

SPORTS DRUG TESTING BILL 2001

Introduction and First Reading

Bill introduced, on motion by Mr Carpenter (Minister for Sport and Recreation), and read a first time.

Second Reading

MR CARPENTER (Willagee - Minister for Sport and Recreation) [9.11 am]: I move -

That the Bill be now read a second time.

The State Government condemns the use of banned performance-enhancing substances and other doping and drug-taking practices in sport because both are dangerous to the health of competitors and contrary to the ethics of sport. It recognises the need to take strong and positive action to eliminate sports doping and other drug-taking practices to ensure that participation in sport by Western Australian competitors is free of performance-enhancing drugs and methods.

The purpose of the legislation is to confer functions and powers on the Australian Sports Drug Agency to allow drug testing of state competitors. The legislation will provide for the collection of samples from state competitors and the testing of those samples for the presence of scheduled drugs or doping methods, and it will confer functions and powers for that purpose on ASDA.

This legislation is based on the Australian Sports Drug Agency (Amendment) Act 1999 and complementary legislation enacted in the Australian Capital Territory in 1999 and South Australia in 2000. It is a key element of the State Government's comprehensive strategy towards drugs in sport that includes a legislative base, education programs and policy development.

The State Government, through its agencies of Sport and Recreation WA, Healthway and the WA Drug Abuse Strategy Office, has funded the Sports Medicine Australia WA branch to conduct a comprehensive education program over three years, involving broad community awareness and targeted programs for athletes, coaches and sports administrators.

This state legislation, complementary to commonwealth law, is consistent with the national drugs in sport framework. This is to ensure a coordinated and consistent approach across all jurisdictions in Australia.

Debate adjourned, on motion by Mr Bradshaw.

SPORTS DRUG TESTING BILL 2001

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon G.T. Giffard (Parliamentary Secretary to the Minister for Sport and Recreation), read a first time.

Second Reading

HON G.T. GIFFARD (North Metropolitan - Parliamentary Secretary to the Minister for Sport and Recreation)
[10.02 pm]: I move -

That the Bill be now read a second time.

The State Government condemns the use of banned performance-enhancing substances and other doping and drug-taking practices in sport, as both are dangerous to the health of competitors and contrary to the ethics of sport. It recognises the need to take strong and positive action to eliminate sports doping and other drug-taking practices to ensure that participation in sport by Western Australian competitors is free of performance-enhancing drugs and methods. The purpose of the legislation is to confer functions and powers on the Australian Sports Drug Agency to allow drug testing of state competitors. The legislation will provide for the collection of samples from state competitors and the testing of those samples for the presence of scheduled drugs or doping methods, and it will confer functions and powers for that purpose on ASDA.

This legislation is based on the Australian Sports Drug Agency (Amendment) Act 1999 and complementary legislation enacted in the Australian Capital Territory in 1999 and South Australia in 2000. The legislation is a key element of the State Government's comprehensive strategy towards drugs in sport that includes a legislative base, education programs and policy development. The State Government, through its agencies of Sport and Recreation WA, Healthway and the WA Drug Abuse Strategy Office, has funded Sports Medicine Australia's WA branch to conduct a comprehensive education program over three years, involving broad community awareness and targeted programs for athletes, coaches and sports administrators.

This state legislation, complementary to commonwealth law, is consistent with the national drugs in sport framework. This is to ensure a coordinated and consistent approach across all jurisdictions in Australia. I commend the Bill to the House.

Debate adjourned, on motion by Hon B.K. Donaldson.

House adjourned at 10.04 pm

SPORTS DRUG TESTING BILL 2001

Second Reading

Resumed from 13 June.

HON N.F. MOORE (Mining and Pastoral - Leader of the Opposition) [4.46 pm]: I am very pleased to see this Bill before the Parliament. I initiated this legislation as Minister for Sport and Recreation and it was passed by Cabinet during the coalition's term in office. Unfortunately it did not reach the Parliament -

Hon Tom Stephens: Because of the incompetence of the minister involved.

Hon N.F. MOORE: No, because of the magnitude of the legislative program. The second reading speech contained no acknowledgment that this Bill is not a creature of the current Government. When it was first announced that the Government intended to proceed with this legislation, everyone was of the view that it was a Labor initiative driven by Hon Mr Carpenter, the new Minister for Sport and Recreation. At no time did he endeavour to correct that impression. That irritates me greatly. When I first became a minister, I took the view that one should pay credit to one's predecessors where appropriate. In opening some schools, I paid significant tribute to the previous Minister for Education because she made the decision to build them. I get a little irritated when no credit is given by this Government's ministers to their predecessors. Some ministers do acknowledge their predecessors, but some do not. It is obvious who they are. I initiated this legislation as Minister for Sport and Recreation as a part of a strategy to deal with drugs in sport in Western Australia. I am pleased that the new Government has brought it forward so quickly. It is a serious issue.

This Bill deals with drugs in sport at the state level and provides a mechanism for dealing with drugs in sport at that level. We must spend a few moments contemplating the issue of drugs in sport at state, national and international levels. It concerns me, as it concerns most fair people, that the results being achieved by some athletes are unfair. Athletes who take performance-enhancing drugs are cheating - it is as simple and as straightforward as that. Regrettably, large numbers of athletes around the world are cheats and take drugs to enhance their performance. One of the worries for administrators around the world is the ability of various chemical laboratories to create drugs which are ahead of the play and which are difficult to detect. It is incumbent upon sporting associations internationally and nationally to develop drug-detecting strategies to keep up with the cheats in the sporting world. That is not easy; in fact, it is very difficult.

We all know about the period when East Germany was a leading sporting nation. At the time, nobody knew its athletes were on drugs - a lot of people suspected they were - but it has become apparent since the demise of East Germany that vast amounts of drugs were consumed by its athletes and that a whole industry was developing around the use of drugs and performance-enhancement techniques for East German athletes, and all being done for the most blatant political purposes.

I know a little about the East German environment, having had working in my office as my adviser on sport and recreation one Hallam Pereira, who spent a number of years at university in East Germany and who came to Australia bringing a wealth of knowledge about the techniques being used by the East German sporting authorities. At that time the East German Government used sport for blatant propaganda purposes and used athletes as pawns in a political game. Many of those athletes are now suffering from all sorts of problems as a result of being on drugs for most of their sporting careers. It is a tragedy that some world records are still held by athletes from East Germany who were on drugs.

Many athletes from other countries around the world have problems with and still use drugs. The most recent example was the Chinese swimming team. There was nothing normal about the physical appearance of some of the Chinese women swimmers. There was no doubt that they were on drugs, in my humble judgment, and also the judgment of Australian swimming officials.

In this context, I was the minister responsible for the world swimming championships in Perth in 1998. That was probably the most interesting and exciting project I was involved in as a minister. We were to hold in Perth the second biggest international sporting event in Australia after the Olympic Games during that period. It was twice as big as the previous world swimming championships we had in Perth when the previous Labor Government was in power. I was very anxious for our world swimming championships to be a great success. Over the years, we had developed a reputation as being very good at organising international sporting events. However, I was concerned that we would be derailed by the drugs-in-sport issue, and there was a lot of talk about the Chinese team and about swimmers from many other parts of the world using drugs. My serious concern for our championships was that we would have a controversy surrounding drugs in swimming. Members can imagine how enthused I was when, a day or two before the championships started, the Chinese team arrived and drugs were found on one athlete at the airport. This created a media frenzy. I have never seen the media get into a frenzy as it did on this occasion. In fact, the media were rude and overbearing with athletes; I was quite embarrassed about their behaviour, but that is a story for another time. The bottom line was that before the championships started, this drug controversy was on the agenda, and it became an international controversy very quickly because virtually every country in the world was being represented in Perth. The scenario developed in which the Perth world swimming championships were to become the drug swimming championships - dominated by this drug controversy.

