



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 22nd July 2020

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Present:

Ms J. E. Roland, Deputy Bailiff and Presiding Officer

Law Officers

Miss M. M. E. Pullum, Q.C. (H.M. Procureur)

People's Deputies

St Peter Port South

Deputies D. A. Tindall, B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel, M. K. Le Clerc,
M. P. Leadbeater, J. I. Mooney

St Sampson

Deputies L. S. Trott, P. R. Le Pelley, J. S. Merrett, G. A. St Pier,
T. J. Stephens, C. P. Meerveld

The Vale

Deputies N. R. Inder, M. M. Lowe, L. B. Queripel,
J. C. S. F. Smithies, S. T. Hansmann Rouxel

The Castel

Deputies R. Graham L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

Deputies A. H. Brouard, E. A. McSwiggan,
D. de G. de Lisle, S. L. Langlois

The South-East

Deputies H. J. R. Soulsby, P. J. Roffey,
R. G. Prow, V. S. Oliver

Representatives of the Island of Alderney

Alderney Representatives S. Roberts and A. Snowdon

The Clerk to the States of Deliberation

C. Foster (H.M. Deputy Greffier)

Absent at the Evocation

R. M. Titterington, Q.C. (H.M. Comptroller);
Deputy A. C. Dudley-Owen, (*relevée à 9h 32*); Deputy M. J. Fallaize;
Deputy H. L. de Sausmarez (*relevée à 10h 02*); Deputy P. T. R. Ferbrache (*relevé à 11h 32*)

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States of Deliberation

The States met at 9.30 a.m.

[THE DEPUTY BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

Billet d'État XV

COMMITTEE FOR HOME AFFAIRS

XVI. Justice Review Report – Debate commenced

Article XVI.

The States are asked to decide:

Whether, after consideration of the Future of Justice Policy dated 11th March 2020 the States and in accordance with Rule 17(9) of the Rules of Procedure they are of the opinion:

- 1. To note the Justice Review Report, and*
- 2. To direct the Committee for Home Affairs to consult further in preparing the framework for Future Justice Policy and report back to the States as soon as practicable.*

The Deputy Greffier: Article XVI – Committee for Home Affairs – Justice Review Report.

The Deputy Bailiff: Greffier, just before we start, Deputy Dudley-Owen, do you wish to be relevée?

5

Deputy Dudley-Owen: Yes, please, madam.

The Deputy Bailiff: Thank you.

10 **Deputy Lowe:** Thank you, Madam Deputy Bailiff.

The policy letter before this Assembly is presented as a green paper for a very good reason. Justice is a very broad topic. Making sure we have the optimum framework for the 21st century has massive implications for the Bailiwick, not only for this generation, but also for the ones to come.

15 We know that there are differing views on a whole range of issues and the purpose of today's debate is to flush these out. These views, whether expressed quietly or loudly, will give the five cross-Committee Justice Panel a real appreciation and insight into the political viewpoints.

The policy letter emphasises that the consultation and engagement process is not yet concluded and that consideration of the Justice Review Report by the Assembly today will form part of that

20 consultation. In this way, Members' views can then be married with those of the other stakeholders
from service-users, service-providers, and the judiciary. It is for this very reason that this policy letter
is laid before you as a green paper, without binding proposals which could stifle our collective
efforts to bring forward a transformational justice system which is truly inclusive and meets the
future needs of the community.

25 Future justice policy is not something that is the sole domain of the Committee *for* Home Affairs;
it cuts across Committees, the third sector, and the judiciary. We therefore need a broad debate,
and not a narrow one. Societies are judged by how fair they are to their citizens. You can have the
best education system in the world, you can have top-class healthcare, you can have extensive
provision of public amenities. But if the people do not have freedom, if there are fundamental
injustices, and if people do not consider themselves fairly treated by both their fellow citizens and
30 by government, they will be the most unhappy of all.

When we talk about justice, it is not limited to the point at which the police officer feels your
collar or the judge hands down the sentence. While that is part of justice, it is only one element.
Rather than we talk about justice, it needs to be in the context of a Bailiwick-wide strategy. We are
talking about the delivery of justice which ensures a fair and equitable society. This means thinking
35 about the child born into a dysfunctional family, thinking about the young person who feels isolated
at school and rebels, thinking about the troubled teenagers, thinking about the adults who find it
difficult to comply with the law, thinking about those who find themselves in the justice system as
a result of mental health, thinking about equality and diversity, thinking about a whole-society view.

40 It is about the broken families, where sadly many of the local care professionals can attest to the
seemingly inevitable prospect that children born into these families will require considerable
resources and support, potentially over the whole lifetime from the pre-school through their
education years and well beyond. Not all will be law-breakers, but a good number will, and find
themselves trapped in a cycle that means they regularly interface with social services and law
enforcement. The sad reality is that too often some of these people, having been regular clients of
45 the Bailiwick's legal and social support systems, will be the ones Her Majesty's Procureur, in her
capacity as Coroner, has to certify their untimely death.

As a community, we need to work hard to address and support all our citizens and see that they
have access to justice. Now, in this context, I am not talking about legal aid, excellent though it is,
but rather appropriate access to justice and fairness. One interviewee in the course of the justice
50 review research commented, 'It often seems we have more of a legal system than a justice system.'
We must ensure there is justice, but in doing so recognise that justice does not always have to be
seen as direct punishment. It can include coaching, support, and other forms of assistance for
people who might be struggling to interact appropriately with the rest of society and to a large
extent to become the better citizens they themselves often want to be.

55 This is not to suggest that implementing a justice strategy would somehow transform individuals
on a large scale in a short period. It will be a long process and a programme of change in areas
such as early-years education, a range of treatment options for drug and drink issues.

The Justice Review will require short- and medium-term investment but will deliver long-term,
lasting results. The proof in some cases will take a decade or more to be fully recognised.

60 Think of the Partnership of Purpose: 'it is a long term programme; it is not a quick fix.' How many
times have we heard that? Many could ask the same questions of 'What does it mean? Where are
the results?' Rather, it is a vision and a plan for new ways of working, some of which can be
implemented sooner, some of which will emerge over time in light of evidence and research.

65 Having explained that justice is about much more than law enforcement, more than the courts
and the prison, and that there are major long-term gains on offer, that does not take away from the
need for this justice strategy also to drive shorter-term operational efficiencies. In this respect, we
need to look at our internal procedures and processes across the States and beyond.

70 For example, there are inherent inefficiencies in the way the justice system currently works for a
person who is being processed for an alleged crime. The initial record taken by the Police at an
incident and the details of those involved have to be rewritten and repackaged multiple times as

that person goes through the justice system, with parties such as the law officers, the courts, the prison, each requiring the data in a different format. This is just to illustrate that as well as long-term change, there is also room to tackle the internal processes which currently slow things down.

75 The Justice Review creates the opportunities to grasp long-term change and mix it with short-term improvements, often referred to as the 'low-hanging fruit.' Ultimately, a fit-for-purpose justice strategy for the 21st century needs to include whole society change. It needs to deliver a truly just and fair community, meeting the justice needs of individuals and families from the cradle to the grave.

80 Of course, the Justice Review is about a lot more. It includes the way we care for those who are subject to domestic abuse. It includes the way we provide governance. It includes complex and sensitive matters, such as the extent to which Government should or should not involve itself in sentencing policy. It includes the potential alternatives to court sittings. It includes equality and fairness. It includes devising structures to support the dysfunctional to be integrated into society. It includes seeing mental health as an illness rather than a crime.

85 The Report appended to the policy letter is thorough and based on detailed research. It does not, however, hold itself out to be the final word on the future. It provides a blueprint for us to consider, debate, and by cross-Committee working and ongoing engagement with the community, to drive things forward. Submitting it does not mean that the Committee *for* Home Affairs necessarily embraces every recommendation, but it is of such importance that it needs thorough consideration by this Assembly.

90 As I said at the start, this is presented as a green paper because of this need for general discussion. This will give the five Committees who have a part to play a clear indication of the views of this current Assembly. The prospect of amendments which would see Rules suspended or the equivalent of a form of a sursis leading to prescriptive requirements being made which direct Home Affairs to go away and report back based on narrow focused areas will not be helpful. Clearly, it has been the gift to the Assembly to do as it wishes but if we suspend the Rules and start passing amendments or agreeing the potential sursis, the effect will be to direct Home Affairs to report back on X and Y and Z by certain dates. The results would be that those issues would become the focus of this debate and would come at a cost to the wider-ranging review and plan of action which is needed.

100 Let us have this open debate, in which Members can share their views on the good and not so good within this independent report. These would then be distilled by those listening, and from *Hansard*, and from the subsequent discussions which will take place in the five cross-Committee Justice Panel. It will be the Panel made up of representatives from Home Affairs, the Health & Social Care Committee, the Education, Sport & Culture Committee, the Employment & Social Security Committee, and the Policy & Resources Committee that will guide and assist the Committee *for* Home Affairs to report back to the States. We all want this to work.

105 I would therefore ask Members to engage with this report and to express their views and concerns on the multiple aspects within it. I appreciate the time available is not unlimited and so written submissions will also be taken into account as the Committee, in partnership with all the other four relevant Committees, takes this forward. There is a good reason why the States in the Future Guernsey Plan determined this justice policy strategy was to be one of the top priorities. This is the opportunity to take that next step forward.

115 I look forward to this debate and discussion in preparation for us putting in place a justice strategy which is appropriate for the 21st century.

Thank you, madam.

The Deputy Bailiff: Deputy McSwiggan.

Sursis Motivé

To sursis the Propositions until the work set out in this Sursis Motivé has been completed, and to direct that:

1. The Committee for Home Affairs shall prepare evidence-based proposals for, and return to the States no later than December 2022 with, a Justice Framework which includes (but need not be limited to) recommendations in respect of:

- Minimising the harm done to our community by crime,
- Prioritising measures to address financial crime, border security and cybercrime,
- Preventing the criminalisation of vulnerable people,
- Promoting diversion from the criminal justice system, and from formal criminal justice measures, wherever appropriate alternatives exist,
- Rehabilitating offenders and restoring the harm done by their actions,
- Reviewing sentencing law and outcomes, with a commitment to reform of the law governing appeals, in particular against criminal convictions,
- Reviewing the operation and oversight of the criminal justice system, and
- Establishing a “whole Island” approach to justice and the prevention of crime,

in accordance with the findings of the “Guernsey Justice Review: Final Report” report appended to the policy letter and summarised in the supporting report to this Sursis Motivé;

2. The Committee for Health & Social Care shall complete and present to the States, at the earliest possible opportunity, the Combined Substance Use Strategy; and

3. The Committee for Health & Social Care and the Committee for Home Affairs, informed by the results of the Combined Substance Use Strategy and no later than six months after it has been considered by the States, shall report back to the States with options for alternative and non-punitive approaches to the possession and use of small quantities of illegal drugs (including, but not limited, to cannabis), which take into account:

- i. the need to promote the health, wellbeing and safety of people who use drugs, and of the wider community;
- ii. the strategic principles of the Combined Substance Use Strategy and any evidence collected in its development, including the commissioned Independent Report on the Review of the interaction of health and justice system in relation to the possession of drugs for personal use;
- iii. the potential for moving from a regime governed by the criminal law towards a partly or wholly regulatory approach to all aspects of personal drug use; and
- iv. the results of consultation with the community and key stakeholders in respect of such alternative options.

120 **Deputy McSwiggan:** Thank you, madam.

Madam, listening to Deputy Lowe’s opening speech, Members or those who unlike us will not have seen the States’ papers might very well believe that what we are debating today is a justice strategy. But that is not what the green paper offers. There are no work streams set out in the green paper, no timeframes, and no resources. If we debate only the green paper in front of us today,
125 then we walk away with no commitment to further progress on justice policy in the term of this States or the next. Madam, that is what the sursis motivé tries to address.

I had toyed with the idea of bringing a sursis motivé when the green paper was very first published and thought, ‘We have quite a lot of debates to be had between here and the end of term. Maybe it’s not the right thing to do.’ And then these amendments started to emerge. And the
130 amendments focus specifically on the area of drug reform, and rightly so I think, madam, because that is an area that is long overdue a political conversation in Guernsey, and it is something that I do think the States needs to address honestly and within an appropriate framework.

But I welcomed the initial focus on justice policy generally and what I did not want this debate to become is a focus on those amendments only and to take away the opportunity for this wider
135 conversation about what the justice framework should involve.

140 So this sursis motivé has two parts. The first part of it is a focus on: what do we as a States actually want to see in a justice framework? What kind of work should we be committing to for the sake of our community? And the second part then deals with carrying forward that framework for drug reform. The kind of work for this is set out in the amendments in a way that I trust is practical and achievable and that the majority of the States will find acceptable.

I just want to spend a couple of minutes on each of those aspects of the sursis motivé, one of which is more a matter of policy and substance, and the other of which, if we are being completely frank about it, is as much a question of tactics and the right approach to take it in the States at this time as for anything else.

145 So, the question of the justice framework and what that should involve. Madam, I should say that the very honest reason why this sursis motivé was laid so late is because it is a decision that I reached after seeing the amendments so it followed those amendments. But while I was developing the sursis motivé, I was in conversation with various States Members, including members of the Committee for Home Affairs, and I was advised by the President of the Committee for Home Affairs that there are no resources to deliver this piece of work. I was asked, if I want to deliver this piece of work within the timeframe set out in the sursis motivé, could I please tell the Assembly what I would de-prioritise? Would I de-prioritise work on Brexit, for example? Would I de-prioritise work on sexual offences or so on?

I am not going to give way to Deputy Lowe because she does have the right to reply to this.

155 **Deputy Lowe:** It is a point of correction.

The Deputy Bailiff: Point of correction, Deputy Lowe.

160 **Deputy Lowe:** The point of correction being, that the timeframe is for July next year and we simply do not have resources to be able to do that in that timeframe.

Deputy McSwiggan: Madam, I am giving an honest account of our conversation as I recall it. If Deputy Lowe recalls it differently then I apologise.

165 The sursis provides for a two-year timeframe for the justice framework – two-and-a-half, in fact – and it is on a matter which could not be more central to the mandate of the Committee for Home Affairs.

Those who have been considering amendments have been told off for not honouring the spirit of the rule on green papers. But let's be honest here: we are four and a half years into a four-year term. This is at the heart of the work the Committee for Home Affairs should be doing. This should not be the subject of a green paper so late in the term. The Committee, I believe, should have been ready at this point to come to us with some clear recommendations, building on the Report that they presented to us, on what they believe should be carried forward and what should not.

170 In the absence of that, madam, I have taken the liberty of setting out – again, drawing on the evidence in that report in the first half of the sursis motivé – what I think the justice framework should encompass. It is a series of bullet points which set out the breadth that I think the justice framework should cover, but obviously, should this Committee or another Committee wish to add or alter that, that is within the gift of the Committee. But it is a framework that follows the same kind of policy approach that we have found useful and important in the context of many other areas of substantive policy in this Assembly.

175 Deputy Lowe referred to the Partnership of Purpose in her opening speech, and one of the things that successive Health Committees, not just this one but its recent predecessors, have done is to focus on the question of prevention and early intervention: what are the social determinants of health? What do we need to be addressing upstream within our mandate and in the mandate of the wider States to make sure that people are able to remain healthy and well, rather than just dealing with them at the point where they come into contact with the health system? That approach

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works just as well, or has the potential to work just as well, in the context of justice as it does in the context of health.

190 What are the determinants of crime, or conversely the determinants of peace? What are the things that we need to be doing right as a community to avoid people coming into contact with the justice system in the first place? And when they do come into contact with the justice system, what are the things that we need to be doing to support reintegration, to enable people to re-engage society in as productive and constructive a way as possible? What do we do to reduce the harm all round? So, a focus on prioritising prevention and early intervention is not only about
195 reducing the harm caused to the whole of society by crime, but it is a focus on making sure that the social components of justice and the criminal justice system itself are thought about as two halves of a completely interlinked whole. So, it is about trying to take that all-encompassing, whole-system approach to justice.

200 And that comes out loud and clear in the Report which the Committee has shared with the States, this idea of establishing a whole-Island approach to justice and the prevention of crime, something that all our Committees can work together on, and I think is a really positive step forward and is certainly something that we should be considering and working towards.

205 But I do not understand why the Committee did not feel able itself to recommend that to us. I do not understand why the Committee, having seen the Report, having done the work that it has done in the course of this term, did not feel able to say, 'Maybe don't take all of this, maybe there are some areas of this that we need to work on further, but here are some concrete commitments that we think should set the path for the next States and which we invite you to sign up to.' So in lieu of that being in the green paper, I offer it here in the sursis motivé.

210 One of the key areas that was in the Review Report that was shared with us, which I think we have never really discussed adequately as a community and which really requires a mature and thoughtful conversation as an Assembly, is this question of where is the boundary between the criminal law and civil law, between things that should be criminalised and things that should not be criminalised? We will come to that specifically in the context of drug reform. But there is a more general question, and I hope and I believe that it is a question that we ask ourselves as lawmakers
215 whenever we are developing a new law – when you are thinking about what kind of sanctions are going to follow from this law and the kind of penalties that are attached to it for certain kinds of behaviour, I think we must all be asking ourselves, is it reasonable that that sanction follows that behaviour? If I were caught out in that behaviour, is that the sanction that I think would be proportionate?

220 We have to take a very human approach to the delivery of justice. We have to take an approach that adequately protects those who are vulnerable and that is fair to those who fall foul of the law, and I think that addressing that question of how we prioritise what we criminalise and what we sanction is really critical but it is complex and it is something we have never yet addressed.

225 One of the points in the Report that struck me between the eyes, and it came out again in Deputy Lowe's speech is this question of 'What actually does the most harm?' We behave as a community as if things like misuse of drugs do the most harm to us as a society. And that may or may not be the case, but we have to weigh it up against other things. The report flagged up particularly that, actually, things like financial crime, things like cybercrime, things like threats to our borders could be massively more damaging to us as a community and to us as individuals than other forms of
230 crime which at the moment receive much harsher sentences, or even than other forms of behaviour which at the moment are treated as crimes.

235 There is a very fundamental question about what and who we choose to criminalise, and that is tied up with all sorts of social questions, all sorts of ideas of right and wrong. But I said it hit me on the nose in Deputy Lowe's speech, and that was because she talked about 'children from broken families, not all of whom will be law makers but a good number of whom will' and my jaw dropped somewhat at that, because I thought it characterised the stigma which leads us to a certain sort of approach to criminal justice. It told me in a sentence why it is that we focus on criminalising certain sorts of behaviour and certain kinds of people, and it said to me 100%, no, actually, we need to step

240 back, we need to re prioritise, we need to have an honest and objective conversation about what really does the most harm to us as a Bailiwick and what is simply stigma and stereotype, and we need to revisit that from first principles. I hope that the justice framework will provide a forum for that to happen.

245 So Deputy Lowe referred to the Partnership of Purpose, and what this sursis motivé invites the Committee for Home Affairs to do is to develop a document not dissimilar to the Partnership of Purpose – something that covers the breadth of justice policy, the justice framework, that does not answer all the questions that are set out in the bullet points at the same time but that sets out a direction of travel in respect of each one, that recognises the kind of work that needs to be done to address each one and the nature of the resources that are needed and the kind of timeframe that is realistic.

250 All that is in the Partnership of Purpose; it is not in this green paper. The justice framework would be the justice counterpart to that bit of health work. It would be the foundation stone setting out the direction of travel and the particular pieces of work that we want delivered. I do not think it is unreasonable to ask for that to be delivered within the next two and a half years, hopefully sooner, and I do not think it is unreasonable for the States to make a commitment to delivering it within
255 the next two and a half years so that it can be appropriately resourced and prioritised in the context of everything else that the States needs to do. Without that kind of commitment, then I think Deputy Lowe is absolutely right: it is unlikely to see the light of day in the context of everything else that the States has got to do. So I think this commitment is fundamental.

260 So that explains why the sursis motivé seeks to direct progress on the justice framework. But I just need to talk for a minute about the question of drug reform, and I suspect that, for one reason or another, I am more sympathetic to the amendments that are in play than probably the majority of this Assembly. Certainly, not everyone, and I do not wish to speak for everyone, but there are two factors that, taken together, play against the amendments. One of them is the fact that this is a green paper, and so in order for it to be debated, for any of the amendments to be debated, the
265 Rules have to be suspended. And I know that there are people among us who agree with the principle of what the amendments are trying to achieve but also agree with the principle of respecting what the Rules set out to do and so will not break one to support the other.

I am not that well-behaved (*Laughter*) so I will be supporting the motion to suspend the Rules, but I think I will be in the minority on that.

270 But the nature of the amendments and the number of the amendments that there have been, particularly around the question of drug reform, convince me, if I were not already convinced, that actually we need to have a proper, well-thought-through, evidence-based debate on the future of drug reform in Guernsey at the earliest possible opportunity. (**Several Members:** Hear, hear.)

275 And this is, madam, where I said that, unfortunately, I need to talk a little bit about tactics rather than pure substance. Because I do not think the amendments will clear the bar to be debated, even if their aims are entirely reasonable, the sursis motivé offers an alternative approach to making that commitment. Now, I appreciate that, particularly for those who are supporting specific amendments, it is a really difficult thing to weigh up: do you hold out on the sursis motivé in the hope that, if the sursis motivé falls, the Rules will be suspended and the amendments will be
280 debated, or do you throw your lot in with the sursis motivé in the recognition that what it offer is perhaps not as perfect as one's own amendment but it does provide a clear framework for the kind of work envisaged in all the amendments to be done? And I do want to be to be clear that the aim of the sursis motivé is not to squeeze any of the amendments out of the debate. Deputy Lowe said the purpose of a green paper is to hear what aspects of justice policy Members are concerned about
285 and what they would like us to do about it. Whether previous States have done it differently or not, I think this States has a habit, and it is probably in no small part my fault, of expressing its views, particularly on the bits of policy that do not work, through amendments.

290 So these amendments are telling us that there are particular bits of justice policy that need to be addressed, one amendment is to do with the reform of laws governing appeals against convictions, and the rest is to do with drug reform, so two areas that really need to be addressed. I

have done my best to wrap in the amendment about appeals to the work on the justice framework generally and I have discussed that with Deputy Green and I believe he is comfortable that the wording of the sursis, if successful, would allow for that amendment to be addressed properly.

295 The amendments on drug reform follow fairly closely the form of the amendments submitted by Deputies Soulsby and Tooley, because this was an amendment which was borne out of existing knowledge about what the Committee for Health and Social Care is doing in this area and so I was able to work that in in a way that the Committee knew it could work with, but I have to credit it to the work done by Deputy Le Tocq and Deputy Laurie Queripel who started this conversation.

300 Deputy Marc Leadbeater and Deputy Parkinson asked for us to commit to a specific form of regulation and decriminalisation of cannabis which, in my heart of hearts, I think is probably right or close to right, but which I could not decide on the back of a single amendment, so the sursis motiv  asks the question of the potential for moving from a regime governed by criminal law towards a partly or wholly regulatory approach. Now that obviously does not cover the span of what was in the Leadbeater-Parkinson amendment but it, I think, allows for that fundamental question to be examined and addressed and for the States to reach a view based on evidence as to whether that is the right way forward.

305 So, I think the sursis motiv  offers two positive things to the States Members and two things which I hope Members will support. One of those is a clear commitment to further work on the justice framework within a timeframe which allows resources to be assigned and which allows this to be addressed at the peak of the next States term rather than its end, which sets out a commitment to looking at justice in its full complexity and its interaction with social issues, and prioritising that focus on prevention and early intervention which we know is so important across all our work, and it also allows a framework for this debate on drug reform, which I think is long overdue, to take place in the next term in a way that is evidence-based and appropriate and in a way which the debate on the amendment is unlikely to allow us.

315 So, with all that in mind, madam, I ask Members to support the sursis.

The Deputy Bailiff: And is that formally seconded by you, Deputy Merrett?

320 **Deputy Merrett:** It is, and I reserve my right to speak, madam.

Deputy Fallaize: May I be relev ?

325 **The Deputy Bailiff:** You may; as may you, Deputy de Sausmarez.
Deputy Lowe.

Deputy Lowe: Thank you, Madam Deputy Bailiff.

330 Let us consider why this sursis motiv  is not within the spirit of Rule 17(9) and what precedent it sets. Next time a Committee wants to encourage open debate in the Assembly, it may believe a green paper under Rule 17(9) offers the perfect way forward. Then it will note the distinct possibility that some Members may want to lock into outcomes much more quickly, so place amendments or a sursis motiv , as we have seen today. In the light of that, the future relevant Committees may conclude it is not worth the risk, opting instead for the tried and tested route of States Members' workshops and presentations behind closed doors as a means of which to ascertain Members' views. In so doing, the States will have lost a valuable opportunity for a proper, open, public political debate. Remember, it was for this very reason that the States introduced Rule 17(9) in the first place.

340 This green paper is here for open discussion. Home Affairs was not required by resolution to present the Justice Review Report by any given date, but rather it has chosen to do so. It could have kept hold of it and it could have worked out proposals based on where it considered reviews and further studies were needed. No, instead it decided to bring it to the States as a green paper to encourage open and free debate, now only to have it potentially hijacked.

345 This sursis motivé does not just delay the matter, but rather it directs to conduct a range of reviews and other studies before coming back no later than December 2022. That might sound very doable, and undoubtedly for parts it would be, but we are going about it the wrong way. This sursis motivé will tie the hands of the five Committees on the Justice Panel as there needs to be an open debate on this green paper and the appended report as part of the consultation process to secure the views of the body politic and will complete the package of consultation, and follows on from the review which consulted service users, service providers, and professionals in both the States and third sector, the judiciary and from the public. Now we are hearing the views of the individual States Members.

350 This debate will complete this stage of the process and we move, then, forward in partnership with the other four Committees to devise the optimum implementation plan to work out what it would cost, where the resources would come from, and to report back to this Assembly.

355 This sursis motivé seeks to jump to the conclusion that this States does not really need the considered input and reflections from the various Committees and professionals, but rather it is, here and now, ready to make the final decision of what should be prioritised and progressed. To approve this sursis motivé is setting up the Committee's successes to fail. It seeks to jump to a 'We know best' set of Propositions before the proper debate and community engagement has been concluded.

360 The detail of the Propositions on the sursis motivé are restrictive. It would be entirely reasonable to demonstrate that to deliver on this sursis motivé has significant financial implications, measured in tens of thousands of pounds and potentially over £100,000 and, as such, it should not proceed on the basis of Rule 4(3). That, however, could be a debate in itself, and Members, we have a limited time slot today to deal with this important topic and the last thing I want to do is to spend the day debating the Rules of Procedure.

365 This sursis motivé locks down the five Committees into where their focus must be and what the report must deal with when we present it to the next Assembly. I reiterate, this sursis motivé ties everyone's hands in an unacceptable way.

370 Let us consider, what if it emerges through the cross-Committee Panel that Employment & Social Security see a critical need to review legal aid and the way that interacts with the judicial system? What if Education, Sport & Culture highlights a need for a different approach in tackling potential future criminality through more early-years family support and education? What if the Health & Social Care Committee sees the need for a more seamless and understanding justice system for those with mental and physical challenges? It should be the cross-Committee Justice Panel to be taking the views of this Assembly and combining these with the first-hand knowledge of the operational services for which they are responsible. However, the Panel will be restricted before it even starts.

375 The point I am making is that to approve this sursis motivé locks us all and all our successes into a particular avenue of inquiry and research which are largely prompted –

380 **Deputy Merrett:** Point of correction, please.

