

PARLIAMENTARY JOINT SELECT COMMITTEE MEETING

*Transcript of the Meeting of the
Parliamentary Joint Select Committee on
Drug Testing of Members of The Legislature
held in the DeCouto Atrium, Sessions House
on Thursday, 13th February 2014
commencing at 4:00 p.m.*

PRESENT:

Senator Joan Dillas-Wright, JP - Chairperson

MP Terry Lister, JP - Deputy Chair

MP Jeff Sousa, JP

MP Nandi Outerbridge, JP

Senator James Jardine, JP

Mrs. Eudora Browne-Lister - Administrative Support

INVITED PRESENTER:

Mr. Walton Brown, JP, MP

1 **THURSDAY, 13TH FEBRUARY 2014**

2 --- upon commencing at 4:00 p.m.

3 **THE CHAIR:** Thank you all for coming.
4 And before we get officially started I would like to
5 officially welcome Mrs. Gazzard to the meeting; she
6 will be recording our meeting today, transcribing, so
7 we won't need to take the minutes.

8 Following the Agenda -- I think you all
9 received a copy of the Agenda? The first item on the
10 Agenda is the consideration of the minutes. You all
11 should have received it by now. And what I'd like to
12 know is whether there is any amendments or changes to
13 the minutes? If not, if somebody would move for them
14 to be accepted?

15 **MP SOUSA:** I'll approve them.

16 **THE CHAIR:** You'll approve them? Thank
17 you very much, Mr. Sousa.

18 **THE CHAIR:** And thank you Mrs. Lister.

19 **SENATOR JARDINE:** I did send through
20 some amendments ---

21 **THE CHAIR:** Pardon?

22 **SENATOR JARDINE:** I did send through
23 some --

24 **THE CHAIR:** You did send through?

25 **SENATOR JARDINE:** Just, yes, they were

1 just... And then also --

2 **THE CHAIR:** You sent some amendments,
3 too?

4 **MRS. BROWNE-LISTER:** No, I got them.

5 **SENATOR JARDINE:** -- and had a
6 response, again, from the Secretary, which is fine.

7 **THE CHAIR:** Okay.

8 **SENATOR JARDINE:** So I think the
9 Secretary's last draft will be fine.

10 **THE CHAIR:** Yes. Okay. Fine.

11 That's all accepted by everyone; yes?

12 Thank you.

13 All right. So, then, we move on to the
14 next item on the Agenda, which is the presentation from
15 Mr. Walton Brown.

16 So, perhaps if you would escort him into
17 the room?

18 **MP LISTER:** I have a question,
19 before --

20 **THE CHAIR:** Yes. Just a minute.

21 **MP LISTER:** Were we going to do any AOB
22 on this, or matters arising on it? Because what I
23 thought I heard you say was we were agreeing on
24 corrections, but I didn't hear any -- I might have
25 missed the request for points arising. Again, I'd add

1 a little comment.

2 **THE CHAIR:** Sorry, you have some...?

3 **MP LISTER:** Yeah, I have a few
4 questions.

5 **THE CHAIR:** You have a few? Okay.
6 Fine. Sorry about that.

7 **MP LISTER:** No, that's all right.
8 That's all right. It's no big deal.

9 **THE CHAIR:** Okay. So these are matters
10 arising, then, from the minutes.

11 **MP LISTER:** Okay. It's comment.

12 **THE CHAIR:** Mm-hmm.

13 **MP LISTER:** I'd like us really to be as
14 focussed as possible on the task at hand.

15 **THE CHAIR:** Mm-hmm.

16 **MP LISTER:** And we managed to get a
17 discussion meeting this, every minute -- every meeting
18 now about, is there to be an Opposition Member? There
19 isn't one. Don't discuss it any more. Not interested.
20 They don't want to come, they don't want to come. And,
21 you know, the idea that somebody's accusing somebody of
22 doing something, you know, the heroin bit? We don't
23 care. You know, we don't care. We don't care about
24 that.

1 **THE CHAIR:** Mm-hmm.

2 **MP LISTER:** References that continue to
3 be made to alcohol? We don't care. It's got nothing
4 to do with us; you know? And I'd like us just to get
5 on with this thing.

6 And the concern about the, what
7 Government's doing with marijuana; that is
8 decriminalization, it's not legalization. Very big
9 difference between the two. And so Government goes
10 ahead and decriminalizes marijuana, it doesn't impact
11 on what we're going, it's still an illegal drug.

12 **THE CHAIR:** Yes.

13 **MP LISTER:** Okay? So it has no impact
14 on our Committee, none whatsoever.

15 In the minutes it said that, at the end
16 of the discussion we were going to discuss the issues
17 related to the terms of engagement, TOR -- I never
18 remember what that --

19 **THE CHAIR:** The terms of reference.

20 **MP LISTER:** Terms of reference.

21 **THE CHAIR:** Yes.

22 **MP LISTER:** And the Speaker's
23 expectation. But when I read the end of the meeting, I
24 never saw that. Did that actually happen?

25 **MRS. BROWNE-LISTER:** But the meeting

1 ended -- I'm sorry.

2 **MP LISTER:** I know it ended very late.

3 **THE CHAIR:** That's fine, --

4 **MP LISTER:** So that's my question.

5 **MRS. BROWNE-LISTER:** The meeting ended
6 at 6:30.

7 **MP LISTER:** Yes.

8 **MRS. BROWNE-LISTER:** And so there was
9 no other business.

10 **MP LISTER:** Right.

11 **MRS. BROWNE-LISTER:** People had to go.

12 **MP LISTER:** Yes, I accept that.

13 **MRS. BROWNE-LISTER:** So, we didn't --

14 **THE CHAIR:** When we started out, I did
15 indicate that I had met with the Speaker and that the
16 Speaker had, yes, he had accepted the -- and he just
17 confirmed that he wants us to provide policies on that.

18 **MP LISTER:** Right.

19 **THE CHAIR:** So the terms of reference
20 was agreed to by all present.

21 **MP LISTER:** Okay. Right.

22 **THE CHAIR:** Okay?

23 **MP LISTER:** And, you see, I read
24 that, --

1 **THE CHAIR:** Yes.

2 **MP LISTER:** -- and I'm happy. Okay.
3 I'm okay with it.

4 **THE CHAIR:** Okay, fine. Yes.

5 **MP LISTER:** But just that, you know, in
6 the middle of page 2, or near the end of page 2, it
7 said that the Committee would look at it, just, I don't
8 know, confirm, or just to discuss it. It's the
9 paragraph before the last one. And so, because it was
10 there, I was just wondering whether it was something
11 that needed to be looked at again, or whether we just
12 need a tidy-up sentence to say that everybody was
13 happy, you know. But I'm happy.

14 **THE CHAIR:** Oh, yes, I --

15 **MP LISTER:** I'm not raising it because
16 I'm unhappy. Do you see what I mean?

17 **THE CHAIR:** Right.

18 **MP LISTER:** Just the way that's
19 drafted?

20 **THE CHAIR:** Yes. That there was to be
21 further discussion?

22 **MP LISTER:** Yes.

23 **THE CHAIR:** There was acceptance. I
24 think what I was getting at there was that, obviously,

1 when it came round to us actually taking on the terms
2 of reference and drafting up the Policies and
3 Procedures, and perhaps it's not clear in that minute,
4 but we didn't, as Ms. Lister did say, that we didn't
5 have time to go on because it was after six.

6 **MP LISTER:** Right.

7 **THE CHAIR:** But I do believe that one
8 of the things we will do is not so much the terms of
9 reference, but what we will do about the items in the
10 terms, in terms of developing the policies.

11 **MP LISTER:** Good.

12 **THE CHAIR:** Because, you know, we can
13 have some discussion about that as to how we would
14 approach it, whether or not we will have a draft and
15 have somebody take on one of the -- when we've had all
16 our presentations, one of the policies and see if they
17 could put together something and we share it. But we
18 haven't reached that point, I don't think yet, until
19 we've had more presentations.

20 But I take your point that -- it was not
21 to be -- the terms of reference was accepted, any
22 further discussion on it was to deal with the actual
23 items in the terms of reference, in terms of developing
24 the policies. I hope that's clear.

25 **MP LISTER:** Thank you.

1 **THE CHAIR:** Mm-hmm. But, taking your
2 point, does anyone want to make any further comment on
3 the minutes itself, or the content?

4 **SENATOR JARDINE:** No, I made my
5 comments.

6 **THE CHAIR:** Fine. Okay.
7 All right. So, then we will move on to
8 having the presentation from Mr. Walton Brown, and
9 Mr. Sousa, if you would like to bring him in.

10 **MP SOUSA:** Mm-hmm.

11 **THE CHAIR:** We'll have an introduction
12 but everybody knows everybody. For the minute and for
13 Mrs. Gazzard.

14 **MP BROWN:** Good afternoon, ladies and
15 gentlemen.

16 **THE CHAIR:** Good afternoon, good
17 afternoon.

18 **MP BROWN:** I just came to deliver a
19 package.

20 Where am I sitting?

21 **THE CHAIR:** Right opposite me.

22 **MP BROWN:** This is the hot seat?

23 **THE CHAIR:** You all know Mr. Brown, MP
24 Brown.

