

# **MEETING OF THE PARLIAMENT**

Wednesday 16 November 2005

Session 2

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## Scottish Parliament

*Wednesday 16 November 2005*

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 14:00*]

### Time for Reflection

**The Deputy Presiding Officer (Murray Tosh):**

The first item of business is time for reflection. Our leader today is Mr Mohammed Tufail Shaheen of the Islamic Centre in Glasgow, who is also the president of the charity Glasgow the Caring City.

**Mr Mohammed Tufail Shaheen (Islamic Centre, Glasgow):** Bismillah hir-Rahman nir-Rahim. In the name of Allah, the most beneficent and the most merciful.

Presiding Officer, ladies and gentlemen, it is a great honour for me to be given this opportunity to lead time for reflection and to address the Parliament and its members. I speak to those who have the power to a large extent to shape the future of our nation.

When I first arrived in Glasgow on 6 June 1958, I was welcomed with a great sense of fairness and opportunity in this wonderful country by a friendly people, who have inspired me every day of my life. This is a country that encourages everyone to strive to be the best that they can be as individuals and to be proud to be Scottish. I am honoured to be part of this multicultural society, which is proud of its diversity of cultures and the level of mutual respect between the communities.

Scotland is home to many faiths and cultures and welcomes all. That strengthens our society. For me, the concept of fairness and equality is the essence of Islam and of society as a whole. Tolerance, compassion and love for all fellow human beings are essential to our way of life and are the roots of a decent society.

I have led a life of charity—not because I was told to, but because I truly believe that we are in this world to serve God and his purpose. I am in the fortunate position of belonging to a multifaith charity, in which we work together for the good of humanity. Through the work of that charity, I have seen the compassion and generosity of the Scottish people, especially in the aftermath of the tsunami disaster and, most recently, following the terrible earthquake that affected the north of Pakistan. Those acts of generosity keep alive my faith in humanity.

Thank you for inviting me to speak today and opening the door to greater understanding between all the faiths of our great nation.

Lord, you have given us authority. Now bestow on us wisdom and compassion as a route to right decisions. Let the Almighty God guide us all along the straight path and allow us to be the best that we can be: to be fair and just, to have insight in our debate and to have love for all as our goal. May God grant us strength and courage in order that we may work for the betterment of Scottish society and all mankind.

## Business Motions

### **The Deputy Presiding Officer (Murray Tosh):**

The next item of business is consideration of business motion S2M-3581, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, to move decision time today to 5.30 pm. I invite anyone who wishes to oppose the motion to press their request-to-speak button.

*Motion moved,*

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Wednesday 16 November 2005 shall begin at 5.30 pm.—[*Ms Margaret Curran.*]

**The Deputy Presiding Officer:** It appears from my screen that Donald Gorrie has asked to speak, but I am informed that it is a mistake—thank goodness for that.

**Donald Gorrie (Central Scotland) (LD):** I was trying to speak.

**The Deputy Presiding Officer:** I beg your pardon—your name came on to the screen and then went off.

14:06

**Donald Gorrie (Central Scotland) (LD):** There seems to be a lot of interest in the amendments to the Licensing (Scotland) Bill that are in group 5. I wonder whether the Parliament might agree to extend the time for that group by half an hour to enable adequate discussion of what I understand to be various amendments.

**The Deputy Presiding Officer:** It would not be appropriate to do that at this stage, but there is the potential for a motion to be moved at the relevant point in proceedings. The occupant of the chair will be alert to the pressure to speak and, if necessary, the power that you describe might be invoked.

*Motion agreed to.*

That the Parliament agrees under Rule 11.2.4 of the Standing Orders that Decision Time on Wednesday 16 November 2005 shall begin at 5.30 pm.

**The Deputy Presiding Officer:** The next item of business is consideration of business motion S2M-3580, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a revised programme of business for this afternoon.

*Motion moved,*

That the Parliament agrees the following revision to the programme of business for Wednesday 16 November 2005—

Wednesday 16 November 2005

delete,

5.00 pm

Decision Time

*followed by*

Members' Business – Debate on the subject of S2M-3507 Colin Fox: Scotland's Social Housing Provision

and insert,

5.30 pm

Decision Time

*followed by*

Members' Business – Debate on the subject of S2M-3507 Colin Fox: Scotland's Social Housing Provision.—[*Ms Margaret Curran.*]

*Motion agreed to.*

**The Deputy Presiding Officer:** The next item of business is consideration of business motion S2M-3583, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Licensing (Scotland) Bill.

**Donald Gorrie:** Would this be a more appropriate moment to propose that 30 minutes be added to the time for group 5 amendments?

**The Deputy Presiding Officer:** No. The guidance that I gave earlier was that we must wait until we are at that stage in proceedings. A motion without notice should be put to the occupant of the chair at that point. We would indicate at that stage whether such a proposal was necessary and what time period might be appropriate.

*Motion moved,*

That the Parliament agrees that, during Stage 3 of the Licensing (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limits indicated (each time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended, other than a suspension following the first division in the Stage being called, or otherwise not in progress):

Groups 1 to 4 - 25 minutes

Groups 5 to 8 - 55 minutes

Groups 9 to 11 - 1 hour and 15 minutes

Groups 12 to 15 - 2 hours

Groups 16 to 19 - 2 hours and 25 minutes

Groups 20 to 22 - 2 hours and 40 minutes.—[*Ms Margaret Curran.*]

*Motion agreed to.*

## Licensing (Scotland) Bill: Stage 3

14:08

**The Deputy Presiding Officer (Murray Tosh):** We now move to the stage 3 proceedings of the Licensing (Scotland) Bill. I begin with the standard announcements about the procedures to be followed. We will deal with the amendments and then move to the debate on the motion to pass the bill. For the amendments stage, members require to have the bill, the marshalled list—

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** On a point of order, Presiding Officer.

**The Deputy Presiding Officer:** Please allow me to finish, Mr Arbuckle.

Members should also have a supplementary sheet with amendments in the name of Andrew Arbuckle, a second supplement with an amendment in the name of Frank McAveety, a third supplement with an amendment in the name of Andrew Arbuckle, and the list of groupings. The amendments in the supplements are the manuscript amendments, which are in addition to those previously published together with the groupings.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** On a point of order, Presiding Officer. I am certainly aware of the original manuscript amendments that Andrew Arbuckle lodged, because everyone received them by e-mail. I also have a copy of Frank McAveety's manuscript amendment. However, I have not received a further piece of paper with another Andrew Arbuckle amendment on it. It will be interesting to see what further twists and turns will arise on this day of chaos.

**The Deputy Presiding Officer:** The other manuscript amendment in the name of Andrew Arbuckle is to "Leave out section 60A". It is now available at the back of the chamber, so members will have a copy of it within seconds if they care to acquire it.

On Bruce Crawford's point of order, members are aware that, under rule 9.10.6 of standing orders, the Presiding Officer has the power to select manuscript amendments. The Presiding Officers never discuss individual decisions, and I trust that members will appreciate that I am not going to change that rule now.

**Mr John Swinney (North Tayside) (SNP):** On a point of order, Presiding Officer. Although I have no desire to challenge your comments on the Presiding Officer's power to select particular amendments and not to give his reasons for doing so, I wonder whether you will reflect on the amount of notice that it is appropriate for the

Presiding Officer to give members of the Parliament so that they have the chance to determine what amendments they will have to face.

**The Deputy Presiding Officer:** As members are aware, the manuscript amendment provision arises in exceptional circumstances. Today, the chair's judgment is that circumstances have been sufficiently exceptional to justify the acceptance of manuscript amendments. Beyond that comment we do not ever go.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** On a point of order, Presiding Officer. You have said that the manuscript amendment that we have not yet seen has been accepted because of exceptional circumstances. Given that all these matters have been debated by Parliament for months, will you give us further information on how these circumstances can conceivably be described as exceptional? Will Parliament get any guidance on the matter? If it is not entitled to any such guidance, is there not a risk that a refusal at the last hour to give it on this matter might bring this place into disrepute?

**The Deputy Presiding Officer:** No, Mr Ewing, that is not the case. I have now given the advice twice and I refer members to my two previous rulings. There is nothing more to be said on the matter, other than to point out that, as is our practice after every stage 3 debate, the Presiding Officers will of course reflect on today's business in the light of its conclusion.

**Bruce Crawford:** On a different point of order, Presiding Officer. Will you please inform the chamber exactly which group this particular manuscript amendment from Andrew Arbuckle will appear in and which amendments it will appear between?

**The Deputy Presiding Officer:** It will appear in group 5 and will be taken immediately after amendment 64 is disposed of. That is a perfectly reasonable point to make and I am happy to give that information.

**Tommy Sheridan (Glasgow) (SSP):** On a point of order, Presiding Officer. In the Parliament's six years, this is the most shambolic meeting that we have had on a very important piece of legislation. Given the rulings that you have just made on the manuscript amendments, is it in order for you to suspend the meeting for at least 15 minutes or so to allow members to get hold of them and get them in the order in which they are being discussed? This is supposed to be a serious legislative chamber, but it is shambolic. I should also say that it is a disgrace for the Executive to criticise others on their presentation of legislation when it is in such a shambles itself at the last minute.

**The Deputy Presiding Officer:** You will appreciate that it is not for me to rule on your latter point, which was political. It is in order to ask me to suspend the meeting, because that is within my power. However, as I have read this one-line manuscript amendment and have indicated when the vote will be taken to ensure that all principals involved in the debate are perfectly clear about that, I do not consider it necessary to suspend. As the clock is now ticking, I would like to get into the debate on the amendments. The next run of points of order will be on extending the time to accommodate the time that we are currently losing.

**Mr Stewart Maxwell (West of Scotland) (SNP):** On a point of order, Presiding Officer. Further to Mr Ewing's point of order, I, unfortunately, missed the deadline for lodging stage 3 amendments to the bill. Given that the amendment that I wished to submit referred to an area that was debated by the Local Government and Transport Committee at stages 1 and 2, I felt that my own circumstances were not exceptional and that, therefore, my amendment would not be accepted as a manuscript amendment. Yet I see in front of me three amendments, two on paper and the other subsumed somewhere within the groupings, which are not in my view exceptional. How could you rule that those amendments were lodged in exceptional circumstances when you have denied the right to lodge amendments to other members who missed the deadline?

14:15

**The Deputy Presiding Officer:** Mr Maxwell, I did not deny you the right to lodge your amendment because, by your own admission, you did not lodge it. The judgment that your amendment was not sufficiently exceptional to merit being lodged as a manuscript amendment was yours and I support you in that judgment. The judgments on the amendments that have been accepted were taken by the Presiding Officer and I support his judgment as well.

**Christine May (Central Fife) (Lab):** For the purposes of clarity, Presiding Officer, could you indicate to the chamber exactly which pieces of paper we should now have?

**Members:** Hear, hear.

**The Deputy Presiding Officer:** You should have the marshalled list, the list of groupings, the bill itself, the supplement containing five Andrew Arbuckle amendments, a second supplement containing an amendment by Frank McAveety, and a third supplement—the supplement under discussion, which has been taken late in the day—containing the amendment in the name of Andrew Arbuckle that I read out earlier and which is

available at the back of the chamber. All the necessary documentation is therefore present.

**Iain Smith (North East Fife) (LD):** I think that the five amendments in the name of Andrew Arbuckle that you mentioned are included in the marshalled list, at page 13.

**The Deputy Presiding Officer:** The clerk advises me that they are not. As we all have them—

**Members:** They have run out.

**The Deputy Presiding Officer:** The answer, Mr Smith, is that the five amendments are shown in the groupings. There is, as I have said—and this is now the third time that I have said it—a supplementary sheet in the chamber—

**Bruce Crawford:** On a point of order, Presiding Officer.

**The Deputy Presiding Officer:** I propose a five-minute suspension until the sheet in question is produced.

14:17

*Meeting suspended.*

14:30

*On resuming—*

**The Deputy Presiding Officer:** I understand that the text of the two manuscript amendments that were accepted today is now available at the back of the chamber. I think that one was already available, but the second one—the McAveety one—should now be in everyone's possession. The text of the five amendments in the name of Andrew Arbuckle appeared in the *Business Bulletin* on Monday and they were approved yesterday, so members should have them. I believe that the text of all the amendments is now available.

**Alasdair Morgan (South of Scotland) (SNP):** On a point of order, Presiding Officer. Members will agree that in view of the bill's importance to the people of Scotland and the Parliament, what has gone on so far today does a disservice to the people of Scotland. It has not been a good advertisement for the way in which we conduct our business. I ask that the Presiding Officers and the Executive reflect maturely on how we got to this state of affairs, so that we are never in this situation again.

**The Deputy Presiding Officer:** I have already indicated that the Presiding Officers will discuss these proceedings at our next routine meeting. I am sure that the Executive will reflect on what has happened in its time and in its own way. Other people may wish to reflect too.



**Bruce Crawford:** On a point of order, Presiding Officer. It is a serious point of order.

**The Deputy Presiding Officer:** I am grateful for that.

**Bruce Crawford:** I did not give you notice earlier—

**The Deputy Presiding Officer:** Just make the point of order, please, Mr Crawford.

**Bruce Crawford:** We are now half an hour behind. If we agree still to finish at half past five, we will be unable to adhere to the original timings. The timings motion is no longer applicable. We need another process to deal with the situation.

**The Deputy Presiding Officer:** I have discussed with the lead member—who, I believe, discussed it with the Minister for Parliamentary Business—the fact that we will need to adjust the timings as the day goes on. You can safely leave that in our hands.

### Section 15—Powers of entry and inspection

**The Deputy Presiding Officer:** The first group of amendments is on licensing standards officers' powers of entry and inspection. Amendment 7, in the name of the minister, is the only amendment in the group.

**The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon):** Concerns were raised by the national licensing forum about licensing standards officers' access to information and documents under section 15. It felt that, as drafted, the powers are too great and might allow LSOs to access documents and other articles that are not directly relevant to the running of the licensed premises. We therefore agreed to consider further how LSO powers might be limited.

Currently, under section 15(1), LSOs could exercise their powers of entry and inspection for the purpose of determining whether the activities in a licensed premises in their area are being carried out in accordance with the premises licence, the licensing objectives and any other requirements of the act. Amendment 7 will limit that remit; it provides for the reference to the licensing objectives to be removed, which will effectively narrow the powers of LSOs and prevent them from requesting documents that have only a tenuous link to the running of the premises. That should give the national licensing forum and the licensed trade greater comfort that LSOs may not abuse their position to put unnecessary pressure on licensees.

I move amendment 7.

*Amendment 7 agreed to.*

### Section 19—Application for premises licence

**The Deputy Presiding Officer:** Group 2 is on licensed hours for off-sales and on-sales. Amendment 8, in the name of the minister, is grouped with amendments 19, 27 and 49.

**George Lyon:** Executive amendments 8, 19, 27 and 49 are technical and provide clarification that hybrid premises that offer both on-sales and off-sales services could have different hours for the different services.

I move amendment 8.

*Amendment 8 agreed to.*

### Section 20—Notification of application

**The Deputy Presiding Officer:** Group 3 is on antisocial behaviour reports in relation to premises licence applications. Amendment 9, in the name of the minister, is grouped with amendments 10 and 11.

**George Lyon:** At stage 2, the Local Government and Transport Committee accepted three amendments from Paul Martin that will place a mandatory duty on the police to submit to the licensing board a report on all premises that apply for a premises licence, detailing antisocial behaviour, or complaints about such behaviour, that has taken place on or in the vicinity of the premises. The Executive agreed to consider further whether the provision needed to be amended at stage 3. I confirm that, although we are broadly content with it, we now believe, as a result of consultation with the Association of Chief Police Officers in Scotland, that the police should be required to submit details of activity over only the previous 12 months, which is the period during which any relevant antisocial behaviour is likely to have taken place. An open-ended or longer period would place too great a burden on police resources. The one-year restriction will prevent the police from wasting time trawling through irrelevant historical records. Executive amendments 9, 10 and 11 will deliver that policy.

I move amendment 9.

**Paul Martin (Glasgow Springburn) (Lab):** I welcome amendments 9, 10 and 11 and the principle that every community will now be guaranteed that the police will be legally required to provide antisocial activity reports that relate to licensed premises in their community. The measure was introduced in response to concerns that the Ruchazie strategy group raised with me. I am sure that that group and many other community groups and representatives throughout Scotland will welcome the fact that the information will be provided. I commend the minister for the amendments.

**Mr Arbuckle:** I feel as if I should first apologise to you, Presiding Officer, for causing a stushie. However, when we come to my amendment, we will find that it will simplify life for everybody. I am sure that it will receive widespread support.

Section 20 is important, as it sets out the procedures for notifying local communities of applications for premises licences. However, I have concerns about the amendments that were made at stage 2 that will require chief constables to compile reports on antisocial behaviour that has occurred in or in the vicinity of premises. Antisocial behaviour is not a problem that applies equally or in the same way in all parts of the country. Some licence applications will be from premises where antisocial behaviour is a major problem, whereas, in many cases, that will not be an issue.

Given that about 19,000 applications will have to be dealt with in an 18-month period, I am concerned that the measure will lead to a significant burden on the police. I do not want police officers to spend more time in police stations writing antisocial behaviour reports and wading through paperwork when they should be on the streets tackling such behaviour. We must be careful not to undo the good work that has been done to free up police time through court reforms. I ask the minister to give the Parliament an assurance that that will not happen and that the police will have enough flexibility to avoid problems with workload and red tape.

**Bill Aitken (Glasgow) (Con):** I seek reassurance from the minister that directions will be given to the police and licensing boards to ensure that the standard of reporting is consistent. With some incidents that relate to pubs or other licensed premises, it is clear that the licensee carries some responsibility, but other incidents in the environs of pubs are reported on the basis that the pubs were not involved. I would be grateful for reassurance on the issue of consistency in reporting standards.

**Karen Gillon (Clydesdale) (Lab):** I support the amendments. I recently met the divisional commander in Hamilton, who told me that the reforms are exactly what he needs to ensure that the action that the police take on the ground impacts on those who sell drink to the people, particularly young people, who are involved in antisocial behaviour. I hope that we can learn from the good practice in Q division and spread it across the country.

**Tommy Sheridan:** One of the core principles of the bill is supposed to be that it empowers communities. If communities are to be empowered and given the opportunity to oppose applications for premises licences, they should have the evidence base when an application goes to a board. They will have that evidence base only if

they have the police reports, which are an independent verification of any problems. That is why the amendments must be supported. The 12-month limit is a sensible suggestion and I disagree with what Andrew Arbuckle said about the danger of an administrative dog's breakfast. I hope that the provisions lead to genuine empowerment of communities to be able properly to object to the granting of licences in areas where they should not be granted.

**George Lyon:** I welcome Tommy Sheridan's support for the amendments that were made at stage 2 and for our proposal to reduce the period to 12 months. Advice from police is that antisocial behaviour can sometimes move on; it is therefore appropriate to look back over 12 months only.

Mr Arbuckle should take some comfort from the fact that the Executive does not envisage the proposals imposing too much of a bureaucratic burden on police. We would expect the police to put forward a consistent report to licensing boards when antisocial behaviour is identified as being associated with individual premises. Where such behaviour has not been identified, we would expect the police to develop a tick-box system that would allow them to have a consistent approach in reporting that back, too.

The focus of the amendments is to ensure that, when the police deliver reports of evidence of antisocial behaviour, they do so consistently and fully, so that the board is made fully aware of the views of the police on those matters. That feeds in to any objections that the community might have, because the community will at least be able to point to the police's view in regard to those matters.

I would be only too willing to support Karen Gillon's notion that we should spread best practice, as identified in her constituency. I would be pleased to discuss further with her how we might do that.

*Amendment 9 agreed to.*

*Amendments 10 and 11 moved—[George Lyon]—and agreed to.*

## **Section 21—Objections and representations**

**The Deputy Presiding Officer:** Group 4 is on persons entitled to object to premises licence applications. Amendment 58, in the name of Bruce Crawford, is grouped with amendment 59.

**Bruce Crawford:** The Scottish Executive's policy memorandum states that one of the bill's aims is to establish a more inclusive system for all those who have an interest. The Scottish National Party supports that aim, as do amendments 58 and 59. However, the bill seems to open the door to all and sundry and does not meet the

Executive's stated aim of a more inclusive system for those who have an interest.

When the Local Government and Transport Committee took oral evidence on the matter, only one source supported the Executive's position. However, we received evidence from seven sources that thought that the bill had been drawn too widely. I signed up to the committee's report but, having considered the evidence more closely, I think that that was the wrong thing to do in that respect.

The views contrary to the Executive's came from the Scottish Licensed Trade Association, the licensing boards of West Lothian Council and Glasgow City Council, the Law Society of Scotland, the Convention of Scottish Local Authorities and the Scottish Beer and Pub Association. A contrary view was also expressed by Sheriff Principal Nicholson, who said:

"I have to say that I have considerable reservations about the wisdom of opening the door to potential objectors to such an extent. Suppose, for example, that there were to be an application for a premises licence in, say, Edinburgh or Glasgow. Suppose then that there is a Free Church minister in Stornoway who is a fervent and committed prohibitionist in relation to the sale and consumption of alcohol, and he decides to object to the application in question. Because of his genuinely held views it cannot really be said that his objection is frivolous or vexatious. But, is it really sensible that he should be heard in opposition to an application for a grant of a licence in Glasgow or Edinburgh?"

I am sure that other members were copied into correspondence from Gordon Millar, who was a member of the Nicholson committee. He, too, said that he did not support the Executive on the widely drawn nature of the bill.

I hope that, in drawing up my amendments, I have dealt successfully with the concerns that were raised at stage 2 by some of my colleagues on the Local Government and Transport Committee. I submit that amendments 58 and 59 fit the aims that are outlined in the policy memorandum better than does the bill as it stands.

I move amendment 58.

14:45

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** Amendments 58 and 59 in the name of Bruce Crawford seek to narrow the definition of those who can object to and make representations on applications for premises licences by reintroducing similar restrictions to those that were imposed under the Licensing (Scotland) Act 1976. That would be a major step backwards.

Bruce Crawford would leave it to boards to determine which people would be sufficiently affected by a licence application and so entitled to

object. However, the requirement to determine that in each case would put considerable resource pressures on boards. Crucially, also, the amendments would introduce considerable uncertainty into the process for the licensed trade and local communities, which could never be completely clear in advance about their right to object.