The Deputy Bailiff: Point of correction, Deputy Merrett.

385 **Deputy Merrett:** Thank you. There are some key words in the sursis motivé that I do not think are being reflected upon. It says, for example, 'but need not be limited to', so I do not see how that is restrictive. And further, it is being implied that the directions have already been concluded, when in fact, it says 'to report back to the States with options for alternative and non-punitive approaches,' so I would argue that Deputy Lowe is misleading the States.

390 **The Deputy Bailiff:** Deputy Lowe, continue.

Deputy Lowe: Thank you very much.

395 The point I am making is that to approve the sursis motivé locks us all and all our successes into particular avenues of inquiry and research which are largely prompted, as an explanatory note explains, to accommodate the views of the proposals of a few amendments. This is surely not the right approach.

400 As I have said in my opening speech, this Report is presented as a green paper because of the need for general discussion. It does not need a sursis motivé or any amendments. It is a discussion paper where all the views, visions, wish lists, and Members' ideas can be expressed. It is quite simple. It is under Rule 17(9): give us your views please. I say to all five Committees, a success of future justice policy is dependent on it being progressed as a cross-Committee collaborative initiative developed in partnership with the judiciary, the third sector, and the community.

405 The Justice Review Report contains multiple recommendations and observations and signals the opportunity for major transformation in the area of justice. The policy letter highlights that the delivery of a sustainable justice system which meets the needs of our community needs will need the provision of appropriate resources across all five Committees, whose contribution will be crucial to the delivery of this work. On top of all this, securing an optimum justice framework is not just about what happens in the Bailiwick; it includes looking outside and beyond. The Assembly should be assured that the Home Affairs Committee is unanimous in the view that implementing the future justice policy is its top priority and must remain that within the next Assembly.

410 Equally, the Committee recognises that, as we move on toward implementation, there will need to be detailed and ongoing dialogue with criminal and social justice agencies. There must be a clear understanding of the independency between social and justice policy and more exploration on how justice policy should evolve to meet the needs of the community. This green paper is an important part of the journey. However, without the joint discussions that need to follow with the five relevant Committees, we do not have the evidence to support making decisions today on what should and should not be prioritised. Today we are listening to the very many different views on a wide subject. We are completing this phase of the Justice Review; we are not here to prioritise a narrow list of hot topics. We have demonstrated the commitment to cross-Committee working by securing agreement from Employment & Social Security, from Health & Social Care, from Education, Sport & Culture, and Policy & Resources, that we will all work together in a collaborative forum. This commitment to the joint development of justice policy and collective accountability will ensure that this Government priority will *not* get buried under Brexit and COVID-19.

425 I am asking the Assembly not to support the sursis motivé, but rather have an open and constructive debate about everything that justice means, from the impact of alcohol and drug abuse on mental health to the serious organised crime, from the links with social policy to the streamlining of judicial processes. The cross-Committee advisory panel will consider all the issues raised by Members before asking the States to consider recommendations. In partnership with the advisory panel, the Committee expects to bring forward proposals which seek to define social, criminal, and family justice, to identify clear objectives for future justice policy and the means of achieving them. It will then be the States who will ultimately decide what is or is not affordable, acceptable, and achievable and the timeframes for change.

435 I ask Members to please let us avoid seeking to shackle the five Committees and the Assembly that will succeed us into a narrow view of what they must focus on. Please reject the sursis motivé and proceed and do what we are here to do without further delay, which is to discuss any and every aspect of the Justice Review that Members feel important on this green paper to get the right justice system.

440 Thank you, madam.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Thank you, Madam Deputy Bailiff.

445 Despite Deputy Lowe's speech, I am mindful to support the sursis, I think, for several reasons, and I was surprised myself because I'm not normally a supporter of sursis because normally all they

do is create delay and I am not a big fan of delay. I think there tends to be far too much of that in this Assembly.

450 But in this case, the sursis doesn't really create any delay at all because all we will be debating if the sursis fails is, to my mind, a fairly wishy-washy green paper and all we will be voting on is a proposal to note it. In fact, if this sursis motiv  is debated in full, including all of its constituent parts, it will probably provide a more meaningful debate, I think, on the question of criminal justice policy *and* move matters on faster than simply proceeding to debate the green paper.

455 I am certainly not saying that everything in the green paper is not worthy of debate. It is a good read. In fact, in some cases, it is quite alarming. On page 37, the picture it paints of the restorative justice procedure and the way it has been left to wither on the vine is worthy of debate. In some ways, I would like to get on to debate this and therefore that would lead me to vote against the sursis.

460 On page 78, the important statement in black and white – on the top of page 88, that is – 'The States to determine sentencing policy and the courts just implement it.' Yes. And I would like to debate that in many ways because I feel that Home Affairs over many years, and including their present President, have been in denial of that, almost feeling it is the courts' role to evolve their own sentencing policy. It is certainly not the States' role to interfere with any individual court case or suggest what penalties should be ascribed. But sentencing policy is the role of the States and it is great that that is in black and white in this green paper.

465 But when we come to the end, when we get to page 113, we are basically faced with ... I am waiting for the conclusions and it is 12 questions. Twelve questions, all of which are perfectly valid and could spark a long philosophical debate today about where we go with justice policy, but to my mind it is time to start getting beyond just questions. It is time to start moving towards some answers.

470 My second reason for being sympathetic to this sursis is that I actually do not think that this Report should have been brought as a green paper. I do not think it is appropriate. Now, I am a supporter of the green paper provision in our Rules. In fact, I am one of its architects: I was on the old House Committee when the idea was first considered. I may not be an architect of the final wording now, but the concept was born when I was on the House Committee. And used sparingly, 475 I think it is a really good way of testing the Assembly's opinion before returning with detailed proposals, and by doing that you can save yourself a lot of abortive work, because what is the point in doing something that an Assembly is never going to support?

480 However, testing this Assembly's opinion in its dying days in order to shape proposals to be laid before the next one seems to me a fairly perverse and pointless use of the Rule. Frankly, it smacks of a Committee simply using the Rule because it knows it has a pretty weak report which is liable to be amended to kingdom come. If so, it looks like they were right. Home Affairs *has* laboured like an elephant here and they have produced something of a mouse with its review of criminal justice policy.

485 But ironically, if they wanted to avoid amendments on that basis, they seem to have failed to do so because of the way that this Assembly just does drop Rules at the drop of a hat, and despite what the Deputy McSwiggan said, I suspect there is a fairly strong case that they might drop the Rules and focus on specific amendments to the detriment of the broader debate later in the day. I am one that almost never votes to suspend the Rules because I think 'What is the point in drawing up a set of Rules and then pretending you don't have them?' But in this case, because I do not think 490 this should have been brought as a green paper, certainly in relation to at least two of the amendments, I think I probably would vote to do just that.

495 P&R are right that there is a real danger that this debate could, if it proceeds, turn out to be so focused on drug policy, particularly if any of the amendments are discussed, that other aspects are completely skated over. That would be a shame, and ironically, this motion not to debate allows, in my opinion, for a far wider discussion because of the wide-ranging motiv  grounds, particularly in Part 1. Although, as was raised in a point of correction, and it is probably more of a debating point, the grounds in point 1 are not jumping to conclusions prematurely. If we pass it, it would be this

Assembly saying, 'These are aspects that we particularly think should be addressed in the ongoing work,' but it is very, very clear that it is not prescriptive that any other aspects are allowed to be discussed as well, which includes but need not be limited to recommendations in respect of. So, I do not agree with Deputy Lowe that it is actually prejudging things before work has been done.

500 However, despite the very great importance I put on section 1 of this sursis, I am going to be slightly hypocritical, I am going to do what P&R feared, and I am going to focus on the aspects 2 and 3 of this sursis, which do focus on drug policy.

505 I have form here, Madam Deputy Bailiff. I have political form because I have twice tried to soften the States' policy on cannabis. The first time was in 1982 and I remember it well. At the time our prison, which was just up the road there from the Royal Court where we sit, was absolutely stuffed full of young Islanders sentenced for a standard six months for possession of tiny amounts of cannabis for personal use, very often described as 'traces' rather than any amount at all. But six months was the standard sentence and it was never varied from. Now, I tried to remove the custodial option for any amount below, I think it was, 20 grams. I suffered a crushing defeat; even my seconder, Deputy Langlois at the time, had put an asterisk on the amendment, which meant he wanted it debated but he did not really support it. I think the only support I got on the day was from a very young, fresh-faced Deputy Roger Perrot, but apart from that I was pretty friendless. But 510
515 despite that, actually, sentencing policy not long after that changed so that people were no longer jailed for very small amounts of cannabis for their own personal use.

The second bit of form I have is from when I was Health President, when following the advice of the very knowledgeable Advisory Committee on the Misuse of Drugs, which is the body that advises the UK Government, we tried to reclassify cannabis from a class B drug to a class C drug because that was their clear recommendation. Again, the States said no.

I also have form in that, for the record, as a young man I lived in India and I often took cannabis, which at the time was entirely legal and could be bought from government-licensed shops, whereas in many other states alcohol was prohibited. Both of those things have since changed. Well, I think Gujarat may still be dry, but apart from that those things have almost reversed. All these years on, I still support a much less punitive and criminalising response to cannabis, not because I regard it as a benign substance; I do not, and I will expand on that in a minute. And I think this sursis is a better and more responsible way to reaching a less punitive and criminalising response to cannabis than either of the amendments, and in particular the one that is going to be laid by Deputy Leadbeater, which to me does actually presume what the answer is before actually having the Report and the 525
530 debate.

My desire for that less punitive and criminalising approach to cannabis is driven by a couple of factors. The first is I just do not think prohibition works: all it does is it stokes criminal activity, and profiteering, and the sale of far more dangerous versions of the drugs concerned. However tough Guernsey's stance on drugs has been, and it has been mega-tough in the past, and it is still pretty tough now, it has never prevented fairly widespread cannabis use.

I give way to Deputy Smithies.

Deputy Smithies: I just wonder if it is a give way or a point of order. I just feel that Deputy Roffey is straying away from a debate about the sursis motivé into a long speech about the benefits or disbenefits of cannabis and his own experiences in drug-taking. I do not think this is entirely relevant to the sursis.

The Deputy Bailiff: Deputy Smithies, in terms of whether or not it is a point of order, the sursis motivé is drafted so widely, I think Deputy Roffey's speech is acceptable under those principles.

545 **Deputy Roffey:** Thank you, Madam Deputy Bailiff. My own view is that the sursis clearly directs work to be done on the question of reforming the law on cannabis, whereas that is not an inherent part – although we could debate it and discuss it and have a debating chamber about it – it is not

550 an inherent part of the green paper as it stands and therefore I am addressing why I *will* support the sursis motivé for the reasons that I am saying.

As I say, Guernsey's stance over the years has been extremely tough but it has never prevented fairly widespread cannabis use, and ironically the more successful our Border Agency has been in seizing the drug – and they should be congratulated, they have been very successful over many years in doing just that – the higher the street price becomes in Guernsey because of the economic 555 rules of supply and demand. Our mistake, in my view, has always been to attack the supply side far more vigorously than the demand side. If we succeed, the street price goes up, and the more effective Guernsey becomes to criminal gangs. Now of course, those criminal gangs do not risk the wrath of our criminal justice system themselves by coming to Guernsey, but rather they send fairly pathetic mules to the Island whom they usually have a hold over, some unpaid debt or whatever, 560 and they will end up in our prison system at great cost to the taxpayer, often for many years. And yes, I know, marginal costs, Deputy Graham, through you, may not ... Okay, I will pass over that. (*Laughter*)

The other point is that the stuff that these criminals bring to our shores can be extremely dangerous in two ways. First of all, it can often be cut with other substances, and goodness knows 565 what it is cut with in order to increased profit margins, or it can be ultra-high THC versions of cannabis, so-called 'skunk', which has been produced by selective breeding and has a far greater risk of causing psychological harm than 'normal cannabis', to put it that way, and I will come back to harm in just a moment.

Now, the question could be asked, could these criminals still operate and sell their dodgy wares 570 if cannabis for personal use was decriminalised? In theory they could, but in practice the space that they enjoy now that they exploit for criminal profit would be removed.

We do not prohibit alcohol, and as a result we do not see all sorts of dangerous 'hooch' or 'moonshine' that could leave people blind being hawked on the black market around Guernsey -- or at least I don't think we do. If it has, it has passed me by! (*Laughter*) Although my mother did 575 mention once about some cider that she got from Deputy Inder, which she thought was pretty much bordering on that! (*Laughter*) But I do not think that by and large we do. But we know that during Prohibition in the US that was exactly what was happening. Unless you were lucky enough to get some of the real McCoy that Mr McCoy brought on his yacht, the rum that he brought in from the West Indies to break the Prohibition barriers, you got homemade stuff that was putting 580 your life at risk, frankly.

Prohibition does not work. I hate tobacco smoking. I hope one day it is regarded as something daft that humanity did in its history. But I would not want to make it illegal for those above a certain age. I might make that age 21 but that is a debate for another day.

My second motivation is that we are talking here about what does least harm. I think that criminal 585 sanctions often do more harm than good in relation to cannabis and cause large problems in the lives of people who are not inherently evil or what might be described as 'criminal' types. I know that is not a very accurate description but I think people know what I mean.

To the extent that there is any *victim* at all in the criminal activity which taking cannabis currently is, then we choose to punish the victim. That is a fairly odd approach to crime, to me. 'Here is a 590 crime, we deem it a crime, here is a victim, we'll punish the victim.' Very, very odd. Perverse even.

Madam, I do not regard cannabis as a completely harmless substance. For some, it can cause health problems; for a few, very serious health problems. Exactly the same is true of alcohol. It killed my dad, and if I am not careful it will probably get me too. It causes significant health issues for many, but we do not punish those who use alcohol because they are taking risks with their health. 595 We do not turn them into criminals just because their drug of choice can potentially do them harm. Frankly, I feel like a complete hypocrite as a lawmaker. My drug of choice is wine, preferably French, and it is endemic in our society. If we gather in the Great Hall to celebrate something, most of us will raise a glass. Not everybody, but most will. Usually quite unpleasant, fizzy white wine, but that's another matter. (*Laughter*). That maybe should be criminalised. (*Laughter*). But if others prefer 600 another drug with a similar propensity for harm, we turn them into criminals. I do not ask anybody

to approve of taking cannabis. I am not sure that I do myself. There is a world of difference between approving of something and choosing not to criminalise it. (**A Member:** Hear, hear.)

605 I have to say that a few of those seeking over recent weeks to change our attitude towards cannabis for medicinal and recreational purposes have done their case, in my mind, no good at all. No substance should be ascribed medicinal efficacy without the strictest scientific evidence to prove that beneficial effect actually exists. Otherwise, we revert to the days of snake oil salesmen. And to describe cannabis as a cure for cancer, as more than one person has done in letters and emails to States Members, is frankly not only highly irresponsible, but downright cruel, when those with terminal diagnoses and their families are desperate to grasp at any straw.

610 I am open-minded about what, if any, medicinal benefit cannabis has, and I will be guided by the evidence and by nothing else – certainly not by trite descriptions of hemp as being a ‘sacred plant.’ What on earth does ‘sacred’ mean? Anything that a few people choose to worship becomes sacred. To sections of the Guernsey electorate, Deputy St Pier has become a sacred Deputy! In reality, he is just a Deputy! (*Laughter*) And cannabis – I won’t say ‘He’s a very naughty boy!’ (*Laughter*) He is just a Deputy! And cannabis is just a plant. And like many plants, it could have, and probably *does* have, medicinal properties. Many, many plants do. If so, they should be exploited to the full. But I really wish the prophets of cannabis would cut out their hyperbolic rhetoric, because they do their cause no good at all.

620 How harmful is cannabis for recreational use? I do not think there is any doubt that it can sometimes be harmful: sometimes physically harmful, particularly if smoked, which of course is not necessary in order to take cannabis; even more particularly if mixed with tobacco, because tobacco does have very significant proven harm, which again is not necessary in order to take cannabis. More serious than the physical harm is probably the link with psychosis. The link with psychosis seems to be stronger amongst very heavy users, much stronger amongst those who use cannabis with very high THC levels, which to me points towards regulation rather than failed attempts at prohibition, and strongest of all amongst those who start using cannabis very young. But set aside those potential harms is the fact that millions in the UK and probably thousands in Guernsey – certainly many hundreds – have used cannabis recreationally and in moderation for decades without any evidence of any great harm. Again, all parallel to alcohol use, which can cause tragic consequences to some but relatively little harm to most, and yet we treat the two very differently. And to me that is double standards.

630 Some have argued over the years that even if the harm cannabis causes is not too great, it acts as a gateway to harder drugs. Madam Deputy Bailiff, I have to say that, having looked for credible evidence of this effect over many decades now, I have yet to find any. (**A Member:** Hear, hear.) Of course most people who take hard drugs have taken cannabis, but that is no proof of a causal link. Most have also drunk alcohol, eaten chocolate, and ridden a bicycle, but it does not mean that one has led to the other. If there is a gateway of any description, it is probably because both cannabis and other harder drugs are bought from dealers in illegal drugs, opening up an obvious gateway of opportunity.

640 Now, it has been said by some that if we decriminalise cannabis, the wrong sort of people will flock here for cannabis holidays. Well in some ways, that would be quite useful for the economy, but I do not think it is going to happen. Why would they? We are hardly in the vanguard. We are behind many other countries in this respect. But madam, I do not want to encourage cannabis consumption in any way. Not at all. If people can live drug-free, then so much the better. That probably applies to alcohol as well, I congratulate those people who do not need that sort of prop. Did it myself during lockdown but I am making up for it now, I have to say. (*Laughter*) But that does not mean that we should turn those who are not quite so pure in their lifestyle into criminals when they are basically decent people.

650 In closing, I also support the other parts of this sursis. What I particularly like about the sursis is that, on one hand, it is far more directional than the rather rudderless green paper before us, but at the same time it does not reach conclusions and then order a report to support them, like one or two of the amendments that might follow if we do not support the sursis do. So I think that this

655 hits it right in the middle, it does not tie it down completely, but it does give some direction. If we do not agree with the direction that is being put here, then vote against it, but I *do* agree with the direction and I do not think it is perverting the green paper system because it will still require proposals to come back and the fact that there is that catch-all that it should not be limited to the things that we are highlighting does not stop the five Committees that Deputy Lowe referred to from feeding in other aspects of the justice strategy. So I suggest that this is a very good way forward.

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The Deputy Bailiff: With apologies for interrupting the flow of debate, I am going to actually ask the Greffier to read out the sursis motivé, which I should have asked her to do before we started. So, Deputy Greffier.

The Deputy Greffier read out the sursis motivé. (See page 8 for the text in full.)

665 **The Deputy Bailiff:** Thank you, Greffier.
Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, Madam Deputy Bailiff.

670 I rise to ask you a question actually and I am sorry if this potentially puts you on the spot, but can I ask you: if this sursis motivé is successful, would you allow or consider allowing amendments to be made against it? I do not know if that is something you need to think about or you can respond to now.

The Deputy Bailiff: I will think about that, Deputy Queripel, I am not going to answer.
Deputy Lester Queripel.

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Deputy Lester Queripel: Thank you, madam.

680 Madam, as we all know, this sursis seeks to cover all the amendments that have been submitted and all those amendments, as we also know, ask for a consultation to take place, which would result in a report being laid in front of the States to be debated. On the surface, the issue is, as far as I can see, how comprehensive do we as individual Deputies want that consultation to be, and also how long do we want it to take?

685 Well, to highlight the title of a song that was a worldwide hit for The Christians in 1987, if we lived in an 'Ideal World', I would want that consultation to be as comprehensive as possible and I would want it to take as short a time as possible to deliver. Because if it is not as comprehensive as possible, then there will be areas that will not be addressed. And if we want the next Assembly to be fully informed, as most of us always say we need to be, then surely we need the sursis to succeed.

690 However, having said that, I think the sursis is fundamentally flawed. It is fundamentally flawed and it also hampered and hindered by the way the States operates, because of the snail-paced procedures we have in place. Now, neither Deputies McSwiggan nor Merrett are to blame for that oversight, sir, because I am well aware they have made this sursis with the best of intentions. Sorry, madam; I said 'sir'. Therefore, I need to explain why I think it is fundamentally flawed and why I cannot support it.

695 I think it is fundamentally flawed because of the timeline that is attached to it; two and a half years is an awfully long time and I think we need to be a lot more proactive than that. Therefore, we need to introduce some much-needed alacrity into the situation.

I give way to Deputy Oliver, Madam.

700 **Deputy Oliver:** Thank you. When we had a discussion within the Home Affairs Committee, the majority actually believed that the two and a half years was too *short* a timeline.

Deputy Lester Queripel: I thank Deputy Oliver for that, madam. They might think it is too short, I think it is too long.

As I say, two and a half years is an awfully long time. I think we need to be a lot more proactive than that. We need to introduce some much-needed alacrity into the situation, and we can do that by being pragmatic enough to realise we need to compromise in order to be able to attain the alacrity that is much needed in this case.

And to give my claim any substance, madam, I am going to compare it to the issue we discussed for two days last week, which of course, was the Discrimination Ordinance. I do that because, in hindsight – and isn't that a wonderful thing? – what we could and should have done is progressed the Disability and Inclusion Strategy in isolation and brought that Strategy into play as soon as possible, instead of combining it with lots of other work covering lots of other areas, which meant the Report that resulted from that amalgamation of work was not laid in front of the States until last week, six and three-quarter years after the States had passed the Disability and Inclusion Strategy; a six-and-three-quarter-year wait which caused no end of stress and anxiety amongst thousands of our fellow Islanders, not just the 14,000 who are considered to be disabled, but the members of their family and friends as well.

So, what should have happened in my view, is that the Disability and Inclusion Strategy should have been introduced as Phase 1 years ago, and all the measures that we passed last week could have been simply Phase 2. That is how much we could and should have been ahead of the game. And I have to hold my hands up, madam, and take the blame along with anyone else who was responsible for causing so much stress and trauma due to that six-and-three-quarter-year wait, because I went along with it. And I do not want to see that happen again, which is why I cannot support this sursis motivé.

I can see the same thing happening here that happened to the Disability and Inclusion Strategy. Further down the line, somebody will say, 'Oh, we need to include this and we need to include that and we need to include the other,' and this whole issue will drag on much longer than the two-and-a-half-year timeline that is attached to it.

On the basis that the States works at a snail's pace at the best of times due to the long, drawn-out, extremely bureaucratic procedures and boundaries that hamstring us every way we turn, and as well as the need for us to accelerate proceedings and bypass such time-consuming processes, I cannot support this sursis motivé, because the progress will be painfully slow and I have no confidence whatsoever that it will be delivered in two and a half years' time. As I said earlier, madam, I do not doubt for a second this has been laid with the best intentions because Deputy McSwiggan and Deputy Merrett want to be as thorough and as comprehensive as possible and get everything in one hit.

But having now had the experience of the Disability and Inclusion Strategy morphing into the Discrimination Ordinance we discussed for two days last week, I am likening it to being presented with a giant cake, which happens to be one's favourite cake, and being told, 'You can take as long as you like to eat it until it is all gone.' So you start off by having a slice a day, and after three or four days it all gets a little bit too much. *(Interjection by Deputy Gollop and laughter)* Except in Deputy Gollop's case, who said he would be finished by then. But to most of us, I think certainly to me, after having a slice of day for three or four days, it would get too much. So I would leave it for a day or two and then I would have another slice, and then I would freeze it. And in the meantime, somebody gives you another great big cake, a giant cake. After a few days you freeze that one as well. And you do that because it all becomes too much to do at once; there is far too much cake to eat, even though it is your favourite cake. And it is the same scenario with this sursis motivé, because in my view, there is too much work to do.

All it is going to take is one hold-up due to the inevitable lack of resources or some other reason like adding more work to the consultation, and it will take a lot longer than two and a half years. That is a real concern to me. Plus, of course, added to that is the mantra we often hear, which is, 'We meant to progress it, but something else came up that was more important.' We have all heard that one before, when vital pieces of work are put on hold in order to progress other things.

Added to that is the, 'Oh, we have got plenty of time. We have got two and a half years. This is not a priority.'

755 I give way to Deputy Tindall, madam.

Deputy Tindall: I thank Deputy Lester Queripel for giving way.

I am just thinking about what he is saying, I just wondered if he would comment on whether the two and a half years in the sursis motiv  was preferable to what is described in the green paper, which is to report back to the States 'as soon as practicable'.

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Deputy Lester Queripel: I come on to that later on in my speech, madam.

We have all heard that one before, when the vital pieces of work are put on hold in order to progress other things. And added to that is the, 'Oh, we have got plenty of time. We have got two and a half years. This is not a priority, so let's get on with an issue that is a priority for a few months and get that done before we start work on this.' That is also a real concern to me, madam. That whole 'We have got the luxury of time here, so let's take it' type of approach; in other words, the more time you have, the more you take. In my eight years in the States, I can think of numerous times that has happened, not only with the Disability and Inclusion Strategy, but with other projects as well, such as SLAWS, for example. I realise, of course, that all of the things the States sets out to progress are always pursued with the best intentions, and nobody wants to bring them to a halt, but it happens: just look at all the States' resolutions lately that are outstanding, for example.

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I have considered the argument 'Well, any piece of work can be put on hold. It does not matter if it has a timeline of six months, it does not matter if it has a timeline of a year, and it does not matter if it has a timeline of two or three years.' I get that. But it seems to me, having observed the way in which numerous initiatives have progressed in the past, that once the wheels have been set in motion to progress an issue with a much shorter timeline, that work will then gather momentum and the staff who are working on the issue will be a lot more focused. It seems to me that there is every chance that piece of work will be delivered in six months or a year.

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I very much appreciate, madam, that some of my colleagues may think I am talking a load of absolute rubbish, but that works both ways because there are times when I think they are talking absolute rubbish. But despite their having an opposing view to me, I always respect their views, so I ask them to respect mine in return.

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In relation to Proposition 2 of the sursis motiv , which reads as follows:

The Committee for Health & Social Care shall complete and present to the States, at the earliest possible opportunity, the Combined Substance Use Strategy...

I also have a real concern about that because there is no timeline attached to it at all. 'The earliest possible opportunity' could be the same timeline that is in Proposition 1, two and a half years, or it could be longer, it could be three years or four years or five years, nobody knows. If the timeline had been a year in Proposition 1 and 2, I would have supported the sursis motiv ; I would have supported it wholeheartedly.

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790 I give way to Deputy Merrett, madam.

Deputy Merrett: Thank you very much.

Again, I will just point to the wording of the sursis motiv  because it says, 'No later than December 2022', which *does not* mean it cannot be delivered earlier if the Committee feels able to do so.

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Deputy Lester Queripel: That could be ignored, madam, it could go on for a lot longer than that. That is what I have been saying throughout this speech. So where was I?

If the timeline had been a year in Propositions 1 and 2, I would have supported this sursis motiv  wholeheartedly.

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I guess I know what the answer is going to be, but I will ask Deputy McSwiggan through the Chair, madam, this question: why two and a half years in relation to Proposition 1, and why is there no timeline at all attached to Proposition 2? And why can't all this work be done in a year?