1 Thank you very much for attending. I
2 think we will have formal introductions.

3 Mrs. Gazzard, you know --

4 **MP BROWN:** We know everybody.

5 **THE CHAIR:** I'm sure you know
6 everybody? Fine.

7 **MP BROWN:** And I know Ms. Gazzard as
8 well, from another Committee.

9 **THE CHAIR:** Yes, I know. She tells me
10 that she's being kept very busy by you all.

11 All right. So we will turn the meeting
12 over to you and you can proceed as you like.

13 **MP BROWN:** So, Eudora cleared my
14 presentation for two hours, so I will try to keep it
15 under that.

16 **THE CHAIR:** Two hours?

17 **MP BROWN:** Maybe not two hours.

18 **MP LISTER:** Keep it 15 minutes or
19 under.

20 **MP BROWN:** So, this is an examination
21 of the whole issue of drug testing and I was invited to
22 make a presentation.

23 **THE CHAIR:** Mm-hmm.

24 **MP BROWN:** I suspect it's in part

1 because, just over 20 years ago I was the Chief
2 Research Officer for the National Drug Commission and
3 did previous work with the National Drug Strategy, so I
4 am familiar with some of the issues involved in drug
5 research and policy, and so I'm going to speak to that.

6 One of the interesting trends in the
7 development of policy today is a recognition that there
8 are two distinct strands on how to develop policy. One
9 is the focus on interdiction, the other one is the
10 focus on demand reduction, but what has become
11 increasingly accepted is that we should have an
12 approach to drug use and drug intervention that is
13 focussed on harm reduction. So the approach in society
14 is to try to find ways to minimize the harm that is
15 being done to society by the abuse of drugs. And there
16 is a distinction made between the use of drugs and
17 the abuse of drugs; in other words, it's accepted by
18 many -- not all -- but accepted by many that not all
19 use constitutes abuse, although, for certain types of
20 drugs, any use would be considered to be abuse.

21 The issue became most prominent in
22 Bermuda in the early 1990s, with the publication of a
23 report by Justice Stephen Tumin. He produced the well-
24 known Tumin Report in which he was looking at the
25 prisons and talking about crime, and he concluded that

1 Bermuda was far too punitive a society --

2 **MP LISTER:** Far too what?

3 **MRS. BROWNE-LISTER:** Punitive.

4 **MP BROWN:** Far too punitive a society,
5 and that we needed to try to find ways to reduce the
6 punitive aspect of our justice system, because that
7 punitive system saw people in prison for the
8 consequences of riding while disqualified and, at one
9 point, the research showed that 12 per cent of inmates
10 were there for driving offences. Not for driving, per
11 se, but for riding while disqualified, and lawyers
12 interpret that as meaning, well, you're showing
13 contempt of court and therefore it's okay to have them
14 locked up.

15 So, there was an attempt to try to find
16 ways to minimize harm and become less punitive, and it
17 led to, for example, the abandonment of legislation
18 that used to lock people up for being homeless, because
19 it was called "wandering abroad". And how could you
20 wander abroad in 21 square miles? But people were
21 locked up for, basically, being homeless, for wandering
22 abroad.

23 But it also led to the eventual creation
24 of the Drug Court, because there was a recognition that
25 there are people who get caught up in the cycle of

1 drugs and drug abuse, and they are not fully
2 responsible for their own -- all of their actions.
3 Obviously there is a personal choice that people make,
4 but one has to weigh the circumstances that people are
5 in or get caught up in, when trying to provide for the
6 most appropriate type of intervention on these issues.

7 Now, so, all of that is just by way of
8 background. We're here to look at the issue of drug
9 testing for Members of the Legislature.

10 **THE CHAIR:** Mm-hmm.

11 **MP BROWN:** And whenever one talks about
12 drug testing, it is important to have clarity in one's
13 mind, in my view, about why we're testing. Why do you
14 test? And there are a number of clearly-defined
15 reasons why drug testing is a fabric of some societies
16 and a policy and/or legislation in some countries in
17 certain areas.

18 Well, one reason is for cause, you test
19 for cause, so that if you have someone in a workplace
20 who is acting in sort of unusual ways, or doing things,
21 or gets in an accident and you smell alcohol on their
22 breath, or you see something in that person, you test
23 for cause, because it may well be that a person's abuse
24 of a substance has been the primary determinant of that
25 particular action. So that's one reason you test for

1 cause.

2 The other reason is for safety, because
3 you have people who work in certain professions, where
4 safety is of paramount importance, and so you have
5 testing as a way of screening out applicants for
6 positions, and also a series of on-going testing to
7 ensure that safety is very much in place.

8 So it applies, for example, to people at
9 BELCO, because you don't want people under any
10 influence working at BELCO. You don't want your bus
11 drivers or public transportation people under any
12 influence and, I don't know what happens in the
13 hospital. I know the hospital pre-screens. I don't
14 know if they do testing on an ongoing basis.

15 **MP OUTERBRIDGE:** Yes.

16 **MP BROWN:** They do?

17 **MRS. BROWNE-LISTER:** Not always. Not
18 always.

19 **THE CHAIR:** But they test for cause --

20 **MP OUTERBRIDGE:** They do test, test for
21 cause.

22 **THE CHAIR:** Yeah, they do test.

23 **MP BROWN:** They test for cause.

24 **THE CHAIR:** They test for cause.

25 **MP OUTERBRIDGE:** Mm-hmm.

1 **MP BROWN:** But I meant, on an on-
2 going -- like random --

3 **MRS. BROWN LISTER:** No, they don't, no.

4 **MP BROWN:** Because I wouldn't want a
5 physician operating on me if...

6 **MP LISTER:** Well, the busses don't do
7 it either.

8 **MP BROWN:** The busses test for cause.

9 **MP LISTER:** That's right.

10 **MP BROWN:** Right.

11 **MP LISTER:** If they can get away with
12 it, i.e., if the Union doesn't take everybody out.

13 **MP BROWN:** Well, we're not going to
14 venture into that arena today, are we, MP --

15 **MP LISTER:** It's just the reality.

16 **MRS. BROWNE-LISTER:** It is.

17 **MP LISTER:** It's the reality.

18 **MP SOUSA:** Where we're reactive versus
19 proactive, in many regards.

20 **MP BROWN:** It's proactive in a
21 screening process, it's reactive when we test for
22 cause.

23 **MP LISTER:** Mm-hmm.

24 **MP BROWN:** But some companies, like

1 BELCO, they have an on-going programme of random
2 testing.

3 **THE CHAIR:** Mm-hmm.

4 **MP LISTER:** That's right.

5 **MP BROWN:** Because it's so vital that
6 safety be of paramount importance. And that's --

7 **THE CHAIR:** And while, I mean, for
8 sports --

9 **MP BROWN:** I was going to get to that.

10 **THE CHAIR:** That's fine. Then I'll
11 leave you to do that.

12 **MP BROWN:** A third reason why people
13 test is because of, in sports, for fair play. The
14 whole ethos behind sports is that people should compete
15 as equals, that there should be nothing artificially
16 involved in that person's performance.

17 So, for many years, there was a test
18 that only covered certain performance-enhancing drugs.
19 Didn't even cover certain illegal drugs, just whatever
20 was considered to be -- am I going too fast? No.
21 Whatever was considered to be performance-enhancing,
22 they would test for.

23 But now they test for much wider segment
24 of -- or category of drugs. And the idea is that
25 sports should be a bastion of fair-play. No one should

1 have an unfair advantage in any of this, and therefore
2 it's tested. And they get tested randomly, before,
3 they get tested randomly after an event. I'm not sure
4 if anyone's been disqualified in this Winter Olympics.

5 **MP LISTER:** Not yet.

6 **MRS. BROWNE LISTER:** Not yet.

7 **MP BROWN:** But there was a scare that
8 there was a whole new drug now being used that the
9 tests aren't able to detect.

10 **MP LISTER:** Well, I'd believe that.

11 **MP BROWN:** So, because people are
12 always trying to come up with new drugs.

13 **MRS. BROWN LISTER:** Beat the system.

14 Mm-hmm.

15 **MP LISTER:** Beat the system.

16 **MP BROWN:** And the other reason you
17 test is for morality, and I think this is where this
18 Committee, I think, will, it seems to me, have its
19 focus, because it has nothing to do with cause, nothing
20 to do with safety or fair play. So it falls under the
21 realm of morality. And when you enter the realm of
22 morality, then you're going to have very different
23 views on that, and I don't know how you're going to
24 come up with a coherent position rooted in morality,
25 but that's, obviously, the task you have set out for

1 yourselves.

2 But different people will view things
3 differently, and one argument of course is that all MPs
4 should adhere to the law and therefore any breach of
5 that law should be a matter of importance and a matter
6 that needs to be addressed.

7 That's your issue. I'm just making out
8 what the arguments are, for the drug testing, or the
9 reasons why.

10 And so if we are to look at this issue
11 of drug testing, is the reason rooted in legality, or
12 is it rooted in the harm that's caused to society?

13 And, again, that's a question that the
14 Committee will have to address, but what I will say is
15 that the trend, globally, is to look at ways in which
16 one can reduce the harm to society. And you have seen
17 this with our own drug court, you have seen this in a
18 variety of other cases around the world where
19 Governments are looking at ways in which they can
20 reduce the criminal proceedings that have emanated from
21 people who have been caught with any variety of drugs.