The Local Government and Transport Committee recognises the benefit of the Executive's approach in its stage 1 report. We do not believe that the administrative inconvenience of handling more objections can be set against the benefits to communities of being able to make their views known. The Executive's proposals will allow any person to object. That is coupled with a power to reject frivolous and vexatious objections—the example that Mr Crawford gave would indeed be a frivolous and vexatious objection. Our proposals will implement a system in relation to licensing that has been running successfully for more than 20 years under the Civic Government (Scotland) Act 1982.

Our proposals put our communities first; they require systems that encourage people to put their views forward on issues that are of great concern to them. I ask Bruce Crawford also to put communities in Scotland first and to withdraw amendment 58.

**The Deputy Presiding Officer:** Mr Davidson, you were very late in pressing your button. Ordinarily, members are expected to press their buttons before the minister responds to the debate. However, I will allow you a brief comment.

**Mr David Davidson (North East Scotland) (Con):** Thank you. I support Bruce Crawford's amendments, because they would apply to those communities "that may be affected"; they would not limit decisions to boards. The minister is leaving the matter open to interpretation in pursuing his line. What does he mean by "frivolous", for example? We need clarity in our laws and Mr Crawford's amendments provide for clear and understandable definitions.

**Bruce Crawford:** I would like to respond to the minister's accusation that I want to put additional work on the system. Gordon Millar—a former member of the Nicholson committee—says:

"However, I believe that the current wording is simply too broad and will add unnecessary expense and bureaucracy to the licensing system for no appreciable benefit. This has been recognised by the Executive itself which gives Boards the powers to rule out objections they feel are 'frivolous or vexatious'. I believe the Executive's position in allowing a large number of objections which it knows will be ruled incompetent is tantamount to fastening the stable door after it has allowed the horse to bolt".

I could not have put it better myself. I will press the amendment.

**The Deputy Presiding Officer:** The question is, that amendment 58 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. As members are aware, in accordance with standing orders, we must now have a five-minute suspension while the division bell is rung.

14:49

*Meeting suspended.*

14:54

*On resuming—*

**The Deputy Presiding Officer:** We will now proceed with the division.

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Martin, Campbell (West of Scotland) (Ind)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

**AGAINST**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)

Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 45, Against 73, Abstentions 0.

*Amendment 58 disagreed to.*

*Amendment 59 not moved.*

## **Section 22—Determination of premises licence application**

**The Deputy Presiding Officer:** Group 5 is on off-sales hours and other grounds for refusal of licence. Amendment 12, in the name of the minister, is grouped with amendments 12A, 17, 17A, 24, 24A, 63, 64, 64A, 83 and 67. Amendment 64A is a manuscript amendment and is being accepted under rule 9.10.6, as was established earlier. The text is in the second supplement to the marshalled list of amendments.

**Mr McCabe:** Bristow Muldoon's amendments 12A, 17A, 24A, 64, 66 and 67 will introduce a new package in relation to licence applications for off-sales. They will, in effect, prevent boards from granting premises licences that would allow off-sales between 10 pm and 3 am. Boards will also be required to take into account the effect that the off-sales hours that are proposed in the application might have on antisocial behaviour. Frank McAveety's amendment 64A would amend the proposals by further restricting off-sales hours by preventing off-sales premises from opening between 10 pm and 10 am.

Bruce Crawford's amendment 63 seeks to amend section 60A of the bill, which was inserted at stage 2 and reintroduces statutorily permitted opening hours for off-sales of 8 am until 11 pm. The amendment would require off-sales to close at 10 pm. Andrew Arbuckle seeks to rely on the provisions of the bill as it was introduced.

Opening hours in Scotland must be decided in the best interests of our communities. There has to be a balance between a strong national framework and local decisions that can reflect the realities on the ground. The bill will create a new framework and a new kind of licensing board that will have to work to a comprehensive set of obligations. The issue is complex, so the bill creates new protections and will involve the public far more comprehensively than has been the case at any time in the past.

There will be a statutory duty on boards to assess every application against the five tests of the national licensing objectives. It is worth hearing what those five tests are. An application will be judged against its capacity to create crime and disorder; against its capacity in relation to public safety; against its capacity in relation to public nuisance; against how it might affect, protect or improve public health; and against how it would protect children from harm. A further test will be the statutory duty on boards to consider the

effects of off-sales hours on antisocial behaviour. There will be an obligation on the police to produce a report on their view of how any application would impact on antisocial behaviour. In addition, there will for the first time be a power that licensing boards have asked for for many years: they will have the capacity to refuse an off-sales licence on the grounds of over-provision or of premises simply not being suitable.

A crucial part of the bill is that communities will have a clear say, which they never had before. Anyone will be able to object to a licence application and if a licence is granted and problems arise, they will be able to seek a licence review in short order.

For the first time, local licensing forums will be involved in drawing up the local licensing standards, which will be the guiding principles against which any local board will have to consider an application.

As part of the implementation of the bill, the Executive will produce regulations that will require boards to complete a standard form that will document their findings against each of the five tests. When they have documented their findings, they will be required to publish them, and the general public throughout Scotland will be able immediately to judge the criteria and the way in which the board assessed the criteria before it passed any application. Therefore, communities will know the rationale behind decisions and will immediately be able to comment on them.

15:00

The bill contains numerous comprehensive safeguards, procedures and penalties that will deal with the problems that are caused by alcohol. Dealing with those problems has always been at the heart of our policy and it remains so to this day. Comments about large numbers of off-sales shops opening at 3am and the resultant increased disorder in the streets are misleading and distorting. People who make such comments have not thought about the package of reforms in its totality, but for objective consideration of the bill they must do so—members must consider the entire package of reforms before they make a decision on any concerns that they have.

I said earlier and I say again that I am a Lanarkshire member and am proud to represent the Executive. I would not stand here—indeed, the Executive would not allow me to do so—advocating proposals that would cause the deterioration of situations in communities in which people are challenged by the behaviour that results from alcohol consumption. The bill will offer new protections and communities will be better for it.

That said, it is of course Parliament's right to consider the position and to decide whether additional safeguards are required. Members have a number of options; for example, they could disagree to all the amendments and leave the bill as it stands, including Bruce Crawford's amendments that were passed at stage 2. As I said, statutorily permitted opening hours between 8 am and 11 pm for off-sales would therefore be reintroduced.

Alternatively, members could choose Bristow Muldoon's proposal, which would require off-sales to close between 10 pm and 3 am. They could support what he has proposed with the additional safeguard that Frank McAveety has proposed, which would require closure between 10 pm and 10 am. That would be a move from the current position and would surprise the licensed trade. However, I hope that the trade would understand the concerns that members have expressed about the difficulties that communities face as a result of the behaviour that is exhibited when people consume excess alcohol.

I want to make it absolutely clear that if members wish to introduce closure from 10 pm to 10 am—which Frank McAveety has proposed—they must vote for Bristow Muldoon's amendment 64 and for Frank McAveety's amendment 64A. As I said, Andrew Arbuckle has also lodged an amendment, which relies on the existing provisions of the bill to provide the protections that we seek.

**Mr Swinney:** Will the minister give way?

**Mr McCabe:** No, I will not. I am about to wind up.

We believe that the strength of the bill—taken in its totality, with all the protections that I have outlined—offers new and comprehensive protections to communities, which will address situations that many communities are simply sick of. The bill will create a new type of licensing board and it will mean that people in Scotland will have a greater say than ever in licence applications.

**Mr Swinney:** Will the minister give way?

**Mr McCabe:** I have already said that I will not.

Executive amendments 12, 17 and 24 are technical amendments that will clarify the relationships between different provisions in the bill that relate to the grounds for refusal of an application by the licensing board.

I move amendment 12.

**Bristow Muldoon (Livingston) (Lab):** When I lodged amendment 12A, I did not expect it to attract the attention that it has generated. [*Laughter.*]

**The Deputy Presiding Officer:** Order.

**Bristow Muldoon:** Some parliamentarians must take a look at how they behave. The queue of Scottish National Party members who stood up to disrupt the start of the meeting will bring the Parliament into disrepute. Members who continually seek to disrupt the Parliament should realise that the news clippings will show only one member, not five.

First, I want to deal with amendments 12A, 17A and 24A, which are technical amendments that will merely link section 60A to other aspects of the bill. They are consequential to the main amendment, which is amendment 64.

Amendment 64 has been subject to mischievous misrepresentation by Mr Crawford and some of the media, as Mr McCabe said. If amendment 64 were agreed to without being amended by Frank McAveety's amendment 64A, there is no question but that few—if any—licensed premises would open for off-sales purposes at 3 o'clock in the morning. The purpose of amendment 64 is to enable some flexibility for licensing boards to allow some shops that already open at 6 o'clock in the morning to sell alcohol products to shift workers at the same time as they buy the rest of their messages. That is the perfectly reasonable suggestion that has been put forward.

The question of whether the time should have been 3 o'clock or some other time is a matter for debate; however, the vast majority of on-licence premises would be closed at the time when amendment 64 would allow on-sales to start again. Therefore, even if an application were granted, its impact on antisocial behaviour would be minimal. In fact, amendment 64 places a requirement on any licensing board to take full cognisance of the potential impact on antisocial behaviour before it grants such a licence. If there is the prospect of antisocial behaviour, the licence should be declined.

It is clear that colleagues in different parties have concerns about the degree of flexibility that amendment 64 would allow. Frank McAveety's amendment 64A tinkers slightly with amendment 64: it is an amendment that I will support. I hope that members will vote first for amendment 64A and secondly for amendment 64, as amended.

**Bruce Crawford:** On a point of order, Presiding Officer.

**The Deputy Presiding Officer (Trish Godman):** A serious point of order, Mr Crawford.

**Bruce Crawford:** Bristow Muldoon rightly mentions the voting process, to which we will come shortly. Can you confirm for us exactly what the voting procedure will be with regard to the amendments?

**The Deputy Presiding Officer:** Amendment 64 will be moved, then amendment 64A will be moved and voted on. We will then vote on amendment 64.

**Bristow Muldoon:** That was a perfectly fair question for Mr Crawford to ask, but he timed it deliberately to interrupt me. He could quite easily have asked that question at the end of the debate.

In the passage of the bill, the members who have strengthened the bill and who have taken cognisance of what people are saying to us about the consequences of antisocial behaviour on our communities and the link with alcohol have been Labour members. Several members moved amendments at stage 2, including Paul Martin and Michael McMahon, which were opposed or criticised by the SNP. The SNP is merely posturing in order to be seen to have a stance against antisocial behaviour that its actions prove it does not have.

**Mr Swinney:** Will Bristow Muldoon tell Parliament about the demand from communities in his constituency for off-sales premises to be opened at 3 o'clock in the morning?

**Bristow Muldoon:** Mr Swinney obviously did not listen to the opening part of my speech, when I said that if amendment 64 were agreed to, very few off-licences in Scotland would open at that time of the morning. Mr Swinney should pay attention to the whole of a member's speech before intervening.

I turn, finally, to our colleagues in the coalition: the Liberal Democrats. The Liberal Democrats' position of wanting no opening hours for off-licences specified in the bill is perplexing, given that only a couple of days ago I received through the excellent "Gallery News" service a press release by the Liberal Democrats' home affairs spokesman at Westminster, Mark Oaten, which said:

"The tide of public opinion has turned against 24-hour drinking.

Judges, doctors and many senior police have repeatedly warned the Government against this course of action. Even the Home Office have launched an advertising campaign to crack down on drunk and disorderly conduct."

That exposes opportunism on the Liberal Democrats' part. [*Interruption.*]

**Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD):** Will the member give way?

**The Deputy Presiding Officer:** Order.

**Bristow Muldoon:** It is clear that the only party that stands up—[*Interruption.*]

**Jeremy Purvis** rose—

**The Deputy Presiding Officer:** Order.

**Bristow Muldoon:** The only party that stands up for communities that are under siege from antisocial behaviour is the Labour Party.

I move amendment 12A.

**The Deputy Presiding Officer:** I call Bruce Crawford to speak to amendment 63 and the other amendments in the group and I ask the rest of you to be quiet, please.

**Bruce Crawford:** One of my colleagues just said as an aside that entertainment like this cannot be bought. I was thinking more of ferrets and sacks.

Bristow Muldoon's speech was astonishing; I will deal with some of the detail in a minute. When I consider that some of his colleagues on the Local Government and Transport Committee, such as Michael McMahon and Paul Martin, were critical of my attempt to restrict off-licences at stage 2, some of the arguments that Bristow Muldoon makes are astonishingly puerile.

**Paul Martin:** Will the member give way?

**Bruce Crawford:** Let me make some room first.

I wish that somebody would tell me the Executive's position, because I have heard no comment about an Executive line.

I congratulate my colleagues on the Local Government and Transport Committee, who supported my successful amendment 5 at stage 2 to prevent off-licence premises from opening between 11 pm and 8 am the following morning. On reflection, I should have taken a more cautious approach and recognised the situation on the ground. That is why I have lodged amendment 63, which would require off-licences to close at 10 pm. I guess that we have some agreement with Bristow Muldoon on that, because our proposed closing times are the same, but we have a long way to go on opening times in the morning. We disagree on the time at which to prevent sales of alcohol from off-licences in the morning and we cannot support Bristow Muldoon's proposed time of 3 am. That would create problems in some of our communities.

It is simply not credible or sustainable for Bristow Muldoon to argue the position that he took at the Local Government and Transport Committee and then to come along today and argue his current position. In taking his current position, he has shattered any coalition of good will towards the bill. Surely he must realise that amendment 64 does not match his rhetoric or the criteria that he set for himself at stage 2. I will remind him of what he said:

"It would concern me if people who have already consumed an amount of alcohol were to come out of a nightclub at two or three o'clock in the morning and have the opportunity to purchase more alcohol to consume in the

streets. That might put greater pressure on our public services and communities.”—[*Official Report, Local Government and Transport Committee, 27 September 2005; c 2909.*]

**Bristow Muldoon:** Will the member give way?

**Bruce Crawford:** I do so with pleasure.

**Bristow Muldoon:** Has Bruce Crawford reached the end of amendment 64? Subsection (5) says:

“in considering whether the granting of the application would be inconsistent with any of the licensing objectives, the Board must ... consider the effect ... which the off-sales hours proposed ... would have on the occurrence of antisocial behaviour.”

If a nightclub were adjacent to off-sales premises, the application would be refused.

**Bruce Crawford:** Why create the possibility that that situation will arise?

I congratulate Bristow Muldoon on some of his proposed provisions. Some of the stuff on antisocial behaviour orders is quite imaginative; it represents good use of an amendment and it will strengthen the bill. I do not support the opening of off-licences at 3 o'clock in the morning, although I support some of what Bristow Muldoon proposes. That is my view, if it is any consolation to him. I know that his own arguments have returned to undermine fatally his position. It is not credible for the member to support a cogent amendment at stage 2, as he did, and to move a completely contradictory amendment today that flies in the face of his own logic.

15:15

My views on the issue have strengthened since stage 2. The evidence that we are gathering from England, which is a bit ahead of us on the issue, shows that 80 to 90 per cent of bars and clubs that already open until 2 am have been granted licences to extend their operating hours for anything between one and five hours. That means that in some places they close their doors at 7 am. According to Tuesday's edition of *The Times*,

“Nine out of ten late-night clubs and bars will be able to stay open until dawn”.

That is the prospect that faces us if Andrew Arbuckle gets his way today. He is, in effect, trying to reintroduce 24-hour opening.

When people spill out on to the streets of our towns and cities, those who want to will be able to purchase more alcohol from an off-licence, to add to their already inebriated state. You can be absolutely certain that, if one supermarket gets its nose in the door, others will seek to do the same and will start to claim that there is unfair competition. I cannot believe that Parliament is allowing supermarkets to decide its position and policy. That cannot be the way forward.

The Scottish Grocers Federation, which represents many small operators of off-licences in Scotland, stated:

“We have argued from day one that we do not want (a) 24 hour licensing, (b) variations in licensing hours from board to board, and (c) a system which could allow out-of-town superstores to open 24 hours but at the same time inhibit local shops from opening beyond the specified time”.

**Jeremy Purvis** rose—

**George Lyon:** Will Mr Crawford take an intervention?

**Bruce Crawford:** George Lyon's colleague Jeremy Purvis rose first, so I will take an intervention from him.

**Jeremy Purvis:** Does the member support in principle devolution from Parliament to communities and licensing boards? If so, how many boards does he estimate would take the irresponsible approach that he just described? Would any boards operate properly, as we would expect them to do?

**Bruce Crawford:** The whole purpose of Parliament is to set parameters and frameworks for people to implement in our communities. That is the job that we are doing and that the minister is doing. However, the minister has not followed the example of his colleagues at Westminster, who voted against 24-hour opening.

**George Lyon:** As the member is aware, there is a presumption against 24-hour opening in the bill, which is completely different from the Westminster legislation. Unlike the Westminster legislation, the bill makes provision for licensing standards officers. It also requires local licensing boards, when they set hours, to take into account antisocial behaviour reports from the police. Is the member saying that he does not trust local elected members to decide what is appropriate for their communities? That is what he is arguing.

**Bruce Crawford:** I am afraid that many of George Lyon's Labour colleagues in the Scottish Executive are arguing that. I am arguing that we in Parliament should set the framework and conditions that would protect Scotland from antisocial behaviour and the difficult health situations that alcohol brings. That is our job. If the minister gets his way, we will open a Pandora's box and there will be even more problems on Scotland's streets and towns.

Bristow Muldoon is right to say that we must do all that we can to protect Scotland's communities from the antisocial behaviour that results from too much alcohol. I support some of the provisions in amendment 64, but much of it is just additional warm words. As the minister said, the licensing principles already establish much of what is contained in the amendment.



We do not need to look far to find the real problem that is associated with alcohol in Scotland. This week the statistics for alcohol-related conditions and discharges from Parliament were published. [*Laughter.*] I meant to say discharges from hospitals—although we may need a few glasses once the debate is finished. In 1997-98, there were 36,221 discharges, but in 2004-05, there were 51,000. There has been an increase in alcohol-related discharges of 15,000—an uplift of 41 per cent. That is the background to the debate.

My main concern about today's debate is that Parliament is in danger of sending out mixed messages. The Executive says, "We've been consistent all along, unlike SNP members." On the one hand, the Executive and Parliament say, "We've got to get tough on crime and deal with the booze culture", but on the other, the Executive proposes 24-hour opening.

As far as the shenanigans of earlier today are concerned, I cannot understand why the Executive has allowed itself to get into such a situation at this late juncture—it is chaos. To people outside, it must look like panic and that can only be embarrassing for the Executive. Unfortunately, it is also embarrassing for Parliament, which the Executive has brought into disrepute because of how it has handled proceedings this afternoon. It has been a boorach. Parliament is built on a former brewery site and there is an expression about organising a proverbial something or other in a brewery; the Executive has not managed to do that on this occasion and should hang its head in shame.

**Mr Frank McAveety (Glasgow Shettleston)**  
**(Lab):** I am reminded of a line from "Macbeth":

"it is a tale  
Told by an idiot, full of sound and fury,  
Signifying nothing."

I thank Bruce Crawford who reached Shakespearian proportions in his contribution this afternoon. However, he is more of a Shakespearian clown than a tragedy.

Those of us who represent parts of Glasgow that are affected by the effects of alcohol do not underestimate the personal tragedies that are caused by alcohol misuse. Many of us, and probably some of us in this chamber, can testify from family circumstances to the impact on families and individuals of misuse of alcohol. One need only look to my constituency and the statistics that relate to levels of Wernicke-Korsakoff syndrome in young children as well as the levels of violence connected with consumption of alcohol, primarily by young males.

I recognise the contribution by the Executive and members of the Local Government and Transport Committee to grappling with the difficult issue of

how to find a more modern approach to licensing, but at the same time to respond to the difficulties that are thrown up by misunderstandings about the misuse of alcohol, or access to alcohol that could be used inappropriately. Those difficulties are reflected differently depending on whether one is in Glasgow city centre or other parts of Glasgow.

My constituency has such problems in substantial quantities. It also borders Glasgow city centre and is therefore affected by the clubbing culture. People must reflect on that impact. I attend a meeting in my constituency every month at the Alcoholics Anonymous office in the Saltmarket. One need only step out into the Saltmarket to see how misuse of alcohol can affect individuals and communities. The principles in that AA meeting are that people should maintain awareness and consider available information to try to make rational decisions about what they do with their lives. That strikes me as a metaphor for what the Parliament needs to do this afternoon. I am not particularly bothered about who said what in committee meetings. I am not bothered about the nuances of debate that members have grappled with—those are the difficulties that members face at stages 1 and 2. Today we are at stage 3, so central to our consideration must be this question: What is in the interests of the wider public?

Having listened to the debate and seen developments in the past 48 hours, I believe that my amendment 64A will deliver the best of both worlds. The amendment reflects the need for stronger and more modern licensing legislation. More important, we need to ensure that we do not make it easier to create loopholes for people to exploit.

As far as I understand it, the former licensing situation was that no opening hours were defined. Licensing boards had to reflect that in their observations about access to alcohol sales. Bruce Crawford stated in committee and through lodging amendment 63 that specific hours must be determined. However, I am not prepared—neither should any member, irrespective of his or her position—to be held to a Dutch auction when it comes to opening times. An essential part of an auction is the setting of a reserve price—the reserve price here is what is in the best interests of the communities that we serve.

My proposal in amendment 64A will set licensed hours for off-sales not at 11 in the evening until 10 in the evening, as has been suggested, but at 10 in the morning until 10 in the evening. That should strike a reasonable balance with the new guidelines for, and principles of, this reform of licensing.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Frank McAveety said that there should be no Dutch auction on licensing hours. Is he therefore minded to support Andrew Arbuckle's amendment 83, which seeks to leave the matter up to local licensing authorities? This is about devolution and about letting people make local decisions instead of the national Parliament making those decisions for them.

**Mr McAveety:** We can get too caught up in the debate over local and national decision making. My principal objective is to find an approach that best reflects the consensus in the wider public. We, as parliamentarians, are asked to make such decisions; indeed, when the National Union of Miners criticised Nye Bevan for taking a different position from it on an issue, he said, "I owe you my judgment." This afternoon, we are giving the people our judgment on the most appropriate approach to licensing.