805 I am reminded of the time when a former Deputy who shall remain nameless said to me he had really enjoyed 95% of his time in the States; 5% of the time he felt like he was walking through a field of treacle in a pair of ill-fitting Wellington boots. So I said to this former Deputy who shall remain nameless, 'Actually, Geoff, (*Laughter*) it has been the opposite way around for me: 95% of the time, I have felt like I have been trying to walk through a field of treacle in a pair of ill-fitting Wellington boots, and 5% of the time I've enjoyed my time in the States.' I say that because my
810 experience as a Deputy these last eight years has taught me that, on occasion – not always, but on occasion – issues become unnecessarily complicated when they are really quite straightforward, which is why I feel like I have been trying to wade through a field of treacle in a pair of ill-fitting Wellington boots 95% of the time.

815 I just cannot see the reason why a two-and-a-half year timeline is attached to this and why there is no timeline attached to Proposition 2. I appreciate, I may be way off beam with that one, madam, I stand to be corrected.

I get the bit about the Assembly perhaps not agreeing to suspend the Rules to allow the amendments to be debated, but I have every faith that the majority of the Assembly will not want to stifle democracy and therefore will agree to debate them, especially when we have uppermost in
820 our mind that six-and-three-quarter-year wait that was caused due to the States wanting to add a lot more work to the Disability and Inclusion Strategy.

825 But even if this sursis motiv  and the amendments do not get debated or are all defeated, it is not the end of the world. This issue is not going to go away. As American DJ Al Freed said in the 1950s when he had just been arrested for putting on a rock-and-roll concert, 'You can stop me, but you'll never stop rock-and-roll.' So the reality is, even if the sursis is defeated and the amendments are not debated, it simply means seven Deputies in the next Assembly in 10 weeks' time just need to submit a requ te, and the whole issue will be debated with new propositions, perhaps, because it is not going to go away.

830 With that in mind, madam, I ask colleagues to reject this sursis motiv , support the motion to suspend the Rules so we can then debate the amendments which have timelines attached to them, thereby retaining the alacrity that is needed here.

Deputy Tindall: Point of correction, sir.

835 **The Deputy Bailiff:** 'Point of correction, *madam.*' (*Laughter*)

Deputy Tindall: I knew I would get it wrong at one point!

840 **The Deputy Bailiff:** Deputy Tindall.

Deputy Tindall: Thank you, madam. Deputy Lester Queripel just said to support a policy letter that has timelines attached to them.

845 **Deputy Lester Queripel:** Amendments.

Deputy Tindall: Amendments? In that case, I withdraw.

The Deputy Bailiff: Carry on, Deputy Queripel.

850 **Deputy Lester Queripel:** Madam, thank you. To clarify that, I did say the amendments that *have* timelines attached to them, because that would then retain the alacrity that is needed here to get

us to the first phase. To venture into the realms of tedious repetition, madam, the Disability and Inclusion Strategy should have been the first phase years ago.

I give way to Deputy Oliver, madam.

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Deputy Oliver: Thank you. I just want to get clear, does Deputy Queripel actually put the amendments above all other justice? Justice is such a wide subject. The only timelines if the sursis got voted down would be on the amendments to the cannabis. All the others would have no timeline at all.

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Deputy Lester Queripel: Well, madam, that is up to the next Committee for Home Affairs to get on with it, to do the job that they have been elected to do and not leave things unattended to, address all the issues under the mandate. I hope that answers Deputy Oliver's question.

865

I am desperately trying to get to the end of my speech, madam, (*Laughter*) and I wish Members would resist getting up and asking people to give way, especially when they have not spoken. They can say everything they want to say when *they* speak. Why have they got to keep on interrupting other Deputies when they are speaking and they have not spoken yet? I get complaints that my speeches take too long. I was interrupted in the previous debate; *five times* I gave way, and I think I have given way five times in this speech.

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So, to get back to where I was – I have been trying to finish the last two sentences for the last five minutes.

I would ask colleagues to seriously consider rejecting the sursis motivé and accelerate proceedings and vote for at least one of the amendments with a specific timeline to attain the alacrity that is needed here to get us to Phase 1. But I do not see that as rocket science, madam.

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In closing, madam, I ask for a recorded vote, please, when we go to the vote. Thank you.

The Deputy Bailiff: Thank you. Recorded voted noted.

Just before the next speaker, Deputy Laurie Queripel, there would not be any amendments if the sursis comes through. That would be the end of debate. The matter would be pushed on.

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Deputy Prow.

Deputy Prow: Thank you, Madam Deputy Bailiff. The sursis motivé places me and, I think, a lot of Deputies in a bit of a dilemma.

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Sir – madam (*Laughter*) – I refer to the letter of comment on the Justice Review dated 8th July from the Policy Resources Committee and I agree with every word of it. This letter, however, was in reaction to the amendments, not the sursis, and the warnings about the precedent it sets and the inability to debate this as a green paper, which are very well made in this paper. I, madam, believe the damage has already been done, because already in speeches, particularly the speech of Deputy Roffey, we have gone down a very narrow area in the Justice Review which actually is a matter that is already the subject of another review, which I think is a very good review, by Health & Social Care. So already, madam, we have offended the principles that this letter has warned us about. And madam, I think this is bad government. (**A Member:** Hear, hear.)

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So, madam, my dilemma is this: I have heard Deputy Roffey put forward a view, some of which I actually agree with, some of it I do not, and I feel I need to challenge that. So, if the motivé is passed, where is my opportunity to do that?

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Madam Bailiff, I also have – because I have a great interest in justice – a speech, not too long, but a speech, which is in the spirit of that green paper, which sets out what I would like Home Affairs to listen to. So again, here is my dilemma: if the motivé is successful, will I really get the opportunity to say what I want to say around the green paper? However, madam, you have helpfully, in response to a challenge, said that the sursis is drafted very widely.

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So, I think I must start by saying I am against and will vote against the motivé sursis and I will, if given the opportunity, I will *not* vote to suspend the Rules around the amendment because I want to get on with the green paper. But madam, I think I have set out my dilemma.

905 I would be very happy to give way to anybody that can give me some suggestions as to how to get out of this dilemma, but I think I can only proceed with: one, putting some challenge into what Deputy Roffey has already said, although as I said, some of his speech I actually agree with; or do I not?

I give way to Deputy McSwiggan.

910 **Deputy McSwiggan:** I thank Deputy Prow for giving way.

It is all on *Hansard*; the record of this debate is all going to be on one *Hansard*. The Committee for Home Affairs have undertaken to take into account what is said by States' Members in that *Hansard* in formulating the next stage of the Justice Framework. Now, whether that is said before a vote on the sursis motiv   or before a vote on the final propositions of the sursis motiv   falls will presumably be irrelevant; it is there, it is on the record, it can be taken into account.

915 As you have said, madam, the sursis motiv   is drafted broadly intentionally in the hope of resolving, rather than creating, the kind of dilemma that Deputy Prow faces. I would hope that the first half of the sursis motiv   would enable Deputy Prow to set out his concerns about the green paper or his views on the green paper, and the second part his concerns about drug reform and maybe specifically what Deputy Roffey said about drug reform.

920 Deputy Prow may have a better idea than I do how the vote on the sursis motiv   is going to go, but if he thinks there is any risk that it will succeed, then I would encourage him to make that speech *now* so that it is on the record and he does not lose the opportunity to do that in the main debate if the sursis carries.

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Deputy Prow: Thank you, madam. I always listen to my colleague on Health & Social Care with great interest. I think actually she expresses the dilemma well, and I give way to Deputy Le Tocq.

930 **Deputy Le Tocq:** I thank Deputy Prow for giving way; it is really a point of order just to clarify: Deputy McSwiggan just indicated that there will be a main debate, a general debate afterwards. If the sursis is successful, there will be no general debate, as far as I understand.

935 **The Deputy Bailiff:** Deputy Le Tocq, I did not understand her to say that. I think what Deputy McSwiggan was saying was that because the sursis motiv   is drafted so widely, in many senses it could encompass much of the debate that would be had on the green paper, and certainly when I was considering – because I thought this might be an issue before this States' meeting this morning – it does give States Members a very wide compass to debate what is contained within the green paper within the sursis motiv   debate. So, it does mean, Deputy Prow, that you do have a wide ability to bring in matters that you may have brought in with the green paper within the sursis motiv   debate. There are edges, but the edges are quite far apart.

945 **Deputy Prow:** Thank you, Madam Deputy Bailiff, and if I stray over the edges, I am sure you will tell me. And in response to what Deputy Le Tocq said, I think that Deputy McSwiggan said 'if the sursis motiv   is successful,' so I think it was in that context.

945 So I ask States' Members to bear with me, because I want to respond to the debate so far on the sursis motiv  , and I also have a great interest in justice policy, and I will have something to say around the sursis, bearing in mind it is widely drafted. So I will press on, then. I have already said I am not going to support the sursis as a point of principle, and I have referred to the letter from Policy & Resources.

950 I do fear some of the debate and the amendments has become a bit of an election platform aimed at a certain lobby group or to support the ultimate aims of the emerging business sector. However, the justice policy paper was always going to be a green paper opportunity to launch the independent research report, a much-needed direction to develop justice policy in this Island and, where appropriate, Alderney too. It is *not* the Committee's report, but one they have received and need to share with the Assembly and listen before going to the next stage.

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I accept the points that Deputy Roffey has made around the length of time that this has taken, but the Committee has had other priorities, as have other Committees of the State, and – that well-worn phrase, madam – we are where we are.

960 The Report tells us how broad and complex justice is and how it impinges on all the mandates of every Committee. I agree that Rule 17(9) was a good mechanism and we have it in our Rules, and as Deputy Roffey has said, there is very good reason for that. So it is to debate and give feedback before the substantive Committee policy letter is then prepared.

965 Sir, in my view, to bring these amendments and the sursis motiv  and seeking to usurp the green paper debating mechanism is to some degree irresponsible and sets a wholly dangerous precedent. The movers of the sursis and the amendments have had all this term, which is now actually expired, to bring a requ te with propositions and a full paper giving information to support any propositions which promote the extension of the use of the class B drug or the business opportunities involved in doing so.

970 I was not going to refer in my substantial speech to the cannabis debate but I will now, madam. As said, the agenda and paper before us is about the justice system and the wide and important implications for the provision for us all to live in a safe and secure, equitable community. However, this has now started to turn into a different debate about one substance classified both in this Island, the UK and predominantly across the globe as a class B drug. It is so classified by the medical profession. So I do not have a political view on the classification. Members will, however, recall the debate in the UK where the drug in question was for a short while classified as a class C, only to be reinstated as a class B following further examination by health professionals of the potentials of harm to society.

975 What is clear is that, despite what the lobbyists say, it is a harmful substance. What concerns me most is that the way that this has been brought into debate is promoting the message that cannabis is safe and acceptable. However, madam, as we often say in this Assembly and I have already said it, we are where we are.

980 So, where do I stand on this? Madam, I fully support the strategic principles of the Health & Social Care Combined Substance Use Strategy. Alcohol, tobacco and drugs, and the response of education, treatment and demand reduction in this strategy should be joined up. Madam, this includes any evidence collected in its development, including the commissioned independent report 'Review of the interaction of the health and justice system in relation to the possession of drugs for personal use'. I also support Health & Social Care bringing a report to the States following a period of full consultation and consideration, and I commend every Member of this Assembly to read that report.

990 The report highlights the Bailiwick's obligations under international drug conventions regarding the basic concepts of drug demand reduction. Deputy Roffey spoke and praised the Guernsey Border Agency for their work in seizing controlled drugs across the board. This is an important part in reducing the demand.

995 The other basic concept is that society should provide treatments for those that get into difficulty through drug use. The report draws attention to the local misuse of drugs legislation. It explains the classification of illegal drugs into A, B, and C and the criminal offence of possession.

1000 Furthermore, it rightly highlights the problem of the diversion of prescription drugs to drug users. The report explores options where it might be appropriate to suspend low-level possession offences prosecution with an alternative of education, rehabilitation, recovery, aftercare, and social reintegration. Madam, I agree that this needs full consideration.

1005 The report makes it clear that drug traffic offences such as possession with intent to supply, manufacture, cultivation, import, and export of controlled drugs are internationally regarded as serious criminal offences by the relevant UN conventions. This is the case in all the European countries referred to in the report. The report makes no recommendation to reclassify cannabis or cannabis resin. Furthermore, it notes the possibility of increasing drug use by giving the message that drug use is safe and acceptable.

1010 All governments take advice on drug classification, and as a member of HSC, I am guided by that professional advice. In that regard, I note the advice given by the UK's National Health Service (NHS) on the drug cannabis. This is an organisation who hold great respect, especially at the moment during the pandemic. They operate at the frontline and deal with the health issues presented to them. They use their website to assist them in carrying out that function. They are made up of health professionals and are on the frontline, independent of politicians. I have sent links to Members so I only briefly refer to the content.

1015 One of the links I have sent is the UK Addiction Treatment Centres. This website advises those who have stopped taking cannabis and are now feeling depressed, anxious, or irritable not to panic. It states, and I quote:

Just like all drugs, cannabis contains addictive properties which can cause physical and emotional dependence. And when you stop taking the drug, it causes withdrawal symptoms as your body has become used to the high.

It then goes on to give advice around withdrawal and addiction.

1020 I've already referred, madam, to the NHS 'Cannabis: The Facts' website. Again, I recommend its reading. It provides a different picture to those who wish to see drugs openly available and a wonder cure for terrible illnesses. I quote from the text, somebody is saying this, this is what the website says: it can make you feel faint or sick, sleepy and lethargic. It can affect your memory. It can make you confused, anxious or paranoid, and some experience panic attacks and hallucination. It interferes with your ability to drive or use machinery. It can harm your lungs. It can affect your fertility and, if pregnant, harm your unborn baby. It increases your risk of cardiovascular disease and stroke.

1025 There is also a section that deals with mental health. It says, 'Regular cannabis use increases your risk of developing psychotic illnesses such as schizophrenia. You can see things that are not really there and delusions, believing things that are not really true.' That is what it says on the website.

1030 With regard to the medicinal use of cannabis, I support the introduction, as said, of the legislation which enables medicinal cannabis for proper use. I also support the National Institute of Health and Care Excellence (NICE) guidance on medicinal cannabis. These are again also worthy of consideration, particularly NICE's recommendations as to where they do and do not recommend its use.

1035 In summary, madam, with regard to this narrow part of the debate, I strongly believe that our Health and Well-being Strategy to tackle the issues caused by tobacco, alcohol – rightly raised by Deputy Roffey – and drugs must be holistic and delivered through the HSC's Partnership of Purpose, which includes our excellent third sector partnerships and which is led by our highly respected public health service.

1040 Whilst, as said, this needs development, I would note that, in my view, Guernsey's combined strategies have been much more successful than elsewhere. With regard to drug use, the strategic approach of education, treatment and demand reduction has been joined up and delivered over many decades. This is evidenced by comparing top-level harm, such as drug poisoning deaths, and the prevalence of blood-borne infections caused by illegal drug use across Europe. Guernsey has, for decades, introduced a successful needle exchange program and other public health initiatives, resulting in a low rate of blood-borne diseases compared with European countries. As for drug poisoning deaths, England and Wales reported 4,359 such deaths in 2018 and this was described as a 'public health emergency'. The PHI report which I referred to describe our substance abuse situation as unique and, by contrast, reported 33 drug poisoning deaths over a 14-year period from 2011 to 2015.

1050 So madam, I now move on. I would like to now concentrate on the important Guernsey Justice Review independent report. As has already been described by Deputy McSwiggan and, madam, your ruling, a lot of this subject matter is set out in the sursis motivé.

1055 Madam, from the outset, I thank and congratulate the reviewer and all those who contributed to this extensive piece of work, which hopefully informs us on the framework to take this jurisdiction forward. The Home Affairs Committee rightly points out that this is an independently prepared

report with minimal political input. I quote from 1.7 that it is not a document presenting the views of Home Affairs nor any other Principal Committee. I therefore genuinely hope that Home Affairs will listen carefully to all of this debate, as they have promised.

1060 I further note that both the Review and the Committee are in agreement that the consultation and engagement process is not yet complete. Consideration of this Report by the Assembly will form part of that. This is important because, as the reviewer highlights, justice is multifaceted. It is not just about the law, law enforcement, the courts, and the prison, although I suspect the majority of this debate will delve into narrow discussion points. I completely endorse the Report's focus on strategic commitments and priorities. It needs to be joined up across all Committees. It is also about
1065 ensuring community well-being, fairness, that underpins a strong and stable society and necessarily touches on issues including welfare, health, mental and physical, housing and education.

This extends beyond the Home Affairs brief: it needs to be tackled holistically, as the HSC Partnership of Purpose aims to do, by all Committees contributing when they advance policy through this Assembly.

1070 I should also like to draw attention to another letter and the media release Deputies have received from the charity Victim Support and Witness Service. Madam, they operate from the Court building and do excellent work, and I recommend a visit to their website for those who are unaware of what they do. Madam, we have rightly heard much about offenders and their rehabilitation today and that is absolutely right and proper. However, I submit that victims and witnesses who give
1075 evidence must be at the heart of our criminal justice system. We must never overlook the needs of victims or take witnesses for granted. We need to do more to restore the harms caused to victims of crime. I quote from their release:

The future justice framework should shift the emphasis of policy to people, rather than process, i.e. to support victims, witnesses and all parties in family breakdowns ...

I would also remind the House of some harrowing stories from recent debates, where it is apparent that not everybody who causes harm by offending appear before the courts. Madam, we
1080 also need to explore prevention and those triggers which deflect potential offenders away from the criminal justice system wherever we can.

When we discuss the courts, we should embrace their independence from Government and make sure they have all the tools they need to ensure that offenders have the best chance of rehabilitation, where they can, and that the wider needs of society are served. The judiciary are
1085 highly trained and qualified professionals. They listen to all the evidence and defence submissions and probation reports. They are subject to the appeal courts. They are far better placed in administering justice than we are, madam.

We must also maximise and bring together better our offender management regimes, not just in the prison, but by extending the role of probation and those in the vital third sector partners, such as Independence, another excellent charity who works in the prison and in the community. We
1090 also need to explore and cost initiatives which are suitable, proportionate, and cost-effective to reduce offending and to rehabilitate, but this will require much more professional input and consultation. Madam, although a 2013–2020 Justice Strategy is in place and the machinery of government process brought this and added justice policy as a mandate of Home Affairs, this report
1095 highlights to me just how much more needs to be done.

I have already referred to the HSC Public Health Report by Professor Harry Sumnall regarding the interaction of health and the justice system in relation to drugs for personal use. One thing that comes out of this report and indeed the Justice Review before it – it comes out of both of these reports – is highlighting a key inhibitor to progress in the development of justice policy: madam,
1100 this is a lack of data. We are very reliant on law enforcement and reports, and it is just as well that we have this information, and I applaud those agencies for providing it with their limited resources, bearing in mind they are frontline services. The fact is we do not collect routinely sufficient information, or more particularly the data we need, to give us the insight we must have. The independent Justice Report we are considering today reveals that we do not possess the recorded

1105 crime outcomes as done in England and Wales, and the report notes, and I quote, 'It is not possible to make direct comparisons in significant areas.'

The same issues are teased out from the PHI report, where the data on what it calls 'custodial components' is limited. By way of example, we do not record convictions sufficiently. Information on court disposals, for example fines and community services, is lacking. Knowing what maximum sentences for any offences can be gleaned from the legislation, but we need to know how these offences are generally dealt with by the courts to specific offences. I use the data on drug offences only by way of example as it is important to have this information for all crime, if we can really start to give our courts meaningful and effective alternative options to custodial sentences.

The Report says this on page 3:

... it was not possible to break down offence/outcome by drug Class ...

1115 The fact is there is no published data on drug possession at our disposal, so we do not know how many such exposures to drug possession by class or amount were not custodial. Interestingly, madam, I do now understand from a helpful email to all States Members from the President of Home Affairs that, in relation to stand-alone cannabis possession, *all offenders* in 2019 and 2020 received an alternative to a custodial sentence and that no offenders were sent to prison.

1120 Where the PHI report discusses the child, youth and community tribunal systems, it worryingly states that, whilst they can divert young offenders away from the mainstream criminal justice system and prison, it comments:

Whilst there is some limited evidence available on the use of these approaches for drug possession offences, it is unknown what impact these have on re-offending and drug-related outcomes.

1125 Madam, I highlight the words 're-offending' and 'outcomes' and make the point that we simply do not collect sufficient, or indeed the right, data to currently establish across all crime spectrum to give the right tools in the box to our courts for alternative sentencing, let alone to examine those that will provide improved outcomes in our unique community.

It is therefore a tad disappointing that the Review at 1.2.2.1, and I quote, was 'unable to review' the offender management strategy.

1130 Madam, I know Deputy Richard Graham has raised the subject of rehabilitation and improving support for offenders, particularly those with sentences of less than 12 months, and I support him on this. And to be fair to Home Affairs, they have also had this on their radar. But madam, in my view, there is much more to be done.

I highlight section 2.5 of the report, entitled 'Effective Processes and the Use of Evidence.' I would like to go on to quote:

The most significant barriers to achieving this were identified by workshop participants as limitations in data monitoring systems, ICT infrastructure and the capacity of agencies to capture meaningful data which is of use across the whole system.

1135 Madam, I shall rest that particular case there.

I praised the report from the outset, and I believe I was right to do so. However, I do have a challenge: in my view, it is a big omission. Madam, especially in this jurisdiction, which is home to a significant finance industry, any justice system which talks in terms of identifying and tackling the causes of crime and ensuring the value-for-money services, I would point out that this jurisdiction is obliged to observe the international standards and codes in relation to combating money laundering and the financing of terrorism internationally, but also at the local level. Madam, this is a vital plank of tackling the causes of crime, and we must have robust policies, legislation, and importantly, enforcement effort in removing the proceeds of crime from criminals. Indeed we are subject to periodic evaluations of our performance in this area from the Financial Action Task Force.

1145 Removing the benefit of crime means it takes away incentive to commit crime, especially acquisitive crime and ensures that criminals cannot reinvest their proceeds back into criminal activity.

Madam, there is much evidence globally that concerted AML/CFT effort has reduced crime by confiscating, freezing, and restraining criminal assets and by the prosecution of money launderers. Furthermore, AML/CFT makes it much more difficult for criminals to move and enjoy their illegal profits. It is therefore a key component in any policy which is designed to achieve the justice vision. Combating financial crime and the confiscation of the proceeds do not appear in the box listed on page 19 or in the 'Current Priorities' on page 20.

Madam, this activity is also hugely demanding on our resources and budget; however we await a policy paper on the use of the Seized Assets Fund and a report on increasing the capacity of our financial crime effort – these are two separate papers. Sadly, this is unlikely in the extreme to now happen this term. I would ask both Home Affairs and Policy & Resources to address this. I would seek recommendations that the Seized Assets Fund is to be used to incentivise a greater priority in this activity and increase our confiscation capability. This could also mean that the Seized Assets Fund could be used to resource alternative sentencing and other initiatives which I am sure the Justice Paper will set in motion.

Madam, drug trafficking is an example of such a crime committed for profit. I should declare an interest before I sit down: I had a long career in law enforcement. Because of the cross-border nature of my mandate, I have had the privilege of working with law enforcement professionals both strategically and operationally across the globe. I have listened to the horror stories from those jurisdictions about the effects of crime and the pressures and sacrifices it places on their officers. This includes the Metropolitan Police Operation Trident Squad, who concentrate on knife crime and gang culture in London. One thing I can tell you I have learnt by way of example is that drug trafficking is criminally run from production to supply, that demand is realised by the supply offence being completed by possession and the criminal exchange of cash. It is a trade which exploits the vulnerable – Deputy Roffey has pointed this out – and it is run by those who do not collect debts by issuing warning letters. I was involved in an arrest where an individual had just been drenched in petrol as an illustration of his fate should his debt not be paid. Madam, I would suggest this is not the direction of travel that our residents want to embrace in a jurisdiction where it lies in a safe and secure reputation. We need to be aware of open acceptance of recreational drug use and all the discarded paraphernalia and health consequences that go with it.

But madam, there is absolutely a health and well-being aspect which *must* be brought into the justice debate. When I left law enforcement, I became a director on the board of a non-judgmental charity who do a fantastic job of supporting people and their families with drug use issues. Madam, I completely get that many who become involved in drug use are vulnerable and need support. I therefore completely support the PHI Report commissioned by HSC, as I have already said. This is the evidence that needs to support any further debate, rather than anecdotal presentations and lobbying for increased recreational use by getting high on a particular drug, one particular drug, classified internationally as a Class B drug.

Finally madam, I must finish on a positive note. I have stressed that our policy developed must be evidence-based. We have just entered into Stage 5 of our COVID-19 lockdown exit framework and have reflected positively on that experience. We have noted just how beautiful our Island is and rediscovered opportunities to improve our wellbeing because of our natural environment. Madam, I was talking to a hotelier about the virtues of the Island and he said something along those lines of, 'Not only that, people come here because it is so safe. You can accidentally leave your front door unlocked or buy veg off a hedge. I have lived in other places in the world: I have been mugged, had my house burgled. I just feel so safe here and so do most of my customers from off-Island.' Madam, this is not just anecdotal. The HMRC Inspection Report of 2018 points out that there is a high expectation locally that most crimes are investigated, and points out the many crimes reported, including breaking and entering, would not be progressed simply beyond logging them.

Madam, the report informs on page 40 that, and I quote:

The volume of police-recorded crimes can provide a further indication of how safe a jurisdiction is when it is expressed as a crime rate per 1,000 population.

Madam, what a precious commodity we enjoy.

1200 Overwhelmingly, it is my belief the local population are law-abiding and expect a high level of compliance. COVID-19 regulations receive high compliance, as the Guernsey public generally respect the rule of law. Madam, I submit that we as a community value very much our safe and secure environment, as well as our natural, and we all desperately want to keep it that way. Madam, let us not throw babies out with the bathwater and keep what works well within our unique justice system. Let us collect the data and work with all the professionals across the States to find a viable and sustainable way to take justice policy forward and realise the goals of a justice system which truly embraces equality and inclusion, which supports the victims of crime and the value of witnesses, and looks to find the best outcomes for offenders and the community.

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Thank you, madam.

The Deputy Bailiff: You are to be relevé, Deputy Ferbrache.

Deputy Merrett.

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Deputy Merrett: Thank you.

I welcome the support of Deputy McSwiggan's opening speech and I note that she is far more diplomatic than I am able to be, but I will try. I think there are some things that have not been said yet in regard to the sursis motivé and why Members should support it. I think the other thing that has not really discussed yet is the fact that, basically, what we have is a Committee that has contracted a UK consultant, as stated on page 10, they have commissioned a UK consultant; actually, I would be interested to know when Deputy Lowe sums up how much they paid that UK consultant to look over our justice – well actually, not all of it, but over the *criminal* justice areas of our government. And my impression is that the current Home Affairs Committee, as constituted, would then look at the *Hansard* and use the *Hansard* from basically a dying Assembly – I use those terms as an Assembly in its final days – to repair justice policy. Now, that really concerns me for numerous reasons.

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It also says in the report that Home Affairs are in 'listening mode,' but I would actually like them to be in action mode, not just in listening mode. So, my concern and why I support the sursis motivé is I am not actually sure what Home Affairs proposes or what the direction is that they seek because, as I said, they seem to be requiring listening to the current Assembly, although we are only due to meet once more, one more sitting after this debate today.