What concerned me more than all of that was the attitude adopted by La Federation Internationale de Natation, the international body that runs swimming. I have a lot of views about FINA, which I will not tell the House about because they are for a future book, if I ever get a spare minute or two to write it. I spent some time studying international sport when I was minister and read a book called *Lords of the Rings*, parts I and II, which is the story of the International Olympic Committee. When I read that book I was appalled at what that committee got up to. If even half of it is true, the management and running of the Olympic movement is in an appalling state. That has subsequently been vindicated

by many comments that have been made since about bribery, corruption and so on in that organisation. So, I was aware of what had been going on in the IOC by virtue of having read those books and talking to people about how the committee operates. When I became aware of FINA, I was concerned that that organisation might have a similar attitude towards the way in which swimming was conducted. I regret to say that FINA's views on that topic were very similar to the views of the IOC.

FINA consisted of a bureau made up of delegates from various parts of the world, and it was led by a president, a secretary and a treasurer. The president was a Mr Larfaoui from Algeria; the secretary was from Sweden and his name escapes me for the moment; and the treasurer was from Uruguay. None of them had any experience in swimming and I suspect the chairman could not even swim. The bureau and its executive spent time going from one swimming event to another. In order for a country to get the event, it is part of the deal to be prepared to meet FINA's humble requirements, which include first-class air fares to events, and also first-class air fares to any pre-assessment of an event; first-class accommodation in five-star hotels; cars provided; drivers provided; clothes provided; food provided; and a daily allowance in case they are not getting enough out of all of that. This is what countries have to pay if they want an event. This not only applies to the Olympic Games, it also applies to world swimming, soccer and motor racing; it applies to every major international sporting event, because that is the nature of these organisations - they are not accountable to anybody. The IOC is not accountable to anybody except God, and the guy who runs the IOC thinks he is God, and for all I know he may well be God!

Hon Ken Travers: Did you give this speech when you were the Minister for Sport and Recreation?

Hon N.F. MOORE: No, I have been waiting for an opportunity. The Government had to negotiate with these people to get the world swimming championships in Perth. When I went to Rome to meet with FINA and present our credentials for the world swimming championships, being the only applicant, I was told by the president that they were negotiating with Sydney. That was out of the blue. I then discovered, of course, that the New South Wales Government had decided to put in a late bid; it was not the Australian bid. I then had to contact people in the Australian swimming scene, one of whom was Terry Gathercole, the Secretary of the Australian Swimming Union at the time, who passed away recently. I pay tribute to Terry Gathercole; he was a marvellous person. He was absolutely anti-drugs in swimming; he was one of the leading anti-drug campaigners in Australia. He and Evelyn Dill-Macky, who was the President of the Australian Swimming Union at the time, were very supportive of Perth and enabled us to overcome this last minute, devious attempt by FINA and Sydney to derail our application to hold the event. That was my first head-to-head discussion with FINA, and I came to realise that there could be no trust between a competing city like Perth and the people running world swimming. As time went on I got to know a bit more about how FINA operated and, as I said, it is very similar in its operations to every other world sporting organisation.

Our bid to have the world swimming championships in Perth was also on the verge of being derailed due to evidence of drugs at the championships. When I asked FINA what it would do about the matter, it said, "It's not a problem; the only problem with drugs and swimming in Perth is your media. We are prepared to turn a blind eye to it." I said that that was not acceptable to the Western Australian Government because it wanted to run a drug-free championship and the only way to do that was to have FINA's support. I waited for that. As I said, FINA's attitude suggested significant indifference. We will always have a problem with drugs in sport if the controlling organisation is not adamant that the event will be drug free. I discovered that FINA was, at best, lukewarm about getting rid of drugs in swimming. Like a good politician, I then told FINA that I wanted to get drugs off the agenda for that swimming championship, otherwise they would destroy it, and that FINA should do something about them. I said that the best course of action was to have an inquiry. All good politicians know that the best way to get things off an agenda is to have an inquiry, so I wrote the terms of reference.

Debate adjourned, pursuant to standing orders.

SPORTS DRUG TESTING BILL 2001

Second Reading

Resumed from 28 June.

HON N.F. MOORE (Mining and Pastoral - Leader of the Opposition) [8.47 pm]: Last Thursday week my comments on the Bill were interrupted by the termination of the business of the House. I will not go over all of what I have said so far. I had referred in some detail to the Eighth World Swimming Championships in Perth in 1998 and how the drugs situation almost derailed those championships.

As members will recall, the championships were threatened upon the arrival of the Chinese swimming team because some drugs were found on some of those athletes. The championships were threatened to be seen as the drug swimming championships of the world. I also explained to the House that I had some difficulty with the Federation Internationale de Natation, the world governing body for swimming. I had difficulty convincing members of FINA that the problem was in the minds not only of the Australian and international journalists, but also of the people who ran swimming. Some people from FINA told me that the problem was not the drugs, but with the media continually saying there was a problem with drugs. However, we had just discovered performance enhancing drugs on the Chinese swimmers.

I was concerned with the prospects of the championships going ahead without this serious cloud hanging over it. I therefore convinced FINA that it should hold an international inquiry into drugs in sport to the extent that I drew up the terms of reference. FINA agreed to the terms of reference after amending only one word and it then announced an international inquiry at the beginning of the world swimming championships in Perth in 1998. That inquiry has gone some way towards convincing FINA that drugs in swimming must be avoided at all costs.

At that time, we were fortunate in Perth because some of the Chinese swimmers did not turn up for their events. That made it easier to deal with the problem because those athletes who were either on drugs or had been taking drugs for some time realised that they would get caught. The event included the spectacle of swimmers simply not showing up for a number of events. There was no other drug problem during the event. The State Government went to significant lengths during those championships to ensure sufficient drug testing took place and that athletes knew they had a pretty good chance of being caught if they were on drugs.

The problem at that time was the lack of enthusiasm by the Commonwealth, which was asked to provide funding for the event. It was reluctant to do that and so provided little assistance to the championship. I had budgeted for about \$750 000 funding from the Commonwealth, which was in line with the amount it provided in 1991, only to discover that it was not interested in providing any funds at all. Tom Hoad, who was the director of the World Swimming Championships, reminded the federal Government during the opening and closing ceremonies that it had made no contribution whatsoever to the success of the championships, which were the second biggest sporting event held in Australia, outside the Olympics, in the past four or five years. The State Government went to a lot of trouble and was given credit by Australian Swimming for its efforts to ensure enough drug tests were undertaken and that athletes realised that they were likely to be caught if they were involved in drugs.

It is interesting that this House should be discussing world swimming championships a couple of days after the completion of the 2001 World Swimming Championships at Fukuoka in Japan. As an aside, Fukuoka made a bid for

the 2001 World Swimming Championships, and promised FINA \$US10 million. The Western Australian Government offered nothing during its successful bid for the games in 1998. The Government had an arrangement with FINA for it to provide a contribution to the running of the event. It is regrettable that cities will now bid this sort of money, and FINA will be in a position to use and demand money from cities that want to conduct the World Swimming Championships. How it spends the money is no-one's business.

That brings me to the point that the House should be aware that world sporting organisations are not accountable. This starts with the International Olympic Committee and goes through FINA, the Federation Internationale de Football Association and all other international sporting associations. Those organisations have representatives from various countries and different swimming associations who come together to make decisions for a sport. They are not responsible to anyone else. The IOC is probably responsible to only God. No international Government says that the IOC, FINA or any other group should do anything at all. They can make decisions about any issue affecting their sport and they are not accountable to anyone. That is one of the tragedies of international sport. I am not sure how that can be dealt with. I am not sure that they should be accountable to anyone. I cannot think of anyone to whom they should be accountable, other than perhaps the United Nations or a body like the United Nations Educational, Scientific and Cultural Organisation. However, when the track records of some of those organisations are considered, one can wonder whether they are accountable either.