It is important to point out that the issue raises difficulties for members of all political parties and none. However, I end by quoting from an *Official Report* of the Local Government and Transport Committee's stage 2 consideration of the bill. One committee member said:

"Do we allow flexibility to impact on the greater good? The core hours of closing that I suggest are for the greater good, even though people will be denied some flexibility. We must make the decision. We must come down on one side of the fence or the other."—[*Official Report, Local Government and Transport Committee, 27 September 2005; c 2911.*]

That comment was made not by a Labour committee member, but by Bruce Crawford. He is right to say that

"We must come down on one side of the fence or the other."

I think that amendment 64A will do so appropriately.

**The Deputy Presiding Officer:** I am minded to accept a motion without notice to extend the time limit for the debate on groups 5 to 8.

*Motion moved,*

That, under Rule 9.8.5A, the debate on Groups 5 to 8 be extended by 20 minutes.—[*Ms Margaret Curran.*]

*Motion agreed to.*

**The Deputy Presiding Officer:** Given that 12—now 13—members want to speak in the debate on group 5, I cannot call all of them. I shall call one member from each party who has pressed their request-to-speak button. I warn them that they will get a very tight two minutes.

**Mr Arbuckle:** Amendment 83 seeks to delete section 60A. I do not intend to speak to the technical amendments in the group, as I agree with them.

One very strong Liberal principle that runs through the bill is that, on certain matters, the centre does not know best; ministers do not know best; and members of this Parliament do not know best. The Liberal Democrats contend that the important principle behind the bill is that communities and locally elected councillors know best.

**Paul Martin:** I have evidence that suggests that some local boards do not want this flexibility or window of opportunity. Does the member acknowledge that some boards want the 10 am to 10 pm period for licensing hours to be mandatory?

**Mr Arbuckle:** I assure Paul Martin that the licensing board members in my area to whom I have spoken are all in favour of the bill and want to take over responsibility for dealing with the issue.

Scotland is a diverse country and a one-size-fits-all policy on licensing is not appropriate. Issues about alcohol sales in Glasgow are not the same as those, for example, in Newburgh in Fife or in Aberdeenshire. I say to Frank McAveety that it is not correct to impose the Glasgow solution on the rest of the country.

The bill follows the principle that local people know best.

**Karen Gillon:** Does the member accept that people the length and breadth of Scotland struggle with alcoholism and alcohol abuse? Giving them access to alcohol during his suggested hours would be simply irresponsible and would increase and exacerbate people's problems.

15:30

**Mr Arbuckle:** I refer the member to the minister's comments that strengthening the bill's provisions will prevent certain problems. I think that everyone in the chamber accepts that drink is linked to health problems; however, the bill addresses all those issues.

It is perverse to say that although local people appear to know best for on-sales, they need to be told what to do for off-sales. That is why the Liberal Democrats lodged amendment 83, to return the principle of local decision making for off-sales to the bill. Members have referred to the fact that the safeguard of off-sales licence decisions will still apply to on-sales and that antisocial behaviour must be taken into account by the new licensing boards. Local views must be sought; objections must be heard and considered; local licensing forums will be able to hold boards to account for their decisions; licensing standards officers will have powers to inspect and to enforce licences; and I can confirm to Bruce Crawford that there is a statutory presumption against 24-hour

drinking. The minister has, rightly, pointed to all those additional safeguards in the bill.

**Bruce Crawford:** Will Mr Arbuckle give way?

**Mr Arbuckle:** No.

The only thing that the minister has stopped short of saying is, "I support Andrew Arbuckle's amendment," but perhaps that will come. I hope so.

In considering any off-sales applications, boards must have regard to all the safeguards and must consider whether accepting such an application would be detrimental to the bill's objectives regarding crime and disorder, securing public safety, preventing public nuisance, protecting and improving public health and protecting children from harm.

**Christine May:** Will Mr Arbuckle give way?

**Mr Arbuckle:** No.

It is simply scaremongering to suggest that, in the face of those safeguards and conditions, communities, represented by democratically elected members, would take decisions to open off-sales at all hours throughout the country.

**The Deputy Presiding Officer:** Mr Arbuckle, you should sum up now.

**Mr Arbuckle:** I lodged amendment 83, for no restrictive hours to be set by legislation, because that was the original intention of the Scottish Executive.

**Mike Rumbles:** It should still be.

**Mr Arbuckle:** Indeed, it is the current position of the Scottish Executive. Amendment 83 is in stark contrast to the amendments in the names of Frank McAveety, Bruce Crawford and Bristow Muldoon, whose message to their councillor colleagues is to look them in the eye and tell them when they go back to their constituencies, "We don't trust you."

I point out to Bristow Muldoon—

**The Deputy Presiding Officer:** Mr Arbuckle, you need to finish now.

**Mr Arbuckle:** Right. Just one minute.

**The Deputy Presiding Officer:** No, Mr Arbuckle. I am speaking English. You will finish now.

Of the 13 members who wish to speak, I intend to call five: Bill Aitken, Stewart Maxwell, Tommy Sheridan, Wendy Alexander and Jeremy Purvis. I shall give them one minute each.

**Bill Aitken:** Let me make it quite clear what the debate is about. In Scotland, we have serious problems of drink abuse and serious problems of violence and disorder, yet the Executive has

introduced a bill to extend the availability of drink. We have witnessed the ludicrous situation of Bristow Muldoon lodging amendment 12A in an effort to extend that availability even further and, at the end of the day, we have found ourselves in an even more shambolic situation, with Frank McAveety having been persuaded to lodge yet another amendment. The only part of the cabaret that is missing is Jack McConnell getting up on his feet to say that all that is to be forgotten about and that we are going back to stage 1.

**The Deputy Presiding Officer:** You have 50 seconds, Mr Aitken.

**Bill Aitken:** I beg your pardon?

**Members:** Keep going.

**Bill Aitken:** Let me make it quite clear what my party's intentions are. We simply cannot have a situation in which we extend the availability of drink from the pub to the club to the off-sales, leading to disorder in the streets. We will not support the Executive's motion to accept the bill as it stands. We will have to accept Bristow Muldoon's ludicrous amendment, because it will then be tempered by amendment 64A in the name of Frank McAveety, so that is what we shall do.

**The Deputy Presiding Officer:** Thank you, Mr Aitken. I call Mr Maxwell.

**George Lyon:** On a point of order, Presiding Officer. Given the level of interest in this group of amendments, surely the Parliament should be entitled to some extra time to have a proper debate on the matter.

**The Deputy Presiding Officer:** We already have an extra 20 minutes.

**George Lyon:** I am suggesting that a motion be moved to extend the time further for a proper debate.

**Tommy Sheridan:** I am prepared to move a motion to extend for another 20 minutes.

**The Deputy Presiding Officer:** Members are entitled to move such a motion, but the maximum time that I have to spare is 10 minutes, for the rest of the whole debate, up to the end of group 8.

Be very careful what you are doing, Mr Lyon. If you wish to move to extend by those 10 minutes, you have the right to do that and I shall put the question on that. However, I have already extended the debate by 20 minutes and we are now using part of that time to have this dialogue. I appreciate what you are doing, but the timing is extremely tight. I have done the best that I can.

**George Lyon:** I think that the Parliament would like to have some extra time.

*Motion moved,*

That, under Rule 9.8.5A, the debate on Groups 5 to 8 be extended by a further 10 minutes.—[George Lyon.]

*Motion agreed to.*

**Mr Maxwell:** Do I have one minute or two?

**Members:** Two.

**Mr Maxwell:** I welcome all the safeguards that the minister mentioned at the beginning. For example, he spoke about how communities' views could be taken into account but, frankly, that is not the point. The fundamental point, in my view, is that there would still be a presumption—not against 24-hour opening, but in favour of extended opening. The best safeguard against that is to specify the hours in the bill. If the establishments in question were not open, there would be no problem and, if there were no problem, there would be no need to create ways in which to police it. It seems nonsensical to create a problem and then to create rules about how to police it.

Since 1980, there has been a 25 per cent increase in the number of off-sales licences in this country. Is it true that the people of East Renfrewshire are happy that in the past eight years there has been a 28 per cent increase in the number of off-sales in their area? Perhaps Andrew Arbuckle can answer that. In Inverclyde, there has been a 22 per cent increase and, in Renfrewshire, the figure has increased by 12.5 per cent.

**The Deputy Presiding Officer:** You should be winding up.

**Mr Maxwell:** The people do not want those off-sales. Even though they fight them all the time, local licensing boards are allowing them; they are allowing more drink to be available. Frankly, Andrew Arbuckle's idea of 24-hour extended opening is nonsense.

I say to Bristow Muldoon that allowing alcohol to be sold at 3 o'clock in the morning is ludicrous. That is the proposal that is made in amendment 64 and it is complete and utter nonsense. Does Bristow Muldoon want the Asda in his community to be able to sell alcohol from 3 am? If he does, he should stand up and tell—

**The Deputy Presiding Officer:** You need to finish now.

**Mr Maxwell:** The only problem that I have with Frank McAveety's amendment 64A is that it was lodged so late that we did not have a proper opportunity to consider it. I will support amendment 64A because I think that it is the proper way to go. My only problem is that subsection (4) of the section that amendment 64 seeks to insert means that Scottish ministers would have the power to amend those times at a later date. I do not support the times being amended in regulations at some later date.

**Tommy Sheridan:** This is a mess, which the Labour Party has created. It would be helpful if Paul Martin and Michael McMahon were to admit—because it seems that Bristow Muldoon is getting pushed into the breach—that they were wrong to oppose Bruce Crawford's amendment at stage 2.

**Paul Martin:** Will Tommy Sheridan confirm that the hours that he proposed for off-sales—a closing time of 11 pm and an opening time of 8 am—were the hours that Bruce Crawford proposed?

**Tommy Sheridan:** If Paul Martin has lost his memory, that is fine, but Bruce Crawford will confirm that I suggested to him that he should propose a 9 pm closing time. However, given that the amendment that Bruce Crawford had lodged was better than the Executive's open-ended proposal, I supported his amendment.

**The Deputy Presiding Officer:** One minute.

**Tommy Sheridan:** I will now support the proposal for a 10 pm closing time, because it is better than the original proposal. I will support Frank McAveety's amendment for a 10 am opening time, because I think that that is better than an 8 am opening time.

Paul Martin and Michael McMahon talked a good game about sticking up for communities on the availability of alcohol and off-licence opening hours, but when it came to the committee's consideration of the bill, they voted with the Executive and against the communities. That is the reality of the situation. Now we are in a mess because Bristow Muldoon has obviously been leaned on to back the Executive. If Paul Martin and Michael McMahon had been consistent from the start, we would have been able to provide communities with some safeguards as far as the consumption of alcohol was concerned. That is why I hope that, at the end of the day, regardless of the route that we have to follow, we end up with a 10 pm closing time and a 10 am opening time. That would be the best defence for our communities.

**Ms Wendy Alexander (Paisley North) (Lab):** I support Frank McAveety's amendment 64A.

I doubt that any one of my 50,000 constituents in Paisley will care about the media feeding frenzy tomorrow or the media's momentary spasm of excitement. They will care about what the Parliament has done. The truth is that the Executive has unquestionably taken a lead on antisocial behaviour.

The first issue that was raised with the Executive was that underaged youngsters are being sold drink; that issue has been dealt with. The next issue was the problem of oversupply; that issue has also been dealt with. The amendments in

group 5 tackle the third issue, which is the potential availability of alcohol at all hours.

Tommy Sheridan is one of those fashionable people who say that the Scottish Parliament is overwhipped, too partisan and without any independent thinking. I say to him that today's debate demonstrates that the Scottish Parliament listens to its communities. We also have an Executive that listens to its members—they are a Parliament and an Executive of which the nation can be proud. I say to Opposition members, whether they are the bluest Tory or the deepest Green, that the people of Scotland are asking them to examine the issues in conscience and without regard to partisanship. Opposition members diminish themselves when they play politics.

Tommy Sheridan should not be puzzled by Labour's decision today. He should know that Keir Hardie stood in North Lanarkshire on a platform that promised three things. He said that we should bring in home rule—we have done that—and proportional representation, which is being brought about. The third part of his platform was temperance and therein lies the issue. The responsible licensed trade in Scotland will have no difficulty with the amendments in group 5; only the irresponsible licensed trade will face difficulty.

**Jeremy Purvis:** We have had Nye Bevan and now Keir Hardie has been mentioned. Nye Bevan may well have said that he owed people his judgment. I say to the communities that I represent that they will not only have my view, but that I will fight in this place for them to have power.

Members have misrepresented my Liberal Democrat colleagues in England. They are campaigning for the bill at Westminster to be more like the bill in Scotland. Why is the bill that the Executive introduced, on which we have been working for three years, so good? Because it responds to the concerns of local communities about the weaknesses of the present licensing boards. The bill strengthens not only the boards, but the voice of the communities that are represented on them. It strengthens communities' ability to police the decisions of the licensing boards.

I do not support the attempt to reduce the discretion of licensing boards. Does Bruce Crawford believe in local government—in devolution from this place to local communities? He does not. When I asked him whether he believes that any boards will be responsible, his reply showed that he believes that none of them will be responsible. We believe that they will be.

I ask all members of the Executive—ministers and back benchers—to support the Executive position. That position has been consistent, not

only during the passage of the bill but over the past three years. The bill will be a good act, but only if we respect local communities, their elected representatives, their voice and their power.

**The Deputy Presiding Officer:** The minister has two minutes.

**Mr McCabe:** I will assist you in that regard, Presiding Officer.

Many members have expressed sincerely held views. Not for the first time, Mr Aitken enjoyed distorting the position but that has come to be expected. I have explained the bill's provisions, what protections it offers to our local communities and the way in which we are creating new licensing boards that will have far more substantial powers.

The provisions offer substantial protection to our communities. However, I accept that Parliament may wish to adopt another route. The debate has reflected very real concerns, which, in my view, were articulated in a way that reflects well on the chamber. It is for the Parliament to consider the various options that have been placed before it; members will vote accordingly when the time comes.

**Bristow Muldoon:** Much of the debate has misrepresented the bill. It is a good bill and many of its measures will achieve the aims that are set out in the explanatory notes to the bill.

The Local Government and Transport Committee took cognisance of the degree of liberalisation that was proposed for the off-trade and agreed that the measure did not sit well with the concerns of the communities that we represent. As a result, Bruce Crawford lodged his amendment 186. All committee members should note that the amendment in my name, with its proposal for a maximum period of 19 hours, is closer to the committee's unanimously agreed recommendation for a maximum period of 18 hours. The members who are criticising my position endorsed it at an earlier stage.

However, at this stage, Mr McAveety's amendment 64A makes perfect sense. I will press amendment 12A, but I do so on the basis that I will also support Mr McAveety's amendment 64A.

15:45

**The Deputy Presiding Officer:** The question is, that amendment 12A be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)

McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Fox, Colin (Lothians) (SSP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Swinburne, John (Central Scotland) (SSCUP)

**The Deputy Presiding Officer:** The result of the division is: For 106, Against 12, Abstentions 0.

*Amendment 12A agreed to.*

*Amendment 12, as amended, agreed to.*

**After section 22**

**The Deputy Presiding Officer:** Group 6 is on the duty to notify the licensing board of conviction. Amendment 13, in the name of the minister, is grouped with amendments 18 and 36.

**George Lyon:** Amendment 13 seeks to correct an inconsistency between the procedures for applying for personal and premises licences. It replicates for premises licence applicants the

requirement under section 66 for personal licence applicants to notify the licensing board of any convictions that they have obtained for relevant or foreign offences while a licence application is pending. Amendments 18 and 36 are consequential technical amendments that will ensure drafting consistency.

I move amendment 13.

*Amendment 13 agreed to.*

### **Section 25—Conditions of premises licence**

**The Deputy Presiding Officer:** Group 7 is on licence conditions for late-opening premises. Amendment 6, in the name of Pauline McNeill, is grouped with amendment 60.

**Pauline McNeill (Glasgow Kelvin) (Lab):** Scottish ministers will by regulation prescribe further conditions that licensing boards must impose if they grant a premises licence that falls within proposed section 25(2B). Under amendment 6, mandatory conditions will be placed upon any premises whose operating plan specifies that it will open until 1 am or later.

The background to amendment 6 is that the Licensing (Scotland) Act 1976 differentiates between pubs and clubs and allows a different type of licence to be issued. While there is a need to modernise our laws and recognise the variety of different pubs and clubs, there is a danger that the new law will increase the number of pubs that will qualify for late opening. Glasgow nightclub forum and the SLTA expressed serious concerns about the impact of more licensed premises being open later; in particular, they are concerned about the removal of the distinction between pubs and clubs, which they do not believe is helpful.

Many clubs that provide entertainment along with the sale of alcohol have already invested heavily in measures to increase public safety. Clubs tend to open later in the evening and close early in the morning. There is a worry that, if more pubs were to open later, more competition would be created, which would open up the possibility of further drink price wars. It would not be helpful if clubs were to start opening earlier in the evening to recoup their losses, thereby undermining the bill's objectives.

Any premises that seek to take advantage of late opening should have to conform to certain mandatory conditions that are based on the bill's principles of ensuring public safety, tackling excessive alcohol consumption, controlling public order and reducing violence. Under the compromise that the SLTA and the nightclub forum support, the Executive would set mandatory conditions that would apply to all premises that open after 1 am. Further consultation would be needed on the mandatory conditions, which is why

amendment 6 does not specify them—they would be for discussion at a later date.

I believe that the mandatory conditions should relate to violence-reduction measures, drugs policies and public safety. The provision of closed-circuit television systems, staff who have the know-how to operate them and stewards who are first-aid trained are essential mandatory conditions. The later that licensed premises sell drink, the more the need for public safety measures. If a person collapses in a pub, whether through excessive alcohol consumption or simply because they are ill, staff should be trained to respond to the emergency. Pubs and clubs that want to profit from the sale of alcohol early in the morning should be prepared to invest in such measures, under the principles that I mentioned. That would be a great contribution to a safer Scotland.

I put on record my support for the best bar none awards, which took place yesterday in my constituency and which are about raising public safety standards in pubs and clubs. In the interests of cross-party co-operation, I thank Bruce Crawford and Paul Martin for their support for amendment 6. I look forward to hearing a positive response from George Lyon.

I move amendment 6.

**Mr Davidson:** We all agree with Pauline McNeill about the need for standards, security and first-aid training. However, for amendment 6 to have any real purpose—and given that we are at stage 3—she should have ensured that it contained a fuller explanation of the conditions that she talked about.

**Bruce Crawford:** Does David Davidson accept that, if Pauline McNeill had provided a list of potential mandatory conditions, members from all parties would have been enabled to pick holes in the amendment? Does he accept that it is better to go through the process of consultation on what the mandatory conditions should be to allow us to reach a measure of agreement, rather than find that the amendment is sunk today?

**Mr Davidson:** The licensing boards, in considering working standards and licence conditions, can use their discretion to deal with the matter. I am happy for boards to have that discretion, given the overall guidance that will come through the bill. We all accept the principles that Pauline McNeill talked about, but exactly what amendment 6 attempts to achieve is not clear. Frankly, we cannot support it, because of the lack of detail. We have already had a lot of arguments about fine-print details and we cannot just skirt past this one.

**Fergus Ewing:** We have no hesitation in supporting amendment 6, but with the proviso that

there will be detailed and comprehensive consultation about the type and range of conditions that are proposed before any new measures are introduced and that the proposals will come to Parliament for further full debate and discussion. I invite the minister to state explicitly that that will be the case. I understand that amendment 6 will apply only to premises that are open after 1 am. The purpose is to seek to ensure as far as possible that order and safety are preserved. Training of stewards, first-aid training and CCTV cameras are examples of measures that we may consider appropriate.

I point out to the Tories that the SLTA supports the measure, perhaps because it does not want licensing boards throughout Scotland to set different standards. People will want to know what the standards are throughout Scotland. That is why the SNP supports amendment 6, which will further protect the public against the dangers and excesses of alcohol.

**George Lyon:** It has always been the Executive's intention to provide in regulations a set of discretionary licensing conditions for late-opening premises that licensing boards can draw on as appropriate. The conditions that were proposed by a majority of members of the expert reference group, which have been published, were supported by the Executive. We consider that discretionary conditions are more appropriate given the range of premises that may open late in the evening and given the need to avoid placing unnecessary burdens on smaller establishments.

Amendments 6 and 60, in the name of Pauline McNeill, would require ministers to introduce by regulations a set of mandatory licence conditions that would apply to all premises that open after 1 o'clock in the morning. Pauline McNeill emphasised the importance of maintaining a minimum standard for the purposes of protecting individuals and the community and reducing risks of crime and nuisance. That is also the Executive's approach to regulation of the late-night economy.

We believe that it is right to focus on the need to ensure public safety rather than on arguments that seek to impose artificial and unnecessary distinctions between the pub and nightclub sectors. We will support Pauline McNeill's amendments on the basis that the mandatory conditions that are to be introduced should focus on public safety. The conditions should also be proportionate and avoid the imposition of burdens on smaller businesses that have no public order problems.

I assure Parliament that we will consult the industry fully and seek agreement on draft regulations before the instrument is laid before Parliament.

**The Deputy Presiding Officer:** Minister, you must finish now.

**George Lyon:** It is important that we take a light touch. We will put in place mandatory conditions that are appropriate and proportionate and which meet the needs of public safety and tackling crime.

**The Deputy Presiding Officer:** I cannot give Pauline McNeill any time to respond to the debate.

*Amendment 6 agreed to.*

*Amendment 60 moved—[Pauline McNeill]—and agreed to.*

#### **Section 28—Determination of application for variation**

**The Deputy Presiding Officer:** Group 8 is minor amendments. Amendment 14, in the name of the minister, is grouped with amendments 15, 16, 30, 31 and 32.

**George Lyon:** Executive amendments 14, 15, 16, 30, 31 and 32 are technical amendments.

I move amendment 14.

*Amendment 14 agreed to.*

*Amendments 15 and 16 moved—[George Lyon]—and agreed to.*

*Amendment 17 moved—[George Lyon].*

*Amendment 17A moved—[Bristow Muldoon]—and agreed to.*

*Amendment 17, as amended, agreed to.*

#### **Section 41—Licence holder's duty to notify Licensing Board of convictions**

*Amendment 18 moved—[George Lyon]—and agreed to.*

#### **Section 53—Occasional licence**

*Amendment 19 moved—[George Lyon]—and agreed to.*

#### **Section 54—Notification of application to chief constable**

**The Deputy Presiding Officer:** Before we move to group 9, I remind members that we must stick to our timetable from now on as we have no further scope to extend the debate on amendments. Members should know that, in addition to the amendments in groups 9 and 11 that we are about to debate, we need to vote on a number of amendments that have already been debated. We have 20 minutes in total to get from group 9 to the end of group 11.