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So, it appears to me that they have commissioned ... and there is a caveat to what I am saying, because clearly there has been a change in membership in Home Affairs since it initially contracted the use of UK consultants, so I think we ought to make reference to that because I appreciate that often when we say 'the Committee *for* Home Affairs,' madam, we are speaking about them as a collective, and I think we should note the change of their membership since this commissioned report – I do not know how much it cost but I am sure Deputy Lowe will advise us, and I have asked, anyway. So they appear to have done that, and it appears to be that they will then leave until the next political term to deliver, and that they will cut this from *Hansard*, and also it does not appear to have any resource with the green paper. So are we actually going to deliver a justice policy, and if so when? And that is so open with the green paper that it has great concern.

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So is resource the problem? Is that the concern that Home Affairs have? I do not know and I am hoping again that Deputy Lowe will advise us of that when she sums up. So, is it the case, for example, that they are prioritising Brexit or the sexual offences, even though one of the gaps identified by the UK consultant is that we have no sexual abuse referral centre? And it is noted as a critical gap, and I would concur with them. So does Home Affairs believe – we do not know, because there is no political comment – so are Home Affairs already preparing to deliver this part of the sexual offences workstream? I have no idea. Do they need the Assembly to say 'This is a critical gap. We have no sexual abuse referral centre'? I am saying that; I agree wholeheartedly with that part of the report.

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1250 The other part that concerns me is that the sexual offences, we know, was a long debate
amended, but notably, the existing President of Home Affairs did not agree with that amendment.
I do not know because there are no political comments. That is really, I think, why I am so supportive
of the sursis motiv , because at least we will have the debate and we will have some political
comment from this Assembly, although arguably it will be up to the next Assembly to actually
1255 deliver anything. So, for example – I put this question to Deputy Lowe when she sums up – is it that
the Committee received this report back, could not agree by majority on any direction, and so
therefore thought, ‘We will do it as a green paper and hopefully the Assembly can give us some
direction, and then we will leave to the next political term to deliver it’?

So talking about sexual offences, on page 21 – and this is really quite concerning – it advises us
that sexual offences to completion is 48 months. That is actually a political term; that is four years,
and it has taken a political term, as far as I can see, to get as far as a green paper with no date on
it, and the same amount of time it takes for anybody to take an initial report or response to
1260 completion, the same amount of time, four years. I mean, this is really concerning.

It is also worth highlighting that the UK consultants focused, as agreed by Home Affairs, only on
criminal justice. Social and family justice will also require your attention in future.

I give way to Deputy Leadbeater.

1265 **Deputy Leadbeater:** Madam Deputy Bailiff, I thank Deputy Merrett for giving way.

There are three phases to the Justice Review. This was Phase 2, and Phase 3 envisages opening
out broader into the more social areas.

1270 **Deputy Merrett:** I thank Deputy Leadbeater for that, but what I am struggling with is that we
do not have a policy paper from Home Affairs which says, ‘We are going to do this, this is the first
thing, we are going to enact Phase 3 by this date, we are going to do this, we are going to do that,
we are going to employ another UK consultant for x amount and we need the resource and funding
to do that. But all of that is missing and I think that is obviously one of the major concerns I have.

1275 We are also advised on page 23, and I go back to sexual offences, that existing data does not
enable identification of the extent to which cases referred to prosecutors are not proceeded with.
It seems to be highlighting all the failures of not collecting relevant data, rather than saying, ‘This is
our political direction, we are going to collect this data, we will report back to the States by this
time, we think we believe this.’ That is all just missing, that is just not here. That is obviously of great
concern to me, anyway.

1280 It is clear, madam, on 1.7, because we are advised that there has been ‘minimal political input’.
That is what we are advised. So I ask – that is what it says, Deputy Gollop, it says it in black and
white, so if it is not true, then obviously Deputy Lowe can counter it, but it is actually in the policy
paper they submitted, so I assume it is true. It is also on page 28: domestic abuse, a gap, there is no
statutory definition of domestic abuse. If the policy paper said, ‘There is no domestic abuse statutory
1285 definition. It is Home Affairs’ intention to define this and return to the States by a certain date.’ It is
obviously not there, none of it is there. So for clarity, the gap is the statutory definition, which
incorporates recognition of the breadth of activities, e.g. emotional or financial coercion, control,
etc. So what is the intent? Because I do not know. I can know what the report says, but I do not
know what the political direction is from Home Affairs.

1290 So I ask, because there has been minimal political input, apparently: how low on the political
agenda of Home Affairs is the Justice Review? Is it lower than their other work streams and therefore
that is why it only deserves minimal political input? Is that the reason? Is it a case of kicking the can
down the road? I just do not know.

1295 So, Home Affairs also states there is a view to return to the Assembly in the early part of the next
political term, and there, to me, lies the problem. There to me are the alarm bells. Because we
potentially know some Members are going to stand, we do not know who is going to be elected,
we do not know who is going to stand for the Committee *for* Home Affairs, and we do not know
who is going to be elected. So that, to me, is of grave concern. And it could be that Deputy Lowe

1300 does not become the President of Home Affairs. It could be, I have no idea. She may wish to stand
for it, she may not. The point I am making is, at the moment, any new President of Home Affairs or
a new member of the political Committee *for* Home Affairs will rely on *Hansard* for the four years'
work to date from this current Home Affairs Committee to work on the Justice Review, and that
obviously concerns me.

1305 And also 6.2, the cross-Committee working, it has been formally approached – so was that a
letter, a letter being sent on email, I do not know – inviting them to join. So I am going to ask Deputy
Lowe when she addresses the sursis, because it may be that they have actually met this Committee,
the Justice Advisory Panel, that other Committees have agreed to do so, because again, the tense
used in the paper is 'It *will* be tasked with developing a terms of reference.' So '*will* be,' not '*has*
1310 been.' So we do not even appear to have a terms of reference yet for a Justice Advisory Panel. And
yet, Home Affairs has gone out and employed a UK consultant to look at justice policy. That may
be one of the terms of references they wish to consider, but it seems to me that they have gone in
one direction and then got the report back and then gone 'Well actually, we need to invite more
people into this now,' and it just seems a bit odd.

1315 So, if the sursis motiv  falls, there is the potential to suspend the Rules and there is the potential
to have further debates on the UK consultancy report, because that is what it is, but arguably that
should and certainly could have been around the Committee table. So, when Home Affairs received
this report, that debate and deliberation could have been around the Committee table – that is my
expectation, to be honest – and then presented to the Assembly in the policy paper of their political
judgment and how they believe they should proceed. And I think that, to me, is what is totally
1320 missing. It is not in the policy paper.

1325 Instead the debate looks set to be re-dominated by lots of the amendments which we all know
mainly revolve around cannabis. Now we were told, I was told this morning, madam, to 'do my
research on cannabis,' but the amendments when submitted, one of them recommends the
introduction of a statutory regime based on or akin to Canada. I will be open and frank: I have not
done that research in the time given to me but I am aware, I have been advised, that the Canadian
regime did have some learning curve, shall we say, and it was amended. Since the amendment was
lodged, I have gone back to research I did in 2016. But clearly I am hopeful that, because we have
1330 tried to incorporate the amendments into the sursis motiv , the movers of the amendments will
speak during this debate in case the sursis motiv  carries and will not have the opportunity to do
so later. So I am assuming the proposers or seconders can explain the reasoning behind their
amendments. Apparently there are 40 jurisdictions that have criminalised cannabis, but I have not
had time to do all that research, and I was not expecting to do that research.

1335 But the other thing that concerns me is that one of the proposers is actually the Vice-President
of Home Affairs, so I am assuming, madam, that that proposer was not able to bring the Committee
with him to –

I give way to Deputy Leadbeater.

Deputy Leadbeater: Madam, I am grateful to Deputy Merrett for giving way again.

1340 I had no intention of laying my amendment. The amendment I laid is in response to the
amendment laid by Deputy Le Tocq and Deputy Laurie Queripel. I thought if we were going to look
at decriminalising personal amounts of drugs, we still have not addressed the issue of supply, and
it could make us a bigger target in Guernsey than we already are for illegal criminal gangs. This was
why I laid the amendment. Deputy Merrett is right: we were not all on the same page when it came
to the recommendations of the Justice Review. This is why it was laid as a green paper.

1345 Thank you.

Deputy Merrett: I thank Deputy Leadbeater. That is incredibly useful and helpful to know.

1350 So what research have I done? I mentioned to Members earlier, madam, I looked at research
from 2016 when I first became a Deputy, and I did so because it seemed to be on the political
horizon, and I was happy to do so. So I researched and I attended seminars, particularly on teenage

development, madam, and teenage development specifically in regards to how their brains change and develop. So at that time, several years ago, I was advised that as the teenage brain develops, the synapses disconnect and reconnect and they lose the fear factor for a while and they suddenly become more challenging, and I speak from personal experience, madam. *(Laughter)* And human
1355 brains move away from the learning of walking and talking and they move to the more developed stage of being able to judge things like distance, speed, risk, relationship, and peripheral vision, and actually the synapses change, and there is evidence to suggest that cannabis – particularly cannabis, but the sursis motiv   does say it about other drugs, so it is not so restricted to one particular drug – can have a permanent detrimental effect on the development of their brains and can cause
1360 permanent damage *per se*.

So, that is what I did do back then, but I do believe that, when I have been interacting with members of our community, there does appear to be a little bit of a disconnect – no pun intended – that some of our community think that we are discussing medicinal use of cannabis, which clearly HSC already are looking at delivering on. So, one amendment does say it is purely about
1365 recreational. Now clearly, I would like to think most Members would agree that if medicinal is regulated, why should you not offer that as an alternative if there is evidence to prove that it is actually very beneficial to the user? I think most Members would agree with that, but it is a very different conversation from talking about recreational and regulation. And I probably quite align with Deputy Roffey, who it is sad to say is not in the Chamber at the moment. However, I have the
1370 concern – oh, Deputy Prow is not in the Chamber either – that Deputy Prow has, and so I think we should absolutely be looking at this area and absolutely be considering how we need to – and I will use the word – modernise law in this area, but I would like to do it on an evidence base and have that debate not purely on, for example, cannabis, but, as the sursis motiv   says, ‘possession and use of small quantities of illegal drugs’ – and it says – ‘not limited to Canada’.

So I think that is the area that I would like to go in the direction of. So, I thank Deputy McSwiggan for her incredible work; whatever Members say today, I think we should recognise the incredible
1375 work by Deputy McSwiggan to write this sursis motiv   and the evidence to support it and it appears to me that Deputy McSwiggan has pretty much done Home Affairs’ deliberation and debate around the table, she has tried to do it for them and said, ‘There is this, there is this, there is this, those are what we think.’ And it is broad, and I am very grateful, madam, for you enabling us to speak so broadly on this; it was deliberately scribed to be broad so that we could do that and not have a
1380 debate focused on one particular area of justice policy.

So I am sure Members have realised by now that my justice policy absolutely is substance abuse and how we penalise that, and I hope you concur with what Deputy McSwiggan said when she
1385 opened after Deputy Lowe’s speech about the narrative that some – well, I do not want to repeat it so I will not. That really concerned me.

Now, the last thing I am going to say is that it would be, in my opinion – and it is only my opinion and my critical judgement – that it would be completely wrong, madam, for Members to vote
1390 against this sursis motiv   because they have a vested interest in their own amendments, because I don’t believe that serves the community; I believe that is self-serving. I think we have managed, Deputy McSwiggan and I – I am sorry, I could not quite catch what Deputy Oliver said. I think that Deputy McSwiggan and I have tried to encompass all the amendments in here. I mean, Court of Appeal?! Come on! Some of these things we know we need to do, we know we need more than
1395 this. They are in our sursis motiv  , they are there. We know some of the things that are really important, not only to our community, for justice on this Island. I am going to get really passionate so I am going to try and calm down again, because it makes me quite cross.

So I would ask Members to not vote out the sursis motiv   because you believe so passionately in your amendment that you need the platform to debate your amendment because I think we have
1400 covered it in the sursis motiv  . If you do not believe you have, Members, then get to your feet and let us know if you have got a particular stance you want to take, for example, on decriminalisation of a certain drug, although I think we are being a bit narrow on that one particular drug.

1405 And lastly, Deputy Lowe said when she opened, madam, she said, 'A plan of action' – I put it in quotes – 'A plan of action is needed,' and I think that is where I can agree wholeheartedly with Deputy Lowe: we need a plan of action, one is needed. And I think Deputy McSwiggan and I have tried our best to deliver that plan of action, and we have done it in a way, madam, that – Deputy Lester Queripel was saying it is going to take too long, two and a half years, but it clearly says 'no later than'. We have done it in a way that is broad enough, we have done it in a way that says 'but need not be limited to,' so if the next Home Affairs Committee says, 'Actually we also want to explore –', they can, they have the freedom; after all, it is their mandate.

1410 So I hope Deputy Lowe has noted the questions that I asked because I think that would be really, really helpful in helping Members make an informed, intelligence-based decision on supporting the sursis motivé.

1415 And lastly – and Deputy Lowe said this, actually we agree on this as well – in the report – and it was not Deputy Lowe's words and they are not my words, these are words from members of the community; that was my understanding, anyway, when I read the report – and I would love this to actually have some resonance with many Members – is that, I repeat the words: 'At the moment, it is more like a legal system than a justice system.'

Thank you.

1420 **The Deputy Bailiff:** Thank you. Deputy Merrett, Deputy Lowe has already spoken, so she will not speak again before the voting of the sursis.

Does anybody else wish to speak before I ask – ? Deputy Tindall.

1425 **Deputy Tindall:** Thank you, madam. I did not expect to stand quite so quickly so I am just getting my notes together.

1430 Deputy McSwiggan opened her speech with a comment which struck me: 'Unless the sursis motivé is successful, there may be no commitment in this term or the next towards justice strategy.' Today through a green paper, it is just the start of the discussion and it is intended to be only a discussion. But for me, it must be more. I say this because the arguments put forth by Deputy Lester Queripel appeared to me to be somewhat contradictory. The steps taken by the current Home Affairs Committee have been slow to bring this forward but seek only to direct the next Home Affairs Committee to bring their recommendations as soon as practicable. I think that is insufficient. Deputy Oliver pointed out the current Home Affairs Committee think it too short a timeline in the sursis motivé, yet Deputy Lester Queripel thinks it is too short. By voting against the sursis motivé, there is no accountability or timeline at all. Yes it can be ignored, but if the sursis motivé is proved with the necessary leadership, it will not be. We need to get this Assembly to take a step forward and not allow this matter to drift any longer, and we also need the recommendations to cover all matters, not just a discrete few aspects of interest to some Members.

1440 The Justice Review and Strategy will embrace so many aspects across mandates and across our community. The irony that this is achieved through a sursis motivé, which defers debate and directs a course of action during the period for deferral, is not lost on me.

1445 Deputy Lowe said the sursis motivé would stifle efforts to prepare the framework for future justice policy; I disagree. What has stifled efforts is the lack of effort to bring any recommendations to this Assembly to progress any form of action. Whilst the Rules allow us only to debate the sursis motivé, there is plenty in this, and Rule 24(1), as, madam, you have indicated, Rule 24(1) does enable us to get our teeth into it.

The recommendations have been substantiated in that report attached under Rule 24(1) and further itemised at page 132, which says:

- Ensure justice responses are proportionate, just (procedurally fair), effective and promote rehabilitation;
- Use prison only where necessary to address offending or to protect public safety, focusing on recovery and integration;
- Focus on prevention and early intervention;
- Improve the community's understanding of and participation in community justice;

- Improve health and wellbeing in justice settings, focusing on mental health and substance misuse;
- Reduce the harm that offending causes; and
- Promote social inclusion and active citizenship.

So we have a good indication amongst this for what needs to be done.

1450 However, whilst I could comment on each, I intend only to concentrate on the first part of this sursis motivé, namely that the Committee for Home Affairs shall prepare evidence-based proposals. *Evidence-based*. This Justice Review Report identifies a real issue with the ability to collect data to ensure there is the evidence on which to base proposals and the lack of funding to do so. We see in the HMICFRS Revisit Report and the Bailiwick Law Enforcement 2019 Annual Report that law enforcement has progressed with improving data collection, data collection which spans from incidents of domestic violence to speeding, data which needs to be consistent across the States if that data is also to be used by others. However, there appears to be no action in the most important point of the HMICFRS 2018 Report, and that is for Home Affairs to publish a strategic plan that sets out Bailiwick Law Enforcement's business objectives and priorities. This has not been done, nor has it set priorities or objectives for other Home Affairs operational agencies.

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Open and constructive debate does not progress matters; it needs action. It needs a Committee that – as it says in the Justice Review at page 98:

The future justice framework should be underpinned by effective cross-Committee governance and political leadership and an overarching cross-government, community-wide strategy encompassing justice and social justice issues and promoting shared values and outcomes.

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We need a Committee which shows that leadership works cross-Committee, especially with the Health & Social Care Committee. This has been shown even before my membership, which started in 2019, where they have clearly progressed many aspects already covered by this Justice Review Report.

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We also need a whole-Island approach to justice and the prevention of crime, in particular a principle which is on page 7 of the sursis. The future justice framework should be underpinned by a genuinely collective, long-term approach to deal with the complex factors that contribute to crime and family breakdown in the Bailiwick. The States should work in partnership with an agreed purpose and clarity about shared outcomes and respective responsibilities to be put towards achieving them.

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The President of Home Affairs signed the protocol concerning the relationship between the Committee for Home Affairs and the Head of Law Enforcement and Home Affairs recognised the importance of its role in setting strategic priorities and objectives. But this is not a simple task. It needs evidence-based, informed decision-making. If Home Affairs cannot complete such a setting of strategic objectives and priorities in the last two years, I fear that this future justice policy, without direction such as in the sursis motivé, will flounder, as proved during this term.

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This sursis motivé is indeed in the spirit of the Rules, unlike what may be said about the amendments, simply because it does not need the Rules of Procedure to be suspended. It covers aspects of those amendments, and more to the point in particular, it reaffirms what Health & Social Care were doing anyway, namely completing the Combined Substance Use Strategy, a strategy that, with the support of the next HSC and funding – and I do not think this is going out of any confidential information, because it is hoped to bring it back in early 2021. I strongly believe that the devil that is alcohol, compared to other illegal drugs, causes so much harm, there needs to be a quality evidence report on the subject, and not amendments which do not take evidence into account.

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In respect of sentencing, again, it has proven difficult to assess the effects, especially on those who are arrested for small possession of drugs. It says in the report the Royal Court has recently begun to publish some sentencing decisions on where additional resources are to be found to establish a dedicated Information and Communications Officer. There would be an opportunity for a greater degree of accessible information to be provided to the public about how courts function,

1495 how decisions are made, e.g. by publishing short summaries of cases and aggregated data about court processes and outcomes. Clearly resources are needed to gather data and obtain the evidence for these recommendations to be able to be brought back to this Assembly, but it also needs prioritisation and a plan to use the budget that has been allocated. For example, £1 million was allocated in November 2019 to Home Affairs for a ring-fenced budget for countering economic crime, money laundering, terrorist financing, but it needs to be spent and spent wisely.

1500 This sursis motivé does not provide resources, but it does promote action in a sensible timeline as it provides sufficient time to gather the evidence which is clearly not readily available and to come back with recommendations. However, committed political leadership across Committees with a desire to take account of the real issues faced by our community will go a long way and can be used to identify resources and use those already allocated, be they financial or otherwise, to achieve the sursis motivé's aim to get something back no later than December 2022, hopefully even earlier.

1505 With the new Home Affairs Committee after the elections, this may well happen. Certainly it would be much quicker than if we do not support the sursis motivé and let the meandering path of what is envisaged by the green paper margin.

Madam, I therefore urge Members to support the sursis motivé.

1510

The Deputy Bailiff: Deputy Le Tocq.

Deputy Lowe: Could I just do a point of correction?

1515

The Deputy Bailiff: Oh, sorry, yes, certainly.

Deputy Lowe: Thank you, madam. The Home Affairs have their plans on the website if Deputy Tindall would like to have a look. They are there until 2022.

1520

Deputy Inder: Madam, I would like to move a Rule 26(1) motion, please.

The Deputy Bailiff: Those who would still like to speak, could they stand in their seats? Do you still wish to take a vote, Deputy Inder?

1525

Deputy Inder: I do, sir – sorry, *madam*, I beg your pardon.

The Deputy Bailiff: So, the motion is that the debate be guillotined under 26(1). Those in favour; those against.

1530

Some Members voted Pour, others voted Contre.

The Deputy Bailiff: Let's have a recorded vote, please.

There was a recorded vote.

Not carried – Pour 16, Contre 22, Ne vote pas 1, Absent 0

POUR

Deputy Trott
Deputy Stephens
Deputy Meerveld
Deputy Inder
Deputy Smithies
Deputy Graham
Deputy Green
Deputy Paint

CONTRE

Deputy Le Pelley
Deputy Merrett
Deputy St Pier
Deputy Fallaize
Deputy Lowe
Deputy Laurie Queripel
Deputy Hansmann Rouxel
Deputy Dorey

NE VOTE PAS

Deputy Prow

ABSENT

None

Deputy Dudley-Owen	Deputy Le Tocq
Deputy de Lisle	Deputy Brouard
Deputy Langlois	Deputy McSwiggan
Deputy Soulsby	Deputy de Sausmarez
Alderney Rep. Roberts	Deputy Roffey
Deputy Ferbrache	Deputy Oliver
Deputy Le Clerc	Alderney Rep. Snowdon
Deputy Mooney	Deputy Tindall
	Deputy Brehaut
	Deputy Tooley
	Deputy Gollop
	Deputy Parkinson
	Deputy Lester Queripel
	Deputy Leadbeater

1535 **The Deputy Bailiff:** There voted Pour 16, Contre 22, 1 abstention, so the motion was lost. Let's carry on. Deputy Le Tocq.

Deputy Le Tocq: Merci, Madame Le Deputé Bailli.

1540 Sir, I will not be – *madam*. (*Laughter*) I tried very hard! I will not be very long because all the things I wanted to say have been said already. But I would just like to make a few comments about green papers and sursis motivé, etc., because I would hope that the majority of this Assembly and those who know me well know that I am not in the habit of voting to suspend or even proposing that we suspend the Rules on things; I would like to think that we have a minimal number of Rules, I do not think that is the case at the moment, and since my time first elected, madam, I have seen a growth in the number of Rules of Procedure. But I will couple with that, if we have got a minimum number, if we can achieve that, then we should not really be suspending them.

1545 Now, I was surprised that the sursis motivé did not require a Rule suspension, and I am glad that is the case because it enables us to look at it, but it is partly because – and this is where I disagree with Deputy Roffey, although I agree with nearly everything else he said, in that I do not think green papers in our current constitution are really a very helpful tool at all, because this Assembly, in its ambivalence for all sorts of reasons, cannot decide whether it is an executive or a parliament. And madam, my first experience of a green paper was in my first term, when I was a member of the Education Council in those days, and we brought a supposedly green paper – there were not actually any Rules in green papers in those days, but that was the idea – on reforms of secondary education, and it was rather hijacked by a set of amendments that ended up in the sort of mess that we have today that we still cannot get out of. I do think that needs to be resolved but that is not a debate for today. But I say that in the preamble because I am duty bound really at least to give reasons for laying the amendment that Deputy Laurie Queripel kindly seconded and to explain to Members who do not already know and more generally why I felt compelled to do that.

1550 1555 Madam, up until the beginning of this term, if you had said to me that I would be laying an amendment such as that which we drafted I probably would not have believed you, because when Deputy Roffey laid one of the potential reforms to cannabis, for example, in the drug strategy and drug policy at the time, I was one of those that regularly voted on the other side, and the reason for that was, at the time, I knew a good friend, an acquaintance of mine, who had been affected as a young person by psychosis as a result of drug abuse.

1560 1565 **The Deputy Bailiff:** Sorry to interrupt, Deputy Le Tocq, but can I just remind you? You do need to talk about the sursis, rather than specifically your amendment.

1570 **Deputy Le Tocq:** Yes, absolutely, but I mention it, madam, because the sursis, and one of the reasons why I am in two minds about the sursis but probably inclined to support it is it does encapsulate the strong feelings that led me, in terms of frustration, to lay an amendment, or to want to lay an amendment. And that was because, during the last term when I served as Minister for the Home Department, I did see and I had seen as a result of being involved in restorative justice – I

1575 think was one of the first Deputies to talk about restorative justice back in my first term and as a
result of that the then-Comptroller, I think he was, got on the bandwagon and made it his aim to
begin to incorporate restorative justice principles into the criminal justice system. A lot has moved
on from then, I am grateful for the States and Home Affairs Committees since then to have moved
on that part. During the last term, I became conscious of the fact that a lot of our resources were
1580 being spent on trying to police and handle, particularly cannabis, but drugs-related offenses – and
Deputy Roffey has already referred to that in terms of the amount of time and effort that was spent
particularly by our law enforcement. We sought to reform that, and the current Committee for Home
Affairs, I think, have improved upon that as well, and I do recognise that. But I do not think we
should be stopping there.

1585 At the beginning of this term, I came across a number of people who, for one reason or another,
were taking products that were illegal here based on cannabis itself partly because they could not
find alternative solutions to pain control in the normal ways, and in fact, Deputy Oliver was involved
in one of those meetings early on in this term, where we were presented with arguments from
people on that side, similarly as well from people who had members of their family who had been
1590 criminalised and, as a result of being criminalised because of possession of cannabis in some way,
their lives took a very different path to the ones that it could have taken. One particular person, who
is a friend of mine, who unlike me, spent his life not drinking and took early retirement due to
Parkinson's disease, is having to illegally access a product that is available across the Atlantic but
not available legally here in order to handle his Parkinson's, and it makes him able to live a normal
life, and for me it was certainly a tear-jerking experience to see that.

1595 So, madam, early on in this term, I sought to engage with finding a way in which we could enable
those who want to access medicinal cannabis and products associated with that in an easier way
than currently is available. And I met with the President of the Health & Social Care Committee and
with Deputy St Pier and we did see some small changes in terms of the regulations to enable that
to happen, but the promise was that there would be a drugs and alcohol strategy review at some
1600 point in this term and, along with the Justice Review encapsulating all of those issues that concerned
me, the expectation was certainly that it would come mid-term, and that is another reason why this
green paper, madam, on justice policy is far too late to be an effective green paper. And the
frustration came for me at the end of last year, when, not seeing any movement on a review of
drugs and alcohol, not seeing any changes to the degree that I could be confident that we would
1605 see some progress and move forward, I planned to lay a requête and, certain Members of this
Assembly, they know who they are, were willing to support that. I was told at the time not to do so,
because the strategy from HSC will be coming forward and, whilst obviously there were some things
that are Home Affairs responsibilities that were caught up in that, I should expect that to happen.

1610 Now COVID has happened, and I accept the arguments from HSC that that put paid to the timing
for their review, which would have been fine if we had had an election next year, because the requête
could have come back and we could have proceeded; that is not the case. Now, I completely
understand and accept, madam, that no States can bind a future Assembly, we cannot do that. We
cannot bind ourselves, we struggle with that. *(Laughter)* But I think Deputy Prow actually, probably
1615 not intending to do so, gave me assurance that this was the right thing to do when he said, 'I think
the damage has already been done.' I think Deputy Queripel and I wanted to put a flag in the ground
to say, 'This cannot be kicked into the long grass continually. Something has to be done.' Now, as
a result of that, madam, I think it is incumbent, obviously, on the next Assembly irrespective of how
this sursis motivé goes, I think they cannot ignore the issue any longer, but if I am minded to support
it, it will be because – and I did not want to hijack this debate just around the issue of cannabis, and
1620 fortunately as Deputy Merrett said, Deputy McSwiggan has managed to very articulately
encapsulate a lot of the things that I think should have been part of this Justice Review in terms of
actions, because if we do not put some actions into what we say and do, we will just continue to be
a talking shop.