22 Some are more liberal than others.
23 Holland, Portugal, I believe it was -- was it Paraguay?
24 Which country in South America just decided they would
25 legalize all drugs? It's contrary to the UN

1 Convention, so I don't know how they're going to do it,
2 but, you know how politicians are, that's what they
3 said anyway, and we'll see.

4 The other issue is that there is a trend
5 toward decriminalization and legalization. So I talked
6 about Amsterdam, but then the recent decisions of
7 states in the United States, --

8 **THE CHAIR:** Colorado.

9 **MP BROWN:** -- Colorado.

10 **THE CHAIR:** Mm-hmm. Washington, --

11 **MP BROWN:** Washington.

12 **THE CHAIR:** And there are 14 others,
13 apparently.

14 **MP BROWN:** Right. But that's just for
15 marijuana.

16 **THE CHAIR:** Yes, that's true, that's
17 not -- yeah.

18 **MP BROWN:** So that's why I was going to
19 take the point. Because they have it just for
20 marijuana.

21 **THE CHAIR:** Mm-hmm.

22 **MP BROWN:** Not for the other drugs.

23 I should point out, as sort of a
24 backdrop, that the illegal drug of choice in Bermuda is
25 marijuana.

1 **THE CHAIR:** Mm-hmm.

2 **MP BROWN:** And then there are some of
3 these other drugs that are of lesser predominance. I
4 haven't seen the latest research. No, I don't think
5 there's been a national survey on drugs. There was a
6 youth survey that was put out by the National Drug
7 Commission agency.

8 **THE CHAIR:** Mm-hmm.

9 **MP BROWN:** I would advise you not use
10 it, because it's inherently unreliable. It's
11 unreliable because the survey was a survey only of
12 Public School Students. Half the student population is
13 in private schools, so how can you take a survey that
14 says it's for the Bermuda youth population if you only
15 got half the population?

16 **MP LISTER:** Is that the more recent?

17 **THE CHAIR:** No, the --

18 **MP LISTER:** Because the earlier ones,
19 the Archibald covered everybody.

20 **MP BROWN:** I did those surveys.

21 **MRS. BROWNE LISTER:** That's 20 years
22 ago.

23 **MP LISTER:** You did the ones.

24 **MR. BROWN:** I did the survey in '78,
25 '91 and '94, and we cut -- sorry, '78. '89, '91 and

1 '94. We covered everybody. I don't know why the
2 private schools didn't participate this time, but we
3 got all the schools. We got all the students in one
4 day.

5 So, they've done half the student
6 population, and it's not a representative sample. It's
7 just not a representative sample, so, it cost a lot of
8 money, but it's completely useless, in my view. And I
9 don't know how anyone could justify any policy based
10 around it.

11 So, we don't know what the prevalence is
12 of patterns of use for the other drugs, but all of the
13 anecdotal and police data suggests that marijuana is
14 the predominant illegal drug of choice.

15 The most popular legal drug, of course,
16 is alcohol, but I expect your Committee is focussing
17 just on illegal drugs. You're not really concerned
18 about people being in Parliament under the influence of
19 alcohol.

20 **THE CHAIR:** We will be.

21 **MRS. BROWNE-LISTER:** Yes.

22 **MP SOUSA:** Yes, it's drugs, it's total,
23 yeah.

24 **MP BROWN:** It is?

25 **THE CHAIR:** It's total.

1 **MP BROWN:** That's what I'm asking. I
2 don't know.

3 **THE CHAIR:** Oh, sorry, yes, it is. Our
4 remit is broad, it says --

5 **MP LISTER:** Say that again? I thought
6 we agreed we're not talking about alcohol. I don't
7 know how this even came up.

8 **THE CHAIR:** Well, --

9 **MP BROWN:** I'm gonna let you guys sort
10 that one out yourselves.

11 **MP LISTER:** Yeah, we can sort it out.

12 **THE CHAIR:** That's fine. That's fine.

13 **MP BROWN:** Okay.

14 **MP LISTER:** It's news to me.

15 **MP BROWN:** Right. And so -- and in the
16 Bermuda context, there is a definite trend toward a
17 greater degree of what one might call liberalization,
18 when it comes just to the issue of marijuana. Because
19 we know that the Police are now authorized to give
20 cautions to people for possession of small amounts, but
21 that caution is only if the people readily admit their
22 guilt.

23 If you say, No, then you're gonna find
24 yourself in court.

25 **MP LISTER:** Mm-hmm.

1 **MP BROWN:** So, cautions are now being
2 issued and that has a big impact, of course, on the
3 visibility of that person in terms of court, because it
4 has implications for getting on the US Stop List. And
5 you of course know that once you're on the US Stop
6 List, you never get off.

7 **THE CHAIR:** Mm-hmm.

8 **MP BROWN:** You can get a waiver, but no
9 one ever gets taken off of the US Stop List, according
10 to the US Consul.

11 **THE CHAIR:** Mm-hmm.

12 **MP BROWN:** Now, if the Committee and
13 Parliament agree to go down a path of drug testing, and
14 if it agrees to look at certain types of drugs and not
15 others, that's for you to decide.

16 You've got to first of all know that
17 there is an inherent bias in any drug testing, because
18 alcohol is the drug that is abused more than any other
19 drug in Bermuda, but it only stays in the system for 12
20 hours. So you can be an alcoholic, you know, and
21 you'll never get -- you'll never test positive unless
22 you're crazy enough to drink while you're in
23 Parliament.

24 Almost all other drugs stay in for a
25 considerably longer period of time. So that's one sort

1 of structural bias. But because some argue that the
2 focus is just going to be on illegal drugs, then it may
3 just be a moot point.

4 So, if there is to be a testing
5 programme in place, the question becomes, what is the
6 consequence of a positive test? Does it lead to a
7 sanction or exposure or an outing? And if so, what
8 will be the rationale for that?

9 Does it lead to treatment? I doubt that
10 anyone who -- if you're looking at marijuana -- if
11 anyone who smokes weed on a casual basis, I doubt that
12 anyone who smokes weed on a casual basis is in need of
13 treatment. You would agree. Right.

14 So, those who are chronic users could
15 well do, but the majority of people who smoke weed in
16 Bermuda, all anecdotal information suggests and the old
17 research data suggests, do so on a once-a-week or less
18 basis. That's the most predominant use, on the
19 weekend. So, and here -- so, who needs treatment?

20 And the other point is, does use of a
21 drug, an illegal drug, lead to immediate expulsion from
22 Parliament, or exclusion from Parliament?

23 So the issue that is paramount is,
24 what's your rationale for testing and what would be the
25 consequence of a positive test?

1 **MP LISTER:** Mm-hmm.

2 **MP BROWN:** In many cases, in the
3 private sector, if someone is testing positive for a
4 drug that's banned in that company, they are given
5 treatment, or they give -- or EAP.

6 **MRS. BROWNE-LISTER:** EAP. Mm-hmm.

7 **THE CHAIR:** Mm-hmm. Yeah.

8 **MP BROWN:** But that, I think, makes no
9 sense if it's marijuana, because it's a waste of money
10 to send someone to EAP if they're smoking -- if they've
11 got weed in their system and they smoke once a week.
12 It's just a waste of money. But it's good for EAP
13 programmes to have those clients.

14 But that gets back to the issue of
15 morals, then. Should Legislators be involved in
16 dealing with issues that are fundamentally moral
17 questions?

18 Again, that's for you.

19 One issue that is important is, given
20 the proliferation of places that allow people to
21 purchase weed, and we're talking about marijuana,
22 legally, how do you deal with someone who uses the drug
23 outside of the jurisdiction? Right?

24 So, if I go to Colorado, I smoke a
25 joint, I come back and test positive, who's to say -- I

1 didn't break any laws in Bermuda. I did everything
2 legally, according to the laws of the land in Colorado.

3 But if I go -- I've been going to
4 Amsterdam for 30 years. Not to smoke weed, but because
5 it's my ...

6 **THE CHAIR:** Yes, you do.

7 **MP BROWN:** Well, because of my personal
8 circumstances.

9 **MP LISTER:** Well said.

10 **THE CHAIR:** Blame a woman.

11 **MP BROWN:** You know my ex-wife.
12 Anyway, ...

13 So I was going for 30 years and I still
14 go. But it's legal there, and no -- you can't apply
15 extraterritoriality in terms of legislation. What are
16 you going to do? Say, Oh, he smoked something in
17 Holland, therefore you should be excluded from
18 Parliament? That's the question. And it's a real one,
19 just because of the proliferation of places that allow
20 people to do that legally.

21 **MP LISTER:** What would happen in the
22 work place? If I worked at the hospital and I came
23 back and had a random test, not for cause.

24 **MP BROWN:** Right. Right.

25 **MP LISTER:** And I had been in

1 Amsterdam, really enjoying myself. What would happen?

2 **MP BROWN:** I don't know what the
3 hospital would do, but what I would say is that it will
4 be -- it will lead to a very interesting challenge.

5 **MP OUTERBRIDGE:** Yeah, they should
6 check your travel and then re-test in about two or
7 three weeks.