Group 9 is on reports by licensing standards officers in relation to occasional licence applications. Amendment 20, in the name of the



minister, is grouped with amendments 21, 21A, 22, 23, 25 and 26.

16:00

**George Lyon:** This debate should be relatively short.

The bill sets out a short procedure for the determination and grant of occasional licences that allow events to take place outwith licensed premises. This is the first time that a procedure for occasional licence has been set out, and as such licences may be requested at short notice we wish to keep the procedure as uncomplicated as possible. However, since the police will be asked for their comments, it also makes sense to require applications for occasional licences to be notified to the licensing standards officer to give that officer the opportunity to submit a report to the licensing board. A report to the board is not mandatory from either the police or LSOs, but it could be made as and when necessary. LSOs may have local knowledge that would be entirely relevant to the application.

Amendment 20 requires applications to be notified to an LSO. Amendment 21 gives an LSO power to make reports within 21 days of receipt of notice. Amendment 25 requires licensing boards to have regard to any report submitted by an LSO in respect of an application for an occasional licence when considering whether any of the grounds for refusal applies. Amendment 26 ensures that notification of the determination of the application is given to an LSO. Amendments 22 and 23 are consequential.

Bruce Crawford's amendment 21A seeks to reduce the time within which an LSO may submit a report to a board from 21 days to 10 days. It is important that an LSO is given sufficient time to collate all the information relevant to the applicant. Ten days, as proposed by Bruce Crawford, seems to be an unnecessary restriction on an LSO. A 21-day timescale is more reasonable—and, more important—it is in line with the time given to the police to respond on the matter.

Given those assurances, I ask Bruce Crawford to consider not moving his amendment.

I move amendment 20.

**Bruce Crawford:** I find it difficult to withdraw from the position in the amendment. Why? Because occasional licences by their nature are sought by a licensed premises owner in a very short time. Usually, an event or function will come along that requires an owner to get a licence as soon as possible. To allow businesses in those circumstances to operate within the occasional licence framework, we need to ensure that the

licensee can get the go-ahead—or otherwise—from the licensing board.

Twenty-one days will add almost a month to the process of informing the licensing standards officer of the issue and of replying to the licensing board. All I seek is to help the licensed trade. It does have to apply for occasional licences, but it requires a quick turnaround, and 21 days is too long.

The minister is right to say that the police should be asked for their comments. However, a report would come from the police only if they had particular concerns, whereas the LSO has a right on every occasion, and that gives me concern.

**Mr Davidson:** I have some sympathy with the minister's position on this one, because we have yet to see how the roll-out of the LSOs will work and what resources they will have. Also, the police rules say 21 days; if an LSO responds in 10 days without the police having made their comments, no decision will be made. The two response times should be parallel.

**George Lyon:** I wish to clarify the matter for Bruce Crawford. LSOs are in exactly the same position as the police: they do not necessarily have to respond. Therefore, his argument on turnaround is equally applicable to the police. I suggest that the right approach is to put the police and the LSO response times on the same footing—21 days. I hope that Bruce Crawford will not move his amendment.

*Amendment 20 agreed to.*

*Amendment 21 moved—[George Lyon].*

*Amendment 21A not moved.*

*Amendment 21 agreed to.*

#### **Section 56—Determination of application**

*Amendments 22 and 23 moved—[George Lyon]—and agreed to.*

*Amendment 24 moved—[George Lyon].*

*Amendment 24A moved—[Bristow Muldoon]—and agreed to.*

*Amendment 24, as amended, agreed to.*

*Amendment 25 moved—[George Lyon]—and agreed to.*

#### **Section 57A—Notification of determinations**

*Amendment 26 moved—[George Lyon]—and agreed to.*

#### **Section 58—Licensed hours**

*Amendment 27 moved—[George Lyon]—and agreed to.*

**The Deputy Presiding Officer:** Group 10 is on extended hours applications. Amendment 28, in the name of the minister, is grouped with amendments 29, 33 to 35, 39, 40, 48 and 55.

**Mr McCabe:** Further to discussions with the licensed trade, we gave a commitment at stage 2 to lodge an amendment to provide a procedure for occasional licence extensions to be made to licensed hours for one-off and special events. Such events are, by their nature, unpredictable and cannot therefore be included in operating plans. Amendments 33 to 35 introduce such a procedure. They add to the power that was introduced at stage 2, as set out in section 61A, that allows boards to grant general extensions of hours to all premises, or to a particular category of premises, in response to a special local or national event.

The procedure as we have set it out has been tailored to suit the unpredictable and transitory nature of the need for extended hours. Any application must relate to a special event or occasion to be catered for on the premises, or to a special event of local or national significance. Licensing standards officers and the police will be notified of applications. There will be a requirement for licensing standards officers to submit a report, and the police will have the power to object. A board will have complete discretion as to whether to grant an application, subject to its taking into account any police objections and the licensing standards officer's report, and having regard to the licensing objectives. I consider that our proposals meet the concerns of the licensed trade, and that they ensure that there is no unnecessary bureaucracy involved.

Amendments 29, 39 and 55 are ancillary, and bring the treatment of extended hours applications into line with the treatment of occasional licence applications. Amendments 28, 40 and 48 are consequential.

I move amendment 28.

*Amendment 28 agreed to.*

**The Deputy Presiding Officer:** Group 11 is on the sale of alcohol for the full duration of licensed hours. Amendment 61, in the name of Bruce Crawford, is the only amendment in the group.

**Bruce Crawford:** The purpose of amendment 61 is to ensure that licence holders are not required to operate under a regime that does not reflect the reality of operating a business. I hope that everyone will accept the principle that no one would expect every licensee to open for every hour as detailed in their agreed operating plan. We must allow licensees, particularly those in smaller and rural communities to be able to close, on occasions, at an earlier time than is stated in their operating plan.

Imagine the scene. A publican in a small village pub has been opening on Tuesday evenings for a long time, but no one usually turns up after 10 pm on that day. Is it really sensible that we suggest to that person that they continue operating their business until 12 o'clock, as the operating plan says? They would need to absorb greater energy and staffing costs to do that. We should take the side of flexibility in such situations, and allow the publican to deal with the reality that faces him or her. They can stay open and face unnecessary costs, or they can close a bit earlier and stay in business.

I hope that the minister can show me that my amendment is not required, and that other provisions in the bill cover its intention. I hope that it proves to be unnecessary. As far as I can see, the bill is a bit too prescriptive—in this particular regard—and it will force the licensee into an unnecessary straitjacket. Will the minister deal with the matter by issuing guidelines from the national licensing forum?

I move amendment 61.

**Mr Davidson:** I support Bruce Crawford on amendment 61. There are such things as road works, as we have seen around the Parliament, which mean that people cannot get access to some licensed premises. There might also be illness in premises. There are terrible fogs, natural disasters and so on. The amendment allows flexibility to deal with such circumstances. It would also allow the licensing board to conduct a review of the arrangements.

**George Lyon:** I am gobsmacked by Bruce Crawford's call to make the bill less prescriptive. I am sure that we will see whether he wishes it to be less prescriptive when it comes to the vote on certain matters later on.

Amendment 61 is not needed. It seeks to remove the requirement to trade during all the hours specified in an operating plan. I made it clear during stage 2 that it is not in our interest to allow the licensed trade to apply to boards to open their premises for the maximum hours that they think the board will agree to, rather than the hours for which they intend to open. That is what has happened down south, because the provision is not in the equivalent bill there.

We do not want to encourage the submission by lawyers of standardised operating plans, which will have been given little thought by applicants; nor do we wish to allow licensees to attempt to block the market to competitors, which could happen.

Bruce Crawford seeks to ensure that licensees are not breaching their operating plan if they fail to open due to unforeseen circumstances, such as illness. I support that. During stage 2 I made a statement for the record to clarify the flexibility

inherent in our policy. I reiterate what I said, which underlines the fact that Bruce Crawford's amendment 61 is unnecessary. Operating plans have been introduced to provide a flexible licensing regime. They are there to give the board as clear an idea as possible of how the premises are to be run. They should not, however, be read prescriptively like a conveyancing document, but like a business plan.

In deciding whether there has been a breach, the board must ask whether the licensee is abiding by the business plan. The board must take a commonsense approach and make allowances for holidays, sickness, bereavement and other such normal business factors before calling any breach of the operating plan.

I hope that that clarifies the position for Mr Crawford. On the basis of the assurances that I am giving him, I ask him to consider withdrawing amendment 61, which is unnecessary, given the Executive's intentions on the matter.

**Bruce Crawford:** I will make this as painless as I can. Some of the assurances that the minister gave on this occasion were not delivered as strongly at stage 2. The trade will be much more satisfied with what it has heard today.

*Amendment 61, by agreement, withdrawn.*

#### **Section 60—24 hour licences to be granted only in exceptional circumstances**

*Amendment 29 moved—[George Lyon]—and agreed to.*

**The Deputy Presiding Officer (Murray Tosh):** Group 12 is on the maximum length of licensed hours. Amendment 62, in the name of Bruce Crawford, is the only amendment in the group.

**Bruce Crawford:** Amendment 62 brings us to a point on which we have serious concerns about the Scottish Executive's proposals for modernising Scotland's licensing laws. We must ask ourselves whether Scotland is ready for the ushering in of an era of 24-hour opening.

At stage 2, when I lodged a similar amendment, George Lyon said:

"There is a presumption against 24-hour drinking in the bill, which should help to allay those fears. The bill ensures that 24-hour opening is granted only in exceptional circumstances".—[*Official Report, Local Government and Transport Committee, 27 September 2005; c 2900.*]

I accept the minister's contention that a licence to open for 24 hours or longer will be granted only in exceptional circumstances. What else could be concluded from section 60, which, on the subject of applications for licences such that

"if the application were to be granted, the licensed hours in relation to the premises would be such as to allow alcohol

to be sold on the premises during a continuous period of 24 hours or more",

says that

"The Licensing Board must refuse the application unless the Board is satisfied that there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period"?

For me, that exposes the argument of Tom McCabe on Radio Scotland this morning, when he said that there is no opportunity for any licensing board anywhere in Scotland to issue a 24-hour licence. I have read out what the document I have says. Either George Lyon or Tom McCabe is wrong; they cannot both be right. I have read the bill and I know that exceptional circumstances exist.

16:15

It is equally true to state that an application for a licence to remain open for a period of 23 hours and 59 minutes will not be considered to be exceptional and that there is a danger of that number of hours becoming the norm. The same applies to 19, 20, 21, 22 or 23 hours. To all intents and purposes, there is the prospect of 24-hour opening—or opening for 23 hours and 59 minutes, if members want to be pedantic. Such opening could become the norm, because it has not been defined as being the exception.

We do not believe that Scotland is ready for 24-hour opening. Whether we like it or not, we have a bevvvy culture, which is extremely unfortunate. Report after report and statistic after statistic shows a depressing picture of how Scotland is failing to get to grips with alcohol abuse. Binge drinking and alcohol abuse by younger people are increasing. Drink-fuelled crime is on the up and ill health that is related to alcohol abuse is getting worse. Media report after media report paints a picture of public policy failure on alcohol abuse.

I realise that I am speaking about a long-term issue. *The Scotsman* of Tuesday 6 September contained the headline, "Drunken weekend violence hitting frontline policing". The paper quotes the deputy chief constable of Lothian and Borders police force, Malcolm Dickson, as saying:

"too many police officers are being diverted to deal with evening binge drinking in city centres instead of dealing with ordinary crime."

The paper stated that Mr Dickson also criticised

"government plans to introduce 24-hour drinking, claiming this will add to the stretching of police resources."

It is not only the deputy chief constable who is opposed to 24-hour opening; the Local Government and Transport Committee also opposes it. Paragraph 310 of its stage 1 report states:

“The Committee is not yet convinced that 24 hour drinking is required in Scotland, even in exceptional circumstances ... As things stand, the Committee considers that 18 hours is a more appropriate cut-off point than the 24 hour limit set out in the Bill.”

The committee took that view simply because the evidence against 24-hour opening—even in exceptional circumstances—was overwhelming. The trade does not want it: the Scottish Licensed Trade Association and the Scottish Grocers Federation, which represent the trade, are against it. Alcohol Focus Scotland is opposed to it and—perhaps tellingly—so is Sheriff Principal Gordon Nicholson. In written evidence to the committee, he said that the provisions in section 60

“would not be triggered at all if an applicant were to stipulate an opening period of 23 hours and 59 minutes; but such a period would be likely to be seen as being just as objectionable as a period of precisely 24 hours. Consequently, if this provision is to remain, I would respectfully suggest that the trigger point should be a number of hours just beyond what might normally be regarded as acceptable—say, 18 hours”,

as per my amendment 62.

From the First Minister down, the Executive has told us that it is determined to tackle Scotland’s booze culture, but the reality is before us. The Executive is prepared to usher in a process to allow 24-hour opening instead of taking a more reasonable and sensible approach. The mixed message that the Executive is sending out can only create greater confusion. On the one hand, it talks tough on antisocial behaviour and binge drinking; on the other hand, it says that people will be able to buy alcohol even more freely in future.

I know that there is widespread concern among members of all parties about 24-hour opening, and that that concern is shared by the country. Today, the Parliament has the opportunity to take a more reasonable and sensible route, and I invite members to support amendment 62.

I move amendment 62.

**Mr Maxwell:** The Justice 2 Committee was the second committee to consider the Licensing (Scotland) Bill. We interviewed community police officers, and our report states:

“Community police officers expressed concern to the Committee about the possible operational impacts of any extension to the current licensed hours. Many rural areas do not have 24 hour cover, and in urban areas, shifts are based around the busiest hours. In general terms, increased flexibility in opening hours was seen as having potential to make policing more difficult.”

It is clear from that statement that the possibility of 24-hour opening is not welcomed by the police. As Bruce Crawford has said, it is not welcomed by the trade, and I do not believe that it is welcomed by individuals and communities across Scotland.

The point that the minister made about exceptional circumstances is, frankly, incorrect.

When we last liberalised our laws, people said that the only time when extended opening hours would be allowed would be in exceptional circumstances. In the beginning, that was the case—it was the odd game, event or festival. However, currently 90 per cent of premises have extended opening hours; the norm has become to creep towards the maximum. If we pass the bill unamended, the creep towards the 24-hour maximum will be the norm.

The statistics are clear on what happens when licensing hours are extended. In Scotland, in 1999, 15,500 prescriptions were dispensed in the community, excluding in hospitals, for drugs to treat alcohol dependence. By 2003, that figure had grown to 28,500 prescriptions—an increase of 82 per cent in four years. In 2004-05, there were 9,057 discharges from hospital with a diagnosis of alcohol-induced liver disease. That represents an increase of 48 per cent since 2000-01. As we are all aware, in 2002-03, the total annual cost to Scotland of alcohol misuse was £1.125 billion.

As Bruce Crawford said, Scotland is nowhere near ready for 24-hour opening. Nobody wants it. We do not want it. I do not want it, and I will not support it, in all conscience, because of what it will lead to in our communities.

**Fergus Ewing:** If members study carefully Bruce Crawford’s amendment and the section that it seeks to amend, they will see that the effect would be to allow a pub or club to remain open for 18 continuous hours, from 11 am to 5 am the following morning. Why would anybody or any premises wish to open for longer than that? No one yet has mentioned the staff—the people who would have to work outwith those hours, from 5 am onward. There is surely a gross contradiction in the Executive being prepared to permit 24-hour continuous opening, on the one hand, and banning smoking in public places, on the other hand. That is a complete contradiction that, I suspect, the public will wholly fail to understand.

I agreed with the sentiment that Wendy Alexander expressed about our reflecting the mood of the people who sent us here. I hope that we will all try to do that today. There is no desire for this. There is no appetite or, might I say it, thirst for it. The trade does not want it; the experts do not want it; the public do not want it.

**Iain Smith:** Will the member give way?

**Fergus Ewing:** Obviously, I have not got time.

What conceivable reason would there be for the Executive whipping the bill through, as drafted, except the desire to follow Mr Blair and what the Government in England is doing? This is a test of whether Executive members will practise devolution or will follow orders from London and London Labour.

**The Deputy Presiding Officer:** I can give Brian Monteith about a minute.

**Mr Brian Monteith (Mid Scotland and Fife) (Ind):** Having heard all three SNP members, I believe that Bruce Crawford is tilting at windmills. In England, there are some 140,000 licensees. We hear accusations that no one wants 24-hour licensing—neither the trade, nor publicans. Well, let us consider what is happening in England.

How many of the 140,000 licensees in England have applied? Where is the scare story? Where is the rush for licences? Of the 140,000 licensees, 1,000 have applied for 24-hour licences, and even they say that that does not mean that they will open for 24 hours. Bruce Crawford is talking about a restriction on trade. It should be left to licensees to apply for what they want and to local authorities to consult and make decisions. The proposal is about devolution to local authorities instead of a restriction on trade. I suggest that we oppose Bruce Crawford's amendment.

**Mr McCabe:** Bruce Crawford is right about one thing: we talk tough on antisocial behaviour and we act tough on it, too, unlike the SNP, given its voting record.

I will restate what I and other ministers have said many times. The Executive is firmly against the practice of routine 24-hour opening. Misinterpretation by various people of the proposals for the new system has led to fears that it would somehow promote 24-hour opening. That is certainly not the case. To add reassurance and to help lay fears to rest, we agreed to put a presumption against 24-hour opening in the bill, and we have done that.

I will clarify the phrase "exceptional circumstances", which is intended to mean only special events and not applications for routine 24-hour opening. We should remind ourselves that the Licensing (Scotland) Act 1976 also has such a provision. We can assess how often that provision has been used since 1976.

Mr Crawford's view that the provision should cover applications to open premises for more than 18 hours is based on some groups' evidence to the Local Government and Transport Committee. The arguments were based partly on the assumption that supermarkets would want to sell alcohol for 24 hours and—importantly—on an incomplete understanding of the differences between the position in Scotland and that in England and Wales. In England and Wales, a presumption in favour of 24-hour opening is considered acceptable, but it is not considered acceptable in Scotland.

I ask members to resist the temptation to consider the issue in isolation. As I have said, the bill is a complete package. When the measure in

section 60 is set beside the national conditions, it is clear that no routine 24-hour opening will take place in Scotland. Yes, national opening hours are largely being abolished, but that is intended to allow shorter and longer opening hours, which are founded on a board's local circumstances.

I will make three final points: anyone—including the police—can complain that opening hours for a premises are a problem, which will result in a review; reducing opening hours is one sanction that is open to a board when reviewing a licence; and, ultimately, a licence can be revoked.

Fixing a lower and arbitrary limit on the maximum trading day is simply not the answer. Therefore, I ask Mr Crawford to withdraw his amendment.

**The Deputy Presiding Officer:** I call Mr Crawford to make a brief response.

**Bruce Crawford:** Well, well, well. The Executive tells us that it is in favour of measures to stop antisocial behaviour, but it has been dragged—kicking and squabbling—into accepting Frank McAveety's amendment to allow for 12-hour opening of off-licence premises. The message from the Executive is contradictory and hypocritical.

Tom McCabe could at least have been honest enough to admit that the framework of the existing law is entirely different. It is based on a core set of hours, from 11 am to 11 pm, with extensions thereafter. That is not the same as what is in the bill.

Tom McCabe said that no routine 24-hour opening would take place, because the provision applies to exceptional circumstances. I accepted that at the start of my speech. However, opening for 23 hours and 59 minutes will not be exceptional. What do we call such circumstances? Are they exceptional or normal? They would be the opposite of the current situation. It could become normal to grant licences to open for 23 hours and 59 minutes. In my book, that would be 24-hour opening, which we must resist.

16:30

**The Deputy Presiding Officer:** The question is, that amendment 62 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
Aitken, Bill (Glasgow) (Con)  
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
Brownlee, Derek (South of Scotland) (Con)  
Byrne, Ms Rosemary (South of Scotland) (SSP)

Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)

Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 43, Against 76, Abstentions 0.

*Amendment 62 disagreed to.*

#### Section 60A—Licensed hours: off-sales

*Amendment 63 moved—[Bruce Crawford].*

**The Deputy Presiding Officer:** The question is, that amendment 63 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)

Brankin, Rhona (Midlothian) (Lab)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Robison, Shona (Dundee East) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baird, Shiona (North East Scotland) (Green)

Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnstone, Alex (North East Scotland) (Con)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lyon, George (Argyll and Bute) (LD)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Wallace, Mr Jim (Orkney) (LD)

**The Deputy Presiding Officer:** The result of the division is: For 72, Against 46, Abstentions 0.

*Amendment 63 agreed to.*

*Amendment 64 moved—[Bristow Muldoon].*

*Amendment 64A moved—[Mr Frank McAveety].*

**The Deputy Presiding Officer:** The question is, that amendment 64A be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)

Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)

Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Robison, Shona (Dundee East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Brown, Robert (Glasgow) (LD)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gorrie, Donald (Central Scotland) (LD)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lyon, George (Argyll and Bute) (LD)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)

#### ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (SSP)

**The Deputy Presiding Officer:** The result of the division is: For 97, Against 21, Abstentions 1.

*Amendment 64A agreed to.*

**The Deputy Presiding Officer:** The question is, that amendment 64, as amended, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)



Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Robison, Shona (Dundee East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)

Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Brown, Robert (Glasgow) (LD)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lyon, George (Argyll and Bute) (LD)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)

**The Deputy Presiding Officer:** The result of the division is: For 92, Against 27, Abstentions 0.

*Amendment 64, as amended, agreed to.*

*Amendment 83 moved—[Mr Andrew Arbuckle].*

**The Deputy Presiding Officer:** The question is, that amendment 83 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Brown, Robert (Glasgow) (LD)  
 Finnie, Ross (West of Scotland) (LD)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Lyon, George (Argyll and Bute) (LD)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)

Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)

Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Robison, Shona (Dundee East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Deacon, Susan (Edinburgh East and Musselburgh) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 23, Against 95, Abstentions 1.

*Amendment 83 disagreed to.*

#### **Section 61A—Power for Licensing Board to grant general extensions of licensed hours**

*Amendments 30 to 32 moved—[George Lyon]—and agreed to.*

#### **After section 61A**

*Amendments 33 to 35 moved—[George Lyon]—and agreed to.*

#### **Section 73—Licence holder's duty to notify Licensing Board of convictions**

*Amendment 36 moved—[George Lyon]—and agreed to.*

#### **Section 93—Sale of alcohol to a child or young person**

**The Deputy Presiding Officer:** Amendment 1, in the name of Paul Martin, is grouped with amendments 73, 2, 74, 3, 75, 4, 76, 5 and 77. Members should please note that amendments 73 to 77 are manuscript amendments and will be

moved under rule 9.10.6 of standing orders. The text of those amendments is now available.

