That the Parliament agrees that—

Bill Kidd be appointed as the Scottish National Party substitute on the Referendum (Scotland) Bill Committee;

Richard Baker be appointed as the Scottish Labour Party substitute on the Referendum (Scotland) Bill Committee;

John Lamont be appointed as the Scottish Conservative and Unionist Party substitute on the Referendum (Scotland) Bill Committee;

Willie Rennie be appointed as the Scottish Liberal Democrat substitute on the Referendum (Scotland) Bill Committee; and

Alison Johnstone be appointed as the Scottish Green Party substitute on the Referendum (Scotland) Bill Committee.

That the Parliament agrees that Patrick Harvie be appointed to replace Alison Johnstone as the Scottish Green Party substitute on the Economy, Energy and Tourism Committee.—[*Joe FitzPatrick.*]

**The Deputy Presiding Officer:** The questions on the motions will be put at decision time.

## Decision Time

17:00

### The Deputy Presiding Officer (Elaine Smith):

There are six questions to be put as a result of today's business. The first question is, that amendment S4M-04627.2, in the name of Lewis Macdonald, which seeks to amend motion S4M-04627, in the name of Kenny MacAskill, on drink-driving, be agreed to. Are we agreed?

### Members: No.

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

### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)

### Against

Adam, Brian (Aberdeen Donside) (SNP)  
 Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)

Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (North East Scotland) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

### Abstentions

Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McArthur, Liam (Orkney Islands) (LD)  
 McGregor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 33, Against 64, Abstentions 15.

*Amendment disagreed to.*



**The Deputy Presiding Officer:** The next question is, that amendment S4M-04627.1, in the name of Alex Johnstone, which seeks to amend motion S4M-04627, in the name of Kenny MacAskill, on drink-driving, be agreed to. Are we agreed?

**Members:** No.

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

**For**

Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**Against**

Adam, Brian (Aberdeen Donside) (SNP)  
 Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)

Hume, Jim (South Scotland) (LD)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (North East Scotland) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 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)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 12, Against 100, Abstentions 0.

*Amendment disagreed to.*

**The Deputy Presiding Officer:** The next question is, that motion S4M-04627, in the name of Kenny MacAskill, on drink-driving, be agreed to. Are we agreed? We are all agreed—[*Interruption.*] I did not hear a no, so I will ask the question again. I ask for order in the chamber, please. Are we agreed?

**Members: No.**

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

**For**

Adam, Brian (Aberdeen Donside) (SNP)  
 Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Helen (Cowdenbeath) (Lab)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)

McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (North East Scotland) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 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)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Walker, Bill (Dunfermline) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**Against**

Brown, Gavin (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 100, Against 12, Abstentions 0.

*Motion agreed to,*

That the Parliament welcomes the Scottish Government consultation paper on reducing the drink drive limit, which sets out its proposal to reduce the limit to help make Scotland's roads safer and introduce a limit that would bring Scotland into line with most of the rest of Europe; notes the Scottish Government's continued efforts to secure a more extensive set of powers over drink driving from the UK Government to tackle the scourge of drink driving, and encourages all interested persons to make a response to the drink driving consultation.

**The Deputy Presiding Officer:** The next question is, that motion S4M-04649, in the name of Joe FitzPatrick, on committee membership, be agreed to.

*Motion agreed to,*

That the Parliament agrees that Alison Johnstone be appointed to replace Patrick Harvie as a member of the Economy, Energy and Tourism Committee.

**The Deputy Presiding Officer:** The next question is, that motion S4M-04650, in the name of Joe FitzPatrick, on substitution on committees, be agreed to.

*Motion agreed to,*

That the Parliament agrees that—

Bill Kidd be appointed as the Scottish National Party substitute on the Referendum (Scotland) Bill Committee;

Richard Baker be appointed as the Scottish Labour Party substitute on the Referendum (Scotland) Bill Committee;

John Lamont be appointed as the Scottish Conservative and Unionist Party substitute on the Referendum (Scotland) Bill Committee;

Willie Rennie be appointed as the Scottish Liberal Democrat substitute on the Referendum (Scotland) Bill Committee; and

Alison Johnstone be appointed as the Scottish Green Party substitute on the Referendum (Scotland) Bill Committee.

**The Deputy Presiding Officer:** The next question is, that motion S4M-04651, in the name of Joe FitzPatrick, on substitution on committees, be agreed to.

*Motion agreed to,*

That the Parliament agrees that Patrick Harvie be appointed to replace Alison Johnstone as the Scottish Green Party substitute on the Economy, Energy and Tourism Committee.

**The Deputy Presiding Officer:** That concludes decision time.

*Meeting closed at 17:05.*

## Correction

The First Minister has identified an error in his contribution and provided the following correction.

**The First Minister:**

*At col 12924, paragraph 9—*

*Original text—*

It is not my description; it is the description of the Institute for Fiscal Studies.

*Corrected text—*

It is not my description; it is the description of the National Institute of Economic and Social Research.



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

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