8 **MP BROWN:** They could do that. That
9 would be one remedy, because it's going to become a big
10 issue. There are so many companies now and
11 organizations that have drug testing in place.

12 **THE CHAIR:** Mm-hmm.

13 **MP BROWN:** But with more and more
14 countries seeing it being not that much of an issue,
15 and with the Police giving cautions and not charging
16 people, it's going to be a real quandary, so, it's a
17 challenge for this Committee to have to address.

18 **MP LISTER:** But, you know, are we
19 supposed to cut across and ask questions?

20 **THE CHAIR:** No, no. No, we can ask
21 questions.

22 **MP LISTER:** We can.

23 **MP BROWN:** No, no, I'm finished. No,
24 you can.

25 **THE CHAIR:** You're finished? Oh.

1 **MP LISTER:** Your two hours aren't up?

2 **THE CHAIR:** We have some questions,
3 and --

4 **SENATOR JARDINE:** Well, I was just
5 settling in for --

6 **MP SOUSA:** Just getting comfortable.

7 **THE CHAIR:** You've raised some
8 interesting points, but Mr. Lister has some...

9 **MP LISTER:** Well, see, the question I
10 was going to ask, you take Colorado, we're in Colorado,
11 and we can go and smoke to our heart's content.

12 **MP BROWN:** Right.

13 **MP LISTER:** But the company we work for
14 has a certain set of rules.

15 **MRS. BROWNE-LISTER:** That's the point I
16 was gonna raise.

17 **MP LISTER:** I'm going to get fired.
18 I'm gonna get fired if the rules say A, B, C.

19 **MP BROWN:** Right.

20 **MP LISTER:** You know? And then, so,
21 I'm still got to follow the rules of my company.

22 **MP BROWN:** And then what you will
23 have -- it hasn't happened yet, but I can guaranty that
24 at some point you're going to have a challenge, based
25 on human rights, --

1 **MP LISTER:** Civil liberties, mmm, yeah.

2 **MP BROWN:** -- for those kinds of
3 policies, because I think Pierre Trudeau said it best,
4 in a different context, when he said -- you know the
5 one I'm gonna say? The Government has no business in
6 the bedrooms of the nation.

7 **MP LISTER:** Yes.

8 **MP BROWN:** What you do in your private
9 life -- you have a private sphere and you have a public
10 sphere. It is only when the private sphere and the
11 public sphere intertwine, does it become relevant.
12 It's nobody's business what someone does in their
13 private life.

14 **MP LISTER:** Sure.

15 **MP BROWN:** Right?

16 **MRS. BROWNE-LISTER:** But if it's gonna
17 impact on my job, --

18 **MP BROWN:** Sorry?

19 **MRS. BROWNE-LISTER:** We went to
20 Amsterdam, I don't -- I don't do weed, he doesn't do
21 weed, but we were free to go to coffee houses --

22 **MP LISTER:** Boy, was I disappointed.

23 **MRS. BROWNE-LISTER:** -- if we like, you
24 know.

25 **MP BROWN:** Of course.

1 **MRS. BROWNE-LISTER:** And I chose not
2 to. It's not that I was afraid of being drug tested,
3 but that's my choice, I don't wish to do it.

4 **MP LISTER:** What did you go to?

5 **MRS. BROWNE-LISTER:** But, if I was a
6 hospital staff, and I was in Amsterdam, S-O-L [phon.]
7 is legal here, here's the coffee house, I'm gonna go in
8 and have a good time. I have to think as a responsible
9 person. I have a family, I've got a mortgage. Am I
10 gonna go in there and then come back and argue because
11 I'm randomly tested, and argue, Well, it's okay to do
12 it over there. What about my responsibility here? So
13 I wouldn't do it. But that's me.

14 **MP BROWN:** No, but you're moralizing.

15 **MRS. BROWNE-LISTER:** That's me.

16 **MP BROWN:** You're moralizing.

17 **MRS. BROWNE-LISTER:** That's right. I
18 wouldn't.

19 **MP BROWN:** And that gets to the issue
20 about what is the appropriate policy? And it's gonna
21 get very, very murky. It's gonna get very, very murky.

22 It's illegal to gamble in Bermuda.
23 Right? Who goes to Vegas? Does your moral conscience
24 get pricked when you go to Vegas and put money down on
25 the table? You probably enjoyed it, right, Jeff?

1 **MRS. BROWNE-LISTER:** Yeah, but there's
2 no testing for gambling either, so --

3 **MP BROWN:** But you're breaking Bermuda
4 laws.

5 **MP LISTER:** Might test your bank
6 account.

7 **MRS. BROWNE LISTER:** You know? Might
8 test your bank account and that's it.

9 **SENATOR JARDINE:** Can I ask you a
10 question, and I'm going to try to focus in on the
11 safety aspects of it.

12 **THE CHAIR:** Right.

13 **SENATOR JARDINE:** And that's kind of
14 where I come from, and I'm totally ignorant of drugs,
15 so excuse my ignorance here.

16 Are there -- there must be degrees, like
17 there is with alcohol, there must be degrees of, not
18 intoxication but euphoria, taking drugs, where you
19 become incapable of handling a piece of machinery, like
20 a car or a bicycle.

21 **MP BROWN:** Oh, yeah. Oh, yeah.
22 Without question.

23 **SENATOR JARDINE:** So, I guess, for me
24 the concern is the safety aspect and you raise the
25 question of having an operation with somebody who's

1 high on marijuana. I would be equally concerned, and
2 I'm sure we've all seen it on Bermuda roads, where
3 someone goes flying by, driving absolutely out of their
4 minds, and you think, He's either drunk or he's on
5 drugs, because nobody in their right mind would drive
6 the way he's driving.

7 And I guess where I come from here is
8 the concern of safety, and I guess where Government's
9 coming from is Parliamentarians should set the example
10 of following the law and being safe when they're in
11 control of a piece of machinery like a car or a bike.

12 **MP BROWN:** Right.

13 **SENATOR JARDINE:** Now, I don't know if
14 that's where Government's coming from, but that's kind
15 of the area that I focus in on, rather than the sort of
16 morality of it, is the safety aspects of it from Jamie
17 being on the road on his little bike going along at,
18 you know, 30 miles an hour, and somebody comes flying
19 along in a car and just takes me out.

20 **MP BROWN:** Well, --

21 **THE CHAIR:** Mmm, and setting the
22 example, so it's -- because that issue was raised, and
23 I'm sure you were in the House when it was debated in
24 the first instance. And the whole issue, I think,
25 when it was presented, because I stayed up to listen to

1 it -- it wasn't much of a debate because I didn't hear
2 many people speaking, commenting on it. But the issue
3 that -- what we were told was that the Parliamentarians
4 need to set example and so that's one of the rationales
5 for the creation of the Committee.

6 **MP BROWN:** And the question of, what
7 example is to be set.

8 **THE CHAIR:** Mm-hmm.

9 **MP BROWN:** We spoke earlier about the
10 person riding under the influence.

11 **THE CHAIR:** Mm-hmm.

12 **MP BROWN:** I've only seen one case in
13 court where someone just admitted, I was high on weed
14 when I was driving that bike. And they got taken off
15 the road. The reality is that there is no -- I don't
16 think, unless the science has changed, I don't think
17 there's any test --

18 **THE CHAIR:** No.

19 **MP BROWN:** -- for impairment.

20 **THE CHAIR:** Right.

21 **SENATOR JARDINE:** That's what I was
22 going to ask you. Is there any --

23 **THE CHAIR:** There's only a test for the
24 alcohol.

25 **SENATOR JARDINE:** Is there any test for

1 drug impairment?

2 **MP BROWN:** No.

3 **THE CHAIR:** No, there isn't.

4 **MP BROWN:** There's only a test for use.

5 **MP LISTER:** Mm-hmm.

6 **THE CHAIR:** Mm-hmm.

7 **MP BROWN:** So the issue is impairment.

8 If someone smoked a joint on the weekend and came to
9 work Monday, without -- not being high, you'd have it
10 in the system. It doesn't mean that they're impaired.

11 **THE CHAIR:** Mm-hmm.

12 **MP LISTER:** Right.

13 **MP BROWN:** So, use does not equate to
14 impairment, just like drinking alcohol doesn't equate
15 to impairment.

16 But when you get to the issue about the
17 example, that's very critical, because I believe that
18 legislators have a sacrosanct responsibility to set the
19 right example for the community.

20 **THE CHAIR:** Mm-hmm.

21 **MP BROWN:** The right example isn't
22 ingrained in stone, it's shaped and evolves over time.
23 So if we're now saying we're going to adjust some of
24 our legislation and some of our policies about --
25 arrest people for possession of small amounts, then

1 whatever policy you put together for legislators has to
2 be consistent with that more flexible policy that the
3 Police are now adopting.

4 **THE CHAIR:** Mm-hmm.

5 **MP BROWN:** Because it's, as you say,
6 we're setting -- we need to set an example for the rest
7 of the country. And I think that's perfectly fine to
8 do. But it should not be rooted in hypocrisy. You
9 can't be, you know, we're setting what we call the
10 moral high ground, and we want everyone else to emulate
11 it, but clearly people aren't, and the Police are
12 recognizing that by how they deal with people, and the
13 Courts are recognizing it as well.