**Paul Martin:** It is a most appalling act for an adult to sell alcohol to someone under the age of 18 for that adult's financial or alcohol gain. Not only does it endanger the life of the young person, but it presents dangers to the local community in the possibility of antisocial behaviour.

I lodged my amendments in the group with the intention of providing the courts with the option of imposing a sentence of up to three months' imprisonment. That would send out a serious message that such an appalling act is most unwelcome in our communities and is antisocial behaviour of the highest calibre. The sentencing option I propose is in line with the sentencing option for the sale of fireworks to under-18s—an offence that carries the possibility of a six-month prison sentence. It is also similar to the possible sentence for someone who sells knives to someone under the age of 18.

In partnership with me and the Executive, Andrew Arbuckle has kindly lodged manuscript amendments that seek to clarify whether a sheriff could impose a level 5 fine of up to £5,000 or a sentence of up to three months. I welcome those amendments and if they are agreed to, I will not press my amendments.

I move amendment 1.

**Mr Arbuckle:** As Paul Martin said, we are talking about serious offences and my amendments propose to fill gaps in the Licensing (Scotland) Act 1976. The sentences provided for in the bill at present are too prescriptive and narrow and my amendments would allow the correct leeway to provide courts with options.

**Mr Davidson:** Paul Martin's amendment 1 would prescribe to the courts. We are minded to support Andrew Arbuckle's manuscript amendments because they would allow courts to have a choice between imposing a fine or a custodial sentence.

**Mr McCabe:** Andrew Arbuckle has lodged alternative amendments that would increase the options available to the courts—a prison sentence of up to three months would be an alternative to or in addition to a fine. That is a preferable approach and one with which Paul Martin has said he agrees. That is an important point because Paul has championed the cause of coming down hard on those who exploit our young people.

The availability of a possible three-month sentence will sharpen the minds of those who continue to take a cavalier attitude to selling or supplying alcohol to our children. The Executive intends to support Andrew Arbuckle's amendments, which will go hand in hand with other measures.

**Mr Jim Wallace (Orkney) (LD):** Given that we say that we are all in favour of rehabilitation and reducing reoffending, will the minister indicate the rehabilitative measures that he expects those who serve a three-month sentence to be able to take to prevent them from reoffending once they are released?

**Mr McCabe:** As the member knows, a range of disposals is available to the courts. Indeed, the Executive is determined to expand that range to ensure that genuine rehabilitation takes place and I am sure that my colleague, the Minister for Justice, will provide further information in that respect. Indeed, the member himself has considerable previous experience of efforts to expand the range of disposals.

The amendments go hand in hand with other measures such as the no-proof, no-sale provisions that the Executive is introducing to tackle underage drinking. These important provisions will send a strong signal to those who try to exploit our young people.

**The Deputy Presiding Officer:** I call Paul Martin to wind up on this group of amendments. Unless he has changed his mind, he will need to ask permission to withdraw amendment 1.

**Paul Martin:** I welcome the fact that the minister has reached this conclusion on group 13 and believe that Andrew Arbuckle's manuscript amendments achieve my aim when I lodged the original amendments on this matter at stage 2. I also welcome clarification that the options for sentencing include imprisonment and the possibility of a level 5 fine of up to £5,000. On that basis, I seek the chamber's agreement to withdraw amendment 1.

*Amendment 1, by agreement, withdrawn.*

**The Deputy Presiding Officer:** I invite Andrew Arbuckle to move amendment 73.

**Mr Arbuckle:** May I, in the spirit of co-operation, ask Paul Martin to move my manuscript amendments?

**The Deputy Presiding Officer:** If you wish to do it that way, and if Mr Martin is happy to move the amendments, it is perfectly in order.

*Amendment 73 moved—[Paul Martin]—and agreed to.*

#### **Section 94—Allowing the sale of alcohol to a child or young person**

*Amendment 2 not moved.*

*Amendment 74 moved—[Paul Martin]—and agreed to.*

### **Section 96—Purchase of alcohol by or for a child or young person**

**The Deputy Presiding Officer:** Group 14 relates to test purchasing of alcohol by children or young people. Amendment 37, in the name of the minister, is the only amendment in the group.

**George Lyon:** During stage 2, the Lord Advocate announced that he is now prepared to allow test purchasing of alcohol. The Executive very much welcomes that announcement, which I am sure also enjoys the chamber's support. It provides the police and many others with an essential tool in the fight against underage sales and drinking.

Amendment 37 seeks to give a child or young person immunity from committing an offence where test purchasing is authorised by a chief constable and to put an obligation on the chief constable to avoid any risk to the test purchaser's welfare. The amendment also allows the commencement of the provisions for a proposed pilot exercise that will be undertaken to ensure that the procedures afford adequate protection to everyone involved before test purchasing is rolled out throughout the country.

The provision in amendment 37 will underpin the bill's no-proof, no-sale provisions, which represent an important tool in tackling the underage drinking that bedevils many communities. I hope that the chamber will support the amendment.

I move amendment 37.

**Bruce Crawford:** I am happy to say that the SNP will support amendment 37. I am very pleased with the Executive's approach to the issue. When I lodged a probing amendment on the issue at stage 2, the minister said that he would address it constructively at stage 3. That is what has happened, and the amendment provides a good way forward.

My only slight caveat is that we must ensure that young individuals involved in test purchasing are given all the protection and counselling that they need to deal with every circumstance. That said, I am glad that the Executive has lodged amendment 37.

**Mr Davidson:** We have great sympathy for amendment 37. However, I believe that, in a recent case in Linlithgow, a drugs conviction was overturned on appeal on the ground of entrapment. I hope that the minister can assure us that that case has been thoroughly investigated. More important, can he assure us that the Lord Advocate will issue strict guidelines on the implementation of the provision?

16:45

**Mr Monteith:** It really does say something about how far Labour has travelled when the Executive seeks to introduce clandestine operations and entrapment—such abhorrent operations were used to entrap people who were starting up trade unions in the 19<sup>th</sup> century, in order to show that they were conspiring against their employers. It was wrong then and it is wrong now. Entrapment is entrapment, whether it is advocated by the Labour Party or by Lord Liverpool. Members should vote against amendment 37.

**George Lyon:** I thank Bruce Crawford for his support. He was quite right to state that he lodged a probing amendment at stage 2, which brought the issue to the fore. Since I took over my portfolio, I have been keen to ensure that test purchasing is put in place.

I would like to respond to a couple of the points that have been raised. Protection of the interests of the child is absolutely at the heart of our approach, and guidance will be issued to chief constables, who will have responsibility for test purchasing and for the welfare of the children involved in the pilot exercise. The pilot will commence soon, because we intend test purchasing to go ahead before the full range of the bill's other measures comes into force. I can assure members that the Lord Advocate will consult chief constables and will ensure that appropriate guidance is drawn up to put protecting the interests of the child at the heart of our approach to the matter.

**Mr Davidson:** Having spoken to the Lord Advocate, is Mr Lyon in a position to comment on entrapment? Has the Lord Advocate cleared what is going on?

**George Lyon:** Far be it from me to speak on behalf of the Lord Advocate. I intend to write to Mr Davidson and other members to explain the situation, if that would be suitable.

**The Deputy Presiding Officer:** The question is, that amendment 37 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)

Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)

Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

#### ABSTENTIONS

Leckie, Carolyn (Central Scotland) (SSP)

**The Deputy Presiding Officer:** The result of the division is: For 99, Against 1, Abstentions 1.

*Amendment 37 agreed to.*

*Amendment 3 not moved.*

*Amendment 75 moved—[Paul Martin]—and agreed to.*

#### Section 97—Consumption of alcohol by a child or young person

*Amendment 4 not moved.*

*Amendment 76 moved—[Paul Martin]—and agreed to.*

#### Section 100—Sending a child or young person to obtain alcohol

*Amendment 5 not moved.*

*Amendment 77 moved—[Paul Martin]—and agreed to.*

#### After section 117

**The Deputy Presiding Officer:** Group 15 relates to sports grounds and sporting events. Amendment 65, in the name of David Davidson, is the only amendment in the group.

**Mr Davidson:** Amendment 65 proposes that the Executive should carry out a pilot scheme on the reintroduction of the sale of alcohol at sports grounds in Scotland and should report on the results of that scheme to the Scottish Parliament.

The current ban is damaging our economy. The Scottish Rugby Union believes that the ban contributed to Murrayfield not being given last year's Powergen rugby league challenge cup final, which it is estimated cost the Edinburgh economy

£2 million. The ban has served its purpose and it is now time to allow over-18s to purchase alcohol in plastic containers in certain sports grounds. I believe that if we treat people with trust and respect, they will start to behave accordingly.

Sports fans still drink even though they cannot drink at the ground. For example, Murrayfield has a beer tent, which is located just outside the stadium. We acknowledge all the hard work that the police have done to make Scottish football as family friendly as it is, but we do not feel that allowing alcohol to be sold in grounds would harm that work.

A spokesman from Northumbria police said that its policy of allowing the sale of alcohol at St James's Park, which has been in place for the past five to 10 years, is going well and, in fact, has made the control of crowds easier. That is because the police can keep rival fans apart while they are drinking—which they have no control over outside the stadium—and ensure that the drinking environment encourages the fans to relax and enjoy themselves. Sales are restricted to a period that extends from 10 minutes before half time until 10 minutes after half time. If anyone should get drunk, they are removed from the ground, but the high price of season tickets means that fans are careful to ensure that that does not happen to them. It is time for the Executive to move on from a position whereby it allows the people in expensive hospitality boxes to drink while treating the majority of fans like children. Agreement to amendment 65 would be the first step in that direction. Surely an arrangement that is good enough for Newcastle is good enough for Tynecastle.

I move amendment 65.

**Tommy Sheridan:** I must declare an interest as someone who was involved in the 1980 pitch invasion that led to the banning of alcohol at sports grounds. I suppose that I am partly responsible for the ban, although I only wanted to give my scarf to Davie Provan, which I never quite got round to doing.

Amendment 65 is not acceptable. As has been said, in Scotland we have a culture that is not enviable. Getting pissed seems to be part of that culture. We do not seem to have won the battle of ideas or to have defeated the notion that someone who is drinking is more of a man than someone who is not drinking. Sport is an area in which we are trying to promote a form of recreation that does not involve the consumption of alcohol. Why would we want to reintroduce alcohol into sport when we have managed to separate alcohol and sport since 1980? I think that that separation should continue. There is nothing cool about drinking and there is nothing sporting about consuming alcohol. I hope that the minister will be

prepared to resist amendment 65 on behalf of those people in Scotland who believe that alcohol and sport should be kept separate.

**Donald Gorrie (Central Scotland) (LD):** The proposition of having a pilot scheme is worth considering. There are obviously some matches at which it would not be appropriate to have alcohol at the ground, but there are others—both football and rugby football—at which allowing alcohol to be consumed at the ground could represent a better way of controlling the drinking. Instead of simply allowing people to get drunk in pubs both on the way to and on the way back from the ground, drinking could be well policed within the ground.

I think that it would be worth trying out a pilot at the grounds of football clubs whose fans have a record of being well behaved and, perhaps, at Murrayfield. If the idea does not work, we will know, but if it works, we could introduce it more generally. A pilot scheme is worth considering on the basis that if it was well run, it could reduce the total amount of drunkenness.

**Mr Monteith:** Although I think that amendment 65 is rather weak and could have gone further, I will support it.

I was astonished to hear that Tommy Sheridan thinks that somehow drink has been separated from sport. Clearly, he is not getting into enough directors' boxes, whether at Murrayfield or any of the football grounds. Alcohol is there—it is just that the punters cannot get it, and I thought that he represented the punters.

The truth is that sport and drink go together; people get tanked up before they go into a ground. Let us have some responsible drinking. We should encourage it in the grounds—with families and with food—where it would be policed. That is what the proposed pilot is about. Members cannot tell me that punters in Newcastle, Carlisle or anywhere else in England are different from punters in Scotland. Let us give punters in Scotland a chance to have a responsible drink. That will change the culture. Members should support amendment 65.

**The Deputy Presiding Officer:** I call John Swinburne, who will be the last speaker before I go to the minister.

**John Swinburne (Central Scotland) (SSCUP):** As one who remembers what the situation in football grounds was like before the passing of the Criminal Justice (Scotland) Act 1980, I recommend to members that they should ignore completely the pilot. We should not bring back those dark days. If we are to have a pilot scheme, however, let us make it at an old firm game.

**Mr McCabe:** As members know, controls at certain sporting events were introduced in the

1980s for the good reason of public order and safety. Among other things, the controls prevent drink from being consumed in any shape or fashion at designated sports grounds for designated events. The designation of both the sports ground and the event is made by Scottish ministers.

**Phil Gallie (South of Scotland) (Con):** From John Swinburne's contribution, the minister will know that, as a director of Motherwell Football Club, John Swinburne has open access to alcohol at any matches that Motherwell play. Surely the point is one of discrimination.

**Mr McCabe:** Even with the peculiar behaviour that exudes at times from the boardrooms of Scottish football grounds, board members are not yet guilty of fighting one another on the streets.

A decision was taken by ministers in May 2004 to retain the controls, on the grounds that the current arrangements have worked well and that they would continue to play an essential part in reducing drink-related disorder and maintaining public safety in and around designated events and grounds. Any relaxation would be entirely inconsistent with other key Executive policies.

Although the Nicholson committee suggested that a pilot scheme be set up, the suggestion was rejected following Scottish ministers' careful consideration of the arguments for and against the retention of controls. The decision took into account our policies on alcohol misuse, health improvement, combating antisocial behaviour and maintaining public order and safety. We also took regard of the views that were expressed to and by the Nicholson committee and we consulted the police.

I remind members that the controls are very limited and very specific. The alcohol controls that were imposed under the 1980 act do not apply to non-designated events at a designated ground. For example, they do not apply to rugby league and non-international rugby union matches at Murrayfield or to American football at Hampden. As the Heineken cup final is a European rugby union club competition, it is not a designated event.

Local licensing boards also have the discretion to allow the sale of alcohol inside designated sports grounds for non-designated events. Advice from the police to licensing boards now routinely includes an assessment of the risk to public order and safety for each event or category of event. An example of that approach was the decision to allow the sale of alcohol at Murrayfield on last year's BT cup final day.

In light of all that information, the obvious dangers and the very good reasons that lay behind the original introduction of the controls, I ask David Davidson to withdraw amendment 65.

**The Deputy Presiding Officer:** I call David Davidson to wind up and ask him to do so quickly.

**Mr Davidson:** I am grateful to those who see some merit in a pilot. If the minister were to look at the situation down south at rugby matches, club matches and so on, he would see that very few problems arise. The culture has been changed; at certain sporting events, people have shown that they can be responsible.

Perhaps the minister will acknowledge the fact that no difficulty has arisen at some of the non-designated games at which alcohol was available. I accept that real and practical research has to be done on the subject, but that is the reason why I call for a pilot. The issue is not simply one of moving a problem from the pub down the road into the ground; the measure would dilute the existing problem of people coming straight from a public house to a football match, for example. The minister's blanket approach fails to recognise the fact that in parts of the United Kingdom the problem does not exist. Can we not have a pilot to examine it here?

17:00

**The Deputy Presiding Officer:** The question is, that amendment 65 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)

Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Etrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)

Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 19, Against 98, Abstentions 0.

*Amendment 65 disagreed to.*

### Section 127—Fees

**The Deputy Presiding Officer:** Group 16 is on fees and the ability to recover increased costs. Amendment 38, in the name of Fergus Ewing, is the only amendment in the group.

**Fergus Ewing:** Amendment 38 seeks to delete the fees provisions in section 127(1)(c), which were inserted following an amendment in the name of Paul Martin at stage 2 that was supported by all the Labour members of the Local Government and Transport Committee. That amendment stated that licensing boards would be able to charge fees

“in respect of the recovery from particular licence holders of sums not exceeding any increase in the cost of providing public services (including policing) which is directly attributable to activities in, or in the vicinity of, or by customers of, or staff employed in, the premises in respect of which the licence is held.”

There are two reasons why I opposed the amendment in committee and continue to oppose the measure now.

First, the measure is unenforceable, because it is impossible to interpret and implement. I understand Paul Martin’s motivation in lodging the amendment and I do not criticise him for doing so, but the scheme that he has devised would not work. How would one calculate the increase in the cost of providing public services? For example, on policing in the city centre, how would one calculate the increased police provision that was required? With regard to the ambulance service, how would one calculate the increased number of ambulances or ambulance staff required? On refuse collection, would one have to compute the additional volume of garbage that was left as a result of antisocial behaviour? After doing that calculation, one would have to decide whether it



related to one particular pub or to more than one and where the behaviour occurred, because the bill states “in the vicinity of”—[*Interruption.*] I hear a member’s watch going off—one would have to set one’s watch accordingly to do that computation. One would have to apply the total extra cost across an unspecified number of public houses or clubs in an area. A finance department that performed that task would require hundreds of staff, and there would have to be such a department for each licensing board. I submit that the measure is unenforceable. I know that Paul Martin received the same letter that I received from the Law Society of Scotland, in which it states views broadly to that effect.

Secondly, I argue against the measure because it is punitive, as public house premises and clubs pay the Exchequer substantial amounts of money through general taxation and, in particular, through non-domestic rates. Licensed premises pay high levels of non-domestic rates, and it is right that they should make that contribution, but if this extra cost is levied, premises will have to pay an extra tax—a Martin tax—which is a tax too far.

I therefore hope that, by my advocacy, I will successfully persuade members of the Executive parties to vote for amendment 38, in my name. I hope that they will take pleasure in that act.

I move amendment 38.

**Paul Martin:** Amendment 38 seeks to delete an amendment in my name that was agreed to at stage 2 in relation to the recovery of public service costs. I make no apology for that amendment. Fergus Ewing is concerned about business tax payers—I, too, am concerned about them, but I am also concerned about council tax payers, who, indirectly and directly, have to meet increased policing and other public service costs. I make no apologies for raising the issue, which I believe we must tackle soon.

I accept that the recovery of costs would present difficulties. However, under section 127, the ministers must enable the fees process, so they would have the opportunity to devise a recovery process. I do not seek to lay out exactly how the measure would work in practice, but I want members to accept the principle that local residents and business tax payers who are not a burden on policing costs should not have to pick up increased policing costs. In my stage 2 amendment, the approach that I proposed was not a blanket one, but one that would deal with premises that encourage antisocial behaviour in local communities. Let them, not law-abiding citizens and businesses in local communities, pay for the policing and other service costs.

**Mr Arbuckle:** Good law is law that can be enforced, but section 127(1)(c) would be difficult to

enforce. As Fergus Ewing said, there are myriad complexities that would make the measure difficult to implement. Local businesses already pay taxes and, rightly, expect to benefit from public services. I have a degree of sympathy with Paul Martin’s thoughts, in so far as he suggests that, as with planning gain, people can benefit from what is really licensing gain. However, I support Fergus Ewing’s proposal.

**Mr McCabe:** Fergus Ewing’s amendment 38, which Andrew Arbuckle supports, would remove a provision that was inserted at stage 2 to give ministers the power to make regulations to allow boards to recoup increased public service costs from licensees through fees. As we said at stage 2, we have sympathy with the concerns that have been expressed about the increased costs relating to licensed premises that are placed on our public services. I know that Paul Martin made his proposal with the best of intentions. However, it is important to stress that the amendment that he inserted at stage 2 would be difficult to implement in practice, as it would be difficult to assess any directly attributable increase in costs to specific licensed premises or to quantify the public service costs that would be recouped.

Aside from the practical difficulties of implementing the measure, it would not sit well with the bill’s overall objectives of, first and foremost, preventing undesirable activities that result in an additional load on our public services. The bill will tackle directly the problems that cause crime and nuisance and which are therefore a burden on our public services. The new monitoring and enforcement regime will require licensees to take early action to address problems that are associated with their premises. Where such action is not taken, boards may decide to review the licence and apply a wide range of sanctions. Ultimately, the licence can be revoked. Licensees of problem premises are far more likely to be pressed into action to help to resolve problems by the threat of long-term curtailment or removal of their licence than they are by a one-off charge.

In addition, Pauline McNeill’s amendment 6, which will require late-opening premises to be subject to mandatory national licence conditions, is likely to mean the imposition of increased costs on licensees, through the provision of door staff and CCTV systems, both of which will offer support for local police.

With that said—and firmly on the basis that one should never say never in this life—I propose to support Fergus Ewing’s amendment 38.

**The Deputy Presiding Officer:** I am sure that that calls for a wind-up by Fergus Ewing.

**Fergus Ewing:** I must admit that I thought that, latterly, the minister was at his most persuasive.

I will briefly point out that there is an argument—it was drawn to my attention by Gordon Millar, although I should perhaps have thought of it myself—that premises that are not operated responsibly should not be allowed to continue.

**Paul Martin:** Will the member give way on that point?

**Fergus Ewing:** If I may finish the argument, I will certainly give way if I am permitted to do so.

If premises are not operated responsibly, they should not be allowed to continue. If we agree that premises may operate irresponsibly but must pay extra for doing so, we will be tolerating that irresponsibility. Surely all of us, including Paul Martin, can unite behind that principle.

**Paul Martin:** I use the analogy of the professional football clubs, many of which contribute to policing costs. Measures that aim to prevent antisocial behaviour—they do not necessarily need to deal with the results of antisocial behaviour—also have a cost.

**Fergus Ewing:** Paul Martin may use that analogy, but I do not believe that it is directly applicable. We are talking about people who are not enclosed in a football ground but roaming around city-centre areas where there are many different public house premises.

I am delighted that the Parliament will unite behind my amendment, and I look forward to many repeat occasions.

*Amendment 38 agreed to.*

### **Section 128—Inspection of premises before grant of licence etc**

*Amendments 39 and 40 moved—[George Lyon]—and agreed to.*

### **Section 136—Orders and regulations**

*Amendments 66 and 67 moved—[Bristow Muldoon]—and agreed to.*

### **Section 137—Interpretation**

**The Deputy Presiding Officer:** Group 17 is on the definition of capacity. Amendment 41, in the name of the minister, is grouped with amendments 42 to 47.