Ian Thorpe commented on the issue of drugs in swimming when he was at Fukuoka, and said that was his major concern about the future of swimming around the world. He also raised the problem of technology. A number of swimmers were seriously disadvantaged by the timing mechanisms used at Fukuoka, again demonstrating that FINA is a bit out of touch and considers that technology is not all that important. Members may have heard the Australian coach, Don Talbot, comment on the FINA bureau's attitude toward the swimming championships and the reasons it thought it was there, which had little to do with running a swimming event.

I raise those issues before the House because they demonstrate that drug taking is a serious problem at the highest levels of sport in the world. It ranges from the Olympic Games to the Commonwealth Games, world swimming and athletic championships, and soccer. There are drug problems in every sport. The international community is trying hard to deal with that because everyone emphatically believes that taking performance-enhancing drugs is cheating, and that people who cheat to win should be exposed and stripped of any medals or awards they have won. The international sporting associations need to take the question of drug taking seriously. I regret that some do not seem to be doing that as well as others.

The purpose of this Bill is to do something about drugs in sport in Western Australia. It is important that members understand that even at the state level, some people want to take drugs to improve their performance and their capacity to win medals, and to do well in competition. This is about not just the Olympic Games or world championships, but also the Western Australian Football League, the local netball competition - every level of sport in Western Australia. Members will recall that Dean Capabianco, a splendid Western Australian athlete, was caught for taking drugs and was suspended. He is one of this State's local heroes and he was caught. If it can happen that close to home, it can happen with many other athletes within Western Australia. We cannot simply rely on the good intentions of athletes to do the right thing. A process must be put in place to catch athletes who are taking drugs. That is being done at the international and national level.

The Australian Sports Drug Agency is carrying out testing of athletes at the national level. The problem with the ASDA Act of 1990 was that it did not cover sports at the state or territory level. In 1995, the sport and recreation ministers met and agreed that a national drugs in sport strategy was needed. That consisted of two responsibilities. One was to develop a drugs in sport policy in each State and Territory, which I will go through in detail in a moment, and the other was a requirement to enact complementary legislation to enable a testing program at the state and territory level. As I indicated, it is not possible under the Act for ASDA to test athletes who compete at the state or lower levels of competition. It can test only those who compete at the national level. Amendments were made to the Act in about 1999, which enabled complementary legislation to be enacted in the States and Territories. The former coalition Government made a decision to recognise ASDA as the national agency leading the development of education, research, policy and testing programs for drugs in sports in all States and Territories. It is also important that members recognise that this Bill looks at drugs in all sports, and not just Olympic sports.

When I was the Minister for Sport and Recreation, I decided to proceed with the strategy agreed by the state and territory ministers. This legislation tonight is the second part of that strategy. The first part, as I said, was the drugs in sport policy, which the State has developed. It is important in the context of dealing with the issue of drugs in sport. It has been implemented gradually, and I understand that the whole policy cannot be implemented until this legislation is passed. The various state sporting associations will be required to provide a copy of their doping policy to the Department of Sport and Recreation. That department has had its name changed two or three times in recent history. The associations' doping policies must conform to the doping policy of the national association and the Western Australian drugs in sport policy. The state sporting associations need to abide by the provisions of the policy to be eligible to receive any finance or assistance from the Department of Sport and Recreation or any other state agency. They need to ensure that coaches and officials support the policy. They need to adopt disciplinary measures against

coaches and officials found to be aiding and abetting doping practices. That is obviously quite sensible. They need to develop, in consultation with the department, drugs in sport education intervention programs for their members; in other words, it must be a grassroots strategy. Sports associations need to make sure that they are working at all levels of their sport to ensure that a proper drug education intervention program is in place for their members. They need to establish a database for the Australian Sports Drug Agency of all state competitors who are eligible for testing, so that ASDA knows who it needs to test and can randomly test athletes from time to time. They need to permit and assist ASDA to attend competitions conducted by them or under their auspices, in order to obtain samples for testing to detect the use of banned performance-enhancing substances and other doping practices. Clearly ASDA does not yet have the capacity, which this Bill gives it, to do that testing.

The state sporting associations must also assist ASDA to obtain samples for testing from their members out of competition to detect the use of banned performance-enhancing substances and other doping practices. They need also to notify their competitors that they are liable to be selected to provide samples for testing to detect the use of banned substances, and to arrange for the completion and return of any documentation required by ASDA. They must notify the department of any sanctions to be applied to their state competitors, and that information must be made public. They must monitor the implementation of the sanctions, and they must notify the department of any positive test results recorded by any of their state competitors.

In broad terms that is the drugs in sport policy developed in conjunction with the development of this legislation. This is not merely about introducing a Bill and creating an Act that simply says that ASDA can test people in Western Australia. It is all about a comprehensive strategy to make sure that all the State's sporting associations have a drugs policy of their own, and that they are working in a positive way to ensure that drugs are detected if they are being used. More importantly, it is a strategy to encourage and educate people involved in sport that taking these performance-enhancing substances is totally unacceptable and is, as I have said, cheating. The Bill which is complementary legislation to the Australian Sports Drug Agency Act is to provide for the collection of samples from state competitors. It is to provide for the testing of those samples for the presence of scheduled drugs or doping methods. It confers power and functions for that purpose on ASDA.

A couple of minor issues are part of the Bill. One is that young people under the age of 18 years cannot be tested unless they have written consent from their parent or guardian. That is consistent with legislation in other jurisdictions. We have now reached the stage with this Bill at which we can proceed with the totality of our strategy in Western Australia with drugs in sport. I congratulate the new Minister for Sport and Recreation for very quickly recognising the excellence of the former minister's legislation and bringing it to the Parliament very quickly indeed. It has taken quite a long time to get here because the ASDA Act was found to be deficient when a number of other States enacted complementary legislation and then had to amend their legislation. Therefore, the Western Australian Government delayed its legislation to ensure that the Australian Sports Drug Agency Act was brought up to date, and once that Act was amended, the Western Australian Government set about developing its own legislation in conjunction with the main commonwealth Act. The Ministers for Sport and Recreation agreed in 1995 to go down that path, and agreed to require the States to develop a drugs in sport strategy. I have indicated to the House what that means in the context of this legislation.

The Opposition obviously supports this legislation. It is legislation that I took to Cabinet, and it has been brought here quickly, for which I commend the Government. It is important that this matter be dealt with, not only at the national or international level, but at every level of sport. Any way that people can take substances to enhance their performance must be discouraged and detected. Fundamentally, sport should be about enjoyment, but at the same time it should also be about the achievement of the best potential, but on the basis that that potential is not enhanced by some substance. The potential should be what the human body can deliver by way of normal behaviour, not by using some artificial means to improve performance. If drugs in sport are not stamped out, sport ultimately will decline in the estimation of the general population. Sport is an important part of culture, in Australia and the world. It gives people a chance to see what humans are capable of achieving, but when they see swimmers who look like gorillas breaking world records in ways that no-one had ever predicted, it turns people right off. It creates the wrong impression for young people. One of the reasons I was a strong supporter of government funding for sport and recreation is that sport provides role models for young people. We should encourage sportsmen and sportswomen to perform in such a way that they encourage young people to become involved in some form of physical activity. There is no doubt that top-class sportspeople, particularly those who are media-friendly, are able to encourage many other people to become involved in sport - not necessarily to become world champions, but just to be involved. There has been much talk recently about the need for physical activity amongst young people, that many of our young people are obese and unfit, and that we have a serious problem on our hands. I was endeavouring to deal with that by setting up a physical activity foundation, which I hope the current Government will proceed with.