14 **THE CHAIR:** Mm-hmm. Well, I mean, for
15 us, though, as a Committee, we will have to come up
16 with the policies and procedures and whether it's
17 implementation of a caution or whatever.

18 We will have some discussion once we've
19 heard all the presentations, --

20 **MP BROWN:** Mm-hmm. Sure.

21 **THE CHAIR:** -- once we've talked to
22 other people who actually carry out the test. We will
23 have people in here who will talk to us more about, you
24 know, the actual testing and what's going on in
25 Bermuda. So we will have to come up with, I think,

1 policies, and, well, recommendations. It will be
2 recommended policies.

3 **MP BROWN:** Right.

4 **THE CHAIR:** You spoke about treatment,
5 you spoke about cautions, you spoke, you know -- so
6 these are things that we will have to take under
7 consideration and we appreciate the comments that
8 you're making, but I don't know --

9 **MP SOUSA:** That was the point I had
10 made early on in the proceedings, was lead by example.
11 I thought that was a major thing. I, for example, you
12 know, I own a large landscaping company, if guys are
13 working on a construction site and they must be wearing
14 a hard hat, just because I'm the President and founder
15 of the company, I get out of the truck and I just walk
16 around the site, --

17 **MP BROWN:** Right.

18 **MP SOUSA:** -- I always keep a hard hat
19 behind my seat, just in case I have to stop on a site,
20 I put the hard hat on, because I'm leading by example.

21 **THE CHAIR:** Example. Yes.

22 **MP SOUSA:** So, I think -- and of course
23 Jamie, I think, made a really good point, you know,
24 about, you know, people on the roads and stuff like
25 that, the way you alluded to them, and that was a good

1 point, what we have to take into consideration. As we
2 said earlier in these proceedings, this is not all
3 about marijuana, this is about all drugs.

4 **THE CHAIR:** That's right. Mm-hmm.

5 **MP BROWN:** I think that most societies
6 would -- most countries would accept that there is a
7 difference between what's called hard drugs and soft
8 drugs. The UK has a classification system, the United
9 States, and we have a classification system.

10 **THE CHAIR:** Right.

11 **MP BROWN:** So, I only spoke about
12 marijuana because that is the drug that's most popular.

13 **MP SOUSA:** Most widely used, yes.

14 **THE CHAIR:** Right.

15 **MP BROWN:** I think that it's very clear
16 that most people would agree that any use of a hard
17 drug, which are highly addictive and highly
18 problematic, should have a very different level of
19 tolerance.

20 **MP SOUSA:** Cocaine, yeah.

21 **MP BROWN:** A very different level of
22 tolerance, because it has significant financial
23 implications, it does all kinds of things to you, and
24 so on.

25 I personally don't think anybody should

1 smoke anything, because smoking anything is just
2 unhealthy.

3 **THE CHAIR:** Mm-hmm.

4 **MP BROWN:** But I don't put
5 cigarettes -- I don't put marijuana in a different
6 category -- it's in a different category than
7 cigarettes, because marijuana alters your mind.

8 **THE CHAIR:** Mm-hmm.

9 **MP BROWN:** So it's different. But for
10 me, it's a health issue. So you shouldn't smoke, not
11 because it's illegal, because laws gets made by men and
12 women. You could change the law tomorrow and it would
13 be fine.

14 So, it's a health issue. And I want to
15 see a much more comprehensive health programme for the
16 country about the ill effects of smoking weed come in.

17 **MP SOUSA:** I'm with you a hundred per
18 cent on that one.

19 **MP BROWN:** And so, so you separate
20 cocaine, heroin, amphetamines and all the other stuff,
21 the harder drugs, you separate those. You get very
22 strong and strict polices that, you test positive for
23 cocaine or heroin, there should be some immediate and
24 severe sanctions.

25 **THE CHAIR:** Mm-hmm.

1 **MP BROWN:** But, and because those areas
2 don't have any more flexible legislation or more
3 flexible approach to it. Any possession, you're gonna
4 get charged, you're gonna get convicted, ideally.

5 But there is a separation between that
6 and marijuana. And there may be some other softer
7 drugs, maybe some of these cocktails that some of these
8 young people are using now. I don't even know the
9 names any more. But you know them.

10 **THE CHAIR:** But the other issue is
11 that, you know, years ago, the marijuana was probably
12 three or four per cent THC level. Today it's laced --
13 you don't know what you're getting.

14 **MP BROWN:** Yeah.

15 **THE CHAIR:** It's coming from so many
16 different places.

17 **MP BROWN:** That's a health issue.

18 **THE CHAIR:** Well, it may be a health
19 issue, but the impact or the effect on the individual
20 is much more profound.

21 **MP BROWN:** Oh, I agree.

22 **SENATOR JARDINE:** And I guess that's
23 why alcohol was controlled. So alcohol is a controlled
24 substance in that the bottles -- you bottle your
25 alcohol under control, unless it's moonshine, as

1 opposed to marijuana where there is no sort of control
2 over it.

3 **MP BROWN:** Right. Right.

4 **THE CHAIR:** And then the other issue
5 with alcohol, though, --

6 **SENATOR JARDINE:** You don't know what
7 you're getting.

8 **MP BROWN:** You don't know what you're
9 getting. When it's illegal, you don't know what you're
10 getting. When it's legal, you can regulate it, but
11 doesn't that's a whole --

12 **THE CHAIR:** Right. You know, you
13 mentioned about the alcohol and I know our Committee
14 will have to discuss this whole thing, but, the reason
15 why we leave alcohol on for the discussion is because
16 we do not want a legislator coming into --

17 **MRS. BROWN-LISTER:** Intoxicated.

18 **THE CHAIR:** Yeah, smelling of alcohol
19 and intoxicated. So, you know, we can't omit it
20 entirely. I just want to -- but we will have some
21 discussion around that.

22 But this whole issue of what do you do
23 with a legislator who -- because if there's random
24 testing, at least twice a year, for all legislators,
25 and if anybody comes up, you know, with a positive,

1 then we will, you know -- it's going to be our --

2 **MP BROWN:** It's hard. What do you say
3 to somebody who tests positive for weed? You need
4 treatment or you need to stop using it?

5 **THE CHAIR:** Well, we're not --

6 **MP BROWN:** I would tell the
7 Committee, ... Well, we have ladies present.

8 **MP LISTER:** Hmm?

9 **MP BROWN:** I would be rude.

10 **THE CHAIR:** Mm-hmm.

11 **MP BROWN:** Because, it's none of your
12 business, what I do outside of Bermuda.

13 **THE CHAIR:** Listen, okay, the issue is
14 going to be, we will have to set up some policies and
15 procedures, some guidelines, but in the final analysis,
16 it won't be this Committee who will -- we will make
17 recommendations, --

18 **MP BROWN:** I understand.

19 **THE CHAIR:** -- and it's up to
20 Parliamentarians to ratify it, to agree to it all, --

21 **MP BROWN:** Right.

22 **THE CHAIR:** But we are not going to be
23 the ones to take the specimens and to do the testing
24 and whatever.

25 **MP BROWN:** Right.

1 **THE CHAIR:** We're just going to come up
2 with some recommendations that we will put. And we
3 will address those scenarios.

4 **MP SOUSA:** And all those in the
5 Legislature have had fair warning that this is not just
6 something that cropped up.

7 **MP BROWN:** I know, but it's not a
8 question of having fair warning.

9 **THE CHAIR:** Mm-hmm.

10 **MP BROWN:** It's a question of what is
11 the most appropriate, the most logical and the most
12 sensible policy. So we would all agree that if you
13 test positive for cocaine, heroin, whatever else,
14 severe penalties.

15 I don't know how you can get around that
16 for the marijuana issue.

17 **THE CHAIR:** Mm-hmm, mm-hmm.

18 **MP BROWN:** Because you cannot tell me I
19 can't go to Colorado or to Amsterdam and have a joint.
20 And I'm not breaking any laws.

21 **THE CHAIR:** No, but we will not do
22 that.

23 **MP BROWN:** Right. But if I test
24 positive --

25 **THE CHAIR:** We're not going to say

1 that.

2 **MP BROWN:** If I test positive, --

3 **THE CHAIR:** Well, then, we would -- you
4 know, it's not we, it's --

5 **MP BROWN:** I'm not the problem.

6 **THE CHAIR:** Yes. Okay. All right.
7 When you say that, I understand.

8 **MP BROWN:** Right? So the idea is that
9 there should be some kind of sanction for a positive
10 test.

11 If you had a policy that only dealt with
12 the hard drugs, I wouldn't have an issue with that.
13 But when you start looking at the issue of marijuana,
14 in light of all that's taken place in terms of
15 decriminalization and lower and lower penalties, it's
16 gonna be a challenge, and I guarantee you, you know,
17 you know, even a Human Rights challenge, because I
18 don't think anybody has the right to tell people what
19 they should do when they travel into a place where
20 certain things are legal.

21 And you can fix your face all you want
22 to, I'm just saying --

23 **MRS. BROWNE-LISTER:** No, because you
24 keep referring to if you go overseas. What about if
25 you're just here? You don't go to Colorado, you don't

1 go to Amsterdam.

2 **MP BROWN:** Because, I know, I'm making
3 that point about overseas because we actually don't
4 know the circumstances under which people might use.