**George Lyon:** Amendments 41 to 47 further refine the definition of capacity that was inserted into the bill at stage 2. Information about capacity is required to be included in operating plans and boards must take capacity into account in their assessments of overprovision.

The amendments in this group will ensure that if an operating plan delimits areas of hybrid premises as being exclusively for either on-sales

or off-sales, the appropriate part of the definition of capacity will apply to each area of the premises. The amendments will remove the anomaly in the bill whereby hybrid premises would be judged only on their on-sales capacity. That would be inappropriate in some circumstances, such as for supermarkets that have a small cafe selling alcoholic beverages but also offer extensive off-sales.

I move amendment 41.

*Amendment 41 agreed to.*

*Amendments 42 to 47 moved—[George Lyon]—and agreed to.*

### **Section 138—Index of defined expressions**

*Amendments 48 and 49 moved—[George Lyon]—and agreed to.*

## **Schedule 2**

### LOCAL LICENSING FORUMS

**The Deputy Presiding Officer:** Group 18 is on the quorum for local licensing forums. Amendment 50, in the name of the minister, is the only amendment in the group.

**Mr McCabe:** At stage 2, members of the Local Government and Transport Committee expressed concern that the bill sets a quorum for licensing boards but contains no similar provision for local licensing forums. The issue was also brought to our attention by the clerk to the city of Glasgow licensing board. Amendment 50 will address those concerns by establishing that

“The quorum for a meeting of a Forum is one half of the number of members (but in any case not fewer than 3)”.

I move amendment 50.

17:15

**Mr Davidson:** I support the amendment. Many of the committee’s concerns were about true representation across an area. It is important that the public knows that it has a largish forum with many members present and voting. That is very positive for local democracy.

*Amendment 50 agreed to.*

## **Schedule 3**

### PREMISES LICENCES: MANDATORY CONDITIONS

**The Deputy Presiding Officer:** Group 19 is on licensing conditions and licensed hours. Amendment 51, in the name of the minister, is grouped with amendments 52 to 54.

**George Lyon:** Amendments 51 to 54 are technical amendments to schedules 3 and 4. The operating plan or occasional licence must state the

times during which alcohol is to be sold on a premises. The amendments clarify the position to the effect that the mandatory condition that alcohol must be sold only in accordance with the times stated in the operating plan or licence, as the case may be, does not itself preclude the activities that are specified in section 59(2) relating to the sale, consumption, and taking away of alcohol outwith licensed hours. Amending the bill in this way makes clear the relationship between section 59(2) and the hours stated in the operating plan or licence. The amendments are not intended to affect the boards' power in any particular case to impose an extra condition on a licence under section 25(4) to restrict any of the activities mentioned in section 59(2).

I move amendment 51.

*Amendment 51 agreed to.*

*Amendment 52 moved—[George Lyon]—agreed to.*

**The Deputy Presiding Officer:** Group 20 is on the pricing of alcohol. Amendment 68, in the name of David Davidson, is grouped with amendment 70.

**Mr Davidson:** Amendment 68 seeks to remove the provisions on non-differential pricing that keep the price of alcohol at a certain level for 72 hours. The Executive said that such a scheme has been piloted in Glasgow and that it works. However, we have not seen much evidence of that. Moreover, Glasgow operates only a 24-hour limit on pricing.

The provisions in the bill unfairly restrict trade and unfairly penalise responsible drinkers such as old age pensioners, who may lose their nip and a half of an afternoon. In evidence to the Local Government and Transport Committee, the National Union of Students Scotland said:

"we do not wish to see new laws that unfairly penalise student associations in favour of big pub chains or nightclubs. For example, for a nightclub that opens only between 10pm and 2am, the 48-hour rule represents a short period of time ... A nightclub can afford to have a two-day promotion and target the student market because it will make up the money at the weekend, whereas a student association cannot afford to do that."—[*Official Report, Local Government and Transport Committee, 12 April 2005; c 2306.*]

Therefore, there is concern that the policy will be completely ineffective in stopping binge drinking, because it will encourage off-sales—and it is the off-sales sector that causes the major problem, particularly among our young people.

I move amendment 68.

**Mr McCabe:** Amendments 68 and 70, in the name of David Davidson, seek to remove the mandatory licence conditions for premises and occasional licences that establish a non-differential pricing policy requiring licensees to

adopt the same price for alcohol for a minimum of 72 hours.

I strongly oppose the amendments and hope that the Parliament shares my view. The need to tackle irresponsible promotions and the problems that are associated with them is central to the policy objectives of the new licensing system. That was supported by the Local Government and Transport Committee and by many of those who gave evidence. I am shocked that the Conservatives would even consider such amendments, particularly in the light of the information that alcohol-related deaths have risen exponentially. Our society is suffering from a real problem with binge drinking.

We recognise that not all alcohol promotions are irresponsible and that most licensees act responsibly in running their businesses. However, the undesirable consequences for health and society of the binge and underage drinking that can be encouraged by irresponsible promotions are widely recognised. We need to take firm action to stop the terrible effects that they are having on individuals and on our communities. That is why we oppose amendment 68.

**Mr Davidson:** In effect, the minister has gone down my line of argument about forcing people away from licensed premises, where they may drink socially and responsibly under the care and guidance of responsible property owners, staff and management, to off-sales. That is what will happen. If a new product is promoted in a way that is responsible and that the landlord is happy with, I do not understand how that will encourage binge drinking. The landlord is not going to encourage binge drinking, because that would affect his licence. There will be a responsibility on the premises owner to manage any such promotions on a reasonable basis while retaining some competitive edge.

In the case of bad premises that are not managed correctly, I would support the minister totally in ensuring that the people concerned have difficulty in getting their licence extended or even holding on to it. However, the Executive is tarring everybody with the same brush. It is taking the vast majority of the people concerned down a road that they probably do not want to go down. If licensees had such promotions, they would not cause any more problems. The problems can often start in the off-sales sector.

**The Deputy Presiding Officer:** The question is, that amendment 68 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Scanlon, Mary (Highlands and Islands) (Con)

**AGAINST**

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)

Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

**ABSTENTIONS**

Leckie, Carolyn (Central Scotland) (SSP)  
 Mitchell, Margaret (Central Scotland) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 13, Against 96, Abstentions 2.

*Amendment 68 disagreed to.*

**The Deputy Presiding Officer:** I am minded at this stage to accept a motion without notice to take decision time at 6.15 pm.

*Motion moved,*

That the Parliament agrees that decision time be taken at 6.15 pm.—[*Ms Margaret Curran.*]

*Motion agreed to.*

**The Deputy Presiding Officer:** Group 21 is on irresponsible drink promotions. Amendment 69, in the name of David Davidson, is grouped with amendment 71.

**Mr Davidson:** Given what has been going on in the Parliament, I will not press the matter.

*Amendment 69 not moved.*

### Schedule 4

OCCASIONAL LICENCES: MANDATORY CONDITIONS

*Amendments 53 and 54 moved—[George Lyon]—and agreed to.*

*Amendments 70 and 71 not moved.*

### Schedule 4A

APPEALS

*Amendment 55 moved—[George Lyon]—and agreed to.*

### Schedule 5

REPEALS

**The Deputy Presiding Officer:** Group 22 is on repeals. Amendment 56, in the name of the minister, is grouped with amendment 57.

**George Lyon:** Executive amendments 56 and 57 are technical amendments. As a consequence of the repeal, for Scotland, of the Licensed Premises (Exclusion of Certain Persons) Act 1980, we have had to make some consequential repeals for Scotland. The equivalent repeals for England and Wales will be made under the Violent Crime Reduction Bill, which provides for the repeal of the 1980 act for England and Wales.

I move amendment 56.

*Amendment 56 agreed to.*

*Amendment 57 moved—[George Lyon]—and agreed to.*

## Licensing (Scotland) Bill

### **The Deputy Presiding Officer (Murray Tosh):**

The next item of business is a debate on motion S2M-3437, in the name of George Lyon, that the Parliament agrees that the Licensing (Scotland) Bill be passed.

**Bill Aitken (Glasgow) (Con):** On a point of order, Presiding Officer. I seek your guidance. At the conclusion of the debate, will the division bell be rung or will we proceed straight to the vote?

**The Deputy Presiding Officer:** I understand that it has been agreed by the business managers that it will not be necessary to ring the division bell. Therefore, it will not happen.

17:25

### **The Deputy Minister for Finance, Public Service Reform and Parliamentary Business**

**(George Lyon):** I thank all those who have contributed to the development of the bill. I thank my predecessor Tavish Scott, who led the bill on introduction and through a successful stage 2, and the Local Government and Transport Committee for its thorough scrutiny of the bill, culminating in its detailed stage 1 report. I hope that the committee will recognise that we have worked hard to address its concerns and comments. We responded with a number of amendments and I hope that everyone will agree that we have worked together to try to strengthen the bill.

Although there have been disagreements—notably today—I am confident that there is a strong consensus throughout most of the parties in favour of what we are trying to achieve through the bill. I thank all those who responded to the consultations that were undertaken by the Scottish Executive and the Parliament, particularly members of the licensed trade organisations and others who have offered their time freely and consistently over the past three years, with the aim of ensuring a better end product for us all. I certainly enjoyed some hospitality and interesting experiences as I engaged with the various trade organisations. I listened to the concerns that they had about various matters, because when the bill is voted through, the trade, customers and communities have to live with the consequences of what we decide.

I advise the Parliament that Her Majesty, having been informed of the purport of the Licensing (Scotland) Bill has consented to place her prerogative and interests so far as they are affected by the bill at the disposal of the Parliament for the purposes of the bill.

**Mr John Swinney (North Tayside) (SNP):** Hear, hear.

**George Lyon:** I thought that would please some members.

In the short period for which I have been responsible for licensing, I have been committed to taking forward this reform and I remain so. I believe that Scotland deserves a licensing system that meets both the needs and the expectations of our society today. I am sure that everyone here agrees.

The new licensing system that we are proposing will contribute to a safer and stronger Scotland for all of us, by helping to break the link between excessive drinking and crime, and will lay a foundation for and support our wider agenda of tackling the problems that are associated with underage and binge drinking.

The bill introduces a system that will support and protect responsible traders and their communities. Licensing boards and the police will be empowered to deal with those who abuse the system. That will provide strong protection for those who are affected by the problems that are associated with alcohol misuse, whether local residents, police or the licensed trade.

The bill sets a foundation for what we want to achieve. It will not tackle all the problems in isolation and it would be unrealistic to expect that. It is just one part of the devolved Government's commitment to tackling the problems that are caused by the Scottish attitude to alcohol.

We are also working on much wider fronts, through the plan for action on alcohol and the measures that we have taken against antisocial behaviour. Of course, successful outcomes will be dependent on licensing boards exercising their powers in an appropriate way. As part of the implementation of the new regime, boards will be provided with guidance to ensure they act in a strong and consistent manner.

I was disappointed that the Parliament was not willing to trust boards in the entirety of the decision making that we had intended for them. Boards will be able to deal with problems as and when they arise and, importantly, for the first time, they will be able to take swift and effective action against anyone who breaches their licence conditions or fails to act in accordance with the five overarching licence objectives that are set out in the bill. Restating those objectives—which are at the very heart of the system—is worth while, and I am sure that my colleague Tom McCabe will dwell on them in his winding-up speech. The licensing objectives are to prevent crime and disorder, to secure public safety, to prevent public nuisance, to protect and improve public health, and to protect children from harm. I hope that all members have signed up to those principles.

The local discretion that boards will be given will be balanced by two things—a clear and effective

mandatory national framework and local communities' empowerment to comment on policies and to object to licences. Communities being firmly involved in the process of granting licences and boards having to take account of local communities are important principles. Even after a licence has been granted, communities will still have the power to ask boards to review it if there are unforeseen problems.

Enforcement is important. Of course, a system can be successful only if it includes an effective and robust monitoring and enforcement system that encourages those who manage it, and such a system is provided for in the bill.

The bill sets out important new powers to tackle binge drinking and irresponsible promotions. All of us have seen and recognise the problems that result from binge drinking in our constituencies and the potentially harmful effects of such irresponsible behaviour on the health of individuals are well documented.

The bill also focuses on protecting children and tackling underage drinking. Most of us understand that it is preferable for young people to be introduced to alcohol by their parents in a responsible and gradual way, but the availability of alcohol to children and the growing amount of evidence that children who are sometimes as young as 12 or 13 are drinking regularly and often to excess is a concern.

I sincerely hope that everyone shares the Executive's commitment and ambition to tackle the problems that I have described. I am confident that the bill will make a considerable difference to ordinary people's lives and that it will put in place a licensing system in which all of us can have confidence.

I move,

That the Parliament agrees that the Licensing (Scotland) Bill be passed.

17:32

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I say to the minister and to the Executive that the exchanges in the Local Government and Transport Committee during the bill's progress led to many valuable lessons being learned on both sides, and that the bill was improved as a result of those discussions. However, there are issues that I want to raise to ensure that they are recorded in the *Official Report*.

First, I want to consider the national licensing forum and the way in which it was established and people appointed to it. No one can doubt that the forum has created considerable difficulties for the trade, particularly the on-licence trade. People do not feel that they are adequately represented on

the forum, so I hope that the minister will re-examine the matter at some stage. There is an opportunity to make the forum more inclusive.

**George Lyon:** I accept Mr Crawford's point, but I also hope that he acknowledges the undertakings that I gave him during stage 2. Appointees to the national licensing forum are there to provide their personal knowledge in order that the forum can develop policy. I stated that once the two-year period is complete, ministers will decide on the forum's continuation and new members will be appointed. Issues that Mr Crawford has raised to do with representation can be addressed then.

**Bruce Crawford:** I fully accept what the minister says about what he told me at stage 2, but the real issue now for the trade is that it needs to be in the door and able to influence the process when the new information, guidance and material are issued to the licensing boards. However, the trade does not feel that it is part of the process in the way that it should be. That matter needs to be re-examined.

There are also issues to do with licensing standards officers that must be considered in the future. How much will licensing standards officers cost the trade? At the end of the day, all the costs will be passed on to the trade. We have not worked up as good a position on that as we might. Licensing standards officers will be involved in mediation and enforcement, where required, but how many will we have per local authority, what will be their job description—what are they actually going to do—and what will be the real costs that the industry will have to bear? We must find ways to ensure that those costs are kept to a minimum.

There are several issues that I would like to touch on, but I have only five minutes. I will, therefore, return to some of the fundamentals in the bill, which are of real concern. As far as the Scottish National Party is concerned, those concerns relate to the off-licence trade. We saw what happened earlier as the Executive tried to dig itself out of one hole but appeared to fall into another. We have a workable solution, however, in amendment 64A, which was lodged by Frank McAveety. I am pleased to say that the Executive has adopted the position of the SNP in that regard and will be a lot more restrictive in respect of the operation of off-licences.

Brian Monteith spoke about what is happening in England; however, the information that he has is not the same as the information that I have. I am told that about 700 premises, including supermarkets, have been granted 24-hour licences and that the figure will soon be 900 premises. The real issue is the culture that is created through extension of licensing hours. About 200,000 premises have applied for extensions because of that culture.

**Tommy Sheridan (Glasgow) (SSP):** Will the member give way?

**The Deputy Presiding Officer:** The member is in his last minute.

**Tommy Sheridan:** Does Bruce Crawford agree that 1,000 premises in England getting 24-hour licenses would be the equivalent of 100 premises in Scotland getting those licences, which is unacceptable and would create an unacceptable culture?

**The Deputy Presiding Officer:** Very quickly.

**Bruce Crawford:** I accept the member's point.

The issue of 24-hour opening is a fundamental stumbling block to the SNP's being able to support the bill. We had hoped to persuade the Executive of the error of its ways on 24-hour opening: all the statistics prove that it is not the right direction in which to go. We are fundamentally opposed to 24-hour opening—or opening for 23 hours and 59 minutes, to be pedantic. The SNP cannot support the bill, even though it has some good bits, because of the Executive's intransigence on that matter.

**The Deputy Presiding Officer:** It might be helpful if I say before I call the next member that the debate is heavily oversubscribed. We will not be able to call everyone who wants to do so to speak, and those who are called should make their comments as brief as possible in the interests of other members.

17:37

**Mr David Davidson (North East Scotland) (Con):** I thank the clerks and the committees for their work in dealing with the bill on its way through the committee stages. However, we have problems with the bill, the trade has problems with the bill and many genuinely responsible people in Scotland have problems with the bill. Most important is that the bill does not sufficiently address the problems of underage drinking and the youth overindulgence that leads to antisocial behaviour. The ministers have produced what appears to be a bit of a guddle. The Labour party is split, there is a split between the Liberal Democrats and the Labour Party and so on. That was not a good start for the final stage of any bill.

I am not convinced that the bill will deal with the problem of underage drinking, which is an enormous problem in Scotland. I will not repeat the statistics.

**Bristow Muldoon (Livingston) (Lab):** I ask Mr Davidson to expand on the measures that he thinks should have been in the bill to deal with underage drinking.

**Mr Davidson:** I tried to have a responsible discussion when I joined the Local Government

and Transport Committee. The fundamental issue is that we do not support the principle of making alcohol available 24 hours a day in the way that has been discussed and which could occur under the bill.

The bill does not address the problems of the trade. It presumes that the on-sales trade is where all the problems must be solved, but does nothing much about off-sales, although the police and social workers tell us that that is where the bulk of the problem lies. We supported Frank McAveety's sensible amendment 64A. We have to take a responsible stance.

We must draw a line in the sand and say that enough is enough. We must deal with the problems in society, which do not all arise from on-sales premises. Stiffening up the rules for on-sales premises is fine to a point, but it is almost restrictive of trade and does not offer choice. However, the bill does not deal with the fundamental issue of how young people in our society get their hands on alcohol. I will not go through all sorts of statistics because I do not see much in the bill that will do anything about changing that culture.

My proposition for sports grounds was based on the arguments that have been used in other parts of the United Kingdom. Some problem matches occur; I have no difficulty with their being dealt with through agreements between chief constables, licensing boards and the owners and managers of grounds. I tried to persuade the Local Government and Transport Committee to accept an amendment to that effect, but it chose not to accept it. I thank the Deputy Minister for Finance, Public Service Reform and Parliamentary Business for accepting my amendment to increase the size of local licensing forums, because that will improve democracy and accountability.

The licensing standards officers issues are unclear. Their role is not spelled out in the bill; it does not define clearly what they will do. That is policy being made on the hoof.

The bill contains some good measures, but we cannot support it. The Executive could have done better.

17:41

**Bristow Muldoon (Livingston) (Lab):** The response of the two Opposition parties to the bill is disappointing, because the Executive and Parliament have taken on board at stage 3 most of the issues that the Local Government and Transport Committee and other members raised.

The bill will establish a licensing system that is fit for the 21<sup>st</sup> century. That system will be built on five basic principles: preventing crime and

disorder; securing public safety; preventing public nuisance; protecting and improving public health; and protecting children from harm. It is unfortunate that much of the debate today has concentrated on the small number of remaining contentious issues, but the bill has many positive aspects that most parties can unite behind.

First, everybody acknowledges that the licensed trade plays an important role in many people's social lives. Responsible drinking can be part of a healthy and enjoyable social life. Alcohol production is a major employment sector and one of our largest export industries. However, we must also acknowledge the undoubtedly negative role that alcohol plays in our society in relation to crime and disorder and Scotland's overall poor health record.

The bill tries to achieve the right balance between people's ability and right to consume a legal product and the industry's right to pursue its business, and the societal problems to which I referred. Among the measures that will achieve that balance are the enhanced rights for individuals and community groups to make representations to licensing boards about decisions on licences, the improvement to how licensing boards can define and deal with overprovision, and the introduction of licensing standards officers, who will ensure compliance with licence conditions. The bill will enhance the quality of licensed premises throughout Scotland and will require licensees who intend to allow children in their premises to meet higher standards in their facilities.

The bill seeks to address binge drinking through new controls on irresponsible promotions and will introduce a considerable number of tighter measures to tackle underage sales. I was particularly disappointed that David Davidson criticised that aspect of the bill, but came up with no alternative ideas.

I commend my colleagues Paul Martin and Michael McMahon for lodging several important amendments that addressed concerns about antisocial behaviour and which closed loopholes in the existing legislation.

I will talk finally about opening hours for off-licences, which took up much of today's debate. Some of the misrepresentation on that issue damaged the concept of the new consensual politics in which Parliament was envisaged to engage. Without reopening that debate, I give due credit to my colleague Frank McAveety, who managed in a short speech to engage the support of his old sparring partner, Tommy Sheridan, as well as that of the Tories and the SNP, for the position that Labour advanced. Perhaps the new politics is not dead.



The bill as amended strikes a sensible balance between competing priorities and objectives and gives Scotland a licensing system that will be fit for the 21<sup>st</sup> century.

17:45

**Donald Gorrie (Central Scotland) (LD):** We have made a lot of progress as a result of the bill. When I asked questions about licensing during the first year of Parliament, I was told that there was no intention to do anything about it. The pressure that a number of people within and outwith Parliament brought to bear persuaded the Executive to set up the Nicholson committee, which produced a good report that was the foundation of the bill.

The fundamental point is that there should be local democratic decision making. I accept that we are placing a lot of weight on licensing boards. We must really stiffen their sinews and improve their intelligence and so on so that they can respond to local opinion and so control licensing.

We must change the culture. A bill cannot do that, but it may contribute. In particular, we must get a firm grip on underage drinking. There are one or two measures in the bill that will help, but we must probably do more about the problem.

There was discussion of 24-hour and 18-hour licensing. A person who asked any decent licensing board for a licence for 23 hours and 59 minutes would promptly be shown the door.

The way amendments appeared, how the debate proceeded and the time limits to which we were subject showed that we need to take a very serious look at our procedures prior to and during stage 3. I hope that members will co-operate in re-examining that subject.

**The Deputy Presiding Officer:** I would like to clarify the position regarding the division bell. The bell will be rung at 5 past 6 and at 10 past 6, in advance of decision time, which has been moved. Business will not be suspended during that period.

17:47

**Paul Martin (Glasgow Springburn) (Lab):** Tommy Sheridan accused me earlier of talking a good game. I note that neither Tommy Sheridan nor any of his colleagues are here to talk any game.