I fervently believe that we would save a significant number of dollars from the health budget if we could deal with the question of physical activity amongst all our people, not just young people. We will encourage people to be physically active by using sporting heroes as role models, but this will be severely diminished if successful athletes are found to have been taking drugs and thereby enhancing their performances with substances that do not occur naturally in the

human body. I commend the Government for this legislation, and hope that it will be strident in ensuring that this policy is implemented in a way that works. I hope that it will lean on state sporting associations to make sure they deliver the goods in their own areas. I hope the Government will be serious about getting young people involved in physical activity, and will make this a major priority in sport and recreation policy in Western Australia.

One concern I wish to raise very quickly is that the cost of an individual drug test is about \$550. A way must be found to reduce this cost. Some of our state sporting associations are poor. For example, if Athletica were confronted with 10 tests, it would go broke. I think \$5 500 is more than it could afford at any one time. I note that the minister has said in another place that a sporting association will not be permitted to opt out of its responsibilities by virtue of the fact that it does not have the money. I understand him to mean that the Government may pay for the tests and then seek to recoup the money from the sporting associations. It may be necessary for the State Government to pay some of the cost of these tests and accept that as part of its responsibility for keeping sport drug free. I do not think it should be left necessarily to the devices of the various sporting associations to meet these costs. At \$550 a test, it is very expensive for many sporting associations. I do not know the answer to that problem. When I was the minister handling the Bill, I was a bit concerned about this issue. I wondered what sort of burden would be placed on our sporting associations at a state level, most of which are not well funded and do not have huge amounts of spare money. However, it must be done, so I commend to the Government that it consider making a contribution towards the cost of the test or, alternatively, that it look at some way of making it cheaper. I do not know why the tests cost so much. Perhaps the parliamentary secretary handling the Bill can let me know where the testing is done. If it must be done in another State, obviously costs will be attached to it. There may be some way the tests can be done in Western Australia.

Western Australia has the Chemistry Centre and a number of other laboratories, which are world class in chemical analysis and various other things. Interestingly, the Western Australian Trotting Association sends its samples to South Australia for testing; yet the Chemistry Centre in Hay Street can do the testing equally well. Maybe there needs to be some sort of arrangement between the sporting associations and the Chemistry Centre to provide drug testing in Western Australia, if that does not already occur.

With those comments, I commend the Government on its legislation. The Opposition strongly supports this Bill. We are anxious to ensure that collectively we, not just in Western Australia, but throughout Australia, and, hopefully, internationally, eliminate drugs in sport and take sport back to where it belongs. It should be an opportunity for people to enjoy themselves and to be physically active, and for those who want to excel to be able to do so on their merits, not on the basis of some performance-enhancing substance. I support the Bill.

HON GIZ WATSON (North Metropolitan) [9.12 pm]: I will say a few words about this Bill on behalf of the Greens (WA). In the same vein as the previous speaker, we support the Bill and recognise the intent of removing performance-enhancing drugs from sport. We commend the Government for that objective. Having read the objectives as stated in the second reading speech, we have no problem with the intent of the Bill. However, I have a couple of questions, some of which the previous speaker has touched on. I note that the second reading speech and the objectives particularly emphasise the issue of performance-enhancing drugs, and I am sure the intention of the Bill is to eliminate the use of those particular drugs. However, the definition of "drug" in the interpretation clause of the commonwealth Act states -

drug includes any substance (whether naturally occurring or otherwise).

That is a very broad definition of a drug.

Hon M.J. Criddle interjected.

Hon GIZ WATSON: I know a little about chemistry. That could mean sugar. I question the necessity for such a broad definition. I would be more comfortable if the definition were limited to performance-enhancing drugs. There does not seem to be much point in testing for such a broad range of drugs. However, as the issue of performance-enhancing drugs is a moving target, the intention may be to keep the definition broad in order to capture any new drugs. I have a problem with its being defined in that way. Interestingly enough, although there is a big push to address the use of certain substances in sport, that has not always been the case. Historically, there has not been a problem with athletes using whatever they want to enhance their performance. Perhaps it is indicative of the technological era in which we live, the extraordinary array of chemicals that are available and that our knowledge of body chemistry is so refined we can home in on specific substances. It is interesting to note that, historically, taking substances to enhance athletes' performances was not seen as cheating. However, this is the twenty-first century and the Greens are happy to support the intention of the Bill.

I mention the cost of testing, which was been raised by Hon Norman Moore. The \$550 cost for each test is a lot of money. If individual clubs are asked to pay that amount, potentially they will be in a difficult situation. I echo Hon Norman Moore's request that the State look at providing a means to assist clubs if they are required to pay such a high price for the tests.

The Greens (WA) are happy to support the Bill with some reservations about the definition of a drug and the imposition on smaller clubs of paying for the tests.

HON M.J. CRIDDLE (Agricultural) [9.17 pm]: I have played a lot of sport in my time, but have not had much experience of drugs. The extent of my experience is playing football on a cold day, when the port and lemon would come out at three-quarter time and we would all have a swig and be warmed up for the last quarter. This is a serious matter for the Western Australian, Australian and world community of sport. The devastating effect on a competitor who has tested positive for a banned substance has been shown on television. They must know full well when they take drugs that enhance their performance that the likelihood is they will be caught and seriously punished. I cannot for the life of me understand why people take them. I guess they must be encouraged to take these substances by the extraordinary amount of money available to competitors at the elite level of sport. When one witnesses the devastation they display when they are caught, it is mind-boggling to think they would even start on a journey of taking performance-enhancing drugs in the sporting field.

The conduct of elite athletes has an enormous effect on our community and, in particular, on the youth of our community. We need national heroes and people who compete at national and senior state levels to be clean and to eliminate any possibility that they take drugs. That is why this legislation should receive strong support.

The National Party supports this Bill. It confers powers on the Australian Sports Drug Agency to request drug testing of our state competitors. To some extent, I am disappointed that testing is not available further down the line. I do not think anybody in competitive sport should be allowed to take drugs. If people start taking drugs at an early age, enhance their performance at that level and start to win, it goes further and further. It leads to a direct impact on their health. We do not want people to get into that situation. The distortions of some people's bodies after serious drug taking have been seen around the world. When coaches or administrators in sport want to achieve, they can have a serious impact on the young competitors under their control. I am concerned about all competitors in sport, from those in the very early stages to the achievers at the highest level.

I understand that legislation of this type has been enacted in the Australian Capital Territory and in South Australia - it may well have been enacted in other places as well. However, from my investigations, it has been enacted in that Territory and that State, and that is pleasing.

This Bill covers competitors who are defined as representing Western Australia as individuals, as part of a team, or as members of a selected squad. I have just read the Australian Sports Drug Agency's briefing note on the competitors it covers. It is a substantial number. However, I am pleased that it covers those people I mentioned who receive government support to participate in, or train for participation in, a sporting competition; or those whose names appear on a register under the commonwealth Act.

This Bill also provides that those who conduct a test on children or young people under the age of 18 years must have the authority of the competitor's parent to take the test. I wonder what will happen if a parent does not give consent. What will be the ramifications of that in a competition? Details of that must be outlined. If a person enters a competition and there is a difficulty obtaining the consent of a parent, there could be a confrontation at the time the drug testing is to take place. I wonder how long it will be from the time consent is given to the taking of the test, and whether there will be any ramifications in that respect on the results of the test.

The Bill provides for a urine or blood sample to be taken. It is absolutely necessary that the opportunity to do that is available. I spoke previously about the definition in the Bill of competitors. It does not extend to the local football or cricket club. Obviously, those people will not be impacted by this legislation. The commonwealth Act is clear. Its focus is on those athletes who compete at a state or national level.