5 **MRS. BROWNE-LISTER:** Well, it's a grey
6 area, yes, but what about, what about for me?

7 **MP BROWN:** It's not a grey area.

8 **MP SOUSA:** Well, you know, just to,
9 it's on the same subject, but,... Like, say, for
10 example, I don't like when my employees who are working
11 with equipment, drink in the lunch time. I

12 In Germany, for example, it's readily
13 accepted, and you're allowed to drink alcohol in
14 lunchtime. But when you're coming -- so you can't say
15 in a one-hour lunch time you're drinking alcohol and
16 then all of a sudden it's out of your system by the
17 time you go back to work.

18 **MP BROWN:** No, it wouldn't be out of
19 your system by the time you go back to work.

20 **THE CHAIR:** Definitely not.

21 **MP BROWN:** Unless you had a long lunch.

22 **MP SOUSA:** Yeah. Yeah.

23 **SENATOR JARDINE:** This gets back to my
24 original question. It's easy if you -- if you
25 segregate marijuana from all the other drugs, and say,

1 okay, if you test positive for any of those drugs, then
2 you definitely are --

3 **MP BROWN:** A set of sanctions.

4 **THE CHAIR:** Oh, absolutely.

5 **SENATOR JARDINE:** -- in hot water. And
6 I guess my -- it gets back to my original question, if
7 you test positive for marijuana, there's no way to
8 test, like there is for alcohol, how high you are.

9 **MP BROWN:** Right. Exactly.

10 **SENATOR JARDINE:** And I guess that's --

11 **MP BROWN:** That's a real challenge.

12 **SENATOR JARDINE:** That's the issue.

13 **THE CHAIR:** Yes. Well, --

14 **MP LISTER:** You're not testing it while
15 they're high.

16 **SENATOR JARDINE:** No, but I'm saying --

17 **MP LISTER:** The testing that we're
18 going to do, everybody who's tested will be calm, cool
19 and collected.

20 **SENATOR JARDINE:** I'm just making the
21 point, though, that I think if you -- if you try to
22 single out marijuana and say, that's okay, there's no
23 way of testing degrees of highness, --

24 **MP BROWN:** Right.

25 **SENATOR JARDINE:** -- like there is

1 degrees of alcohol in the bloodstream.

2 **MP BROWN:** Alcohol.

3 **THE CHAIR:** But, you know, you could
4 have a policy, though, that, okay, if you have -- if
5 you're doing random testing and this person, every time
6 they're tested randomly, and they are found to show
7 positive. So if they show positive the first time, you
8 may want to increase the -- it no longer becomes
9 random, it, you know, it may be a recommendation that
10 this Committee comes up with, okay, that if they -- if
11 that would happen in some, at the Hospital or wherever,
12 when the person was tested, and sometimes send them for
13 treatment, and then they go on a regimented testing,
14 you know, on a very regular basis.

15 **MP BROWN:** I understand.

16 **THE CHAIR:** So, it depends on what this
17 Committee may recommend in terms of if somebody, if a
18 legislator tests positive on a random test, what is the
19 follow up?

20 **MP BROWN:** Yeah.

21 **THE CHAIR:** Does that person -- it's no
22 longer random, they may have to be tested or they may
23 have to -- or we don't have to -- we can make a
24 recommendation that the person be assessed by some
25 facility.

1 **MRS. BROWNE-LISTER:** You test it until
2 it comes out of their system.

3 **MP BROWN:** I understand that. And the
4 question is why? The question will be why? That's the
5 issue. If someone tests positive, why do they need to
6 go and have a follow-up? Because this Committee or
7 Parliament has made a decision that testing positive is
8 somehow wrong, or bad, or whatever, as opposed to
9 creating any harm for anyone, or any -- well, smoking
10 is harmful. But -- or are they creating any harm for
11 the wider society?

12 It just -- it's inconsistent; right?
13 Drug testing for something like marijuana is
14 inconsistent at a time when we are going toward a
15 greater degree of liberalization. Right? All the
16 evidence shows that --

17 **THE CHAIR:** When we get there, but...

18 **SENATOR JARDINE:** I think there's one
19 key difference, too, there's one key aspect which we
20 shouldn't forget is that most of the time when people
21 are charged by the Police it's for possession, as
22 opposed to having had a test to find them high on
23 drugs; whereas here, we're actually doing a test, we
24 may not have found any marijuana on the individual
25 tested, so, in law, he wasn't carrying any drugs, he

1 just tested positive. So there's a -- I see a kind of
2 a difference between the Police pulling you over and
3 saying you've got marijuana and charging you, versus
4 somebody who's had a test, and had been found positive.

5 **MP BROWN:** Right. Right. There's a
6 big difference.

7 **MRS. BROWNE-LISTER:** From what I
8 understand, it's drug testing of the legislators; it
9 didn't say for marijuana, it says drug testing.

10 **MP BROWN:** Mm-hmm. I know.

11 **MRS. BROWNE-LISTER:** Alcohol is a
12 drug, marijuana is a drug, heroin is a drug, albeit
13 they're in different classifications. You don't
14 necessarily have to test for alcohol, that's a waste of
15 money, because smell tells you, and people's --

16 **MP BROWN:** It's not going to tell you
17 if you're impaired.

18 **MRS. BROWNE-LISTER:** No, I'm not
19 talking about impairment. Use, I'm talking about use.
20 I'm not saying --

21 **MP BROWN:** But it's not illegal.

22 **THE CHAIR:** No, that's right, it's not,
23 it's not --

24 **MRS. BROWNE-LISTER:** It doesn't matter.
25 It's not illegal.

1 **MP BROWN:** Of course it matters.

2 **MRS. BROWNE-LISTER:** It's not illegal.

3 But all I'm saying is, if you think somebody's
4 impaired, you don't have to drug test them because it
5 doesn't show impairment, it shows use. So, what's the
6 point. You could smell something. If I had a few
7 drinks before I got here, all of you would probably
8 smell it on my breath.

9 **MP BROWN:** Right. Right.

10 **MRS. BROWNE-LISTER:** So, it's not a big
11 deal. But to hear you say that it's going to be
12 difficult when the drug testing is done and it says
13 "drug testing" -- maybe we need to add "all
14 substances"; okay?

15 **MP BROWN:** No, that's why I made a
16 separation between different types of drugs.

17 **MRS. BROWNE-LISTER:** Because marijuana,
18 heroin -- and you have --

19 **MP BROWN:** Different classes of drugs.

20 **THE CHAIR:** Yeah. Well, we will
21 certainly --

22 **MRS. BROWNE-LISTER:** Yeah, but still,
23 it's all drugs.

24 **THE CHAIR:** You've made a valid point
25 and I think that, you know, we will certainly take that

1 on board, and we have taken -- we will be taking all
2 these comments.

3 **MP OUTERBRIDGE:** It may be illegal, but
4 I don't see why people should get slapped on the wrist
5 for marijuana, because it's a casual or most-used drug.
6 Doesn't make it right.

7 **MP BROWN:** No, you're... The point
8 earlier was that legislators need to set the example
9 for the rest of the community.

10 **THE CHAIR:** Yes.

11 **MP BROWN:** And so the example that's
12 now being set by the Police and the judicial system is
13 that possession of small amounts, which implies use of
14 small amounts, --

15 **THE CHAIR:** Mm-hmm. Caution.

16 **MP BROWN:** -- is a caution.

17 **THE CHAIR:** Yeah.

18 **MP BROWN:** It's not a criminal offence.
19 It carries no penalty.

20 **THE CHAIR:** Right. Mmm.

21 **MP BROWN:** So, if that's what's
22 happening in civil society, --

23 **MP OUTERBRIDGE:** So that's use, it's
24 confirmed use, or is it just possession, because that's
25 a difference.

1 **SENATOR JARDINE:** That's what I was
2 getting at in my first question.

3 **MP BROWN:** Yeah, but -- no, but...
4 No. You're perfectly -- legally, you're perfectly
5 correct, but the logical assumption is that if you have
6 a small amount on you, it's for personal use. That's a
7 legal -- I mean, that's a logical inference.

8 **MRS. BROWNE-LISTER:** That's not
9 suppling, mmm.

10 **THE CHAIR:** Mm-hmm.

11 **MP BROWN:** Logical inference. And so
12 the civil society and the judicial system is now
13 saying, we're not going to penalize you for it.

14 So if civil society and the judicial
15 system is doing that, and the legislators are saying,
16 well, but we are going to penalize you for it, then
17 you're setting two different standards.

18 But that's for your Committee, for the
19 Committee to reflect on.

20 **THE CHAIR:** Mm-hmm.

21 **MP BROWN:** But it will be accused of
22 being hypocritical and inconsistent with the trends
23 that are now taking place.

24 **THE CHAIR:** Well, until that is
25 legislated, because I think obviously the Police are --

1 that's their reaction and their response, caution, but
2 the bill that's going to go through, when it eventually
3 goes through Parliament, it will determine -- I mean,
4 we'll have to wait and see what actually comes, you
5 know, is presented in that bill.

6 At the moment, at the moment the Police
7 may be under the direction of the AG or the DPP --

8 **MP BROWN:** DPP.

9 **THE CHAIR:** Okay, DPP. They're making
10 that decision.

11 **MP BROWN:** Right.