I make no apologies for the talking that I have done on the Licensing (Scotland) Bill on behalf of the party that I represent and my constituents. As a result of the amendments to which Parliament has agreed, there will be a legal requirement for antisocial behaviour reports to be provided. That is an important measure. As a former licensing board

member in Glasgow, I know that a large number of people appeared before licensing boards to be advised that there was no police report, despite the fact that there was antisocial behaviour in local communities. That has been confirmed by representations that I have received. I welcome Bill Aitken's point about the need for consistency in reporting.

I also welcome the fact that, in partnership with Andrew Arbuckle, we have agreed to an amendment that ensures that a sentencing option of up to three months in prison will be applicable to people who sell alcohol to under-18s. Selling alcohol to under-18s is the most appalling act that people can carry out against communities and we must deal with it. The amendment will deal with some antisocial elements.

I turn finally to the issue of licensing hours. There is a famous political saying that we are where we are. There was development on the bill. I started with the view that we should allow boards to develop their own positions, but I was persuaded informally by board members that they welcome an inflexible approach, because they could otherwise be subject to challenges from applicants' legal representatives. The fact that there will be fixed hours from 10 am to 10 pm will assist boards to deal with the issues that they face.

I commend the Executive on an important piece of legislation that will make a difference in communities.

17:49

**Mr Stewart Maxwell (West of Scotland) (SNP):** I agree that the bill should be a balancing act between the right of the law-abiding majority to enjoy a peaceful, quiet drink and the right of the same law-abiding majority to be protected from the minority who abuse alcohol and behave in an antisocial manner. That is why I am especially pleased by the changes that have been made to and the restrictions that have been placed on off-sales' opening hours. That was the right way to go. However, I am equally disappointed by the decision that the Executive and others took to vote down restrictions on on-sales. Effectively, it will be possible for pubs and other places to open for 24 hours.

My view is that we have gone far enough in liberalising our laws on access to alcohol and I would prefer us to go no further. I have a simple and clear reason for holding that view, and that is the international evidence on what happens when alcohol is made more widely available. The amount of alcohol abuse increases, as does the suffering that individuals, families, communities and society have to endure. Alcohol abuse drains

the resources of our health service and our justice system. Members who do not believe me should visit a city centre on a Saturday night or visit a hospital ward and ask the staff what happens.

Exceptional circumstances were mentioned several times, but is the Celtic Connections festival an exceptional circumstance, given that it is on for three weeks? The world cup is on for four weeks. Is that an exceptional circumstance? The number of premises open for extended hours has crept up. In 1980, there were 358 deaths in which an alcohol-related condition was recorded as the underlying cause of death. In 2003, there were 1,353 such deaths. That represents a 278 per cent increase in a generation. That is what happens when we liberalise licensing laws.

In 2004, the World Health Organisation published a document called "What are the most effective and cost-effective interventions in alcohol control?". It states:

"There is substantial evidence showing that an increase in alcohol prices reduces consumption and the level of alcohol-related problems ... In addition, stricter controls on the availability of alcohol, especially via a minimum legal purchasing age, government monopoly of retail sales, restrictions on sales times and regulations of the number of distribution outlets are effective interventions."

**The Deputy Presiding Officer (Trish Godman):** You must finish now, Mr Maxwell.

**Mr Maxwell:** Evidence from around the world shows what works, but we are too cowardly to accept it.

I will not and, in conscience, I cannot vote for the liberalisation of drinking in Scotland. Drinking causes misery throughout the country. The changes will cause more misery and I will not support them.

17:51

**Patrick Harvie (Glasgow) (Green):** It has been an interesting afternoon. There is a lot that I can support in the bill and a lot that I am comfortable with. We all acknowledge that alcohol causes significant problems in Scotland, but our debate had an uncomfortably puritanical tone. Journalists who are keen to fill the Sunday supplements recently described the Greens as the new puritans, although personally I would be far more comfortable to recast ourselves as the new hedonists. Many MSPs—I will not say most—I will spend part of the evening in a licensed premises. They will be in a pub or a bar or at a reception. I wonder how many of them will discuss, over a glass of wine or beer, the need to protect the public from alcohol.

We should address the issues of responsibility. People use the term "responsible drinking", but I prefer to place responsibility firmly and squarely

with the corporate sphere. When our drinking culture began its transition towards chain pubs and mega-pubs, global companies gained a huge amount of power. Jeremy Purvis was the first to mention power and the desire to empower local communities, but it is the corporate giants who have the power at the moment. The popularity of lager is a direct result of heavy marketing. Lager is quicker and easier to drink and the corporate giants decided that promoting lager would enable them to sell more alcohol.

Responsible selling should be a priority as well as responsible drinking. I regret that the bill does not go down that route and I also regret that it does not place power firmly with local communities, as Andrew Arbuckle wanted. I would have supported that. On balance, the bill contains enough good stuff for the Greens to support it tonight.

17:53

**Susan Deacon (Edinburgh East and Musselburgh) (Lab):** I have long supported the reform of our licensing laws and I support most of the bill that is before us today. However, I want to put on the record my considerable concerns about the tone of much of today's debate and about some of the outcomes.

For about five years we have been having, on the whole, a considered and informed debate about our licensing laws. However, it will not go unnoticed that, in the last few minutes of the decision-making process, key decisions were governed not by the rational and measured approach of much of the debate that has led up to today, but by an eleventh hour bidding war that was governed more by raw party-politicking on all sides than by evidence or thoughtful and mature reflection. We will be judged accordingly on that.

We must address certain procedural issues. In that respect, I wholly support Donald Gorrie's comment that we have to look again at how we deal with decision making at stage 3. Moreover, we need to consider various political issues. The combination of poor procedures, poor politicking and indeed poor politics is a recipe for poor law.

We have made a substantial shift on opening hours at the 11<sup>th</sup> hour. The minister said earlier that that will come as a surprise to the licensed trade; I suspect that the changes will also come as a surprise to the public. I wonder whether, in his closing remarks, the minister will tell us how many licensed premises will be affected by the change and how he will find out—retrospectively, as it might well be—what impact it will have.

I share some members' concerns that changing the culture is a much more complex process than has been suggested and I worry that we have

detracted from what could be a considered debate. If we are to earn the public's respect, I hope that in future we will work to do better.

**The Deputy Presiding Officer:** We move to wind-up speeches. I call Andrew Arbuckle. Mr Arbuckle, you have a tight four minutes.

17:56

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** The mark of any new legislation is whether it improves our society, and I am confident that the Licensing (Scotland) Bill will achieve that aim.

The bill will allow local flexibility in dealing with licensing, with locally elected boards bearing the responsibility for delivering appropriate licensing decisions. Devolving such decision making is a courageous and correct step, although I am sorry that the Parliament felt unable to support fully the devolution of decisions on off-sales premises.

There is no denying that Scotland has had a troubled relationship with alcohol. For centuries, it has featured highly in our society and, as members have acknowledged, it has cost many millions of pounds in dealing with health problems and untold sums in human misery.

Today, the important issues are how we live and deal with alcohol and how we improve our society and our country's health, which is why it has been necessary to move away from the old Licensing (Scotland) Act 1976. With this new legislation, the public will get a far more professional approach to dealing with local licensing issues.

Unfortunately, a few members today have tried to get headlines out of the possibility of 24-hour licensed drinking hot spots and the accompanying problems of people drinking too much alcohol. I say to those members that they should read the legislation and not try to write headlines. The bill says:

"The Licensing Board must refuse the application unless ... there are exceptional circumstances."

I am happy that the locally elected licensing board will determine the opening hours of on-sales premises. It is not right for the Government to issue a diktat on what are or are not the most appropriate licensing hours for premises. After all, we do not know local circumstances, local work patterns or the many social factors that will contribute to the licensing boards' decisions. As a result, our legislation should not be prescriptive.

I particularly welcome the establishment of local licensing forums, which will play a significant role in local democracy by keeping members in contact with local views.

My views on the bill were shaped, initially, by observing how my local councillor colleagues were

coping with the inadequacies of the 1976 act and, subsequently, by the many positive and constructive comments that I have heard in my short time on the Local Government and Transport Committee. I have found the largely consensual approach to bringing forward this bill very helpful.

I am sure that Scotland now has legislation that is suitable for the 21<sup>st</sup> century; that exercises the correct degree of control over alcohol sales; that contains safeguards for wider society; and that does not infringe the freedom of the individual.

17:59

**Bill Aitken (Glasgow) (Con):** This has not been the Parliament's finest hour. Indeed, the *Evening Times* headline writer showed a remarkable prescience in writing, "Licensing Shambles As MSPs In Disarray Over 3am Opening". Quite frankly, what happened at the start of this afternoon's stage 3 proceedings was little short of a disgrace. If the Executive cannot get its house in order prior to a stage 3 debate, and if it gets itself into all sorts of chaos and mayhem, that is a matter for the Executive, but when it starts inflicting mayhem and chaos on the rest of us, I reserve the right to complain.

**George Lyon:** Talking of mayhem and chaos, what has been happening over the past couple of weeks in the party to which Mr Aitken belongs?

**Bill Aitken:** That is a typical cheap shot from George Lyon, the man who was in charge of the bill and who has reduced this afternoon's parliamentary procedure to a laughing stock—a man who must start looking over his shoulder if his ministerial career is not to come to an abrupt end.

Returning to stage 3, there are some things in the bill with which we agree. In fact, there are quite a number of aspects of it that we regard as totally acceptable and progressive. However, there are a number of things that are not in the bill that should be there.

We all know that underage drinking is a major issue in Scotland. I know from experience and observation that the issue is not about a 17-year-old going into a pub for half a pint, or even a pint of lager. The real problem arises in off-sales, where a small minority of irresponsible shopkeepers are prepared to sell drink to youngsters well below the age of 18, and we see the consequences that befall some of those kids in the streets.

Although I welcome the fact that those committing such an act are now liable to a custodial disposal, I do not anticipate that such a sentence is likely to be imposed all that often. Should we not have included in the legislation—I put the idea forward as a constructive

suggestion—ways in which there could be an immediate suspension of the licence where someone is found to have sold drink in such a situation? What concentrates the minds of those involved is the prospect of immediate closure and loss of revenue, so that is what we should be doing.

However, our principal objection is to 24-hour opening and the uncertainties that surround that. How do we define an exceptional circumstance? Is it the world cup final, a local festival or George Lyon's birthday? There is nothing in the bill that enables licensing boards to make a proper, reasoned interpretation. We recognise that we have a problem with the general attitude to drink in Scotland, but the prospect of 24-hour opening will fill many people living in Glasgow with some degree of horror. That is why we were enthusiastic about getting the Executive's coals out of the fire by voting for the two amendments that sought some mitigation of the damage that 24-hour opening could cause.

At the end of the day, however, it has been a total, utter and complete shambles. The Executive failed to introduce a proper bill, it failed in its business management and the minister responsible, George Lyon, should be considering his position.

18:03

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** It is undoubtedly the case that the majority of disorder and violent crime in Scotland is related to the excessive consumption of alcohol, and it is salutary to remind ourselves that, between 1980 and 2003, 3,000 licensed premises—an increase of a fifth—were created in Scotland. As Stewart Maxwell has said, consumption of drink is increasing, and the rise in violent crime concerns the police and concerns us all.

The Scottish National Party's position, as exemplified by what we have said and done, has been entirely consistent throughout. We have argued from the simple standpoint that if we make it possible to have even longer opening hours than our already very long opening hours, that will lead to one of two outcomes: the possibility of more crime or the probability of less crime. I think that it will lead to the former. It must be the former. All the evidence shows that that will be the case. That is why we pursued a consistent position, and that is why the Local Government and Transport Committee's stage 1 report stated:

"As an alternative, the Committee was attracted by the suggestion made by Sheriff Principal Nicholson that 18 hours might be a more appropriate cut-off point."

That was the provenance of the 18-hour provision. It was not something that we picked arbitrarily; it

came from the years of work of Sheriff Principal Nicholson and his committee. Members of the Local Government and Transport Committee put in hundreds of hours of work and came to a consensus, but over the past 72 hours the Executive has vacillated and moved from one position to another, to the extent that the minister was not even able to tell us what his position was—he could not tell us of which particular hole he was temporarily the occupant.

The disservice that has been done today has not been done by Parliament or by MSPs; frankly, it has been done because there was a split among those who are in charge of the two components of the Executive. That is the reality, and I contend that the impact that that has had on Parliament is such that, as Bruce Crawford said, there has been a boorach. To put that a different way, as Susan Deacon perhaps implied, we have been denied the opportunity of giving proper, full, thorough and lengthy consideration to the various options that were available today. Those options should have been put to the Local Government and Transport Committee.

As the *Scottish Licensed Trade News* stated, the industry made huge attempts to persuade the civil servants who advise the ministers of the soundness of its case with regard to 20-hour opening. The civil servants said, "No chance"—but there was a chance, so the advice that was given was wrong. That, of course, is the responsibility of the ministers.

In conclusion, there is total conflict, paradox and contradiction in, on the one hand, the Executive's apparent concern for health, which has meant that smoking in public places has been subject to a total ban, and, on the other hand, its passing of legislation that will permit the extension of drinking hours. It is by no means to make a pedantic or a legal point to identify what section 60 says. I am afraid that Mr Arbuckle is wrong, because section 60 makes it clear that any applicant can go for a licence for 22 or 23 hours and the proviso about exceptional circumstances will not apply—it will apply only if the application is for a 24-hour licence. The law will provide no protection against the issuing of such licences. In passing a law that will allow more and more drinking and will create the possibility of more crime being committed, the Executive is making a grievous error. That is why the SNP will be consistent with the position that it has adopted from day one and will vote against the bill.

18:08

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** We have had an in-depth debate on a highly sensitive and important subject, which has touched a raw nerve with many

people. Many members have reflected genuine concerns that the communities that they represent have expressed to them. That is one of the reasons why the debate has been a good one. Many of the points that have been made have shown the Parliament in its best light.

However, a number of things have been said as part of an attempt to scaremonger or to cut out political space for political parties. I repeat that the bill will mean that under no circumstances will 24-hour opening be routinely accepted in Scotland. Under no circumstances would I as an individual or on behalf of the Scottish Executive promote a bill that would result in 24-hour opening in Scotland. No matter how much Bruce Crawford and his colleagues try to pretend otherwise, we will continue to make that case. The bill will mean that we are able to point out to people that there is a statute that prevents 24-hour opening in Scotland. It will do that through the regulation and guidance that we will produce. If members want to express a view that one-off events such as the world cup should be outwith the exceptional circumstances, as the minister, I am prepared to listen to that view. However, I want to put it firmly on the record that I will not advance through regulation any possibility that 24-hour opening will become the norm in our society in Scotland.

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Will the minister tell the chamber what the Executive's position was—or is—on the issue of devolving to licensing boards the power to make the decision on opening hours?

**Mr McCabe:** When I spoke to the member today, I said that the provisions of the bill give ample opportunity for people at the local level to reflect the circumstances in which they find themselves and that the five national conditions are ample safeguards. I entirely respect the right of members of the Parliament to disagree with that; I understand that members may feel that the provisions need to go further.

We have created an entirely new licensing situation in which an entirely new type of licensing board will have to make reference to those five important national licensing conditions. We have created licensing boards that will be obliged to take account of the potential for antisocial behaviour problems in the decisions that they take.

In his speech, David Davidson questioned whether the bill would promote a change in culture. I question how he could possibly ask that, given that he advocated a move away from differential pricing but also advocated the irresponsible promotions that lead to intoxicated people—young and not so young—in our streets, engaging in unacceptable behaviour. How can he say that the bill does not promote a change in

culture when, at the same time, he says that he wants such behaviour to continue? Those positions are entirely contradictory.

Susan Deacon asked how many licences would be affected by the change in opening hours. We do not have a national database that shows the differences in the way in which licences are applied at the local level. Clearly, the point is valid; we will get information on the subject.

I cannot stress strongly enough how much of a difference in the licensing regime in Scotland the bill will create or how much more powerful the licensing boards will be at the local level. More important, the bill gives local people a say in a way that has never been the case in the past. We are determined to ensure that the decisions that are taken at the local level reflect the views and concerns of local people. That is a basic tenet of the bill.

I commend the bill to the Parliament. I also commend much of the debate that we have had today. I absolutely respect the right of members to seek further reassurance whenever they feel that that is necessary.

## Business Motions

18:13

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of three business motions, in the name of Margaret Curran, on behalf of the Parliamentary Bureau: motion S2M-3577, setting out a business programme; motion S2M-3578, setting out a timetable for legislation; and motion S2M-3579, setting out a timetable for legislation.

*Motions moved,*

That the Parliament agrees the following programme of business—

Wednesday 23 November 2005

2.30 pm Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Ministerial Statement: Local Government Finance Settlement 2006-2007  
*followed by* Procedures Committee Debate: 7th Report 2005, The Sewel Convention  
*followed by* Procedures Committee Debate: 6th Report 2005, Admissibility and Closure of Public Petitions  
*followed by* Business Motion  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Thursday 24 November 2005

9.15 am Parliamentary Bureau Motions  
*followed by* Stage 3 Proceedings: Housing (Scotland) Bill  
 11.40 am General Question Time  
 12 noon First Minister's Question Time  
 2.15 pm Themed Question Time—  
 Justice and Law Officers;  
 Enterprise, Transport and Lifelong Learning  
 2.55 pm Conclusion of Stage 3 Proceedings:  
 Housing (Scotland) Bill  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Wednesday 30 November 2005

2.30 pm Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Executive Business  
*followed by* Business Motion  
*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time  
*followed by* Members' Business  
 Thursday 1 December 2005  
 9.15 am Parliamentary Bureau Motions  
*followed by* Executive Business  
 11.40 am General Question Time  
 12 noon First Minister's Question Time  
 2.15 pm Themed Question Time—  
 Finance and Public Services and  
 Communities;  
 Education and Young People,  
 Tourism, Culture and Sport  
 2.55 pm Executive Business  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business.

That the Parliament agrees that consideration of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill at Stage 1 be completed by 7 December 2005.

That the Parliament agrees that consideration of the Scottish Schools (Parental Involvement) (Scotland) Bill at Stage 1 be completed by 23 February 2006.—[*Ms Margaret Curran.*]

*Motions agreed to.*

**The Deputy Presiding Officer:** I will suspend the meeting for a minute.

**Members:** Oh.

**The Deputy Presiding Officer:** It will be a short minute.

18:14

*Meeting suspended.*

## Decision Time

18:15

*On resuming—*

### Parliamentary Bureau Motions

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of two Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-3569 and S2M-3570, on approval of Scottish statutory instruments.

*Motions moved,*

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 13) (Scotland) Order 2005 (SSI 2005/520) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 14) (Scotland) Order 2005 (SSI 2005/529) be approved.—[*Ms Margaret Curran.*]

**The Deputy Presiding Officer:** The questions on those motions will be put at decision time.

18:15

**The Deputy Presiding Officer (Trish Godman):** There are two questions to be put as a result of today's business. The first question is, that motion S2M-3437, in the name of George Lyon, that the Parliament agrees that the Licensing (Scotland) Bill be passed, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)

Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 71, Against 42, Abstentions 4.

*Motion agreed to.*

That the Parliament agrees that the Licensing (Scotland) Bill be passed.

**The Deputy Presiding Officer:** I propose to ask a single question on motions S2M-3569 and S2M-3570. The question is, that motions S2M-3569 and S2M-3570, in the name of Margaret Curran, on the approval of Scottish statutory instruments, be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)



Kerr, Mr Andy (East Kilbride) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Wilson, Allan (Cunninghame North) (Lab)

#### **AGAINST**

Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)

**The Deputy Presiding Officer:** The result of the division is: For 113, Against 3, Abstentions 0.

#### *Motions agreed to.*

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 13) (Scotland) Order 2005 (SSI 2005/520) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 14) (Scotland) Order 2005 (SSI 2005/529) be approved.

## Social Housing

**The Deputy Presiding Officer (Trish Godman):** The final item of business is a members' business debate on motion S2M-3507, in the name of Colin Fox, on Scotland's social housing provision. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament recognises that affordable social housing is in short supply across Scotland in both rural and urban areas and welcomes all efforts to ensure that everyone gets the opportunity to live in a decent home fit for the 21st century; welcomes the decision of Midlothian Council, for example, to build 1,000 new council houses; urges all council tenants in Edinburgh to make their views known in the stock transfer referendum scheduled for later this month, and believes that local tenant-led participation is crucial to the effective democratic management of social housing projects all across Scotland.

18:19

**Colin Fox (Lothians) (SSP):** The debate is important, so I am grateful to members who have stayed behind to participate after such a long day. I have taken the liberty of ordering some Ovaltine.

The pressing need for rented accommodation is seldom out of the news in Scotland. In the past couple of days, we have had welcome news about investment in 169 new houses for rent in the Home Farm development in Skye and today we have news that the much criticised right-to-buy scheme has been suspended in the Highlands. The debate takes place as City of Edinburgh Council tenants prepare for a stock transfer referendum.

I begin by considering the general housing conditions in Scotland's social sector. I recently remarked at a tenants federation conference in the Muirhouse millennium centre—which the minister knows well—that £1-million houses are 10 a penny in Edinburgh now. By that, I meant that the rise in house prices in the city has been so dramatic that what was once remarkable is now much more commonplace. What do people do if they do not have £1 million, or even £180,000, which is the average price of a new house in Scotland today? Where do people live and where do their kids find their first home? The reality is that hundreds of thousands of Scots cannot afford to buy and are being left behind and badly provided for. House prices are rising so fast, and have been for so long, that they are far out of the reach of hundreds of thousands of working people.

We have a chronic shortage of affordable rented housing. According to the Executive's figures, 151,000 people in Scotland are now on waiting lists for such housing. In the past year, local authorities and housing associations built just

2,500 houses, but sold off 15,000. Of the 2,500 that were built—the lowest recorded figure for a decade—not one was in the local authority sector. Shelter Scotland estimates that 440,000 homes in the sector have been lost in the 25 years since the right-to-buy scheme was introduced.

Given that background, especially the fact that not a single house was built last year in the local authority sector, I welcome Midlothian Council's decision to build 1,000 new council houses for its burgeoning population. There are 1,500 people on the waiting list in Midlothian. I understand that the council intends to build the houses under the prudential borrowing rules, which state that the council can go ahead, providing that it does not have high housing debts and if it can pay back the loan from its housing revenue account. What is good for Midlothian is good for the rest of the country. It is time that other local authorities were allowed to follow that example. The Government is prepared to use public money to write off councils' housing debts, but it will allow only housing associations to take over. We must relax that restriction and allow councils throughout Scotland to keep control. We need to change the rules, not the landlords.