1625 So, madam, I think one of the issues for me is that we do need to recognise that change cannot
be slowed down, and the only thing that I have hesitation over with this sursis motivé, and Deputy

Lester Queripel has touched on it a little bit, is the fact that it seems like an inordinately long time to come forward. But going back to what I was saying before, madam, I accept that no one can tell who the next Home Affairs Committee or the next Health Committee is going to be, and so we would have to do it on trust, and on the basis that this sursis provides the sorts of directions that I wanted to put in place through the amendment, it gives me at least that assurance that the stake in the ground has been made and that this issue cannot be ignored.

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I would like to think, madam, that, in the society that we live in, that we would want – and we say we do in other areas, particularly in the Partnership of Purpose – we would want to focus our resources on trying to prevent early on the sorts of problems that end up currently with people being caught up in our criminal justice system. In order, madam, for that to take place, then we have got to have courage and boldness. And so I find myself here not arguing for something – and that was not the intention of the amendment and I do not think it is the intention of the sursis motivé – to make a decision today, but to bring the evidence before this Assembly, or the next Assembly at least, in as speedy a timeframe as possible so that decisions can be made. To do that we need some instructions, not an agreement to note, because in my experience, all that will do is give excuses to the next Committees involved to kick it further into the long grass, and I am not willing, for the sake of those I know who are suffering now and are being criminalised unintentionally now, to let that go.

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Thank you.

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The Deputy Bailiff: Given that we are still debating the sursis motivé, I am minded to have one more speaker before we go to the lunch break, so who would wish to continue the debate?

Deputy St Pier: I may be more than three minutes, madam.

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The Deputy Bailiff: Well, we will see how it goes, Deputy St Pier.

Deputy St Pier: Madam, I am tempted to speak on five points in relation to the sursis. I do regard the sursis as being procedural terrorism. It has exploited a gap in the Rules which I think should not be there. Sorry, would you like me to start again, Deputy Roffey?

1655

Madam, I believe that this sursis is procedural terrorism. It has exploited a gap in the Rules which I do not think should exist. Deputy Inder moved to guillotine the debate and actually, I think what he needs to be doing is amending the Rules to prohibit sursis or amendments to green papers under Rule 17(9). However, the damage has already been done, as Deputy Prow said; this has got round the rules and it has allowed a debate to be hijacked in relation to one aspect of criminal justice, namely cannabis, in a way that I was hoping we would not have, and indeed P&R were hoping we would not have, and I could not support the suspension of the Rules. I do not think we should suspend the Rules as frequently as we do, but we seem to do it willy-nilly and we would have ended up having a debate. And my fear actually with this sursis is, if the sursis is now rejected, we are going to have a debate probably at least twice more on the amendments and then in substantive debate, and that fills me with horror as well.

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So, I have many of the same dilemmas as Deputy Prow when he spoke as to how to address this now, and so in speaking to the sursis, I will largely be making comments around the general debate, given that the sursis is so broadly drawn, which is the other four points that I wanted to make.

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Dealing with Proposition 1, which really directs further work that needs to be done in certain areas – and some of these have been touched on by Deputy Merrett when she spoke and I just wanted to pick up some of those and address them a little bit further, because one of them in particular has arisen to some extent in the debates which the States had in June in relation to sexual offences legislation and the sexual assault referral centre that Deputy Merrett referred to. I think the report itself certainly identifies the need for that:

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While practical support is provided by existing services, there is limited provision for therapeutic emotional and psychological interventions to help victims overcome the impact of these offences. More broadly, the absence of a sexual

abuse referral centre (SARC) and crisis helpline for victims of sexual violence was identified as a critical gap by several different stakeholders.

1680 Clearly there has been work done by both Health and Home on that, but it has not progressed very far and I think it is a matter that does need to be progressed at a pace. Certainly I would regard that not as being a matter that needs to be delayed through this process in any way at all. I think it should be dealt with effectively as a Revive and Thrive action and be expedited accordingly, and certainly my view is that we should be doing that within the next 12 months and not waiting for further – it stands alone, and much of our work has already been done and the case is already being proved and laid out in that regard.

1685 I think it is also worth noting on page 36 of the report, there are comments in relation to the child victims of sexual abuse, which I think are worth just highlighting because they, I think, note a significant gap in our ability to adequately support those children, so I just want to find the right quote, which is:

More broadly, the approach towards examining child victims of sexual abuse was seen as particularly problematic, as the small number of cases results in a challenge in maintaining the necessary expertise on the Island.

That is in relation to medical examination.

The current solution to enable children to be treated safely and appropriately is for (pre-pubertal) children who require forensic examination to be supported to travel to Jersey SARC with their families for a joint examination with a paediatrician from Guernsey and a forensically trained paediatrician from Jersey.

I think it is horrendous that we should expect children in that position to have to travel to Jersey for that experience, and I think that needs to be addressed as well.

1690 I am going to move on to Propositions 2 and 3 in a moment, but I just want to deal with another couple of issues in relation to Proposition 1. Give me a minute, madam; this is the disadvantage of moving around the significant report in electronic rather than paper form. This really speaks to the question of the experience of the court system, and again, Deputy Merrett did refer to this and the number of people that felt that it was a legal system, rather than a justice system, and on page 96:

The [Committee for Home Affair] has recognised that there is a group of people who feel that the judicial system did not listen to them or treat them fairly. This includes complainants, victims and perpetrators. The level of attrition related to victims not wishing to proceed once they have reported an offence which we identified in Chapter 1 warrants particular attention

1695 I think that is significant, and certainly Recommendation 12 is something that I think is worthy of support. I think the comments in relation also to Recommendations 26 and 21 in relation to restorative justice and alternative sentencing also should be noted.

The other aspect is on page 43, which is:

... the quality and appropriateness of the accommodation, and a lack of clarity about the stability of living arrangements for people involved in or at risk of involvement in the justice system, were raised as ongoing issues by representatives of justice agencies, community organisations and service users.

1700 This is very much emergency accommodation, and of course those leaving prison. And again, during the COVID crisis, provision needed to be made for that group at short notice, obviously, to ensure that they were able to properly socially distance, and I think that has highlighted again an issue which requires urgent attention now that that issue has, to some extent, gone away as the COVID pandemic has been controlled on the Island. But the problem has not gone away, and again, I do see that as being a Revive and Thrive issue that does need to be dealt with in short order, rather than being left for a much longer timeframe.

1705 Other comments in relation to short sentences:

There is no dedicated programme for perpetrators serving short custodial sentences.

Again, an issue which I think has been well recognised.

... there is no overarching "justice law" or "sentencing law".

1710 Again, I think that is something which really does need to be addressed in due course. So I think there is an interesting comment in relation to the role of Jurats, some reservations about how reflective Jurats were of the wider community was noted, although we understand that there have been recent efforts to increase diversity. I think that is slightly overstating it; there have been some changes to the composition of Jurats, but I am not sure that is as a result of any effort. *(Laughter)* I think it is probably more accidental than deliberate, but I think the point stands nonetheless.

1715 I think the comments, then, really revolve around what I want to deal with in relation to Propositions 2 and 3, which are the cannabis comments and the cannabis debate that I did not think we should be having, but Deputy Roffey has taken us there and, indeed, the sursis has taken us there. I myself have long believed that prohibition has failed and that we do need to regulate and tax cannabis in the same way that we do with alcohol and tobacco, and certainly from my own personal family experience, my brother, who took his own life as a result of schizophrenia, which I
1720 am convinced was triggered as a result of cannabis use, is something that has certainly informed my thinking around this, that actually, the ability to ensure that it is properly strengthened and so on is properly regulated is, I think, a public health issue which I think will come through with the evidence, I would hope will come through the evidence, from Health & Social Care in due course in the report that has also been delayed as a result of the COVID crisis.

1725 So madam, those are my five areas that I have sought to address through this unfortunate sursis debate, but nonetheless I think probably the best thing now is to support the sursis in order that we do not have to repeat it with both the amendments and then a subsequent general debate. But I would urge the States Assembly Constitution Committee to amend the rules, because there is no point in having green paper debates if they are going to be bypassed in the way that they have.

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The Deputy Bailiff: We will now stand adjourned until 2.30, when we will reconvene and continue the debate. Thank you.

*The Assembly adjourned at 12.40 p.m.
and resumed its sitting at 2.30 p.m.*

**Justice Review Report –
Debate continued –
Sursis motivé carried**

The Deputy Bailiff: Deputy Leadbeater.

1735 **Deputy Leadbeater:** Thank you, Madam Deputy Bailiff. I just start by declaring an interest: I am going to be talking about the cannabis part of the sursis, and I am a director of a local company that is licensed to grow hemp for CBD and would be possibly looking to step into the medical space at some point in the future, and I am going to touch on medicinal cannabis at one point in my speech.

1740 Everything I am about to say is evidenced; not propaganda, not hearsay, just evidence. Just like Dr Brink, I like evidence too. Many of the statistics I will quote in this speech come from a Government survey looking at the effects seen in Canada since they introduced their recreational cannabis regime. More people are trying cannabis following legalisation, but since legalisation, those trying cannabis for the first time are more likely to be older – 45 years of age and over –
1745 compared to those trying for the first time before. Studies tracking youth consumption suggest that use has fallen since a century of cannabis prohibition ended for them in October 2019. Canada's

1750 National Cannabis Survey, which monitors trends quarterly, even states in its 'Before and After
Legalisation' numbers that the percentage of those aged 15 to 17 who use the drug has fallen to
around 10% or around 20%. Preliminary results in a University of Calgary study of 900 to 2,200
people aged 18 to 24 shows consumption rates have not budged much at all since legalisation. The
use stats for 15- to 17-year-olds during the 2018 pre-legalisation period was exactly 19.8%, while
the corresponding post-legalisation 2019 figure was 10.4%. This does suggest that consumption
among 15- to 17-year-olds has fallen since legalisation.

1755 The National Cannabis survey uses a cross-sectional design which has been collected every three
months from independent samples across Canada. This allows them to look at associations and
change at the population level. Canadians seem to have a pretty good awareness of the harms and
benefits and people are talking about it now. A lot of that discussion centres on the negative effect
cannabis can have on the developing brain and the need for young people to be aware of this. A
study involving 1.4 million high school students in the US between 2013 and 2017 found that, in
1760 the states that had legalised cannabis, youths were 10% less likely to consume it. Statistics Canada
released their much-anticipated report on what has changed since cannabis legalised; the results
were heartening for those concerned about youth use and the public health effects of legalisation.

As I mentioned before, the major stand out, shout-from-the-rooftops result was that the use by
15- to 17-year-olds has declined dramatically, and much more than anyone would have predicted.
1765 The percentage of people in that age group who had used cannabis in the past three months nearly
halved, as I have mentioned, from 19.8 to 10.4%. While it is not yet clear the exact cause of this
phenomenon, experts suspect it is a combination of a few factors: one is that it is much harder for
underage people to get hold of cannabis in a legal, regulated market. Canada's public health-
focused model prohibits use to those under 18, and it is strict on ID-checking, with big penalties for
1770 those who do not toe the line. Another is that cannabis is apparently less 'cool' when it is legal. And
the third, more important, is that Canada has been using some of those new cannabis taxes to invest
heavily in education and evidence-based harm reduction campaigns. Without the stigma of
prohibition, it is easier to have factual conversations with young people that will help them assess
risks when making their decisions. It is worth noting that a marked reduction in young people using
1775 cannabis after legalisation was also found in the US states that have compared with the states that
had not, so we should not see this as a statistical blip.

The second excellent piece of news is there has been no increase in the past three months use
rates in the 18- to 24-year age range. This is the group that uses cannabis most heavily while also
being more vulnerable than older people to health harms, including mental health issues and
1780 psychosis. Canada already had high rates of use in this age range, and some were afraid that
legalising might make these rates go up, but it has not been the case. It is also worth noting that in
Canada the federal age for legal purchase is 18, with some states setting the limit at 19.

Although past three months use rates are interesting to track, they only tell part of the story.
Many of those who tick the 'past three months' use' box would have only used once or twice in that
1785 time period, and the vast majority would have experienced no harm from that use. Daily use rates
give us a far better insight into whether cannabis harm is increasing, because it can be a proxy for
tracking harmful trends such as heavy use and dependence. The news here is once again
encouraging; daily use rates have not changed in Canada since legalisation, and that is true for all
age ranges.

1790 One low point in the report is that past three months use across the population has increased
somewhat from 14.9% to 16.8%. Taken on its own, this figure might raise some alarm bells, but
there are a couple of important points to note. Firstly, it is adults over 25 with fewer risk factors who
are using more since legalisation, not vulnerable young people. Secondly, that small increase in
occasional use is not translating into more people using daily; that makes it far less worrying from
1795 a public health perspective. The report also covered drug-driving; the rate of cannabis users driving
within two hours of using, 13.2%, has not changed since legalisation, and the percentage of
passengers driving with someone who had consumed the drug has dropped slightly, which is good
news.

1800 The overall conclusion on the early impacts of legalisation in Canada is that a carefully considered, evidence-based model of regulation can make a positive overall difference to public health, and the real beauty of a legalised market is that government can use these statistics to inform decision-making. Officials would be able to track results over time and adapt the system when needed to get the best possible public health results, something that is decidedly not possible under prohibition.

1805 In December 2019 it was reported that, since January 2018, California's cannabis sales had generated \$411.3 million in excise tax, \$98.9 million in cultivation tax, and \$335.1 million in sales tax. When considering the economic benefits of legal cannabis, it is also important to think of the money that might be saved as well as revenue that could be generated through such a process.

1810 **The Deputy Bailiff:** Deputy Leadbeater, can you bring this round to the sursis? I think you are going beyond those limits that we talked about before, so if you can bring it down to the sursis motiv , please.

1815 **Deputy Leadbeater:** Okay. This was basically the stats that I was going to bring up in my speech on the amendment, but because the sursis encapsulates my amendment, I thought these stats were valid.

1820 **The Deputy Bailiff:** Yes, but I think you are now pressing those edges that I mentioned, you are dealing really with just your amendment at the moment, so focus on the sursis motiv .

Deputy Leadbeater: Okay, madam, sorry.

1825 Well basically, we cannot ignore these statistics any longer. There is a groundswell of public support for the introduction of a legal cannabis regime in the Bailiwick, and we as a Government simply cannot ignore that either. We have a multi-million pound underground cannabis market in Guernsey and little, if any, of that money recirculates in our economy. Also, this multi-million pound industry is completely unregulated in the Bailiwick, and because it is unregulated, we have no control over it. If we want to stop the vulnerable members of our community having access to cannabis and having their lives affected by the harms that drugs can bring, we have to take control of that market. We have to ensure that our policy and laws are fit for modern-day society.

1830 Then there is the criminalisation aspect. Notwithstanding that people who get caught in possession of personal amounts no longer get imprisoned for six months, as Deputy Roffey pointed out used to happen, but they do get a prison sentence, they still get a criminal record, and that criminal record cuts their chances of employment, restricts their ability to travel, and gives them a label amongst many in our community.

1835 Madam, to conclude, evidence that our current policy towards cannabis use is not fit for purpose is all around us. It was on the States outside here today, it can be seen across the water in North America. Why should we not follow in the footsteps of our Commonwealth cousins in Canada? Everybody that spoke about cannabis today has done nothing but bolster the argument for reforms. Yes, it is not a harmless substance and I do not believe I have heard anyone say it is; I certainly do not believe it is. We all recognise that there could be harm caused by cannabis use, especially amongst the younger members of our community, and I would like to protect our community from harm.

1840 So, madam, those are just my thoughts on the cannabis element of the sursis. To be honest, if my amendment was not in play, I would probably be behind the sursis; I have got concerns, as have Deputy Lester Queripel and Deputy Jonathan Le Tocq, about the timescales. I know it says 'no later than,' but if a Committee has got a certain amount of time to do something, it will probably use up all that time and more. So I do not know which way to go on this, now I do not know whether I am going to support the sursis or not. I am going to sit down and continue to listen to the rest of the debate.

1850 Thank you.

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Thank you. I would be happy for Deputy Oliver to go before me, but I will go now.

1855 I agree with a lot of what Deputy Leadbeater and, like him, I might be in danger of getting a bit
of a squeaky bottom sitting on the fence too much, because I do not know whether to go down the
sursis route or not. The thing is, so much extraordinarily commendable work has been done by
Deputy McSwiggan and Deputy Merrett on the sursis, it acts as a primer for this Home Affairs
Committee or its successor and, indeed, all the States, to get stuck in to both scrutiny and policy
1860 promotion of the next stage of the agenda. But Deputy St Pier was perhaps rather harsh on it,
because it is within the procedures and it has facilitated a useful debate which had to occur, rather
than the amendments, which are more discretionary.

1865 But I kind of came here really wanting to discuss two things: firstly, the Justice Review that has
been published, this green paper; and secondly, the amendments that Deputy Leadbeater and
Deputy Le Tocq may delay. And this sursis, of course, by its very nature, does encompass, as you
correctly ruled, Madam Deputy President, so much of this debate beyond drugs to a whole wider
range of issues, but it also, effectively, as Deputy Laurie Queripel reminded us, cuts off debate from
occurring on the report.

1870 And so, should the sursis be successful in the next hour or so, we can all go home happily, or
maybe not so happily, and we effectively cast aside this Review Report for our successors after the
election. That is where I struggle to support the sursis, because whatever happens, there will be
people, hopefully, standing and elected to an Assembly for the first time on an Island-wide basis –
excluding the two representatives from Alderney elected by their Island – and we will see a new
Home Affairs Committee created which may have some or all the current personnel on it – possibly
1875 not all, because we think at least one of the Members will be retiring. But the point is, I think it is
incumbent upon the new Committee, whatever happens, to pick up from Day 1 on their mandate,
and the problem with this and sursis is, however excellent the work quality is, it puts this curious ‘no
later than December 2022,’ and I just think we are not going quickly enough in this whole area.

1880 I have to say that, of course, the States, either directly or indirectly, make decisions with
everything we do. If some Members get up and want to guillotine debates all the time and we vote
to go down that route, we are making a statement, aren't we, really? And when we have elections
for presidents and members of Committees, which we do from time to time, we are making a
statement with who we put into those roles: for example, when Deputy Lowe was successful, as a
very senior member, a long-serving member, the Mother of the House, actually, in winning this
1885 presidency, certainly not her first presidency – I think I remember Deputy Ferbrache, I think,
proposed her. But I think one of the strong points of her candidature, apart from her experience,
was that she was not instinctively a revolutionary in terms of reorganising our criminal justice policy
and judiciary. The alternative candidate, who got a very good vote and moved on to other
endeavours, presidencies and so on, was more open about wanting to explore a restructuring of
1890 justice along sociological lines. But the States went in a particular direction and a Committee was
formed of people who were – Deputy Oliver might not agree with me, or Deputy Leadbeater –
people who were possibly more respectful of the status quo than some other Members in the
chamber, I do not know. But we then had two vacancies come up and two Members stood – this
was just a year ago – two of our older Members, it is fair to say, and they received a solid vote, and
1895 there was no competition from other Members. So we have heard many Members today and
recently say they wanted structural change through Committee; perhaps they did not get the
opportunity or they missed the opportunity to put their candidature across when they had an
opportunity a year ago. And we are so close to the end of this term that, with the best will in the
world, so much of this work will not be done.

1900 I mean, of course I support many elements of the report and indeed the sursis, I think we should
have more emphasis on prevention, I think it would be useful if the States focused upon that. I
accept that Home Affairs has recognised that there was a group of people who feel that the judicial

1905 system did not listen to them or treat them fairly, complainants, victims and perpetrators. We have had a discussion and I think some Members of Employment & Social Security in a busy meeting kind of said to me, 'Well, if you are so keen on looking into this, you should be researching this more,' because an issue is coming up with legal aid and issues coming up about – actually, if you look at the report, legal aid expenditure has slowly increased but not at a particularly large rate, and that in itself is quite telling because, compared to the health budget, the legal aid budget has been relatively capped.

1910 But there is a feeling in some quarters that our family civil law system, not just the criminal law justice, should be less adversarial and more mediator-focused, more focused upon finding constructive solutions without courtroom legal practices. That is an issue that, really, Home needs to look in to with other Deputies and see what other comparable communities are doing. We have had a discussion about the sexual abuse referral centres; this is also emphasised in the sursis motivé,
1915 and people who for some reason have involvement in the criminal justice system trying to go down a different route, maybe rehabilitation, that is interesting, and an independent analysis of sentencing practices. We have heard some Members say earlier that, for the first time, maybe, Home Affairs will have more of a political role in deciding what consistent sentences and sentencing *policy*, as distinct from individual circumstances, the judiciary have. That is a major reform. Restorative justice is underlined as well, and there are certainly many things.

1920 In fact, the report – and I am focusing more on the report than on the drugs issues because I think this debate has been a bit hijacked by the illegal drug issues, but I will come back to that later on – for example, the voluminous report has some fascinating issues that we need to consider. One is that, according to the research they did, the focus groups were saying that the least important
1925 element of the criminal justice system, from their point of view, was taking perpetrators out of society. If that is true, that is a major change in the political message from what previous Home Departments were giving and perhaps it was influencing previous holders of judicial office as well. That has significance. We also see that on page 39, for example, that the violence has decreased but drugs have generally increased as a proportion. We see what I always knew: that our prison
1930 population is higher even than Scotland, higher than Jersey, higher than the Isle of Man, and that has been consistently the case, I would argue, for 20 or 30 years. We see actually, according to these statistics, we have had a 54% increase in crime, which took me aback a bit, because of different systems of recording crime. We see there is a direct correlation between educational achievement needs and people who end up on probation or in prison. We see that perhaps even our friends on
1935 Employment & Social Security have not factored into relationship with law and order problems employment sustainability. There was a hint that Policy & Resources should be considered as part of economic growth inclusivity for those who cannot share in economic growth.

But what is intriguing is there is a whole range of controversial recommendations that we are not discussing. One is, for example, number 19 on page 110:

These reviews should inform the creation of a new restorative justice and dispute resolution strategy to be delivered across the Bailiwick. We propose that this strategy be centrally resourced with dedicated funding, coordinated by the Community Justice Commission –

1940 when we actually have a new Commission.

I will give way to Deputy Lowe.

Deputy Lowe: I thank Deputy Gollop for giving way. I want to thank him because he is picking up points in the report on exactly what we wanted. This is a discussion document and, as we have
1945 seen, it has been hijacked and has mostly been about drugs, and it is important that we hear. I think it was mentioned earlier on that, should people be speaking about the report or should they be speaking about the sursis motivé? Because the report goes actually much further than the sursis motivé and the items in there. So for me and for Home Affairs, who are taking notes of everything that is said this morning, so whereas Deputy St Pier said towards the end he felt there would be
1950 repeated speeches this afternoon, there be no need for that. If the sursis motivé is thrown out, you

do not have to repeat the speeches, that has already been recorded, everything will be taken note of, it will go to the five-Committee panel, who are already in place. The terms of reference will be one of the first things they do once we hear the report, Deputy Merrett, because we cannot go into the terms of reference until we know the guidance of which ways to go, which is the question that she raised this morning.

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So I think I just want to thank Deputy Gollop, because I am not able to speak at the end, so I am pleased he actually gave way for me to be able to say: please, Members, speak about the report and not just about drugs, because if the sursis motiv  goes through, the staff and Home Affairs and the panel of the five Committees will not be hearing your views on the report, which has not been delayed – there has been talk about it being delayed – it was not actually part of a priority at the current time until we put it forward onto the Government Business Plan because we wanted it to be a priority, and there were a couple of delays but that was not through the fault of Home Affairs, it was through the fault of getting that, so thank you for that.

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Deputy Gollop: I thank Deputy Lowe for her – I was going to say ‘speech,’ but her *intervention*. (*Laughter*) Because the thing is I am not clear, despite looking at this at least twice now, on what exactly this Community Justice Commission or creation of a similar body would be, what its expenses and resources would be. We spent so long last week after many, many years of great work looking at the Disability Inclusion Strategy, and that has been like pulling teeth on occasions. And we know some Members were a bit unhappy when the Health Improvement Commission and the health regulatory groups and all these things were happening. Well, this is *another* Commission; it might be a good idea, I probably support its aims and objectives, but I think we have to think about it.

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I am going to come on to another issue, and I know Deputy Lowe has often asked it, and very persuasively, I have to say as well, on occasion. We come to page 127, Recommendation 32, from an impartial report, where it says:

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‘The [Committee for Home Affairs] *could* consider electing a non-voting member with relevant expertise to support and champion the implementation of the justice strategy and give consideration to them chairing both the cross-government supervisory group and the Community Justice Commission.’

Now, we technically do not really *elect* Committee’s non-voting members; we *select* from candidates and then put them through the Assembly to ratify – that is a technical point. But of course, some Committees have over the years not gone down that route, precisely because it dilutes, sometimes, the political power of the elected representatives. And here, this non-voting member has to have expertise to act as a kind of ‘disability champion,’ or in this case, ‘criminal justice champion,’ rather, to help implement and chair groups.

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Now, I remember when I was Disabled People’s Champion, one of the reasons I felt it was time, once we had achieved the strategy for disabled people, for me to move on and hand over to other people, was that other Deputies and stakeholders were being lined up to chair working groups, and I felt if they were doing it, then there were too many people involved. Here, we have a strange scenario in the future of a President and Vice President of Home Affairs *not* driving forward policy because some champion who is not a politician is doing so. I mention that just to say this is not a simple report; there are many issues within it that have to be considered. And of course, it presupposes that the Island has moved away from a ‘punishment’ to a ‘deterrent’ point of view. And our commendable safety and quality of life that some of the other Members have already put down to may well be because we are a caring community, but it might also be due to the fact that in the past we had a fairly robust attitude to law and order, and if we are going down a route of perhaps more softer alternatives, we have to bear in mind that we do not want to see an increase in the crime rate or other problems.

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So we do need to balance out the issues very carefully, and the report is kind of positive about cross-Committee working and looking at indices in public health and maybe suggesting we have not seen enough of that.

2000 **The Deputy Bailiff:** Deputy Gollop, as I said to Deputy Leadbeater, I do appreciate that I have already ruled that the sursis is very wide and therefore there is a lot of crossover, but please could you try and bring back your debate on the issue in the sursis motiv . I feel you are straying beyond those now.

2005 **Deputy Gollop:** Yes, well, my query over supporting the sursis is, if the sursis is successful, however well-structured it is in facilitating debate on the issues down the line, it kills the debate on this report, because that is the end of it today, and I actually am sympathetic to the amendments of Deputy Leadbeater and Deputy Le Tocq, I actually do want to move quicker towards looking at the issues raised by the protesters outside, in the community, on social media. So I actually want to get to a debate on the amendments, and I already said a lot on the general report, and therefore I
2010 ask Members to throw out the sursis because the sursis brings an end to the issues that I think we should be debating today.

The Deputy Bailiff: Deputy Dorey.

2015 **Deputy Dorey:** Thank you.

I support the sursis. I agree with the comments made by others about how a green paper at this time, I think, is a totally wrong time in the States' term and I would encourage the Home Affairs Committee to have workshops with which States Members post-election because I think that is a good way of working with Members. I am not entirely convinced that the green paper is the best
2020 vehicle; I think its value can sometimes be that it stimulates a public debate, and obviously on the cannabis issue it has, but beyond that, I think workshops can actually engage States Members better.