I understand that local associations, the State or the Australian Sports Drug Agency can request that a test be carried out. Hon Norman Moore mentioned the cost of these tests. I cannot for the life of me see why a test should cost \$550. If a number of tests are carried out and they are likely to cost anywhere in the vicinity of that amount, obviously there will be an enormous impact on the financial status of an association. We must look at this on either a national or state basis to ensure that funds are made available for those tests to be taken. It is all very well to say that the State will pay immediately and the sporting associations have to pay later. That situation should not be allowed to develop.

Clauses 1 to 3 of the Bill outline the titles and definitions. Clause 4 outlines the functions of the drug agency and states that the functions are as per the commonwealth legislation, the Australian Sports Drug Agency Act 1990. Clause 5 requires a competitor under 18 years to have parental consent. Clauses 6 and 7 state that agreement must be in place between the minister and the Australian Sports Drug Agency to allow regulations to be prescribed. We support those areas of the Bill.

I return to the point I made earlier. Drug enhancement of sporting ability is not something that we can tolerate within our society. We need to remove any possibility of its happening. It may be difficult, but we should take steps to eliminate those competitors from sport who do take drugs so that we can have a competition that is clean, open and in the best interests of our community.

HON PADDY EMBRY (South West) [9.26 pm]: In this country, we are contradictory in many ways. We regard sports men and women as gods. It is great that they get the acclaim; they put in a tremendous amount of work and effort. It would be good if we did not have the tall poppy syndrome in other aspects of life, but we do hold our young

athletes in high esteem. Those in sport at a young age when interviewed by the Press handle it well; they are a real credit to our society and they are a wonderful example to the younger generation - or most of them are. It is a pity that our Australian Football League footballers are not always quite so well behaved off the field, let alone on the field. I have always felt that boxing should not be a part of the AFL. If people want to watch boxing, they should watch *TV Ringside*. Football should be about football.

Hon B.M. Scott: Boxing should be banned.

Hon PADDY EMBRY: That is a matter of opinion. For two reasons I believe it is essential that our athletes are known to be clean: firstly, because there should be fair competition; and, secondly, because of the example they present to an even younger generation. Maybe some of us older people have greater admiration for athletes like Kieren Perkins, for example, or young Thorpe - Thorpedo as he is called. When some of these athletes who are favourites come in second or third they interview absolutely brilliantly.

The question of testing could have a humorous side. I would hate to see testing after the event done at the nineteenth hole of a golf course. That would probably reduce a lot of the fun in the sport, or the social side. I read an article some years ago that caught my rather warped sense of humour. It was about the testing of athletes - I am not sure whether it was the practical or the theoretical. However, the enhancement of an athlete's performance after sex is a kind of drug. It was shown in a test to enhance the performance of females; however, sadly, for us men it had the opposite effect. As I said, I am unsure whether the test was entirely theoretical or whether a practical test was involved.

An opposition member: Were you offered any help?

Hon PADDY EMBRY: No, I do not need any help from anyone, let alone from my two musketeers.

Hon Peter Foss: Was there a control group and a double-blind experiment?

Hon PADDY EMBRY: The Leader of the Opposition was in the hot seat at the time; he may be able to advise us. Seriously, this is a serious subject. One Nation abhors the use of drugs in any form, especially the nasty, mind-blowing drugs. One Nation therefore endorses this Bill.

HON PETER FOSS (East Metropolitan) [9.30 pm]: I support this Bill and shall say a few words in support of it. Hon Giz Watson questioned the use of a substance found naturally in the body as a drug that might be considered a performance-enhancing drug. It is necessary to consider that point because it is possible to inject into a person, or give in another form, a naturally occurring substance that would not be present naturally in large quantities. Adrenalin is one such substance that can greatly enhance a person's performance but is also a naturally occurring substance. We do not advocate that people be injected with adrenalin as part of their performance enhancement.

I have considerable concern about a number of areas. I was astounded with the way in which the case involving the Canadian Ben Johnson was handled internationally. First, he was disqualified for using a serious drug. It was not an accidental cup of coffee, but a serious performance-enhancing drug. I believe he lost his world record and his gold medal and I understood he had been disqualified for life. The next thing I found was that he was back competing, apparently on the same basis as before, because he was again disqualified. As the Leader of the Opposition said, despite the lip service paid to ridding sports of performance-enhancing drugs and taking severe action against people who are found using them at whatever level - obviously one would hope a more serious attitude would be taken at the higher levels of sports - on the face of it an extraordinarily lax attitude is taken to the use of performance-enhancing drugs at the highest levels of sports.

One cannot get to a higher level in sport than the Olympics. For many years the most glamorous event of the Olympics was the 100-metre sprint. It was viewed in that way by Hitler at the Berlin Olympic Games, where he thought he would make a big display of Aryan superiority by having an Aryan win the 100-metre sprint. Of course, he was highly disappointed. Gold medallist sprinters in the Olympics are considered to be at the peak of all sprinters. Yet, Ben Johnson was twice eliminated from the sport because of his use of serious performance-enhancing drugs. The concern expressed by the Leader of the Opposition that the administrators of sports are not taking the matter seriously is clearly illustrated by that example. I am sure that many members of this House and many members of the community shared my amazement and incredulity that this man was allowed back to compete in the Olympics. I find it extraordinary that that happened. The real worry is that, despite this legislation, the regulation system has enormous holes through which people can creep. Perhaps the time is right for an international treaty. This is an area in which international treaties have traditionally functioned. They were not formulated to deal with things such as human rights, but to coordinate regulation between nations, where it was necessary, and to set up a system that functions internationally when a national scheme cannot.

I know many members see me as anti-commonwealth. In fact, I am a true federalist. There are times when the Commonwealth Government and Parliament that we have set up should be involved. On a number of occasions I have urged the Commonwealth Government to pass legislation because I saw the issue as plainly within the arena in which we set it up to operate. One example is the practice of overseas law by overseas lawyers in Australia. We had an extensive and drawn-out discussion in the Standing Committee of Attorneys General about what form we would use and how we would do it. I finally questioned why we were discussing the issue - it was plainly a federal matter, and the

Commonwealth Government should have legislated. Why do we have a Commonwealth Government if all it wants to do is take over state jurisdictions and not do the things it was constituted to do? On occasion, the Commonwealth Government should act and legislate in those areas in which it has a true national responsibility. Dealing with other nations of the world is such a responsibility.

I query whether the sporting bodies are so powerful that the nations are not prepared to take them on but are prepared to take on issues such as greenhouse gas emissions. I am not trying to demean that issue, but it appears that this is an area of great importance in which the international regulators are not doing their job. We should have a series of treaties establishing a framework and standards. If the international bodies are not prepared to do the things they are supposed to do, history has shown that we can keep tightening the treaties. If they are not prepared to put their own house in order, obviously the international community should do so.

I find it extraordinary that we have allowed all sorts of corruption. We have heard from Hon Norman Moore about some of the shenanigans that have gone on, and I have heard about them from other people. Australian coaches have made similar allegations. I understand that this activity is rife throughout the sporting world. International sport administrators seem more concerned about their own welfare than the welfare of their sports and the participants. Nations should start laying down the framework for proper enforcement. It is not a matter for domestic law; it is a matter for international law. Those standards should now be set and we should have a framework involving Australian and international legislation that conforms to international treaties to ensure that the standards are met. If such a system were in place, we would not have a repeat of the situation in which, after a person was caught out, disgraced and eliminated from his sport, the responsible administrators allowed him back after an unseemly short time only for him once again to shock the sporting world by his poor example.