12 **THE CHAIR:** But it is not enshrined in
13 law yet.

14 **MP BROWN:** Yeah. No.

15 **THE CHAIR:** So it will depend on what
16 the Government, what the legislators decide.

17 **MP BROWN:** Sure. Sure.

18 **THE CHAIR:** You know, in terms of
19 whether or not. Because then it becomes more than just
20 a Police response.

21 **MP BROWN:** Right.

22 **THE CHAIR:** Then it becomes whether
23 it's civilly or whatever, and we will take it under
24 consideration. I don't know how soon that's going to
25 come about.

1 **MP BROWN:** Yeah, because once -- there
2 is a -- the Cannabis Reform Committee?

3 **THE CHAIR:** Yes, there is a Committee.

4 **MP BROWN:** They're looking for
5 recommendations and Government is going to contemplate
6 some legislation at some point, --

7 **THE CHAIR:** Right.

8 **MP BROWN:** -- and we don't know, so,...

9 **THE CHAIR:** Yeah. Any more questions?

10 **SENATOR JARDINE:** Great. Very helpful.
11 Thank you.

12 **THE CHAIR:** Yes. You've given us food
13 for thought.

14 **MP BROWN:** Good.

15 **MP SOUSA:** I enjoyed that, very
16 helpful.

17 **THE CHAIR:** I appreciate, yes,
18 appreciate you coming forward and I think it's been
19 valuable.

20 **MP LISTER:** I'm just disappointed there
21 are no handouts.

22 **THE CHAIR:** Sorry?

23 **MP LISTER:** I said I'm just
24 disappointed there are no handouts.

25 **MP BROWN:** You know what? I did a

1 presentation yesterday to Sandys Rotary, and this
2 presentation --

3 **THE CHAIR:** Can you send it on to us?

4 **MP BROWN:** I can send it to you.

5 **THE CHAIR:** I'd appreciate it.

6 **MP BROWN:** And I still have to write a
7 report for my Committee, and I haven't written that
8 report yet, so that's why...

9 **THE CHAIR:** Even though it's
10 transcribed, but, I mean, if you send it --

11 **MP BROWN:** But no, you have everything
12 verbatim, don't you.

13 **THE CHAIR:** She will. She would have
14 everything.

15 **MRS. BROWNE-LISTER:** It doesn't matter.
16 You're supposed to do as asked.

17 **THE CHAIR:** Send it, yes. He'll send
18 it to you.

19 **--- off the record comments.**

20 **THE CHAIR:** Thank you very much.
21 Greatly appreciated.

22 Okay, Committee Members, any comment?
23 Further comment.

24 **SENATOR JARDINE:** Very useful
25 discussion.

1 **MP SOUSA:** It was very, very
2 interesting, and certainly useful.

3 **THE CHAIR:** Yes. I think it has been.

4 **MP SOUSA:** Very useful.

5 **SENATOR JARDINE:** Yes. Certainly food
6 for thought.

7 **THE CHAIR:** Absolutely. I think that
8 perhaps we can have further discussion, once we get the
9 transcript, and then, you know, if we want to talk
10 about it a bit more, but he did make some very valid
11 points that we will want to take under consideration.

12 **MP SOUSA:** Very valid points that he
13 touched on, yes. And I certainly agree with him,
14 smoking anything is not good for you.

15 **THE CHAIR:** Oh, absolutely, I agree
16 there as well.

17 All right. So, moving on, then. We've
18 had our presentation.

19 I had noted that Mr. Vaughn Mosher will
20 be coming in the next two weeks, and that's all
21 organized.

22 And, any other business? Anybody?

23 **MP LISTER:** Question.

24 **THE CHAIR:** Yes.

25 **MP LISTER:** Beyond Vaughn, what

1 additional presentations will we do? How many more and
2 who are the people we will invite?

3 **THE CHAIR:** Okay. I will have a
4 discussion with the CMO, Dr. Pete Ball, on Monday. I
5 really want somebody from the Government Lab who does
6 the actual testing to see what it is that they actually
7 test for.

8 **MP LISTER:** Mm-hmm.

9 **THE CHAIR:** I also wanted to speak with
10 somebody at the hospital, because I do know that they,
11 the Human Resources Department, they actually send
12 specimens, hair specimens away. Now, I don't know how
13 much -- whether or not they would want to come and
14 present, but those two. And then we want the sports,
15 we want somebody from the sports fraternity as well, to
16 come and make a presentation, because we want to know
17 how they handle their random testing.

18 And I don't know if anybody else. I
19 don't think we need to go into Salvation Army or any,
20 because I think that we've had Mr. Parker, and he made
21 a very broad, very comprehensive presentation. I've
22 drafted a letter which I will send to him, thanking him
23 on behalf of the Committee and Joanne Dean, the
24 Director of the DNDC.

25 But is there anybody else that you can

1 think of?

2 **MP LISTER:** No. No, that's fine.

3 **THE CHAIR:** All right. And then we
4 will, once we've got all this information, then we need
5 to spend time, and I'm trying, at the same time, to see
6 if we can get any samples of certain policies or
7 whatever that might be out there that we could use, and
8 then we need to come up, look at our terms of reference
9 and come up with some policy recommendations.

10 **MRS. BROWNE-LISTER:** Just to let you
11 know, I apologise if I didn't send you a copy, but I
12 did send an e-mail to Mr. Parker, copied to Ms. Dean,
13 thanking him for his --

14 **THE CHAIR:** Oh, you did. Wonderful.

15 **MRS. BROWNE-LISTER:** I did, but if you
16 want to do something else, you can.

17 **THE CHAIR:** Okay. No, no, no, no,
18 that's fine. I had it on my -- I wanted to ask you
19 that, because I have it in my system.

20 But that's fine. If you've already done
21 it, that's great.

22 **MRS. BROWN-LISTER:** I took care of it.

23 **MP LISTER:** Chair?

24 **THE CHAIR:** Yes.

25 **MP LISTER:** What further research do

1 you have in mind? What additional information should
2 we be pulling?

3 **THE CHAIR:** Well, one of the -- I
4 haven't had an opportunity, but Mrs. Browne-Lister has
5 brought up this. She has compiled this. She's just
6 handed it to me now.

7 **MRS. BROWNE-LISTER:** Just a minute ago.

8 **THE CHAIR:** And I don't know -- just a
9 minute before the Committee started, so I haven't had
10 an opportunity, but what I will do is --

11 **MRS. BROWNE-LISTER:** It's a lot on drug
12 testing, and Senator Jardine had asked a question about
13 work place. Drug testing in the work place.

14 **THE CHAIR:** Right.

15 **SENATOR JARDINE:** Yeah, that would be
16 very interesting.

17 **MRS. BROWNE-LISTER:** It's all here.

18 **THE CHAIR:** It's all there.

19 **SENATOR JARDINE:** Wonderful.

20 **THE CHAIR:** So what I will do, then, is
21 I will ask one of the clerks to do the same thing that
22 he did the first time, copy all of this information and
23 e-mail it all out to you.

24 **MP LISTER:** Mm-hmm.

25 **SENATOR JARDINE:** That will be very

1 helpful.

2 **THE CHAIR:** All right? For your
3 reference. So it looks like it's -- she's got a lot of
4 good stuff there.

5 But did you have anything else in mind
6 in terms of? Because I was, you know, trying to think
7 of what other information do we need to have before us
8 for us to make a decision.

9 **MP LISTER:** Okay. The only other piece
10 of research I would suggest is that, like, right now
11 we're looking at the drugs going into Parliament.

12 **THE CHAIR:** Mm-hmm.

13 **MP LISTER:** And then we can look at it
14 the other way, what... I'm trying to say this, I'm not
15 saying it the way I want to say it, but we could look
16 at Parliament and see what penalties Parliaments have
17 for whatever behaviours.

18 **THE CHAIR:** Mm-hmm.

19 **MP LISTER:** For instance, they've
20 actually jailed some of the MPs in the UK for the
21 expense fiddle.

22 **THE CHAIR:** Mmm.

23 **MP LISTER:** In Canada, when you act the
24 fool, they put you up before a committee and either
25 suspend you or expel you.

1 **THE CHAIR:** Mm-hmm.

2 **MP LISTER:** Now, this isn't for drugs.
3 So the angle I'm coming at is, what are
4 the penalties?

5 **THE CHAIR:** Mm-hmm.

6 **MP LISTER:** And so, you know, we may
7 want to research what are penalties so we can put our
8 penalties in a context, because it's going to be very
9 hard to put it in a context of what other people do
10 with drugs, 'cause only South Australia does anything
11 with drugs.

12 **MP OUTERBRIDGE:** Right.

13 **SENATOR JARDINE:** Yeah.

14 **MP LISTER:** So, on the whole world,
15 nobody else.

16 **THE CHAIR:** But did you get any more
17 information, though? Did they actually --

18 **SENATOR JARDINE:** I followed up and
19 called -- I e-mailed the Clerk down there and the
20 response I got was that it was never enacted.

21 **THE CHAIR:** Mmm.

22 **MP LISTER:** Mmm.

23 **SENATOR JARDINE:** It was never passed.
24 There were never any regulations drafted, so what we
25 have is it.

1 **THE CHAIR:** Oh, okay.

2 **SENATOR JARDINE:** It never went any
3 further.