But based on the justice framework 'which includes but need not be limited to,' I would just like to pick up on a few things which are in the report and which I think are of concern and I think need
2025 to be included when they come back. Interestingly, on page 17, it talks about the fact that:

... the most common offence type was violence against the person (33%), followed by criminal damage and arson (21%) and theft (16%). These proportions are similar to figures from England and Wales ...

I think that we have always thought that we are different, but in fact, our crime rates and proportions are very similar to the UK.

On page 29, it talks about:

According to Drug and Alcohol Service data, just over a quarter (27%) of young people referred to Youth Justice were known to have been under the influence of drugs or alcohol.

2030 That really illustrates why we need to have a strategy, because it is a major cause of youth crime. On the Family Proceedings Advisory Service, some of the words there were of real concern to me. It says:

Nevertheless, it is an important aspect of justice policy which we consider should be included in a future strategy.

So I really urge them to include that. It goes on to say:

For example, we were told that mediation and dispute resolution was hampered by a heavily adversarial approach to family justice ...

I do not think it is the best way forward. And it goes on to say:

The CfHA is considering changing the governance arrangements for [the Family Proceedings Advisory Service] although no clear alternative model has been identified.

2035 I think that it does need to be clearly identified, because obviously, there is criticism of the existing system.

I also wish to comment on the fact that it talks on page 39 that:

A separate review is being undertaken into the prevalence of gambling, which can also cause social harm, including the use of lottery scratchcards.

I think they cannot only lead to harm, they can lead to people getting involved in crime to try and meet their gambling debts.

On restorative justice, on page 48, it says, and this worried me:

The cross-government efficiency savings which [Home Affairs] was expected to contribute to have been achieved in part by not filling posts. For example, the restorative justice coordinator, who led the restorative justice strategy, was not replaced.

2040 That really worries me, because I think that is an important part of our justice system going forward, and I would like to think that that was changed and that person is restored.

2045 Coming to pages 50 and 51, they have got some of their KPIs; they are worrying as well. Detection rates: we are told that in 2012, violence against a person had a 92%, but by 2017 it was down to 78%; burglary was 24%, it went up to a 54% detection rate, but now in 2018 it is down to 50%. So I think there are serious problems that we need to cover in any future strategy.

Deputy Gollop referred to the number of reported crimes, and I know that the system of reporting has been changed, but a 54% increase is a major worry. But it goes on to say:

However, prior to [the change in the recording system] there was a 14% rise in crime between 2016 and 2017.

So there are a lot of statistics that are going the wrong way which I think need to be covered, which are worrying.

2050 It goes on in page 52, where it compares the number of reported crimes in comparison to other crown dependencies, and we have a higher rate per thousand of population of reported crimes in Jersey or the Isle of Man. Again it is a concern. And public confidence in the criminal justice system, from 50% being confident in 2013, is down to 43% in 2018: not a massive reduction, but a reduction, and those not confident has increased from 38% to 50%.

2055 I will give way.

Deputy Parkinson: I am hoping Deputy Roffey (*sic*) will tell us what this has got to do with the sursis? (*Laughter*)

2060 **Deputy Dorey:** I am very happy to answer that point. (*Laughter*) I said at the start, it says 'a justice framework which includes but need not be limited to.' Those are the words in the sursis, so I was trying to cover points which I believe should be included in the justice framework, because it says 'but need not be limited to' what was listed in the sursis, which I understood gives a wide area to cover. But I have covered the main points I wanted to refer to in the justice strategy.

2065 I also want to refer to the cannabis situation. On the medical: I understood from when I was at HSSD, as it then was, that there is a prescribed drug – and I probably got the pronunciation wrong – Sativex, which has THC and CBD in, which is available on prescription. So effectively, the two key ingredients which are in cannabis are available in a drug on prescription. So the case from a medical point of view I do not think is as strong as some might make out.

2070 On the recreational use: I have referred to this report a number of years ago in the States and it is quite old, but a House of Commons Science and Technology Committee looked at drug classification, and it is called 'Drug classification: making a hash of it?' It goes on to say that:

Drug misuse is one of the major social, legal, and public health challenges in the modern world.

2075 That was back in 2005 and I do not think the situation has changed that much. They tried to look at the classification of drugs, and I think Deputy Tindall referred to the harmful effects of them, and they looked at drugs in relation to the physical harm, that they cause the dependency, and the social

2080 harms they cause, and they used two independent groups of experts to perform the ratings, they used an international group of consultant psychiatrists who specialise in addiction, and they also used a second group which was made up of individuals with a wide range of experience in addiction, ranging from forensic science through to general protection and public health experts in addiction and including law enforcement officers, and they tried to clarify drugs. The most interesting thing was that heroin and cocaine came out to be the most harmful drugs, but alcohol came out as number 5, tobacco came out as number 9, and cannabis at 11. But for example, a class A drug, ecstasy, came out as 18th out of 20. So I do think that, when we are looking at recreational use of cannabis, we do need to look at the whole drug classification.

2085 Now it is very difficult for Guernsey to go out on its own in the modern world and come up with a completely different clarification. We do not want Guernsey to become a draw where people come on holiday for drugs, but I think we need to be carefully balanced, so I would welcome any report which comes back. This House of Commons committee concluded:

We have concluded that the current classification system is not fit for purpose and should be replaced with a more scientifically based scale of harm ...

2090 and I totally agree with that. So I welcome any reports that come back, but I think they need to be wider and I think they need to realise that cannabis is still a harmful drug, but we have legal drugs which are more harmful than cannabis, but there are illegal drugs which are less harmful, and I think that needs to be considered in any report which comes back.

That is my speech, thank you.

2095 **The Deputy Bailiff:** Deputy Brouard.

Deputy Brouard: Thank you, madam.

2100 I was not going to speak at this time but I have got a feeling that the sursis may win and so this is 'You either speak now or forever hold your peace.' But I would have preferred more time, especially on the drug issue. I mean, we have just had a very comprehensive report out from Health & Social Care and from John Moore University and I have not had a chance to go through all that on the drug front, but I think it looks, certainly the start of it looks, very interesting and that would have helped to inform the debate.

2105 I personally have had no issue for the medical use of cannabis, but I am not sure and have not made up my mind with regard to the recreational use. The question I pose – and I will just stick on the drugs issues at the moment – is this nirvana that proposes the use of drugs with no criminal charges for possession for individual use, but what of the dealers? What is our position with them? I mean, it is like the buyer is exempt but the shopkeeper is not, and I am just trying to understand the balance between those two and how that would work going forward.

2110 I will give way.

Deputy Leadbeater: Madam, I thank Deputy Brouard for giving way. The sursis could address the supply issue as well, as does my amendment. Deputy Le Tocq's amendment addresses the criminalisation bit, mine encapsulates the whole lot, and I think that the sursis does that too.

2115 **Deputy Brouard:** I think that is the position I am coming to; it needs to be one or the other, you cannot just have free at one point and very heavily criminalised at the other, and I think that is something that we need to come to. I think that is the message that we need to think very carefully as a Government to our society: what are we saying? Are we promoting cannabis? Are we discouraging it? Or are we agnostic? And I think we need to come together as a States to say where our position is.

Thank you.

The Deputy Bailiff: Deputy Soulsby.

2125 **Deputy Soulsby:** I have to say, it is disappointing that after four years we have only got to green
paper on this issue. Deputy Lowe referenced the Partnership of Purpose, but really that was a full
policy letter which we managed to achieve within eight months. And I have to correct her, it is more
than a vision: from the hospital modernisation and the plans going out imminently on that, the
2130 Health Improvement Commission, the regulation policy letter, the affordability of care in terms of
extending the ability to receive various drugs and treatments, we have done that, and in terms of
prevention and early intervention, a whole raft of stuff has been done over this term, the HPV
vaccination just being one of them. And the ways of working, as well, in terms of collaboration: a
lot of work that we have done with ESS and, for example, the free under-21 contraception, which
has already shown to have made a great big difference.

2135 We also had considerable consultation in that time period: service areas, partners within Health
& Care, the public, and States Members, but there has been no consultation with States Members
for this green paper, or Committees in particular. Deputy Lowe referenced this Justice Advisory
Panel, but I do not know what teeth that has. It just seems to me an advisory group, and I thought
Deputy Lowe was not in favour of that those sorts of committees, so I am a bit concerned that we
2140 are going from green paper to having these panels and we will end up in some kind of black hole
for quite a while.

But what really interests me is, in this green paper, how Deputy Lowe does reference the
Partnership for Purpose, because reading it, it seems like it has very much been aligned to what we
put in within that policy letter. I think on page 55 or 48 depending on what number you want to
2145 look at the bottom, the principles were so uncannily close to the principles within the Partnership
of Purpose: one of them is on 'prevention and early intervention'; 'collective long-term approach';
'openness and transparency'; 'joint responsibility with individuals'; 'fair, proportionate, and
accessible to all'; and the shifting of emphasis to 'people not process.' So I was very pleased as they
are so very much aligned to what we have done, and will now, I hope, mean it will be easier to move
2150 forward in terms of the issues regarding children's services and mental health services. We have
already seen that the limit of what you can do when you have to then be reliant on people outside
of the Committee, and those have been the things that have restricted what we have been able to
do this term. We have not been in control of what we have wanted to do. But also, conversely, we
have seen what can be done when we work together, and I just referenced the close working
2155 relationship with ESS and, to some extent, Education.

And on that, the whole process, I think, has been far from ideal. We have previously as a
Committee expressed concern regarding the breadth and depth of the consultation in preparing
the independent report and policy letter. We think opportunities were missed to ensure that initial
work reflected the whole Government approach needed to develop a mature justice policy in the
2160 Bailiwick. Whilst engagement took place with wider stakeholders, as is referenced in the document,
the opportunity was lost, focusing on criminal justice agencies, I think the opportunity was missed
to make a well-rounded view towards justice, taking into account the views and experiences of all
services and Islanders who directly or indirectly have experiences of the justice system. Mental
health services were not originally part of the consultation, so certainly the first draft we saw did
2165 not have any comments or anything from mental health services, which gave at the time rather
skewed impressions as to what was being provided.

But what actually stands out for me in the document is, and I think a couple of people,
Deputy Tindall is one of them, referenced it, was just the lack of data. It is referenced on, I just picked
up, pages 22, 23, 25, 31, 35, 39, 83, 85, 87, and that is just going up to page 55, which is where the
2170 conclusion is, around this lack of data and the impossibility of actually making any conclusions or
recommendations because of the lack of data. So I think this is going to be really important for the
future to be able to get that right.

On that front, from an HSC point of view, as set out the Partnership of Purpose policy letter –
and as we said, the importance of data – we have invested quite considerable funds in health
2175 intelligence and in the public health team, and I think everybody understands how that has served
us well over the last few months. So it can be done and I hope that it does happen in the future.

2180 Just going on to, though, Propositions 2 and 3, and I am happy to really provide a bit more detail
which hopefully will give some assurance to Deputy Leadbeater and others that are concerned
about the timeframe. From the very beginning of this term, HSC was very keen to take over the
drug and alcohol strategy and create a substance use strategy, looking at drugs and alcohol, all
substances together, because we see it is a health issue rather than a justice one and we think it
very much does fit in with Health & Social Care. But just to respond to Deputy Le Tocq, who said he
was expecting something to have come from us mid-term: we only took over the strategy in 2017,
so I think with the best will in the world, given that at that time we were developing the Partnership
2185 of Purpose and since then we had the hospital modernisation, regulation, drugs and treatments,
and all the other stuff we have been doing, and then COVID coming along, I think it would have
been very difficult for us to have brought the strategy any sooner than this year. Now, COVID did
get in the way, we were due to look at this in March, I believe, and then everything went – well, we
all know where it went. We were hoping to have a consultation and then a policy letter this term in
2190 around April/May time.

But I think Members would like to know that we have actually got the first draft provided to us
of the strategy. It was on our agenda for our meeting today, so that goes to show where we are
now, it will be tabled at our next meeting now, but we really are on that journey very far in advance,
and what we want to do now is go into consultation. Because the one thing that has not been
2195 referenced here and not referenced in the amendment, which I think is quite – bearing in mind the
debate we had just a few weeks ago where consultation came up as a very big issue, how we must
have consultation, we have not been consulting with people, but we need consultation for this
policy letter, we need to go to the public. Canada has been referenced as somewhere that has
brought in a new regime, and it has, but that was after considerable consultation with the members
2200 of the public to understand what was acceptable to the public at the time, what felt right, what
people’s concerns were, and being able to build that from understanding what the public think,
building that into what the policy is and what makes sense for us right now.

I would just also like to comment on what has been done in respect of cannabis this term. It has
felt like a lot of our time has been spent on this particular subject for all manner of different reasons.
2205 We have allowed trace elements of THC to come through that has just enabled the CBD oil industry,
for want of better words, to set up here and that grown and we have got growers coming along,
and that also reflects reforming our licensing regime. Now that has been really difficult for HSC. This
is not something we have ever done before and something that has had to be built from scratch,
and a considerable amount of office time and Committee time has revolved around the whole
2210 licensing regime. Deputy Leadbeater would know how the details are acquired in this and how it
has grown where it has grown and requirements around it, and it has taken up an inordinate amount
of time, and we have been working closely with Economic Development on how we can move that
on even further. But this is a learning process for us as much as everybody else, so it is really asking
the people for just understanding for what we are doing. We have been trying to help the process,
2215 but it has been a huge learning curve.

Now on medicinal cannabis – and people talk about ‘medical cannabis,’ it is not really ‘medical
cannabis’ – *medicinal cannabis* is what we have looked at, it is more than just a little change that we
have made here, which is what Deputy Le Tocq referred to. We have rescheduled cannabis to
actually identify that it has medicinal qualities which – before we took office it was treated as if it
was the baddest of the bad and you cannot do anything with it, which is clearly bonkers because
2220 we know that, as a medicinal drug, it has been used, and we have licensed it for various conditions
like epilepsy, MS, pain and nausea arising from chemotherapy. We also, actually, added it for chronic
pain *but* recently NICE guidance has come through from the UK which says it should not be
prescribed and recommended for chronic pain; and that has arisen out of NICE, we had a whole
debate at beginning of the year about what NICE and how NICE are meant to know everything and
2225 probably do, but they are the ones that have come out with recommendations to say, ‘Do not use
this for chronic pain.’ Now we know there are those individuals that might find it works for them,
but we have to look as a Government generally as to how it works for the whole population and

2230 consider the drawbacks and the positives, so whilst it might work for a small number of people, it
might have significant drawbacks for other people at the same time. But what I will say is this is a
fast-changing area. Now that things have opened up and now people are looking at this, we are
getting far more information that we have for years and years and years, so it is fast-changing and
on that basis we need to keep an open mind.

2235 Reference has been made to the Sumnall report that we published; this is a report that we
wanted to attach to our policy letter and our consultation document before COVID came along.
And as people say, it is not as simple as considering this in terms of decriminalisation, legalisation,
there is other elements to this: there is decriminalisation, there is legalisation, there is also
depenalisation and various other levels of different approaches that we could take, both in terms
of cannabis, but also other drugs, and I think we are in danger today of just looking at cannabis
2240 rather than looking at the picture as a whole.

Personally, I do really have an open mind on this, I do think we need some form of liberalisation
around possession and I do not want to see young people criminalised, especially for dabbling in
something when they are young and to have a criminal record for the rest of their lives; that has
got to end at some point. But at the same time I do not believe cannabis has these wonder powers
2245 as is claimed; Deputy Roffey talked about cancer as well, and this is what happens when you are in
a situation where you have this thing that is criminal and so clearly those people who want to
legalise it will want to build it up into something else, for some people it might have worked, but I
think we have got to be very careful when such claims are made, we remember, some of us are very
much scarred by the GcMAF situation, so wonderful claims are one thing but it has always got to
2250 be around the evidence, and the evidence, as I say, is fast changing.

But I do think the circle needs to be squared between how we deal with drugs and how
we deal with alcohol, and I do not think we have squared that quite yet. We do know the real harmful
effects of alcohol, and it is not just on the individual: it is on the families and everyone around them,
and I think that is what will be addressed through the Substance Misuse Strategy – or the Substance
2255 Use Strategy, as we like to call it now – which will come to the next States very early in that term
because it is, as I say, nearly there, and I think really that is what we need to focus on, that evidence-
based strategy that will guide us through the coming years.

So whilst I have sympathy with Deputy St Pier saying this is an act of procedural terrorism, I do
think that the sursis actually provides a direction that is not there in this green paper. I was
2260 concerned when I read it just said 'We will come back to the states as soon as practicable.' That is
whenever, isn't it?! Anybody can say that, it is giving no direction, and I feel that particularly as we
do not know who is going to be in these positions in the next States, we should be providing a
sense of direction to help the next Committee, whoever they are, in what they need to look at. And
so that is why I will support the sursis motiv e.

2265 **Deputy Le Clerc:** Thank you, madam.

For me, and Deputy Soulsby has just touched on it, what is the difference between the sursis
motiv e and the green paper? Because that is really what we are being asked to compare. And I think
for me, the difference is the fact that there were some dates in this paper. What is disappointing in
2270 both papers is the fact that there is nothing resource-wise to achieve either green paper or the
sursis motiv e. So it is going to have to go through the prioritisation plan of Revive and Thrive. So I
was quite pleased when Deputy St Pier touched on some of the aspects that I would have wanted
to touch on in general debate. But I will quickly just go through some of the areas that I have got
concerns about, because I am not sure I will have that opportunity again.

2275 Really when I first looked at this paper, I wanted to weep, and I wanted to weep because, before
I became a Deputy, I fostered for about – I don't know – 10 years plus, and then I was with
Deputy Stephens on the Foster and Adoption Panel for a while when I stopped fostering and before
I became a Deputy. So some of these issues have been around for such a long time: early
intervention, early intervention. We have made some progress, and I hear what Deputy Soulsby has
2280 said, but really the progress has been painfully slow. We are still picking up the pieces, particularly

for me in young people's lives. As I say, probably 20 years now with my political career and the fostering, and we are still trying to deal with some of these issues. When you look at some of the age groups where we have got some issues, and I attended the CYCTAGM recently, and we are doing really well on some of the 1,001 days and some of that really critical early intervention, but where we are not doing very well are the people that are already in it and have been in it for the last 10 years, because in those reports, some of the teenagers and 11- to 15-year-olds, some of the interventions are not working and actually they are falling into the justice system.

So if you look at page 30 on the report, it talks about early intervention policy: 84% – that is 98 young people – were referred to the youth justice system. The Family Proceedings – the reason I am interested in this is because I am President of Employment & Social Security and we are responsible for Legal Aid, and every time we have a report from Legal Aid on where we are on the finances, it is always brought up, the increase in the costs of family proceedings and children's proceedings and how mediation would really work, but actually there is not the buy-in from the legal profession of mediation. There is also a lack of trained mediators. I have got a report that has been commissioned and prepared by Agilysys that cost an absolute fortune, and again in that, Legal Aid is saying that there could be some savings, this report says there could be some savings, so we really need to address this. We do not want to be pulling people through the court system, because that has a huge impact on them.

Deputy St Pier talked – I will give way.

Deputy Tindall: I thank Deputy Le Clerc for giving way. I had a discussion with the Bâtonnier a few years back and I was advised that, actually, the Royal Court can change their rules to bring in mediation in these things, so there is other means other than just coming through the States, and I share Deputy Le Clerc's disappointment that they too have not chosen to go that route. Thank you.

Deputy Le Clerc: When Deputy St Pier – it is on page 3 – talked about housing during the – I will give way.

Deputy Lowe: Mediation is available at Family Planning Advisory Service, they have all trained as mediators and it is available, but as with all mediation, you need both parties to participate and more often than not only one party will be, but mediation is very much at the front of it all because they would rather not have the court process if they can help it.

Deputy Le Clerc: I hear what Deputy Lowe is saying and I am sure that is the case, but if one party's legal representative is saying, 'No, do not go for mediation,' that is very difficult, and actually, I do think the issue about the number of trained mediators is also a separate issue.

Deputy St Pier about the housing, and we have been in real crisis during COVID with emergency housing, for people leaving prison but also for young people, the hidden housing need for young people that were sofa-surfing; suddenly they were told, 'No, you cannot sofa surf anymore because we do not want you in the house' and they turned up at ESS's door. So I really would like to see that part of the prioritisation program Revive and Thrive rather than waiting for a report to come back in 2022 if the sursis is passed. If the sursis is not passed, it will be at some time whenever.

The Strong Families Initiative, page 112 – again, I have just heard it so many times, it is really, really important that we that we actually do something, rather than just talk about it. So that is why I am more inclined to go with the sursis, because at least it has got a date in there – as I say, no resources. I think if I was doing an end-of-term report, and this is sort of my end-of-term report, I would say there is some progress, but we could do more and we must try harder. And interestingly, for me, the final nugget was page 123 of the report – and if you just bear with me, I will just find my space – and it says:

In addition, as we noted in Chapter 2, the range of economic inequality can have a greater impact on crime than inequality per se. Consequently, there are risks to promoting economic growth without also addressing structural issues

related to the costs of living. The concept of inclusive growth seeks to minimise these risks by promoting the achievement of economic growth as well as reductions in inequality and increases in living standards.

2330 I think that is really important; we are going to have the improving living standards debate in August, and I think that is really important and I will remind Members of that again. But a lot of this is to do with inequality and improving living standards, and I think we must always bear that in mind when we are doing Revive and Thrive and Building Back Better.

2335 For me at the moment, I am more inclined – I can be persuaded – but for the sursis motivé because it has got some dates, and I think with the dates, and with some funding coming through from Revive and Thrive, we can improve the outcomes of a lot of people on this Island.

Thank you.

The Deputy Bailiff: Deputy Brehaut.

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Deputy Brehaut: The sursis refers to it explicitly, but other people have made this point, it says 'need not be limited to,' but it does say 'minimising the harm done to our community by crime, preventing the criminalisation of vulnerable people, rehabilitating offenders and restoring the harm done by their actions, and establishing a whole line of approach to justice and the prevention of crime.' Now, there are well-known studies done, and ACE is the one that most social workers are familiar with, and other bodies including the police, I am sure, and the people throughout the criminal justice system, which is the ACE score, and its ten points – the Adverse Childhood Experiences (ACE) – it is how the scoring can be achieved. It is a type of profiling carried out to identify vulnerable people: has the child been subject to any abuse, specifically physical abuse, 2345 emotional abuse, or sexual abuse? Has the child been subject to neglect, either physical or emotional neglect? And has the child suffered from mental illness? Has the child had a parent or family member that has been incarcerated? Is there substance abuse? Has the mother been treated violently in front of the partner? Or has individual's parents been divorced?

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Because all those things are covered in Deputy Lowe's opening speech, and actually when I did 2355 hear Deputy Lowe's opening speech, if I had had that in a Word document and somebody posed the question to me 'Who wrote this speech?', I would have to say, 'Well actually, I think I may have written that speech, or possibly Deputy McSwiggan could have written that speech, Deputy Roffey, possibly, could have written that speech.' But it did not sound very much like a Home Committee speech, because we have not heard that type of language, we have not heard that type of language 2360 about this core subject matter, about this crucial issue of social justice. We do not hear speeches like that from Home. We generally hear about cybercrime, we hear about being 'safe and secure,' we know a great deal about the blue-light services, but we do not usually talk about this issue, and it is just too late to be talking about this now. And Deputy Lowe, who usually rallies against any report that is put in front of her to be noted, asked us today just to note the report. Well, we cannot 2365 do that, because it then does not give it any direction.

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So it is absolutely crucial that we support the sursis motivé and to give it some direction. It is no good bringing the report under whatever the provision is, whatever the Rule is, just to simply get the report over the line, to get you through this bridge for this election period and say that we have covered off the social justice policy when actually that has not happened. And if the Committee now or any Committee after this embrace the recommendations with the report, and I think Deputy Gollop referred to this as well, do not ignore Recommendation 32, which speaks to non-States members. Because again, Deputy Lowe, is *known* for resisting – through you, sir – the President of Home is known for resisting the concept of non-States members. Madam, I do beg your pardon, it is easily done. *(Laughter)* I will get my coat ... again. *(Laughter)*

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But it is crucial. It is a shame that we are at the end of this term and it has taken four years or longer to get here, it is not simply good enough getting it over the line: it needs to be given direction and that direction is given to it through the sursis motivé.

Thank you.

2380 **The Deputy Bailiff:** Deputy Oliver.

Deputy Oliver: Thank you, madam.

2385 When this sursis first came, I did have mixed views: I am on the Home Affairs Committee so it is a bit of a smack in the face because, obviously, it is not the work of us. A lot of people, especially in the Committee, said the timelines were unrealistic, and I do not want to give unrealistic timelines because it is generally just a disappointment to the public. However, if you cannot get work done in two and a half years, then I think the States have a serious problem, especially as it is a priority. I do understand the next States could say that they do not want it as a priority, but in my opinion, if we do not vote for this sursis, then it is going to get pushed even further down the line, and that would just be quite a disappointment, to be frank. Now, it does give clear direction what to do next, and I did think at the beginning it would narrow some of the work streams that this panel could do, but this is not true. It does say 'but need not be limited to'.

2390 Now, the big question is: should the sursis be allowed on a green paper? I understand that this is a policy document for debate and discussion while remaining uncommitted, to leave the final decision open until it has been able to be considered in greater depth. The problem I have with this is it is the end of the school term, so to speak, the end of our elected term, and we are faced with this green paper, and I know that the next Committee can wade through the *Hansard* and say, 'There is this that needs looking at, there is this that needs looking at,' but there is no actual real direction.

2395 So even in the Justice Report, there was a whole chapter about the way to go forward. And it was only a line, but it says the States should consider, maybe, a framework so that you can find the way forward and this should help actually progress this report. So it is condensing it and looking at it as a sensible option to move this forward. So I suppose, if we vote on the sursis, it is actually missing out a step because it has already been done. I cannot see that the Panel would actually come up with much different.

2400 And while I say 'Panel,' I really have quite my doubts about a panel, because we have had the 'Population Management Panel' I think it was, or maybe 'Regime' in there, and they were meant to bring a policy letter, I think, maybe two years ago, and we have not had anything. I hate to say it, I am actually on the Seafront Enhancement; I am truly embarrassed about how little progress has been made in those three and a half years, so that is pretty much another panel, but it is a panel of no substance. (*Interjections*) (**A Member:** Hear, hear.)

2405 There are so many other panels that I know that just do not achieve what we actually want to achieve, and I really want to stop that happening with the Justice Review, because in the report, we do need this Justice Review to happen, as 52% were 'not happy' or 'not at all confident' with the current justice system. Now that really speaks volumes, that we need to get a move on.

2415 Now, speaking about Proposition 1 of the sursis: I think, within the report, domestic abuse was ranked in the report as the third most important issue; over 50% thought that the sentences were too low. I am not sure if this is because other sentences are too high, and therefore the perception is this is too low, or if this is just generally too low. This is something that needs real attention and it needs action and we need to get along with it.

2420 I was going to say about what Deputy St Pier said but I crossed that out (*Laughter*) about the child who has been abused having to go to Jersey.