One of the reasons that Australians are particularly shocked by the use of performance-enhancing drugs is the history of sport in this country. I feel hesitant in speaking before Hon Barry House who I know has had a long involvement with sport, both as a sportsman and as a sports administrator. My participation in organised sport ceased about the time I left school, apart from the occasional social game. I do not purport to have any recent experience. One of the reasons Australians have dominated so many areas of sport for so many years was the requirement we used to have of people who participated in sport being amateurs. That was the case in the Davis Cup. The Olympics was a competition for amateurs. Although cricket had professionals, there seemed to be some sort of social gap between players and gentlemen. I am not bemoaning the loss of the primacy of amateurism in sport; it indicates that Australia has always had a vigorous participation in sport on a voluntary basis. It is far more so than any other nation. We have become virtually sports mad. We were able to dominate sports when sports were for amateurs because of the enthusiastic participation of a very high percentage of the population. Sport has been very much part of the structure of our society. It has been seen as a worthwhile, healthy activity as well as being character building. It is still a view held by many people in Australia even though sport is now dominated by professionals. We still see sport as something that belongs to the people of Australia rather than to a professional elite. The concept of performance-enhancing drugs is more anathema to the people of Australia than to many other nations.

There is a tremendous amount of opportunity for an increased emphasis on sport in our community. One area where it becomes even more important that we do not give a poor example is that of sport among Aboriginals. At various times during my time as a minister I was very impressed by the capacity of sport to overcome the many social disabilities that young Aboriginal people have. I want to put on the record my congratulations to the Gallop Government for its support for a football program at Clontarf Aboriginal College. I became aware of this program late in our term of government. I was seeking to gain some support for it as it was proving a remarkable benefit for young Aboriginal people. Most young Aboriginals who participated had serious school absenteeism problems and seldom got as far as high school. Many were getting to the stage of getting into trouble with various authorities including the police and the justice system. The program is run by Gerard Neesham with the assistance of many professional footballers who give their time voluntarily. The program has achieved quite phenomenal rates of Aboriginal students continuing their schooling to year 12. These young men have got out of their problems with parents, authorities and the police and have been performing well in their school work and their football. A large number of them have been selected to go into the Australian Football League. Mr Neesham informed me that each player was guaranteed income of about \$300 000. These are people who, without the program, would have ended up with all the problems that people who are socially disadvantaged in the community have as their inheritance. These people, but for this program, and their interest in sport and capacity to play football, would probably have ended up in jail as another terrible statistic of the over-representation of Aboriginal people in the justice system.

Through some small grants and a tremendous amount of support from a charitable foundation, Clontarf Aboriginal College is achieving truly remarkable results. I hoped the Government would provide some support for the program, and I noticed that within a month of the Gallop Government taking office it announced it would support it. I congratulate the Government on that and, more importantly, urge it to maintain and increase that support because I believe it will bring very rewarding results. It is a powerful opportunity to develop people who otherwise would be caught in a cycle of offending from which they would have no way of escape.

I recommend that Hon Barbara Scott look at it because it is in her electorate and it is heartening to see it operate.

Hon B.M. Scott: My nephew is one of the assistant coaches.

Hon PETER FOSS: Well, there we are.

Hon B.M. Scott: I probably knew about it before you had even heard of it.

Hon PETER FOSS: Hon Barbara Scott was looking at me quizzically, but I now understand that she is a mover and shaker in the scheme. I should have guessed because I believe the Roman Catholic Church is involved in it.

Hon B.M. Scott: The Catholic Church has nothing to do with Clontarf except for giving it to the Aboriginal people.

Hon PETER FOSS: That is true, but I think the church is still supporting the college. It is a tremendous program. One of the big problems among young Aboriginal people is substance abuse. Those young men have problems with substance abuse. It is terrifying to consider that, rather than having as role models footballers who reject performance-enhancing drugs, they have footballers who use those drugs. We would run the risk of pulling them away from one situation and dropping them into another.

In Australia, the encouragement and presentation of sport as a clean and sensible pursuit is important. We sometimes underestimate the influence of role models on young people when they do things that are inconsistent with what we consider is proper behaviour. We might kid ourselves that our children do not know about drugs and that we can maintain some sort of illusion about our behaviour. The reality is that young people know exactly what adults do. It is the adults who are deluded and who kid themselves that they can put up a screen and pretend these things are not happening. Children know exactly the situation, in the same way that they know that Father Christmas and the tooth fairy are not real. Children quickly see through deception if adults do not genuinely believe in the matters they espouse.

It is time that this State, the Commonwealth and the international community became serious about drugs. Rather than enacting domestic and national legislation, an international scheme should be in place to stamp out the use of performance-enhancing drugs in sport.

There are other areas in which we can play an important role. I do not think many people in this State know that Australia has a dreadful reputation regarding steroids, not so much for the use of them, but for the export of them. Australia makes veterinary steroids to a standard suitable for use by humans. Large quantities of them are exported to other nations in which they are taken outside the veterinary stream and diverted to human consumption.

Australians who travel overseas are often asked when they arrive whether they can get steroids. I find it difficult to know the degree to which Australian producers of steroids for veterinary purposes believe that they have somehow struck a goldmine in the treatment of animals overseas. One wonders whether they think they are good at marketing or whether they suspect that their steroids are being used for other than their proper purpose. I do not know the answer to that. I do not whether Australian manufacturers are aware of the misuse of their drugs, and I do not know to what extent their sales depend upon the steroids that are misused overseas. It is of concern to me that we turn a blind eye to it. I would like the federal Government to take some action to determine the quantity of veterinary steroids being produced and what happens to them after they leave this country.

I believe we have an international responsibility. We cannot produce vast quantities of steroids and not pay attention to where they go. A nation that benefits from the export of steroids that are being misused has a responsibility to the international community to do something about it. Australians take the view that they are purer and better than everybody else. My understanding is that Australians are not purer and better than anyone else. They can be compared to those international arms dealers who do not have guns themselves, but are very good at supplying them to other people. If Australia is a major supplier of steroids, it has a significant responsibility to the international community. I would like that matter to be addressed under an international scheme for the regulation of performance-enhancing drugs, so that we take responsibility on the international stage as well as in the enforcement of regulations for those who participate in sport in this country.

With those few words, I express support for the legislation and I urge the Government to take up this matter at a national level and, in turn, urge the federal Government to take it up at an international level. I hope that will result in a treaty for the nations of this world to stamp out a scourge that has a deleterious effect on not only the participants, but also the people who look to the participants as role models.

HON B.M. SCOTT (South Metropolitan) [9.52 pm]: The Opposition supports this Bill.

Hon Ken Travers: Wholeheartedly.

Hon B.M. SCOTT: Yes, wholeheartedly. One member on our side of the Chamber is not aware of the involvement I have had in sport over the years as a coach and as a promoter of sport, particularly in the areas of rowing and athletics. I will touch on those two areas and refer to the role of women in sport.

I am aware of the benefits of good role models for young people, particularly for our indigenous people. As a teacher in country schools, one of the things that used to upset me the most was to watch outstanding young athletic sportspeople, girls and boys in primary school, very quickly lose their skills, often because of life habits they adopted.

The banning of performance-enhancing drugs in all sports is extremely important. I was fortunate enough to attend the Olympic Games. Australia showed the world where its sportspeople were at, what they could achieve and how thorough our drug testing was.

I congratulate the Government and organisations like Healthway, which has used a non-drug strategy to promote sporting events. That sort of help is needed by amateur sport. There is no way that sporting organisations in Western Australia could put on the number of competitions that are needed to select state competitors at the moment without that support. It is nice to know that the Government is supporting and promoting regattas and competitions through agencies like Healthway and that a positive drug message is being provided.

The Bill considers the collection of samples from people who are selected to represent state teams. My daughter competed as an elite rower. She was the state single-scull champion for two or three years and was in the Western Australian Institute of Sport program for about seven years, so I have a close association with a lot of WAIS students. Members are aware of stories of concern some years ago about drug taking at the higher level at the Australian Institute of Sport. It is important when young, promising athletes are trying to attain a higher level, that that higher level be totally drug free.