In the forthcoming stock transfer referendum in Edinburgh, tenants will be asked a curious question. The Government says that it is prepared to write off £310 million of debt, but only if tenants are prepared to give up local authority tenure. Under the City of Edinburgh Council's better homes plan, 23,000 council houses will be sold off and 4,000 will be demolished. The council pledges that the new City of Edinburgh Housing Association will fit new bathrooms and kitchens in every home and that it will build 10,000 new homes for rent and low-cost home ownership in the next 10 years. However, all that is dependent on a yes vote in the ballot; otherwise, nothing will happen. One wonders why thousands of tenants are still prepared to consider voting against the transfer. The reason is that many fail to see why the Government is prepared to write off debts and allow management to borrow money on financial markets, while denying the local authority the same option.

To the tenants, the stock transfer appears to be a private finance initiative—like those in the health service—in which private money is invested in social housing. The picture that tenants face appears to be the same; money will be borrowed more expensively and paid back through rent over the period of the loan. I fear that not all the facts have been given to allow tenants in Edinburgh an informed vote on the referendum. On examination of the articles of association of housing associations, one finds above all that the onus is on them to do what is best for the company's business plan, not what is in the best interests of

tenants. When tenants hear all the facts and figures in such referenda, they tend to vote against transfer, as happened in Sedgefield, Renfrewshire, Birmingham, Kingston upon Thames, Sefton and Camden. I will certainly encourage tenants in Edinburgh to vote against the transfer.

The Glasgow experience is revealing. Glasgow Housing Association's promised investment has not materialised: not a single new house has been built and not a single property has been completely repaired and modernised. Of the 80,000 properties that were transferred, some 25,000 are now understood to be under assessment for demolition. Many of the concerns that Glasgow tenants expressed in the debate have also been ignored. Colin Deans and Billy McAllister, who were elected by the tenants on to the Glasgow Housing Association board, were in effect sacked by the people who manage the company. Tenants who are facing stock transfer want to know what guarantees they have that their rights will be protected. Perhaps when the minister winds up, he will comment on the experience of the transfer of housing stock to Glasgow Housing Association.

I hope that the minister agrees that local tenant-led participation is crucial to effective management of social housing projects throughout Scotland. I look forward to hearing what he has to say about improving the provision of social housing to meet the demands and needs of Scotland's population for high-quality and affordable rented accommodation that is fit for the 21<sup>st</sup> century.

18:26

**Fiona Hyslop (Lothians) (SNP):** I congratulate Colin Fox on securing tonight's debate. Given his offer of Ovaltine, I should mention that our business manager, Alasdair Morgan, pointed out that although this might be a late debate for us, such a debate in Westminster would take place at half-past two in the morning. We should be grateful for small blessings.

As Colin Fox's motion is quite wide-ranging and covers not only the situation in Midlothian but Edinburgh's stock transfer, I will try to cover a variety of issues.

Compared with the rest of Scotland, the Lothians are unusual in that we have a growing population. Like the rest of Scotland, we have a great demand for housing but, especially in places such as Midlothian and West Lothian, the pressure for affordable rented accommodation comes very much from young families. Increasingly, such families are moving out of Edinburgh. The City of Edinburgh Council is seeking to close a quarter of its primary schools at a time of population growth

because schools rolls are falling. That is because young families who cannot afford to live in Edinburgh are moving out. The issue, therefore, is affordability, but the problem with much of the discussion on affordable housing is that it concentrates on provision of housing for home ownership rather than on social rented accommodation.

I know that Midlothian faces major challenges. In Loanhead—which recently elected an SNP councillor, Owen Thompson, whom I congratulate on that achievement—the council is looking to have 200 houses built but, as I understand it, none will be council houses. Pressure is also being felt further down the A701 in Bilston—another vibrant community—where there is an issue about whether new-build developments will contain any social housing. I raise those points because young families should be able to live in the communities in which they were brought up. If we want community and social cohesion, that point is very important.

Another point on which the minister should reflect is that in places such as Shawfair—where there is to be a massive development that I assume will include council housing—people must have access to democratic accountability and representation, regardless of whether such developments are of council housing or housing for home ownership. However, both in Shawfair and in Suttislea, where social housing is being provided, the local councillors are saying—I hope the minister is listening to this point in particular—that they cannot represent the interests of their community because the council has a vested interest. That is happening increasingly, especially in Midlothian. Such a situation does not serve democracy well, especially when people who go to their MSP find that their voices are not heard there because she is also a minister. That is a particular concern in areas where new build is taking place. However, I congratulate Midlothian Council on taking steps to ensure that 1,000 new houses will be built.

I remember that several years ago I suggested to Parliament 10 alternative ways of funding social housing other than by stock transfer. Given the variety of different ways that should be available, why are we left with the big-bang solution of stock transfer, as if it were the only game in town? Getting back to basics, we know that the reason is Gordon Brown's Treasury rules, which aim to ensure that social housing is taken off the balance sheet so that he can effect his economic policy for England. We should always remember that that is the reason why.

I urge the people of Edinburgh to take part in the ballot. I believe that the tenants' voice should be heard and that the tenants themselves should

decide. The idea that the only way in which debt can be written off is by voting for stock transfer is an unbalanced proposition. I urge the people of Edinburgh to look at the experiences of Glasgow.

Colin Fox made a very good point about the lack of progress, even though the process was started in 1997. My concern is that Labour administrations, both local and national, have put hundreds of millions of pounds into Glasgow's housing, not just in the past decade but over many decades. The problem is that no progress has been made. Scotland's social housing is at a standing start. We have lost time and opportunity and we have lost houses through the right to buy. We must try to make up the shortfall. I look forward to examining a variety of ways of funding. I would welcome small-scale stock transfers if the tenants want them; that is a way forward. I welcome new council house building, but we need a variety of forms of housing if we are to ensure that we have homes that are fit for the future, and communities that are fit for the families of Scotland.

18:30

**Mary Scanlon (Highlands and Islands) (Con):**

I am not familiar with the decisions that have been made in Midlothian Council; therefore, I will keep my comments general and speak from my experience as a Highlands and Islands MSP. It is interesting that more and more members' debates focus on housing. Last month, we had an excellent debate on a motion in the name of John Home Robertson.

In the Highlands, there are about 9,000 people on the waiting list for council houses. The lack of opportunity to gain a foothold in the property market or to find an affordable home to rent is forcing many people who grew up in the area to leave. Fiona Hyslop made that point. People in the Highlands used to leave to pursue careers or to get jobs; now they leave because they cannot afford a house.

Owning a home remains an aspiration for many Scots, and there is undoubtedly an urgent need for the Executive to work with all stakeholders to ensure that low-cost properties are made available for people who wish to own, as well for those who wish to rent. Changes in one market, particularly the first-time buyer market, impact on other markets, including the social housing market.

We have only to look at the Council of Mortgage Lenders recent briefing paper to see that Scotland has the lowest proportion of owner-occupiers: 64 per cent compared with 73 per cent in Wales and 70 per cent in England. The number of loans for first-time buyers has fallen from 50,000 in 2002 to 32,000 in 2004—it almost halved in two years. In

1995, the average purchase price for a first-time buyer was 2.2 times their salary; now, a first-time buyer has to borrow on average 3.1 times their income. Fewer people can afford to buy their first home, so more people have to rent, which impacts on the market as a whole.

As Colin Fox said, Highland Council yesterday received pressured area status regarding the right to buy. I read the minister's press release very carefully, and he admitted that he does not yet have any evidence about the effect of the right to buy on the availability of affordable housing. There seems to be an assumption that if tenants in council houses are not given the right to buy, they will suddenly move out and buy on the open market. That certainly does not happen in Inverness, and it is why many such people have been tenants for 10, 20 or 30 years. It is also a reason why so many tenancies are now inherited—for the first time since the 1950s, we find three generations living in the same house.

I wish to say a word about stock transfer. I do not agree with Colin Fox, although I am not familiar with the situation in Edinburgh. In the Highlands, the debt per council home is the highest in mainland Scotland at £11,000 per house. The last figures that I had for income were that 47p of every £1 in revenue goes to pay the interest on the debt. There is no way that the council can invest in properties for families in order to benefit communities with that amount of spending.

18:34

**Mark Ballard (Lothians) (Green):** I thank Colin Fox for securing the debate and for his thoughtful opening speech. We must recognise the importance of housing to people in Scotland. We should not underestimate just how vital the availability of good-quality, affordable, warm and safe homes is to the general health and well-being of our society.

Yet Scotland faces a lack of affordable housing. As we have heard, there are some acute shortages in particular areas. In that context, I welcome Midlothian Council's decision to build more council homes. To address Scotland's housing problems, we must revitalise the social rented sector. We must increase the number of affordable homes to rent. The last spending review brought a welcome increase in the amount of money going towards building new homes for rent, but housing campaigners and experts have consistently told us that that is not enough. The Minister for Communities must address those concerns and ensure that more money is committed in the 2007 spending review to building new social rented housing in Scotland.

It is important that the debate is not just about the numbers involved. It should also be about revitalising the status of the social rented sector. Currently, the assumption is that the only type of housing worth having is private home ownership. We must recognise the need for a mixed housing sector. The social rented sector should not be viewed as the housing option of last resort. We must recognise that everyone needs a decent house and that that requires a mixed sector. We must get away from any notion that social rented housing is just a solution to problems such as homelessness. Although social rented housing has an important role in tackling homelessness, that problem goes much wider than the social rented sector and the need for social rented housing goes much wider than the needs of those who are homeless.

There has been quite a lot of talk about the right to buy. It is clear that, 25 years on, the right to buy has had its day. It has contributed to the shortage of affordable housing that we face and it is not delivering for today's housing needs. We must end the right to buy. We must move beyond the use of pressured area status that is growing throughout Scotland—in effect the whole of Scotland is a pressured area now. We need to get rid of the right-to-buy policy and come up with a new one that meets today's needs, not those of 25 years ago.

I will say a little about stock transfer. The problem that I, like Fiona Hyslop and Colin Fox, have with the stock transfer process in Edinburgh is that it does not offer a fair choice. We heard from Colin Fox about the £300 million bung and we heard from Fiona Hyslop that the transfer is being driven by Gordon Brown's balance-sheet needs. That puts tenants in Edinburgh in an invidious position. They do not have a fair choice over who they want to run their housing. On the one hand is local authority ownership and the prospect of no change to housing conditions; on the other hand is stock transfer and, potentially, millions of pounds going to improve housing. That is not a fair choice.

The tenants with whom I have spoken have said that they do not mind who their landlord is, as long as that landlord is responsible and as long as they can fully participate in the decisions that affect them. They do not mind whether they have a local authority landlord or a housing association landlord. I would not go as far as Colin Fox did in his criticism of housing associations, because there are some very good housing associations. Tenants are denied a real choice in Edinburgh because of the financial incentive that is presented on one side of the voting slip.

The bottom line is that rented housing in Scotland, whether people rent from a housing

association landlord or have a council tenancy, should be suitable, of good quality, secure and affordable. Everyone in Scotland should have the right to decent accommodation. I look to the Minister for Communities to help to ensure that the social rented sector is no longer the Cinderella of housing in Scotland.

18:39

**Murray Tosh (West of Scotland) (Con):** I agree with almost everything in Colin Fox's motion. I was strongly tempted to sign it, although I suspected that his neutral—almost honeyed—words about the Edinburgh transfer referendum concealed a determination to oppose that transfer.

It is not for me to tell people in Edinburgh what to do, but it might be pertinent to mention that my knowledge of housing professionals in other parts of Scotland tells me that other councils look with a considerable degree of envy at the deal that the Executive is offering Edinburgh. To describe a £300 million debt redemption as a bung rather misses the point that it, in effect, allows the successor body to borrow £300 million or thereby to build houses, install bathrooms and kitchens, put on cladding and carry out reroofing. That is not a bung; it is a substantial offer that people should consider seriously.

I want to pick up Mark Ballard's point about Midlothian Council, because I agree with him about housing associations and I believe they are perfectly good landlords. The one point in Colin Fox's motion with which I absolutely disagree is the welcoming of the decision to build new council houses. I have no difficulty with Midlothian Council deciding that it wants to keep its council housing in-house. If it can meet the housing quality standard by the target date, that is a matter for its forward business plan.

However, if Midlothian Council's concern is about homelessness and shortage of supply, what is the sense of it spending the capital that it believes it has on 1,000 council houses? If it used the capital to grant aid housing association development, the same money would build approximately 1,400 houses in the same time. There are different views about the right to buy, but it exists. If a council builds 1,000 council houses now, the chances are that in 20 years' time it will have 500 left. If it builds 1,400 houses now and develops through charitable housing associations, it will have 1,400 left for rent in 20 years' time. That is a fairly obvious conclusion for people to draw. People who are encouraging Midlothian Council one way or the other should raise that matter with it.

**Colin Fox:** The proportion of houses that local housing associations lose to the right to buy

scheme is also significant, so the figures that the member offers are not true.

**Murray Tosh:** I am rarely accused of being untruthful. All I would say to Colin Fox is that that is precisely why I used the qualification that the grant aid would be best given to housing associations that have charitable status and which are therefore not subject to the right to buy.

Fiona Hyslop is right: there is a public sector borrowing requirement rule. There are different views about it and people would seek to challenge it, but is it going to change? If not, should politicians use people in unmodernised houses, on council waiting lists or in temporary homeless accommodation as a battering ram to score political or ideological points about landlords, or should they advise them that in the landscape in which they operate—given the fiscal rules that exist and are likely to exist—they should accept the offer that has been made to secure investment in their own homes?

I know that there are tenants, would-be tenants or people in unmodernised houses who make the arguments and they are entitled to, because they will accept and live with the consequences. However, politicians who are very well housed indeed should not be encouraging people to go down a path that would deny them significant investment and substantial improvements in their housing circumstances.

18:43

**Tricia Marwick (Mid Scotland and Fife) (SNP):** I congratulate Colin Fox on bringing this important debate to the Parliament. The first part of the motion states:

“That the Parliament recognises that affordable social housing is in short supply across Scotland in both rural and urban areas and welcomes all efforts to ensure that everyone gets the opportunity to live in a decent home fit for the 21st century”.

That encapsulates what the debate should be about. There is a shortage of supply and we must make every effort to ensure that in the 21<sup>st</sup> century everybody has a decent home that is fit to live in. Many houses in Scotland are simply not fit for anyone to live in.

The big difficulty with Colin Fox’s motion and with knowing what we mean by affordable housing is that there is no definition of affordable housing. We all have a shorthand for what we understand affordable housing to be. We need to be clear and the minister must take the lead. The definition of affordable housing changes depending on who one talks to at any given time.

A definition of affordable housing would help all of us when we are having debates in the chamber or elsewhere. Measuring what affordable housing

is cannot be too difficult. We have a measure for fuel poverty, which involves comparing income and fuel costs, so I cannot see why having a measure for affordable housing that involves measuring income against the cost of rented or owner-occupied housing should be too difficult.

The reality is that many people simply cannot afford to buy and cannot access a council house because they are on a waiting list. Therefore, we have a huge problem. Fiona Hyslop talked about the pressures on Edinburgh, but there are also pressures in Fife, for example. People are moving to Fife because houses there are more affordable—young families and children are moving there from the centre of Edinburgh. In turn, that puts pressure on Fife’s house prices, which keep going up. We must recognise that what happens in one area of Scotland will have knock-on effects on other parts of Scotland.

Last year, the lowest number of social rented houses, council houses and housing association houses was built in Scotland since the final full year of the previous Conservative Government. That is simply unacceptable. Therefore, I welcome Midlothian Council’s commitment to build 1,000 new homes, although that commitment is overdue, as Midlothian is a pressured area. I also welcome the recognition that the Highland Council area is a pressured area and the stopping there of the right to buy.

Mary Scanlon talked about 47p in every pound being used to pay the capital debt in the Highland region. That figure would not have been nearly as high if there had been no right to buy in the first place. The debt was left behind when the houses were sold off; the few tenants who are there are paying the capital debt for houses that are long gone.

Murray Tosh made a good point about why we should not use people’s housing situation as a way of getting across our ideological points of view. As Colin Fox’s motion suggests, it is essential that we find a way to ensure that everybody in Scotland in the 21<sup>st</sup> century has a decent house to live in. If the Parliament ensures that everyone does, it will have made the people of Scotland proud. However, all of us must work hard. The minister will have to work hard, but it is recognised that the rest of us must work equally hard to ensure that that becomes a reality, and there is a commitment to do so.

18:48

**The Minister for Communities (Malcolm Chisholm):** I congratulate Colin Fox on securing the debate. He began his speech fairly by reminding members of two announcements that have been made this week—on the £20 million

affordable housing development on Skye and the suspension of the right to buy in the Highland area. In praising what is happening in Midlothian, he referred to the prudential borrowing regime that we introduced. Therefore, he praised some developments.

Obviously, in the first half of his speech, Colin Fox's main concern was the supply of affordable housing, and several members echoed that concern. Of course I take the supply of affordable housing very seriously. Mark Ballard reminded us of the significant increase in money in the current three-year spending period, which is why 16,500 houses for rent are being built, as well as 5,000 low-cost home ownership houses. The £400 million that is going into affordable housing this year is 23 per cent more than the money that was made available last year and is part of a £1.2 billion package over three years. I do not say that complacently. Of course, we are seriously and thoroughly assessing requirements for the next spending review period, particularly in the light of our commitments on homelessness.

Colin Fox referred to house prices rising fast in Edinburgh. Rightly, the main focus of our investment programme is on affordable rented accommodation, but we have started the widely welcomed homestake scheme, which will enable many people to buy a home who could not otherwise afford to do so. An open market homestake project is being piloted in Edinburgh, to which many people in Edinburgh have already applied.

Much of the debate has focused on the local situation in Edinburgh, and that is appropriate given the forthcoming ballot on community ownership. I will say a little more about the Edinburgh situation in a moment. First, I will address three points that Colin Fox raised in relation to community ownership more generally.

First, he was rather disparaging—as Murray Tosh reminded us—about the £300 million of debt that is being written off in Edinburgh. A large part of the rents that people currently pay goes to service that debt. From now on, tenants will be able to see their rent going into the modernisation of their homes, which they want so much.

**Fiona Hyslop:** It might be helpful if the minister could explain what arrangement has been made with the Treasury, what responsibilities the Executive has in securing that and when it was agreed.

**Malcolm Chisholm:** We have had arrangements with the Treasury on debt write-off since the start of the community ownership programme. Fiona Hyslop is right to suggest that the debt is being written off by the Treasury. There are demands for that to be done and for public

investment to be made, which would double the amount of public expenditure that was involved. That would be equally true whether we, in Scotland, or the Treasury wrote off the debt.

Colin Fox also referred to housing PFI. I am not sure whether he used the word "privatisation" openly tonight, but he usually does. I want to make it absolutely clear that this is not privatisation. Housing associations are non-profit-making bodies. For a long time, I have admired the community-based housing associations and co-ops in my constituency, and we know that there is a strong tradition of those in Glasgow and elsewhere. They are not private, profit-making bodies, so we should stop saying that they are.

Colin Fox's third point, which I will touch on later, was about paying back more in rent. However, there is a generous rent offer here in Edinburgh.

**Colin Fox:** The minister will know that his colleague, Gavin Strang, the MP for Edinburgh East, was reported as saying that the transfer is privatisation. I am pleased to be in the company of Gavin Strang.

I want to correct the minister on one point. Rather than rubbing the £310 million, I said that the £310 million debt write-off would be available only if tenants voted yes in the ballot. When the minister refers to community ownership, perhaps he should describe the difference between it and public ownership. Currently, the housing is publicly owned; his suggestion is that, after the ballot, it will be community owned.

**Malcolm Chisholm:** I think that I have already addressed the financial point. Community ownership involves tenants far more centrally; that is an important part of community ownership.

Glasgow has been mentioned. I remind members that, this year, £127 million is being invested in housing in Glasgow, which is twice what was invested in the years before the stock was transferred. That has delivered 12,500 central heating systems, more than 13,000 new roofs, more than 8,000 kitchens and more than 3,000 bathrooms, and there is a lot more to come.

On Colin Fox's second point, I advise members that, through second-stage transfer, tenants in Glasgow will have an even stronger role to play than the one suggested in the wording of the motion.

**Tricia Marwick:** Will the minister take an intervention?

**Malcolm Chisholm:** If I am going to keep to seven minutes, I had better not take any more interventions.

One of the main aims of community ownership is to ensure that all the houses are brought up to the

housing quality standard that we require of all social landlords by 2015. One of the important features of the offer in Edinburgh is an accelerated delivery of the Scottish housing quality standard. There will be new, modern kitchens and bathrooms for all houses in the early years after transfer and major regeneration in four priority estates, including new housing to replace more than 3,000 houses that cannot be raised to the standard of warm, comfortable, safe homes, which everyone deserves. An additional 10,000 homes will also be built over the next 10 years to help to meet the challenge of ending homelessness, and there will be the affordable, stable rent policy to which I have referred, with no increases beyond inflation guaranteed for five years.

Of course, tenant participation is a key feature of what is proposed in Edinburgh and of the other community ownership transfers that have taken place. The proposed transfer of the City of Edinburgh Council's housing to the new City of Edinburgh Housing Association will give tenants the opportunity to have the loudest voice in making decisions about how their homes and neighbourhoods are managed; in setting priorities for repairs to buildings and the upkeep of the environment, with more than £500 million to invest; and in participating in making policies to ensure safe communities with warm and attractive homes. All tenants will have the opportunity to participate in the management of their homes through membership of the new association or through the network of area boards that will have a significant decision-making role in relation to priorities for housing and neighbourhoods in their areas.

In Dumfries and Galloway, the new landlord—Dumfries and Galloway Housing Partnership—is in the process of devolving decision making to its tenants even further. Through four district management committees, tenants at the local level are making decisions about local services and standards. Recently, that work was recognised as an example of good practice, and the partnership was the runner-up in the tenant participation good practice awards 2005.

Tenant participation and even more than that, with the second-stage transfers in Glasgow, are at the heart of community ownership. That is the opposite of privatisation.

**Tricia Marwick:** Will the minister give way?

**Malcolm Chisholm:** I am not being allowed to take an intervention.

The offer to tenants in Edinburgh is excellent. I know the benefits that it will bring to my constituency. I am sure that the tenants of Edinburgh will consider the offer and vote in their best interests.

*Meeting closed at 18:56.*



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