2425 The other thing was that, when parents get divorced – I think this should actually be picked up by the discrimination a little bit – but when parents get divorced, within Guernsey, there is just a tendency to say, 'Children go to the mother. End of subject.' Well, it is a 50% – it takes two to tango, to produce this child, and why is it not immediately a 50%, and then you go change. Now, one of my friends, he was never married in the first place, but they have got a child, and every single year, he has to go back to court to say, 'Yes, I am still fit for purpose.' Now if this was the woman, that would just never happen. I find that quite upsetting really.

2430 The other thing within the report was the police complaint. Now, I know how hard our Committee has been trying to get that sorted out, but we just have not got anywhere; it is not through lack of trying. It states in this report that – and it is really worrying, this data – so many

2435 people felt that it is just not worthwhile complaining, because it either will not be taken seriously or resolved satisfactorily. Whatever we think of – sometimes people do something and you say, 'Why have you done that?' – but they should have the right to complain and for them to feel that their complaint has been heard, and I was really glad that was picked up in the report that it just was not quite right at the moment, but as I say, our Committee has been trying on that one, we just have not got very far.

2440 Now my final thing is that this is really to do with ... it was brought up in the HMIC report and it has also been brought up in this, but this cannot happen, and we have to be realistic, without funding. Because we can suggest some really weird and wonderful ideas, but if you do not have the money, then you cannot actually do it. It is to do with the staff retention and training. Now, I feel quite strongly that, once you have got staff, you should really train them up, and Home Affairs really fought quite hard for the training to go ahead, but it was fought by P&R. If you have got the main body not wanting to train people up, then we have got real problems, because the report says:

... strong financial planning should be included as enablers under the new justice framework ...

2445 One of the recommendations to introduce a minimum number of days of training. Now training is so important.

The Deputy Bailiff: Deputy Oliver, I do feel you are straying beyond the sursis.

2450 **Deputy Oliver:** It is in here, sorry, it is in here: because it is establishing a whole-Island approach to justice and the prevention of crime, and training really actually enables that.

The Deputy Bailiff: I think you are pushing those edges, Deputy Oliver.

2455 **Deputy Oliver:** I will move on then to my last point. Actually it is a shame Deputy Soulsby is not in the room, because I actually strongly agree with her that, when the drug strategy went across to Health & Social Care that I do not think they actually got the funding until 2018, so although they got the actual strategy in 2017, they did not actually get the funding until a year later because of administration.

2460 The last point: I do not want to go too far on cannabis because I think that has been spoken about so much and I think many people actually know my views on it, so – I think that was from the last session (*Laughter*) – I will not need to go into that, but I will say that all I want is the best way forward and a chance to make a real difference to our Island. I feel so passionate that the Island should be safe and secure with having one community which is inclusive to social justice and criminal justice, which is modern and effective, and I do think this sursis is a good way forward, so I do hope that you vote for it.

Thank you.

The Deputy Bailiff: Deputy Parkinson.

2470 **Deputy Parkinson:** Thank you, madam. Fortunately my speech can be much shorter than it otherwise would have been because most of what I would have wanted to say has already been said.

2475 Obviously as the seconder of amendment 4, I am one of those who believe that we should take a different approach to the laws surrounding cannabis, and specifically I think we should decriminalise and regulate it. The reasons for that have all been articulated by Deputy Leadbeater, Deputy St Pier, Deputy Roffey, and others. I think criminalising or retaining the criminal status of cannabis is not going to yield good results in the future. So when I first saw the sursis, I was somewhat unhappy with it, because it does not, in my view, take us quite far enough down the road I want to travel along, but I sense that the Assembly is likely to support the sursis, and further that

2480 I want to travel along, but I sense that the Assembly is likely to support the sursis, and further that they are not likely to support suspension of the Rules to enable amendment 4 to be placed. So I

have to look carefully at the sursis and consider whether this is, if not from my point of view a perfect solution, at least an acceptable solution, and I have done that.

2485 Now frankly, the bits of the sursis that trouble me are in the third Proposition of it, where it talks
about the Committee *for* Health & Social Care and the Committee *for* Home Affairs reporting back
to the States with options for alternative and non-punitive approaches to the possession and use
of small quantities of illegal drugs. Now, almost every word there gives me problems: number one,
when it says 'illegal drugs,' it presumes that cannabis amongst other substances will remain illegal,
2490 and I am firmly of the view that cannabis should be decriminalised. It talks about approaches to the
'possession and use of small quantities' of illegal drugs; now, if cannabis was legalised and
regulated, as I believe it should be, then the supply of cannabis could not be a crime: you cannot
commit a crime by supplying a legal product. So in my version of the future, it would not be a crime
to deal in regulated cannabis. Obviously, the definition of 'regulation' needs an awful lot of work,
2495 and we are not here on the floor of the Assembly going to decide what exact chemical properties
will be legalised and what would remain illegal, nor are we going to decide whether legalised
cannabis would only be available to 18-year-olds or 21-year-olds; those are all details that need to
be worked out in the future. But the sursis is asking the States to agree to look into different, non-
punitive approaches to the possession and use of small quantities of illegal drugs, and to me that
simply does not go far enough. Furthermore, in paragraph ii. under there, it says again, a review of
2500 the:

... justice system in relation to the possession of drugs for personal use.

Well I repeat, if the product is legal, then dealing in the product cannot be illegal. So possession
of drugs for personal use does not cover what needs to be covered.

The only clause there that gives me comfort is that actually clause iii:

the potential for moving from a regime governed by the criminal law towards a partly or wholly regulatory approach to
all aspects of personal drug use ...

2505 I do agree with that, because I think a regulated approach is the right approach. This is
fundamentally, in my view, a healthcare issue, so we need to move to a world where we decide what
product is considered relatively safe.

I give way to Deputy Inder.

2510 **Deputy Inder:** Deputy Parkinson seemed to suggest that the legalisation of recreational use of
cannabis would mean that it would be illegal to – sorry, it would not be *legal* to deal in the product.
I do not think that is true, because if you look at the California model, it is distinctly a white
controlled government market, and a black market still exists. I am not entirely sure he is correct
there.

2515 **Deputy Parkinson:** Well, I do not think that I can accept that point. I am not saying that there
would not remain an illegal drugs market; there would, quite possibly. I do believe that having a
non-criminalised, regulated market would reduce the size of the black market very considerably.
But the fact is, there will always be people who want to consume drugs of a different character,
different types of pills, etc., people who want to consume cannabis in illegal variants. I am not
2520 suggesting for a minute that the States should license or legalise the production or sale of skunk.
So there will still be a huge amount of substances which are illegal. All I am saying is I believe that
the supply of cannabis within a regulated sector should be legalised.

2525 Now, I have these reservations about the wording of the sursis motivé. I can only hope in saying
that I am now persuaded to support the sursis, mainly because I do not think I will get a chance to
lay Amendment 4, that when Home Affairs and the Committee *for* Health & Social Care do this
review, they will take on board the comments that have been made in the Assembly. I think the
wording of the sursis is overly restrictive and it does not move us far enough down the line to where

I think we need to get to. And so with that qualification, that I am not particularly happy with the exact wording, I think I have to support the sursis because I do not think the rest of the debate is going to happen. And a review with timelines, as has been stressed by Deputy Le Clerc, is better than a review without, and we have to assume that the next Committee *for* Home Affairs and the next Committee *for* Health & Social Care will have the necessary enthusiasm to get on and do this work expeditiously. And I hope they will actually widen the scope of what they look at in the ways I have suggested.

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2535 Thank you, madam.

The Deputy Bailiff: Deputy Green.

Deputy Green: Madam Deputy Bailiff, thank you very much, I will be very brief.

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For reasons which are now obvious, it is perhaps unlikely that I will be able to lay amendment 3 later on this debate, but luckily, the sursis motiv  that we have in front of us does include towards the bottom of Proposition 1, the bullet point, 'Reviewing sentencing law and outcomes, with a commitment to reform of the law governing appeals, in particular against criminal convictions.' Now, the amendment, amendment 3, that Deputy Ferbrache and I were planning on laying would specifically ask the Committee *for* Home Affairs to review the current law – section 25 of the Court of Appeal Law 1961, the test for appealing a criminal conviction. The grounds for appealing a criminal conviction under the 1961 Law are, in my view and in the view of others, somewhat outdated. They are based on the 1907 Criminal Appeal Act of England, and they basically state that, in order for an appeal court to uphold a criminal conviction, they have to find that the verdict was either unreasonable, could not be supported having regard to the evidence, or the judgment should be set aside on the grounds of a wrong decision on a question of law or otherwise a miscarriage of justice. Whereas the English law now is very, very different; the 1907 act was replaced by –

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The Deputy Bailiff: Deputy Green, can I just remind you: you should be talking to the sursis, rather than to the amendment.

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Deputy Green: Yes, you are quite right, madam.

The reason why I am going to support this sursis is because the sursis expressly incorporates the review to include the point about the appeals against conviction. I think it is long overdue for that to be reviewed and I think it is something that does need to be looked at. I know that some discussions have been had on it already, I think there is a need for a clear policy direction one way or the other. The point here is it is going to be reviewed; it is not necessarily saying it needs to follow the English law, but the point is, if we are going to continue with the current section 25(1) of the Court of Appeal law, there has to be a policy underpinning it, and that is what we do not have at the moment. So one way or the other, the Committee needs to do the review with all the other good things, but it should also include this.

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More generally, madam, I think it is good that the debate has been somewhat widened this afternoon, because justice policy is not just about drugs policy. I have views on the future direction of drugs policy, I think I covered that in the debate last month. But I think it should be said, madam, that the report that has been commissioned by the Committee *for* Home Affairs – and I know people have expressed reservations about the political direction, and I think the actual content of the reviews itself is actually very, very good: I think it is starting to ask the right questions, I think it is identifying some of the key issues, I think it does need more of a sense of political direction and momentum, and I think the sursis will allow that.

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But just one thing, which is that, when I was first in the States, I had a bit of a bee in my bonnet about the way in which we tackle or do not tackle anti-social behaviour on this Island, and I think, having read the document, I did not get a lot of comfort that this was particularly on the agenda of the current Committee, so I think the way in which we currently deal with anti-social behaviour, the remedies and the mechanisms that are available in Guernsey are fairly limited, and I think the

2580 Committee, whether it is this Committee or the next Committee, should take a really good, detailed analysis of how we deal with anti-social behaviour, where the figures are, whether it is going up or down, and whether we need more tools in the box to actually deal effectively with anti-social behaviour.

2585 **The Deputy Bailiff:** Deputy Hansmann Rouxel.

Deputy Hansmann Rouxel: Thank you, madam, I will be brief.

2590 Just on the sursis, there is something that has not been mentioned yet from the report, and it is in relation to bullet point 3 – ‘Preventing the criminalisation of vulnerable people.’ Now, in the report attached to the sursis, it mentions Recommendation 25, which deals with:

The future youth crime strategy should include a focus on increased access to affordable physical and other constructive activities for children and young people.

And in the report itself, it goes on to say:

The future youth crime strategy should include a focus on increased access to affordable physical and other constructive activities for children and young people. The scope for increasing access to such activities for children and young people at risk of offending should be assessed jointly by the Health Improvement Commission and the Sports Commission and used to inform the introduction of the proposed Guernsey Activity passport.

2595 I was very pleased to read that in the report, but I thought we were missing a vital part of that, and that is the opportunity that arts has to play in the prevention of youth crime. There has been countless studies on this, as there has been with sports. I know that the Committee *for* Education, Sport & Culture are bringing the sports strategy, or ‘Activ8,’ to this States, and we will be debating that soon, but there is a gap here where the arts has a critical role to play. Part of the direction of the framework – obviously there needs to be collaboration with the Education, Sport & Culture Committee and the arts side. We do have an arm’s-length body like the Sports Commission: we have the Arts Commission, which was, in my time before I was in the States, a list of programmes in the community. However, the momentum behind that particular project, which did encompass 2600 some of these programmes, fell to the wayside and I believe the progress on that is quite dodgy. But what it does – and I think it highlights for me our issue – not *issue*, but one of the *complexities* – of how we have chosen to set up our services, using the third sector and arm’s-length bodies in a way that other jurisdictions do not.

2605 I am not for one second proposing that we suddenly bring all those services into Government and become this gargantuan, multi-armed octopus, because that is what it would be in a case such as Guernsey, but as part of the framework of justice policy – because quite rightly, it does encompass so broad a part of our lives, and therefore is part of every single committee – things like looking at having a clear framework that allows us to look at where those arm’s-length bodies and the third sector are providing services to be able to assess gaps and the structure around a youth 2610 crime strategy and looking at activities and where those activities are not taking place or what are the barriers to that area, that would form part of the framework, but importantly, it provides Government with a way of interacting with those third sector or arm’s-length bodies and needs to acknowledge that those services do not come out of thin air. Without having that clear framework, we are in danger of having bits of services covered by this agency and bits of services covered there, 2615 but we need as Government to play that co-ordination role and know where we can focus funding, and that is the crucial nugget that has to happen as part of the framework. And that is just in one area in the youth crime strategy, but I think it does show how important a piece of work this is and how we do that.

2620 In relation to Propositions 2 and 3, many things have been said, and I agree with the comments that we need to have an open and honest conversation about this, it needs to be evidence-based. Deputy Soulsby is absolutely right: there needs to be consultation. I thank Deputy Leadbeater for explaining the process in Canada. It is interesting because Canada has a constitution that is a rights-

2625 based constitution. Of course, it is not the only jurisdiction that has dealt with this; in South Africa,
it went to the Constitutional Court, which is the highest court in the land, and again they have a
very rights-based constitution, and the court ruled that it was legal for private use, and that is based
on Articles 2 and 8, which are the right to life – Article 2 – and Article 8 is the right to privacy. So it
is legal – and this might make Deputy Brouard feel quite uncomfortable – it is legal for your own
possession but it is still illegal to supply it. It means that the government does not get taxes, which
2630 is I think what Deputy Parkinson was alluding to – when you do regulate and I think that is an
important part of any examination in that area, that we need to look at the whole package and how,
if there are taxes, those are then put into education and youth crime prevention. That I think we
absolutely need to have a debate on, and that needs to come back to the next Assembly for them
to make an evidence-based decision, and that is why I will be supporting the sursis.

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The Deputy Bailiff: Alderney Representative Roberts.

Alderney Representative Roberts: Thank you, madam. This is going to be very short because
there are many things I cannot mention here and I do not think I will be speaking, but I think this
2640 sursis may succeed.

Two years ago we debated this in Alderney, we wanted to take a lead in the Bailiwick-wide
debate. Legalised medical use and decriminalisation of cannabis was widely supported in our States,
and while we have had an election since then, I know that the same opinion stands. If this came to
Alderney today I am sure it will be passed and embraced. The Bailiwick can establish itself as another
2645 leader in this space. We have the perfect environment; with careful thought and regulation, we can
reap the benefits also through tax and tourism. And do not be cowed by the reputation and
prejudice; between us, we can do this carefully if we do it right.

2020 has taken a lot from us, but I truly believe this may help step forward to a brighter future
and embrace the change. Now the time is to act, the first act of that will be decriminalisation.

2650 It saddens me to say that it takes two and a half years to get something done, to get it to a point,
it takes two and a half years. It saddens me it takes all this time to decide on a sursis! *(Laughter)* So
I will support this sursis.

Thank you.

2655 **The Deputy Bailiff:** Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, Madam Deputy Bailiff.

I intend to support this sursis, in fact for the main reason that Deputy Lester Queripel set out as
the reason for rejecting it, in that I think this is an expediting mechanism, I really do, and I think if
2660 anyone is concerned about timelines and about seeing results in a realistic timeframe, then I think
they very much should be supporting it.

I would like to break what seems to have become a little bit of a tradition today and *not* talk
about Propositions 2 and 3 in the sursis and all those things, and I mention something I do not
think anyone else has mentioned today; when I read the report, I was struck by what appeared to
2665 me – and I appreciate I come at this from a slightly different perspective from many – what seemed
to me to be a glaring omission in the report, and that is around road harm. So, we are told in the
report that motoring and traffic offences constitute about 30% of prosecutions and just under half
of youth referrals to the Convenor and HM Procureur, so they are a really significant chunk of this
area. So I was really surprised – I was flicking through waiting for the recommendations around this
2670 to appear, and there did not really seem to be any. There were various mentions of quite a lot of
comments that came through the survey on this, specifically around the fact that we criminalise
minor traffic offences and the impact that that has. There was one quite moving testimonial from
someone who, as a younger person, had applied to be in the Army but could not do so because
they had been to court for a minor traffic offence, so they were barred from entering the Army on
2675 that ground. Whereas, had they committed the same offence in the UK, it would have been points

on a licence and no such barrier to entry to the Army would have been presented. So I think that does illustrate very succinctly some of the issues around our current approach.

2680 There is actually a parallel – and I am going to thank Deputy Shane Langlois for this – there is a parallel in hedge-cutting, bizarrely, in that when that was a criminal offence, to not cut your hedge at hedge-cutting time, it was very poorly enforced, it was not a very effective way of dealing with it. However, when it was decriminalised and it was dealt with through the parishes, when the Douzaines had the power to do that enforcement themselves, then it became much more effective. So I really do think, if we are thinking about outcomes, we should be rethinking our approach to traffic offences.

2685 It does go a little bit more broadly than that: when E&I brought the first periodic review to the Transport Strategy Policy, which was published last year, there was a section in it that talked about the enforcement of road safety and investigating certain measures that evidence strongly suggests would make road safety more effective, such as the point-based system for driving licences –

2690 **The Deputy Bailiff:** Deputy de Sausmarez?

Deputy de Sausmarez: Yes, Madam Deputy Bailiff, would you like me to explain how this is relevant to the sursis?

2695 **The Deputy Bailiff:** Yes I would, please. *(Laughter)*

Deputy de Sausmarez: I am happy to do so. This is because I am suggesting that this should be included in the justice framework, and it relates to the first bullet point, which is ‘Minimising the harm done to our community by crime.’ So I would suggest –

2700 **The Deputy Bailiff:** Deputy de Sausmarez, I think you are skating around those borders again, so I would be grateful if you would consider your –

2705 **Deputy de Sausmarez:** Well, I really do not have very much more to say. I am just recommending that a road-harm prevention strategy is a feature or is considered as a feature of the justice framework, and a very good example of that is West Midlands Police, who set the gold standard, as widely acknowledged. I would also like to recommend that the Committee for Environment & Infrastructure is identified as a key stakeholder on the Justice Advisory Panel because this does represent such a significant chunk of the area that we are talking about and I think it should be included in the justice framework.

2710 So I will be supporting the sursis and I hope the majority of my colleagues will as well.

The Deputy Bailiff: Deputy Meerveld.

2715 **Deputy Meerveld:** Thank you, madam. I would like to invoke Rule 26(1) before I lose the will to live. *(Laughter)*

The Deputy Bailiff: Rule 26(1) has been invoked, so the motion is that the matter be guillotined. So those for; those against.

Some Members voted Pour, others voted Contre.

2720 **The Deputy Bailiff:** I think we had better go for a recorded vote.

Deputy Tooley: Madam Deputy Bailiff, it is normal practice that the Bailiff requests those who wish to speak to stand to signify that, before we go to the vote.

2725 **The Deputy Bailiff:** Fair enough, Deputy Tooley; who still wishes to speak on this?

Only Deputy Tooley indicates a wish to speak. (Laughter) Deputy Langlois follows.

The Deputy Bailiff: Do you still wish to proceed, Deputy Meerveld?

Deputy Meerveld: I think we will allow the last two people to speak. *(Applause)*

2730 **The Deputy Bailiff:** Deputy Tooley.

Deputy Tooley: Thank you, and I will only do my utmost to reward Deputy Meerveld for his faith in the general brevity of my speeches by keeping this brief. I was going to say I would probably speak for even less time than I normally do because my back is hurting, but now I have stood up actually I am more comfortable. *(Laughter)*

I think the way I see this debate, and it has been quite a long debate, is that Home Affairs have presented us with a vision for a journey they would like to take the States on, a pathway to a hopeful new framework for justice. And onto that green paper, that plan that they were putting out there as this vision, several Deputies have laid amendments with the intention of saying, 'Yes, but actually, can you make sure that, on our way, we cover these things?' And had it been normal practice to allow amendments to green papers, there are quite a lot of things that I would probably have wanted to ensure were added in to that overall picture, but that is not the normal practice that we do that, and actually because we are at the very end of a four-year term, I decided it probably was not worth doing that, because we all know that no one States can be bound another.

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2745 But the more those amendments started to fall, the more I felt that, actually, there was clearly a need here for this Assembly not to go away saying, 'Yes, that is fine, we have seen what your plan is, great. We have just added some things in conversation,' but to actually put down some firm guidelines about the things that we wanted to know have been covered along the way.

2750 So the sursis for me is a more structured itinerary for that journey that Home Affairs will take the States on in heading towards a new framework for justice within the Island. And for me, it is a much better itinerary than the one that was presented or that we would be able to amend in within the boundaries of what is possible in a green paper debate, because actually, I do not think I would support the precedent of allowing amendments to a green paper. I think it would mean that we would probably never see another green paper because what would be the point? So for me, this puts down that better itinerary.

2755 But the one thing that I am really, really pleased is in here is these words 'but need not be limited to,' because actually, there is more that the Justice Review should cover than the sursis was able to lay out, there are things that I think others would probably have added as amendments, as has been raised in debate, and I know, Deputy Lowe, that was the intention that the debate would draw out those extra things. But I think it is important that that is done in more than just debate, that it is done in resolution of the States, and that is why I will be supporting this sursis, because actually, this is, to my mind, a better framework, this does have timelines attached to it, timelines I really hope will be disregarded the moment anything can happen faster than is laid out within these timelines.

2760
2765 I give way to Deputy Lowe

Deputy Lowe: That is very kind of you, Deputy Tooley, because timelines are important and it has been mentioned so much, especially this afternoon, about the timeline as the key thing here because they will come back. All the Presidents attended a CRAG meeting yesterday and it was set out very clearly at the CRAG meeting that we have got to deprioritise; the only things that are going to be a priority are Brexit, COVID, Revive & Thrive, and there was a fourth one, and I have already queried this with P&R, 'Where will this sit?', and it will not sit anywhere near the top of the priority

because we have to deprioritise. So this date is – one expression was ‘a pinch of salt and it is aspirational.’

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Deputy Tooley: I am very grateful to Deputy Lowe for saying that, because actually that highlights for me the need for this debate to send resolutions of the States that justice *is* a priority, *should be* a priority, and even in a post-COVID world where we are looking to build back, we are looking to build back *better*. Justice is a priority for that and that is why we cannot leave today having approved the green paper. We are better with the sursis, which puts proper structure around that.

2780

Thank you.

The Deputy Bailiff: Deputy Smithies.

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Deputy Smithies: Thank you, Madam Deputy Bailiff.

The danger of actually putting a guillotine motion and asking Members to stand is, as I said to my colleague Deputy Queripel, three people stand up and then five people make a speech, and I am going to be one of those people, because having heard a couple of speeches I am now prompted to stand.

2790

Home Affairs is not taking anyone on a journey anywhere. (*Laughter*) This is a third-party report, it has got nothing to do with Home Affairs, actually. This is an independent report, a third-party report which is being used to inform the Committee *for* Home Affairs in the preparation of the future justice policy, and it should not really be subject to last-minute sursis or amendments, even if those might be useful. Those with points to make would actually be probably far better off contributing to the discussion of the report and, going forward, making representations to the Committee *for* Home Affairs in responding to this report.

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Just a thought: I am at a loss to understand, as has been suggested, that we should actually seek to model our society on what is currently the law in Canada. It is a lovely place, but actually it is not a very good example of a political democracy to be emulated. It is a very confused and misled country with a rather scandal-prone Liberal government which actually revised its cannabis legislation only two years ago – it is an experiment still in its infancy and I suggest might well end in tears.

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The Deputy Bailiff: Deputy Laurie Queripel.

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Deputy Laurie Queripel: Thank you, Madam Deputy Bailiff.

I just wanted to touch on a point made by Deputy Prow and a couple of other speakers, and I think it has been somewhat over-egged or overplayed, in that they said it is unfortunate that this green paper has been subject to motions, sursis, amendments, perhaps not now but it still could be, because it would it would hijack the debate and it would focus debate on just one or two or perhaps three issues. But I would suggest that might be the case anyway to some extent, even if this was just a green paper debate, and I will explain why I think that is the case.

2810

I think Deputies are very much guided by their experiences as they go about doing their job. Now, during the course of the constituency work that I have done, quite a few cases have fallen into one of two categories: one has been that I have helped or tried to help a number of Islanders with serious mental conditions who have tried to access medicinal cannabis because they feel it might be of assistance to them in helping them to manage their conditions. That clearly is going to shape my thinking when it comes to something like this. The other category that quite a few of my cases have fallen into is issues around the Family Court, the FPAS, how all that operates, how some people feel that it is, in a way, a sort of a weighted process or it works against certain parties within that environment. So those are two areas I am bound to concentrate on, regardless of whether this is a just a green paper debate or whether there are sursis in play or whether there are amendments in play; that is bound to happen.

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2825 But I would suggest – we have had a good number of speeches, I do not know how many, there
might be more to come yet, as Deputy Smithies says – but I would suggest if enough Members
speak, it does not matter if someone like me concentrates on just two or three areas, because if
enough Members speak, it will probably be the case that most of the areas contained within the
report and within the sursis will be covered, and I think that has been the case. If you think about
2830 what Deputy St Pier said this morning before lunch, he covered a number of areas that had not
been covered by previous speakers; Deputy de Sausmarez has covered a number of areas that had
not been covered by previous speakers. So actually, during the course of the debate, when you add
all the speeches up, most of the areas contained within the report and within the sursis motiv e have
been covered. So I do not think it matters that much, I think it has been over-egged slightly.

2835 I still have two dilemmas in regard to this sursis motiv e, and that is despite the fact that some
Members have spoken and given reasons why it should be supported and others have spoken and
given reasons why it should be rejected or voted against. Now, I think Deputy McSwiggan and
Deputy Merrett have done an incredible job in putting this sursis together; they have tried to
encompass all the issues that need to be encompassed within it, but I think that is probably both a
2840 good and a bad thing. It is a good thing because they have all been encompassed and they are all
issues that are worthy of attention, and they all do need consideration and working on and
progressing. But as we have heard many times during the course of this term, sir, when everything
is a priority, nothing is a priority, and I am a bit concerned that some of the issues contained within
here will fall by the wayside or go on the back burner to some extent.

2845 And I say that, because I have seconded an amendment by Deputy Le Tocq that goes into an
area that I am very concerned about for the reasons that I have just given, and I think in that
particular area, the area of cannabis, especially when it is medicinal cannabis, either people trying
to access it that cannot or being prosecuted because they have, I think there is a great social injustice
being done here, a really big social injustice, and I think the way the law reacts at the moment is
2850 very disproportionate. So, I do not want to see that matter disappear below the surface or be put
on the backburner.

Now madam, of course I am entirely guided by you, but I am just wondering how far I can go
into my notes in regard to the amendment that I am seconding and I will just give, if I may, what I
think would be the justification for me being allowed to do that to some extent.

2855 **The Deputy Bailiff:** Unfortunately, Deputy Queripel, the Rules are quite clear on going into
amendments, that actually sursis are not supposed to be about the amendments, so you can speak
about them to the extent that they are included within the sursis motiv e, but not in relation to your
amendment.