I have also been closely involved with gymnastics. Parental consent will be required for drug testing of gymnasts who are under the age of 18. In the area of women's and girls' sport, lightweight rowing and gymnastics have always concerned me because the girls must maintain an incredibly low body weight. The sense that there may be an opportunity to turn to drug taking to control their weight is an issue that perhaps has not been properly addressed in women's sport. That is why positive programs are needed. Women are encouraged to be fit and to achieve a high level of elitism in sport. This provides role models who compete at a state, national and international level. We must be careful that elite sportspeople are not turned into unhealthy specimens and, therefore, not the sort of people we want young people to look up to. Young gymnasts will need parental consent to provide samples. The education message must be well rounded: that sport is good for all-round development. It must be multipronged or multifaceted so that sport is encouraged for fitness and competition. There is a balance. People must be encouraged to achieve body fitness or aerobic levels without turning to drugs.

An early morning radio program reported that a 20-year-old woman recently died from a caffeine overdose. She had consumed one of those drinks that a lot of sportspeople now drink. I am not sure of the brand name, but a lot of young sportspeople now consume energy-enhanced drinks. That 20-year-old died just in the past few days because the drink she had consumed had a high level of caffeine.

Hon Peter Foss: They are Red Bull.

Hon B.M. SCOTT: Sportspeople carry all different colours. I do not know whether they are Red Bull or not.

The educational program must be multifaceted and broad enough to encourage young people to achieve at their best level. We also want them to go on to achieve at an elite level if that is their capability. At the same time, that must be done in a sensitive way.

Debate adjourned, pursuant to standing orders.

SPORTS DRUG TESTING BILL 2001

Second Reading

Resumed from 1 August.

HON B.M. SCOTT (South Metropolitan) [2.03 pm]: During my remarks last night I was focusing on a couple of areas in support of the Sports Drug Testing Bill 2001. The issue of the use of substances that enhance the performance of elite athletes is extremely important for a number of reasons. The community counter argument that is being proposed against this Bill is one of civil liberties. I will put a brief argument against that. People choose to go into elite sport. Nobody forces them to attend swimming pools or to face the river at five o'clock in the morning and to run for kilometres; that is a choice they make. The important thing for those people who want to achieve state selection and represent this State at a national or international level is that we bring in testing for drugs. As we know, there are many performance-enhancing drugs or additives.

This Bill will ensure that our elite athletes are role models who will be cause for the motivation to undertake physical activity right through the layers of people in our community. I am a great supporter of physical activity and sport and of motivating young people to be active. That is very important at that elite level.

I now turn to a couple of issues of interest to me concerning the nature and cost of the testing. We know that drugs can be tested in a number of ways. In the first instance, a blood test is considered invasive. As I have said, if people choose to be elite sportspersons, a blood test should not be considered invasive. The other major test is the urine test.

A number of drugs or additives can be interpreted as performance enhancing substances; for instance, hormones - particularly in young women - can be introduced chemically or naturally. This is why, if we are putting some testing in place, we must ensure that we do not just develop a chemical race or a hormone race. We have to make testing very specialised, which leads me to another point: the issue of costing and who funds those tests.

If people put themselves into the public arena, as we do as members of Parliament, they become public figures and public property. If people want to attain elite levels in sport - and we are looking at testing for state selection - it is

important that we have this testing and also support the merit of building case histories for athletes, so that whatever testing is done it is much easier to detect sudden substance abuse for enhancement of efforts of sportspeople. Case histories of elite sportspeople are very important. That could be done by a full physiological profile, which could include skin folds, red corpuscle blood counts, white corpuscle blood counts, aerobic levels, hormone levels and even bone density. All of those tests can determine whether a sportsperson has shown a variation in hormone levels or a variation in the build-up of bone density, for instance, or white or red corpuscles. This testing must accommodate variations. We are probably all aware of the young girl who was denied the gold medal she won at the Olympics. She had influenza and her doctor had given her Codral. Anyone who has an understanding of physiology knows that if a person is not well and is suffering from a severe flu, the build up of white corpuscles is a natural physiological outcome. A secure, safe and methodically built case history of elite sportspeople will contain those details. If an athlete presents himself or herself at a competition for state selection, any variation will show up.

We also know that hormone-based drugs are often used by young women gymnasts for the simple reason that the natural development that occurs as a result of changing hormones can have a negative effect on their performance. I find that response most discomforting because young women should be able to develop naturally. Some countries will go to great lengths to evade detection of performance-enhancing drugs because sport is so political and they gauge their political status against their sporting achievements. State selection processes should involve the very careful compilation of case histories. The information should be well documented so that any variations can be noted if drug testing takes place. Case histories provide a benchmark or record against which we can measure changes.

The information gathered about these elite athletes could have other benefits. Their hormonal and physiological benchmarks could prove very useful. For example, if Cathy Freeman were to develop diabetes, which is common in Aboriginals, but her case history showed no record of it, the way she dealt with it could be held up as a good model for young women and young Aboriginals who are diagnosed with the disease. The histories would also show up variations in bone density and eating disorders. I mentioned that previously in relation to gymnastics and lightweight rowing.

Of course, we must deal with who will fund the development of the case histories and the testing program. We could encourage pharmaceutical companies and sporting companies to become sponsors. Elite sportspeople often wear sports shoes or clothing provided by sporting goods manufacturers. It would send a positive message if large pharmaceutical companies, which make enormous amounts of money out of legal drugs, were to be seen supporting drug testing.

This testing must be done thoroughly and not only at the state selection or regatta level. We need to build a profile of elite sportspeople, but it will cost a great deal of money. I understand that after the Olympics, funding for the Australian Sports Drug Agency dropped away. It is very important that this legislation be enacted to ensure that people know that our sportspeople are drug free from beginning to end. As other members have said, it is also extremely important to ensure that we fund thorough testing for performance-enhancing drugs so that aspiring young athletes or sportspeople can hold their role models in high regard and know that they have achieved those heights through hard work, dedication and motivation in a drug-free environment. The costs will be enormous. This measure should attract funding from not only the Government but also other relevant bodies, because it has a huge number of spinoffs.

I commend the statement in the second reading speech that -

The legislation is a key element of the State Government's comprehensive strategy towards drugs in sport that includes a legislative base, education programs and policy development.

I have referred to developing case histories for elite sportspeople. That would be a very positive policy development to take on board. If that were done, it would be very much easier when sportspeople present themselves for state selection to compare their test results with their case histories. That is particularly relevant for young women, whose hormones change dramatically on a cyclical basis, and for all other sportspeople who may be dealing with a health issue. As I have said previously, if a sportsperson is being treated for a virus or influenza, that will have an effect on his or her test result. We know that growth hormones have been used by some countries to hold back growth, particularly in those sports that require participants to have a very slim and lightweight body to succeed. We must ensure that the race to be the best in the world is not confused with a race to produce superhumans who do not provide us with good role models.

Policy development and education programs must be undertaken at the grassroots level. Every sporting body must be made aware that young people go into sport and achieve only if they are drug free. Of course, one of the advantages of building case histories for elite sportspeople is that any new drugs can be detected more easily. We must face the fact that drugs and politics are very closely associated and that new drugs come onto the market all the time. Performance-enhancing drugs take many forms. We must ensure that we have these case histories so that we can detect any minor changes that might influence performance.