4 **MRS. BROWNE-LISTER:** And also, from the
5 research I've been doing, people have always fought it
6 off, somehow. Every time a Parliament says they're
7 going to introduce it --

8 **SENATOR JARDINE:** Usually because they
9 tie it into social benefits.

10 **MRS. BROWNE-LISTER:** Yes.

11 **MP OUTERBRIDGE:** Mmm.

12 **SENATOR JARDINE:** And it dies a death
13 as soon as they tie it into social benefits.

14 **MRS. BROWNE-LISTER:** If it's not in
15 place --

16 **MP OUTERBRIDGE:** Well, what we also
17 have to come up with a solution for is for people who
18 refuse, because it's gonna be outright people who
19 refuse --

20 **THE CHAIR:** Yes, I mean, that's -- that
21 is in our terms of reference, and so the Speaker --

22 **MP SOUSA:** -- [inaudible] like they
23 give for drunken driving; you refuse, you automatically
24 get one year, off the road, the same penalty --

25 **THE CHAIR:** Mmm. We would need to come

1 up with a recommendation, because the Speaker
2 specifically -- I mean, that's why it's in the terms of
3 reference, I put it in there anyway. But when he saw
4 that in there, he's looking to us to make some
5 recommendations for how he probably should handle it.

6 **MP LISTER:** Yeah.

7 **MP SOUSA:** That's a good point, because
8 if you did have a legislator who just outright refused
9 because he didn't want to be publically humiliated,
10 figuring he'd take that chance, rather than proven that
11 he was doing some hard, illegal drug, I'll just leave
12 it to my constituents to decide whether I was or not.

13 **THE CHAIR:** Mm-hmm.

14 **MP SOUSA:** Because that would be the
15 ultimate penalty to a legislator, realistically, is the
16 people of Bermuda, whether they decide to elect him or
17 not.

18 **THE CHAIR:** Mm-hmm.

19 **MP LISTER:** Well, you know, you can
20 treat it the same way the sports bodies do. If you
21 choose not to do your drug test, you are guilty.

22 **MP SOUSA:** You don't participate.

23 **MP LISTER:** I mean, I gave the example
24 before of one of my favourite players, Rio Ferdinand.
25 About five or six years ago he just said he missed the

1 test.

2 **THE CHAIR:** Mm-hmm.

3 **MP LISTER:** He never said he refused,
4 he just said he missed it. He was suspended for eight
5 months. He was playing for England at the time.
6 Couldn't play for England, couldn't play for Manchester
7 United and it was without pay. He didn't get any money
8 for eight months.

9 **THE CHAIR:** Mm-hmm.

10 **MP LISTER:** But it was his choice, you
11 know, he didn't make the test.

12 **THE CHAIR:** Mm-hmm.

13 **MP LISTER:** So.

14 **MP SOUSA:** It's like in sports if you
15 don't take the test, you don't participate.

16 **THE CHAIR:** Right.

17 **MP LISTER:** Yeah. Oh, yeah, they're
18 very serious about it. Yeah.

19 **THE CHAIR:** So we will have to come to
20 that decision where we will draft up some policies and
21 we'll brainstorm and decide whether it's a go or not.
22 And I'm hoping that each one of us will probably take
23 on something that we could probably draft up and we can
24 have some discussion around the table and determine
25 whether we go with it and make some, you know, some --

1 **MP SOUSA:** But so far everybody we've
2 spoken to, Walton and the last gentlemen, on drugs, and
3 I know Vaughn Mosher will bring something new into it
4 again, --

5 **THE CHAIR:** Oh, I'm sure we will.
6 Absolutely.

7 **MRS. BROWNE-LISTER:** -- because he's
8 been involved there for some time, and has been very
9 beneficial, from what I've learned.

10 **THE CHAIR:** Right. And the other issue
11 will be for us, you know, it's not going to be anybody
12 around this table who is going to take the test, do the
13 test or monitor this programme. We're going to have to
14 recommend that -- who handles this programme.

15 **MP OUTERBRIDGE:** Mm-hmm.

16 **THE CHAIR:** Because the confidentiality
17 issue is going to be a major one for anybody, for the
18 legislators, anybody participating. So we're going to
19 have to come up with a recommendation. I thought we
20 would wait until we had further --

21 **MRS. BROWNE-LISTER:** Anonymity.

22 **THE CHAIR:** Mmm?

23 **MRS. BROWNE-LISTER:** The anonymity side
24 of it.

25 **THE CHAIR:** Yes. Exactly. And how you

1 handle that anonymity side of it. Because then it's
2 going to be with whoever's going to oversee the
3 programme, and the Speaker, to liaise and, you know,
4 unless he sets up a committee, MP Lister? Whether he
5 sets up a committee and doesn't make this decision
6 specifically by himself, whether there is a sub-
7 committee who will oversee sanctions, you know, once we
8 make any type of recommendations?

9 **MP OUTERBRIDGE:** Far stretched for
10 committees.

11 **THE CHAIR:** Sorry?

12 **MP OUTERBRIDGE:** I said we're far
13 stretched.

14 **THE CHAIR:** I know we are, but what I'm
15 saying is, it's up to the Speaker. Once we do what we
16 have to do, --

17 **MP OUTERBRIDGE:** It's up to him.

18 **THE CHAIR:** It's up to him to decide
19 whether or not he is going to have DPP, AG or somebody
20 else, you know, with him to make the decision.

21 **MRS. BROWNE-LISTER:** Madam Chair?

22 **THE CHAIR:** Yes.

23 **MRS. BROWNE-LISTER:** Question.

24 **THE CHAIR:** Mm-hmm.

25 **MRS. BROWNE-LISTER:** We're talking

1 about drug testing legislators; right?

2 **THE CHAIR:** Yes.

3 **MRS. BROWNE-LISTER:** Does that include
4 the Speaker himself?

5 **MP LISTER:** Mmm.

6 **THE CHAIR:** Oh, yes.

7 **SENATOR JARDINE:** Yes. Absolutely.
8 He's an elected MP.

9 **MP SOUSA:** Yeah. Yeah.

10 **SENATOR JARDINE:** And us.

11 **MRS. BROWNE-LISTER:** Yeah? Okay.

12 I just wanted to know --

13 **THE CHAIR:** No, no, no. Well, that's
14 right. Legislators covers everybody, it will be both
15 Houses, you know, the Parliament and the Senate.

16 **SENATOR JARDINE:** The appointed as well
17 as the elected, I guess.

18 **THE CHAIR:** Yes.

19 All right. Anything else under any
20 other business? No?

21 Next meeting, then, is two weeks' time,
22 and as I've indicated, we have Mr. Mosher coming, and
23 we'll have an adjournment.

24 **SENATOR JARDINE:** What's the date of
25 that? March the...?

1 **THE CHAIR:** Twenty-seventh.

2 No.

3 **MRS. BROWNE-LISTER:** No, that's not --

4 **MP LISTER:** February 27th.

5 **THE CHAIR:** February 27th.

6 **MRS. BROWNE-LISTER:** March the what?

7 Fifth? Sixth?

8 **THE CHAIR:** Two weeks.

9 **MP LISTER:** It's February.

10 **THE CHAIR:** February, 27th February.

11 **MRS. BROWNE-LISTER:** Still in February?

12 **THE CHAIR:** Yes. Two weeks' time.

13 Today is the 13th, so 14 days, 27.

14 **MP LISTER:** And it will be the same
15 time?

16 **THE CHAIR:** It will be the same time,
17 four o'clock. Okay. And Mr. Fox will...

18 What we will do is, we have the
19 speakers coming -- we tell them to be prepared to be
20 here for 4:15, but he will come a little bit earlier.
21 Mr. Fox -- because, you know, he has a motorized
22 bike --

23 **MP SOUSA:** Choice of the elevator.

24 **THE CHAIR:** Yes. But there's a ramp,
25 and he was asking about that. So Mr. Fox will meet him

1 and will operate the gates and Mrs. Wolffe has arranged
2 that, and so I will be there to meet him.

3 **MRS. BROWNE-LISTER:** So, I will send
4 fresh copies of the minutes?

5 **THE CHAIR:** Okay. Fine.

6 **MRS. BROWNE-LISTER:** Take out the
7 tracking and whatnot, yes.

8 **THE CHAIR:** Yes. I appreciate that.

9 **MRS. BROWNE-LISTER:** All right. And it
10 will be sent to everyone.

11 **THE CHAIR:** Thank you.

12 **SENATOR JARDINE:** Lovely.

13 **MP LISTER:** Good. Good.

14 All right. If there is no "any other
15 business", then I'll take the opportunity to thank
16 Mrs. Gazzard for being here and for transcribing, and
17 once she has done that we'll see that you get copies of
18 it.

19 **MP LISTER:** I must say they were very
20 useful in the other Joint Select Committee I'm on, just
21 reading through, you know, some of the submissions that
22 were transcribed, was very helpful. You get the sense
23 of what was being said.

24 **THE CHAIR:** Yes. Exactly. And I know
25 you from the other Committee.

1 Thank you very much. We appreciate it.

2 **THE REPORTER:** Thank you.

3 --- whereupon the meeting adjourned at 5:02 p.m.

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19 Certified correct to the best of my skill and ability:

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21

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