2860 **Deputy Laurie Queripel:** Okay well, it does say in the explanatory note, ‘Propositions 2 and 3
incorporate the direction set out in amendments 1 and 2 (led by Deputy Le Tocq and Deputy
Soulsby respectively)’, but I will be guided by you, but if I could just make a start on that and I will
be guided by your judgement clearly. *(Laughter)* If you could just have a kip for a couple of minutes,
2865 that would be very helpful. *(Laughter)*

Madam, what this sursis is doing – so I am referring to the sursis motiv e here *(Laughter)* – what
this sursis motiv e is doing is something that actually Government proposals and amendments and
sursis and all these other things, especially when it is a genuine sursis motiv e, do all the time, in that
it is calling for some work to be done, a review to be carried out, and that is something that
2870 Governments regularly do, so that data can be collected and evidence can be gathered with the
intent of informing policy-making, policy development, and policy decision-making, and that covers
all these areas encompassed within the sursis motiv e, but I am referring to one part of it.

So I just wanted to say, there is an increasing body of evidence in regards to the health and
medicinal benefits of cannabis, and for the sake of Deputy Prow and Deputy Roffey, because they
2875 mentioned these things already, it is not just anecdotal evidence; it is scientific research that is

providing the proof of the benefits of medicinal cannabis. And I just wanted to reference a couple of those if I may.

2880 There is a study being carried out very recently by the University of Queensland, Australia, and that research has shown that cannabis and its derivatives have a variety of medicinal applications, and these have already been spoken about by Deputy Soulsby and others: in some cases, the relief of pain and effective relief of muscle spasms can help in the treatment of epilepsy, but also can be quite effective in regard to anti-inflammatory treatment and it can be a very effective antibiotic. And I just wanted to read a few lines from the coverage of that research:

It's has been used to treat epilepsy and pain and researchers have now discovered it's a very powerful antibiotic, even against serious infections. [...] and is a genuine answer to the antibiotic-resistant "superbugs", say researchers of the University of Queensland in Australia.

[It] also works as an anti-inflammatory, says Dr Mark Blaskovich, the research team leader, and so it can clear up damage caused by the bacterial infection as well.

[It] can combat biofilms, a physical form of bacterial growth that leads to hard-to-treat infections.

2885 So there is some proper research that has been carried out by a recognised institution and it has come to those conclusions. There was also a paper produced – and that was presented, madam, to the American Society for Microbiological Research Annual Conference in June 2019, that particular paper was presented there.

2890 There was a paper produced in 2019 by Dr Joseph Mercola and Carl Germano, and Carl Germano, madam, is a certified clinical nutritionist with a master's degree from New York University.

The Deputy Bailiff: Deputy Queripel, I do believe you are now really talking to your amendment, rather than the sursis motivé, which you have acknowledged includes –

2895 **Deputy Laurie Queripel:** Yes, I think I have made my point, anyway, that there is lots of good research, credible research that shows the benefits of medicinal cannabis, as opposed to just the CBD, the oil, you do need that THC element as well.

2900 I think the point I am making – I have worked with a number of Islanders who have either been – and I do not want to bash HSC here, I have heard what Deputy Soulsby has said and I welcome the report that they released recently, it is full of good things that should inform debate as things go forward. But, as I say, I have worked with a number of Islanders who have not been able to access or who have used it surreptitiously and had to go through the terrible, terrible and traumatic experience of going through court and being prosecuted for trying to access something that would help them in regard to their condition, and there are two people I am thinking about, both of whom suffer with multiple sclerosis.

2905 So my point is, madam, at the moment there are responsible and in every other way law-abiding people who are in danger of being criminalised or are being criminalised, and I do not think that can be a tenable or justifiable position if we want to be a modern, advanced, caring society. There is a stigma attached to cannabis that has to be seen through and a prejudice that has to be overcome, because its potentially useful and helpful applications are being overlooked and being denied.

2910 Madam, I mentioned prejudice, I could just as easily mention discrimination, because this Assembly, and to some extent the last one, has a good record when it comes to acknowledging people's rights, the rights of the individual, and freedom of choice, as have a number of other forward-thinking jurisdictions, and most of those jurisdictions have either reviewed or are reviewing their policies and laws in regard to cannabis. They are doing that in light of emerging evidence and because acknowledging people's rights and freedom of choice are the hallmarks of a progressive, inclusive, and fair society, they absolutely are. Madam, we cannot have blind spots when it comes to these things, we have to be consistent in that, we cannot afford to have blind spots.

2920 I just wanted to ask Deputy Lowe – I did mention at the start about the Family Court –

The Deputy Bailiff: Can I just remind you, Deputy Queripel, that Deputy Lowe will not be responding as she has already spoken.

2925 **Deputy Laurie Queripel:** Okay, so these are remarks, then, that I hope the Home Affairs Committee will note and take away with them. They said all along, prior to this debate and during this debate, they are in listening mode, they are interested in what Members have to say, and they will be taking note of it and taking those points forward.

2930 So we have been contacted, madam, by those who have been through the Family Court process, who have had dealings with the FPAS, and there is definitely a feeling amongst some Islanders that that process is prejudiced against certain parties, and that is mentioned, actually, in the report, page 94 of the report, I will try and find it. It tells us:

This included some victims and some suggestions that fathers ...

– and it is fathers in this case, but I am sure it is not only fathers –

... were not treated favourably in family courts in some cases. Again, it is not possible for us to determine whether these claims have substance.'

2935 So I would suggest there is quite a bit of investigative work there to do to find out if the processes – I know there is meant to be a line between – I give way to Deputy Roffey, madam.

Deputy Roffey: I thank Deputy Queripel for giving away. He said it is not possible to find out whether those claims of bias within the Family Court system are true. I thought that Home Affairs had brought in an independent reviewer to look into exactly those claims and that that independent Review found that there was no substance to them.

2940 **Deputy Laurie Queripel:** Actually, Deputy Roffey said / said it was not possible; it is the report that says it is not possible, it was not possible, so I would suggest there is a greater piece of work to do there, because we have heard these things about parental alienation. I think there is enough noise around that now that, actually, some work needs to be done in that area to see if that process is working correctly and if all parties are being treated fairly.

2945 So I will not go any further, madam, because as you say, I am probably going to stray into elements of the amendments, so I will leave it there, but I would really like those points to be noted. Thank you.

2950 **The Deputy Bailiff:** Thank you. Deputy Ferbrache.

Deputy Ferbrache: Madam, I am probably going to be one of the minority who are going to vote against this sursis motiv e, and the reason I am going to vote against this sursis is because it should never have been brought; the procedure was wrong.

2955 Now, I have got to say I am very disappointed with the comments of the President of P&R saying that it should never have been brought, yet he is going to vote in favour of it, and then criticise Deputy Inder and the members of SACC – of which I am one, and Deputy McSwiggan is another one, and Deputy Le Tocq is another one, and Deputy Merrett is another, I think that is all of us – for not changing the Rules. I did not hear him make that criticism of Deputy Roffey when he was president, I did not hear him make that criticism of Deputy Fallaize, so I wonder why he is making it of Deputy Inder, but there we are.

2960 But in relation to that, I would have had much to say, much to say, about the issue of drugs, about the reform of the drugs law, about the appeal grounds, about the Police Complaints Commission, which is a joke. I would have had much to say about those kind of matters, and I am
2965 much interested in justice, having been a barrister now for 48 years and two days, so I have been doing this rather a long time, and I have actually practised it rather than just preaching it. I would

have had much to say about that, but that is not the purpose of a green paper. The excellent work done by Deputies McSwiggan and Merrett in putting forward the paper should have been debated and argued and put forward as part of this substantive debate.

2970 Now, if anybody in their right mind thinks that, by ordering the Committee *for* Health & Social Care and the Committee *for* Home Affairs to come back no later than six months after it is considered by the States and report back, to think they could achieve that realistically is, well, it as likely as me walking across to Herm – one of my former partners used to be able to walk across to Herm, but I never could. (*Laughter*) So there is no chance of that at all, so why are we pontificating?
2975 Why are we beating our chest and saying we are going to do something that is completely, practically unachievable?

Now we say it is a priority, but as somebody else said – I think it might have been Deputy Smithies – everything is a priority, and if everything is a priority, nothing gets done. So what we should do, but what is not going to happen, is we should reject the sursis and we should have
2980 debated this issue in full, and you would have had one of my wonderful, eloquent speeches dealing with all the matters I consider are wrong with our justice system. (*Laughter*)

The Deputy Bailiff: Deputy Dudley-Owen.

2985 **Deputy Dudley-Owen:** Thank you, madam.

Well, I am pleased that Deputy Ferbrache spoke before me because he has actually said quite a bit of what I was going to say, not that I was going to be waxing lyrical about my experiences in court because luckily they have been few and far between. But he obviously has expertise that I do not.

2990 But I have been very tempted by the sursis, I must admit. I mean really, we have got a very concise and articulately written motion here. But it has been disappointing that it really has stifled the conversation and the debate today. I have never heard a Presiding Officer have to interrupt so many speeches on so many occasions to warn the individual that they are straying beyond the bounds of the debate, and I just think that that completely goes against what we are meant to be
2995 doing in here, which is debating. The whole reason that this green paper was brought was so that we could actually have a grown-up, sophisticated conversation, put our trust in the Committee *for* Home Affairs, and for them to go back and to bring the paper back in the next term.

A lot of the tone of this debate has actually been quite disappointing, because it sounds as if it has been critical of the Home Affairs Committee. It also sounds as if there is a lack of trust in the
3000 Home Affairs Committee, and I do not like that one bit, because I am not critical of the work that they have done and I do have trust in them. I do not know about their successors, but we cannot bind any successors, as we know.

One point that I do want to pick up on – and I would be very grateful if one of the Policy & Resources Committee might help me out on this – is that since Deputy Lowe's interjection on
3005 Deputy Tooley's speech about the prioritisation or de-prioritisation of all work streams other than those which she articulated: what is going to happen with Resources? I am happy to give way to get a response, or if Deputy Lyndon Trott or Deputy Le Tocq, who has spoken already –

I give way to Deputy Trott, thank you.

3010 **Deputy Trott:** Thank you, Deputy Dudley-Owen, for giving way.

I think those that have talked about the resources and the various priorities have spoken accurately. My view is that this matter will not be progressed within these timelines for the reasons already given, because we are going to have the substantial issue of the recovery of our economy. And Deputy Lowe's comments about the decisions at CRAG with regards to de-prioritisation of
3015 most matters in order to enable the focus on the four – she only mentioned the three, I forget what the fourth was – are entirely valid.

And while I am speaking, and I shall not need to speak again now, Madam Bailiff, I absolutely agree with everything that Deputy Ferbrache has said; I think the use of the sursis in this way is

3020 entirely inappropriate and, in my view – I have got to be careful what I say, but I will say it anyway
(*Laughter*) – a disgraceful use of our parliamentary discretion in a way that I have never seen before,
this has not been done before. We have not had a sursis – or for that matter, to my knowledge,
amendments – against a green paper. It is, in my view, a total abuse.

3025 **Deputy Dudley-Owen:** Thank you Madam Bailiff, and thank you to Deputy Trott for his very
useful intervention which does, I am afraid, sway me away from supporting the sursis, though I
absolutely agree with the aims of this in terms of being able to push this on, but the timelines are
such that, clearly, Deputy Trott has just confirmed that they have been blown out of the water. So
therefore, any Deputy in this Chamber who is supporting the sursis on the basis that it gives us
3030 some certainty – sorry, I am having to speak a little bit louder because there is a little bit of shouting
going on behind me – but if we believe that this sursis motiv  gives us any certainty in terms of
timelines, then we are absolutely wrong.

Thank you very much, Madam Bailiff.

3035 **Deputy Gollop:** Point of order: it has been said many times, including by the last speaker, that
we are interrupting timelines; surely it is the States that sets the priorities, rather than some
executive group that might exist in a few weeks' time.

The Deputy Bailiff: Deputy McSwiggan.

3040 **Deputy McSwiggan:** Thank you, madam.

Well, I am not entirely sure how I feel about being branded a 'procedural terrorist'. (*Laughter*) At
least in the last four years I have graduated from youthful naivet  to something a little more
interesting. (*Laughter*)

3045 But if we are going to speak about 'disgraceful' or 'abusive' use of the Rules – no, that is not the
right language to be using – but if we are going to speak about what is in the spirit of the Rules,
then I will note that it is only in the last month or so that we have had any green paper debates at
all. The whole question of what an appropriate matter to bring to the States is and what an
appropriate way to bring that matter to the States is goes beyond 'Do the rules allow amendments
3050 to green papers or not?' What should be the subject of a green paper? And while I am on SACC,
which will not be for terribly much longer, if we were to have a discussion about amending the
Rules, I would certainly lean towards the Deputy Le Tocq interpretation, rather the Deputy St Pier,
and get rid of Rule 17(9) altogether; I do not think it is a particularly constructive way to hold a
States debate or a particularly constructive use of the States' time.

3055 So in the hope of encouraging Members to walk away from this debate with something that I
believe is constructive, I need to address a couple of questions which have recurred throughout this
debate.

3060 One is about the timeframe of the various pieces of work that are envisaged in the sursis motiv ,
and I need to be absolutely clear that there are at least two – three if you count the Combined
Substance Use Strategy, but let us call them two – distinct pieces of work envisaged by the sursis
motiv : one of them is the development and delivery of a justice framework generally, touching the
breadth of issues that we have discussed in the course of the day, and the other is a specific piece
of work looking at the question of drug reform, which has been the subject of many of the
amendments. So they are separate and they are not bound by the same timeframes, and I think
3065 particularly in some of the earlier speeches, there was some concern, particularly by people wanting
to see progress in respect to drug reform, that 'Oh no, we are going to have to wait two and a half
years to get there.' Well I sincerely hope, madam, that we are not going to have to wait two and a
half years to get anywhere, that actually this question of prioritisation will be firmly addressed in
the way that Deputy Gollop just set out in his point of order. If the States says it is a priority – and
it is the States, not CRAG and not the officers advising CRAG, who say what is a priority and where
3070 we direct our resources (*Interjections*) – if the States are prepared to make this a priority and to

make a commitment to delivering said priority within the timeframe set out in this sursis, then we have to hope that they will do so and that the resources and the practical support will be made available to make that possible. Two and a half years is a decent run; it is half the next Committee's tenure –

3075 Okay, I will give way to Deputy Fallaize.

Deputy Fallaize: I am grateful to Deputy Yerby – sorry, Deputy *McSwiggan* – she says it is for the States to decide what to de-prioritise. Now, theoretically that is true: if the States wanted to be more muscular than it normally is, it would it would be committed to effectively assume those powers. I am not sure actually in the way this is going to work in practice it will be for the States. There is a general election on 7th October, the States are not meeting after the third week in August and will not meet again, I think, until perhaps November to do any substantive business other than elect Committees, a budget is going to have to be prepared which neither the current P&R nor the next P&R are going to have that much influence over. I am not sure that this Assembly will be doing the de-prioritising; I expect it will be done, or could be done, in name by the Policy & Resources Committee, and in practice by officers.

Deputy McSwiggan: I think Deputy Fallaize is fighting a battle which probably needs to be fought but is probably not the subject of this debate.

3090 But what I am trying to say and what I hope people agree with is that this Assembly, in making its decision today, should not be cowed by the fact that we have been told that CRAG has reached a certain decision. If we are prepared to say, 'Actually, no, this remains a priority for us and we want it to be treated accordingly,' we should not put that on ice because of something that CRAG has said in a meeting that less than 20% of us attend, so I would ask Member to bear that in mind.

3095 So the timeframe that this sursis motivé envisages for the justice framework is two and a half years; that is a decent run. The timeframe it envisages for the substance use strategy is different, and it is, in essence, as soon as possible. The amendment originally brought by Deputy Le Tocq and Deputy Laurie Queripel asked for progress on drug reform by July 2021 at the latest. The timeframe that is set out in this sursis motivé is not substantially different to that. As Deputy Soulsby said when she spoke, the Committee *for* Health & Social Care is close to considering a draft of the Combined Substance Use Strategy. That should have been on our agenda today had we been able to meet as a full Committee meeting. It is likely, therefore, that we will be able to leave a fairly polished draft to our successors and that it will then be at their discretion to bring that to this Assembly as soon or as late as they see fit, but hopefully as soon as they see fit. And to be fair, if the political composition of the new Committee *for* Health & Social Care is such that they do not want to bring forward the Combined Substance Use Strategy, then the States as a whole has battles bigger than the question of a timeframe on its hands.

3100 So the combination of the substance use strategy 'as soon as possible' and the recommendations in respect of drug reform 'not more than six months later' will land us up more or less at July 2021 in exactly the same way as the Le Tocq-Laurie Queripel Amendments envisaged.

I will give away if Deputy Lowe wishes to speak.

Deputy Lowe: Thank you very much, Deputy McSwiggan, because I wanted to cover the point about resources and how it was said about CRAG and about de-prioritisation, because we all know we are short of resources now. As an example, we had the strategic lead attend Home Affairs for an all-day meeting last week. We have firemen down at the border, because we do not have enough resources. We were told, 'There are no more resources, you have to keep your firemen there.' So this is the reality and this is the type of thing that is mentioned at CRAG. So it is not just Home Affairs, it is across other Committees as well: there are not the bodies there. And the clear message came from the Centre for Strategic Leads: there are no spare resources so they are going to have to de-prioritise and we have got to keep the firemen down at the ports.

Deputy McSwiggan: Well madam, it is one thing or it is the other. Either there are no resources, this cannot be delivered as a priority despite the Committee for Home Affairs assuring us throughout this debate that it is their priority and therefore the whole debate needs to be pulled and we will come back to it one happy day when the States has resources; or it is a priority, we do need to deliver it and deliver it within a sensible timeframe, and we will make the resources available to do the work that needs to be done. In a way, I do not mind which one Members decide; I mean, in my view it is very much a priority. But you cannot have the argument both ways; it is one thing or the other and we need to decide accordingly.

Deputy Laurie Queripel when he spoke said, 'When everything is a priority, nothing is,' and his clear concern in that was not losing the piece of work that is important here in respect of drug reform. I understand that and I hope that the timeframe and the approach that I have just talked through, in terms of what the sursis motivé hopes to achieve, demonstrates that that should not happen, that in fact there are two distinct pieces of work to be done: one on the justice framework, which, yes, is very broad and requires things to be addressed, but I remind Members of the mention of the Partnership of Purpose early in this debate – and I am sorry to bore Members with that name again, but it is helpful as an example from this term of a document that set out a range of policy areas that needed to be addressed, that had different timeframes, that had different resource requirements that each was going to be addressed in their own way and sometimes in ways that interact with each other. That is what we need, in some form or other, by way of a justice framework. We need something that has the breadth of vision to cover the various different aspects of justice policy we talked about today, but is not something that answers everything, it is something that sets us on the road to dealing with it the various different aspects. So even in the context of the justice framework, we are not talking about everything being a priority and everything being solved at the same time.

But more importantly, a number of people have spoken today about needing to see the question of drug reform as a public health issue, and I completely agree. And for that reason, it is distinct from the question of the justice framework, it requires different actors involved in it, it requires Health & Social Care as much as it requires Home Affairs, not more, and it needs to be a piece of work researched and thought about and brought to the States separately. So the concern that Deputy Laurie Queripel has that that will be lost in the morass of the justice framework does not follow from the way that the sursis motivé is set up and the distinct pieces of work that it sets out to achieve.

Madam, there were a number of matters of substance raised during the course of the debate and I just wanted to touch on a couple in summing up, and again I completely agree with Deputy Laurie Queripel when he said it is natural that each of us will focus on a couple of things that are close to our hearts, but between us we can see the bigger picture effectively, and I think that is exactly what has happened in the course of today's debate.

And I want to start with the point raised by Deputy Rob Prow, that this needs to be an approach to justice which puts victims and witnesses first. I start with that because it is personal in the sense that it relates to the way that my understanding of justice policy has developed, because I am a complete nerd; when we started this term, I ended up with a whole bunch of textbooks on different policy areas that I was new to and wanted to understand and be better at, and one of those was a square-ish, purple primer on restorative justice, and I started reading that thinking what I was reading about was going to be, how do we take the most constructive approach to criminal justice so that people who have offended are able to make good on the harm that they have done in ways that benefit the community and in ways that benefit them? And it was through reading that that I started to refocus my own thinking about the harm done to victims and witnesses, victims in particular, and the way that that needs to be centred in all criminal justice policy.

And the sursis, I hope Members will agree, is entirely reflective of that, because the approach to the justice framework that it sets out starts with minimising the harm done to our community by crime, and with each of these bullet points, we have tried to keep it fairly succinct in the sursis motivé itself, but to unpack more of what that might mean in the supporting report by drawing on

3175 the work set out in the green paper. And of course, the very first thing that you do if you want to
minimise the harm caused by crime is to stop crime happening in the first place, to stop the creation
of criminals, and to stop the creation of victims, to avoid the suffering that crime causes. So
prevention and early intervention is the very first thing. But then we also need to be thinking about,
3180 how do we put victims and witnesses at the heart of our response when crime has happened? And
the green paper, the report attached to it, demonstrated that that is still an area in which we are
failing and which we need to give much more thought and much more priority to. And some of the
specific ways in which we were failing, particularly around sexual abuse, were unpicked in Deputy
St Pier's speech, Deputy Oliver's speech, and others. But it is clear that we need to take a much more
'victim-aware,' I suppose, approach to crime, an approach that starts with understanding who has
3185 been hurt and with avoiding the hurt that was caused in the first place.

But we also need to address those questions of restoration and rehabilitation, especially in
Guernsey and Alderney because we are such small communities, we just cannot right now send
people away from the community and we cannot afford to lose people from our community who
have something of value to contribute to our collective life.

3190 I spoke about stigma in my opening speech and I think stigma still pervades our approach to
justice and criminal justice in a way that, hopefully, we are getting out of in other policy areas. But
I think we do need to take an approach to justice in the future that is much less stigmatised, that is
much more thoughtful about who we criminalise and why and how we can approach justice and
harm in a more constructive way.

3195 Now, a lot of emphasis was placed on the role of this panel of five Committees by Deputy Lowe.
As a member of two of those Committees, I certainly have not seen much of it yet, but I think there
was also this fear that, 'Well, if we do what the sursis motiv  asks us to do, then what if there are
things that those Committees want to achieve which are somehow unachievable?' And Deputy Lowe
gave some examples: what if ESS want to review legal aid? Well, we *do* want to review legal aid! And
3200 I think we might finally have the resources to do it. To be fair, there is nothing in either the green
paper or the sursis motiv  which would ever stop us doing that, and in fact having two people
working on it at the same time can only be constructive.

What if ESC want to focus on early intervention through education? Well, the sursis motiv , as I
just pointed out at length, focuses very much on early intervention and prevention; there is nothing
3205 discordant in that approach. What if HSC want a seamless approach to mental health? Well
absolutely; the sursis motiv  talks about establishing a whole-Island approach to justice and it talks
about promoting diversion from the criminal justice system, it talks about preventing the
criminalisation of vulnerable people, it is all there. The kinds of things that other Committees have
already articulated as priorities, as areas that need to be addressed, as directions of travel for their
3210 own policy work, are wholly consistent with the direction and travel set out in this sursis motiv ,
and there is no reason to believe that the work envisaged here should not be carried out in a
consultative, inclusive, whole-Government, whole-Island approach just as the Committee envisage.

So madam, I hope that Members in the course of today have recognised that there is value and
urgency in addressing the various things that are covered in this piece of work on the justice
3215 framework and in the approach set out in the sursis motiv , but I think I need to end just by
addressing a couple of points on drug reform, the matter covered in Propositions 2 and 3. Deputy
Brouard, when he spoke, said he would have liked more time to consider the evidence before having
this debate, and in a way I hope the sursis buys him that time. I think the timeframes for coming
back with further work are not long, they are not the two and a half years in the first Proposition,
3220 but they allow that work to be done, they allow the evidence to be set out, they allow Members to
consider a full policy letter with recommendations from the responsible Committees and to think
through the research that exists and the right way forward for Guernsey.

So the sursis motiv  is not foisting an outcome on Deputy Brouard or on anybody else here, but
it is allowing the conversation that we desperately need to have about drug reform to take place
3225 within a reasonable timeframe and within a sensible framework. So I hope that Members who have

brought amendments and other Members who we would like to see this policy area addressed will agree that the sursis motivé provides a sensible way of doing so.

I think that just leaves the matter of regulation versus decriminalisation, or, if it is legal to possess and use drugs, how can it possibly be illegal to supply drugs? And it is a lovely logical formulation, and my personal view is much more in favour of regulation. But if any Member here is on any social media – Instagram or Twitter or anything like that – I would encourage them to look up the hashtag ‘PayUp’. It is a campaign that is currently going on targeting high-street retailers of fast fashion who are not paying their suppliers, generally in the developing world, for clothes that have been produced during the period of the pandemic. The reason why I bring that up is because it is possible, even for things that are entirely normalised, entirely respectable, entirely integrated in our daily life, in terms of their purchase and their use and so on – you look any distance up the supply chain and it is murky as anything, and these are a global-context problems that do need addressing, and our commitment to fair trade is a very small part of addressing that in certain areas. But I think we need to acknowledge that, whatever we decide in terms of drug reform, there is going to be some real murkiness further up the supply chain.

But I think we do also need to properly address the question of getting it right here, and we absolutely do need to investigate, as Deputy Parkinson pointed out, the third point in Proposition 3, which is, what role would a regulatory regime, rather than a criminal law regime, play? Is that the right thing for Guernsey? I think Deputy Parkinson probably read too much into the wording of Proposition 3, where it refers to illegal drugs; those drugs are illegal right now, those are the drugs it is referring to, there is no presumption about the future. But there is clearly a range of views within this Assembly about what the right way to progress drug reform is. We cannot, I do not think, decide that on the back of an amendment today; we need to have the research, the evidence set out quickly, because this is a debate our community is hungry to have, and rightly so, it is a long-overdue debate. But we just need that careful framework that allows us to think it through and weigh up the options for Guernsey, and this sursis motivé offers that.

So madam, I ask Members to support the sursis motivé.

The Deputy Bailiff: Thank you.

There has already been a request for a recorded vote, so we will have a recorded vote on the sursis motivé.

There was a recorded vote.

Carried – Pour 24, Contre 14, Ne vote pas 1, Absent 0

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Merrett	Deputy Trott	Deputy Le Pelley	None
Deputy St Pier	Deputy Stephens		
Deputy Meerveld	Deputy Lowe		
Deputy Fallaize	Deputy Smithies		
Deputy Inder	Deputy Graham		
Deputy Laurie Queripel	Deputy Paint		
Deputy Hansmann Rouxel	Deputy Brouard		
Deputy Green	Deputy Dudley-Owen		
Deputy Dorey	Deputy de Lisle		
Deputy Le Tocq	Deputy Prow		
Deputy McSwiggan	Deputy Ferbrache		
Deputy Langlois	Deputy Gollop		
Deputy Soulsby	Deputy Lester Queripel		
Deputy de Sausmarez	Deputy Mooney		
Deputy Roffey			
Deputy Oliver			
Alderney Rep. Roberts			
Alderney Rep. Snowdon			
Deputy Tindall			

Deputy Brehaut
Deputy Tooley
Deputy Parkinson
Deputy Le Clerc
Deputy Leadbeater

The Deputy Bailiff: There voted 24 Pour, 14 Contre, 1 abstention. I therefore declare the sursis motivé carried.

3260 That brings us to the end of business for today until we reconvene in August. Greffier, would you mind closing the States?

The Assembly adjourned at 5.09 p.m.