I will spend a little time dealing with the benefits of role models and the importance of having drug-free elite athletes. I do not normally speak about family matters, but Ben Allan is my nephew. He was a champion footballer and played for the Claremont Football Club. He was then selected to play for the Hawthorn Football Club, which he did, after which he returned to Western Australia to play for the Fremantle Dockers. Ben is a very disciplined young man who has a high level of fitness and has never touched a cigarette or alcohol, let alone any form of performance-enhancing drugs. He is a great role model just as, in my personal experience, are the elite rowing athletes selected for the World Games,

such as young Stuart Reside, who was only 18 when he won the world junior sports gold medal in Scotland. We were there to watch him. He and Mike Evelegh also won the pairs race. Those young people are admired by others. It is important that we promote a healthy side to sport and ensure that sport is supported everywhere.

The young man selected from Western Australia to carry the flag at the closing ceremony of the Olympic Games gave us great pleasure. He knew secretly that he had been selected, but he was unable to tell even his parents. He has a Yugoslavian background and went to Trinity College in Perth. He won the junior world title and will probably compete at the next Olympic Games. Young people in all disciplines who are elite athletes carry a huge responsibility to their peers and to younger people looking up to them. We made the distinction between elite sportspeople and people who just participate. It would be dangerous, however, if we were to concentrate all our efforts on only elite sportspeople. We must encourage grassroots athletes, but maintain good role models at the top so that young people can aspire to be champions and achieve their goals.

In banning the use of performance-enhancing drugs, the Government should be mindful that the type of drugs will change, probably daily, due to links with countries that are determined, for political reasons, to have their athletes win. We must keep the nature of our sport pure and clean, and ensure that anyone who is sponsoring elite sports does so with the sole purpose of encouraging others to participate and to be drug free. I hope that the education programs developed under this policy will be geared towards encouraging young people of all ages to participate in sport and to ensure that they never need to use performance-enhancing drugs to achieve. That is extremely important. This is very good legislation, which I support..

HON BARRY HOUSE (South West) [2.23 pm]: I also support the legislation because of the prominent role that sport plays in the very fabric of the Australian lifestyle, the hard, competitive, but fair, way Aussies compete successfully and the prevailing attitude that anyone who resorts to unfair tactics by using performance-enhancing drugs is a cheat. The legislation deserves support on that front alone.

Sport is close to the hearts of many Australians, although the odd association exists such as the Anti-Football League in Melbourne, which has about seven members. The Melbourne Football Supporters League on the other hand has about seven million members. By and large, Australia is a remarkable sporting nation. Its success on the international stage is a source of great pride and national identity to us all. We are all aware of Australia's magnificent effort at the Olympic Games last year as a showcase for this country. Australian sportsmen excel internationally in sports such as tennis, golf and hockey. They are acknowledged as being fair but extremely competitive.

Sport has been an important part of Australian life for 200 years or so, reflecting not only our national pride but also our fitness, wellbeing and individual and community development. There is no better vehicle for character building than sport, for both young and old people. We do not necessarily have to restrict sport to an age group or background. If I keep talking along these lines I will get myself into strife! Sport should be available to every Australian who wants to participate in it, as many do.

I am most interested in cricket, in which I am directly involved, although I am something of a sports nut about most disciplines. In terms of sports' prominent role in our national identity, Australians were playing cricket overseas as a nation well before Federation. As we know, Federation occurred in 1901 and this is the year of the centenary of Federation.

In the 1860s or 1870s the first international cricket team was an Aboriginal team, which travelled to the United Kingdom. An article was written recently about that team. They were superb natural athletes, but reference was made to the fact that perhaps they were over there more as exhibits than for their cricket prowess. They toured as Australians rather than as Victorians, Queenslanders or New South Welshmen. Australia started playing test cricket as a nation 25 years before the formation of our nation.

Hon N.D. Griffiths: It was in 1877.

Hon BARRY HOUSE: Yes, that makes it 124 years ago. Since the early days of Australia's establishment as a nation, the role of cricket has been central. The second most important and influential job in Australia after the Prime Minister's is often considered to be that of captain of the Australian cricket team. In many ways -

Hon Dee Margetts: Why did you say, "after the Prime Minister's?"

Hon BARRY HOUSE: I am sure that for many people the position of captain ranks much higher than that of Prime Minister.

Hon G.T. Giffard: The Prime Minister covets the cricket captain's job.

Hon BARRY HOUSE: I am sure he does. The Prime Minister has even said he is a cricket tragic and would willingly swap his role in politics to be the Australian cricket captain.

Hon N.D. Griffiths: Thank heavens he is the Prime Minister and not the captain of the cricket team.

Hon BARRY HOUSE: That is what the Opposition says. We have a great Prime Minister and a great cricket captain. What more could we want? It is interesting that cricket is acknowledged at the highest level in Australia. The Prime Minister's XI plays in an annual event against visiting international teams. I am not exactly sure when it started -

Hon Dee Margetts interjected.

Hon BARRY HOUSE: Does Hon Dee Margetts reckon they were tested for drugs?

It may have begun in Menzies' era because he was a cricket devotee. Menzies' media adviser at one stage was Jack Fingleton, a former test cricketer, and his involvement may have been the origins of it although it may have gone further back than that. However, it fell by the wayside during the Whitlam and Fraser years. To his great credit, it was reinstated by Bob Hawke. He fancied himself as a cricketer. He played a bit of second and third-grade cricket for the University of Western Australia during his earlier days as a student. He has always been a get-up-and-go sort of character. We all recall him getting his glasses broken by a smack on the nose by a cricket ball. Good on him, he resurrected an important icon of Australia's identity. The tradition was continued during the Keating years and, although I do not think that Paul Keating had a particular interest, to his credit, he kept it going. It has certainly been kept going under John Howard who, as I said before, is a self-confessed cricket tragic.

John Howard initiated, I think earlier this year, a Prime Minister's XI versus an Aboriginal and Torres Strait Islander Commission XI as well. I think it was the first game of its type. A photograph of the Aboriginal team representing ATSIC was displayed prominently in the newspapers. I cannot recall the exact words, but the coach at the time made comment to the effect that no attention was paid to the development of cricket among Aboriginal people in Australia. I took an exception to that remark because I am involved in a program which is having great success with the development of cricket in the Aboriginal population. I will tell members more about that later.

I guess I am privileged that in my younger and fitter days I played the game at a fairly high level with people who are much more talented than I am. Now I am restricted to the odd game of tennis with Hon Bill Stretch, and my colleagues Arthur Marshall and Matt Birney from the other House. Modesty forbids me to say who won last week, but it is good occasionally to beat somebody who has played at Wimbledon. My interest and involvement in cricket goes back to the time when I first could hold a ball in my hand. I was privileged to go to South Africa with the Australian schoolboys touring team. That was a few years ago. I played grade cricket in Perth with the likes of household names such as John Inverarity, Graham McKenzie, Bill Playle, Ross Edwards, Dennis Lillee, Rod Marsh, Bruce Laird and Kim Hughes. They were fantastic role models to me as I developed through life.

Hon N.D. Griffiths: You had a relative who played for Western Australia, did you not?

Hon BARRY HOUSE: Yes, my cousin played for the State.

Hon N.D. Griffiths: Was his name Graham?

Hon BARRY HOUSE: Yes, it was Graham. We had a family team at one stage. I played in 16 country week competitions. In quite a few of those competitions, the Busselton-Margaret River Association had seven houses in the team.

Hon Kim Chance: Almost a block of flats!

Hon BARRY HOUSE: Yes. I might add that during that time we did not indulge too much in performance-enhancing drugs.

Hon N.D. Griffiths: Who carried the drinks?

Hon BARRY HOUSE: I was exposed to quite poor role models in my first few country weeks. We used to go to the pub for lunch.

Hon Kim Chance: I was thinking of the huge brain damage caused by 16 country weeks.

Hon BARRY HOUSE: I was trying to cope with that. I almost forgot the point I was trying to make.

Hon N.D. Griffiths: We know why!

Hon BARRY HOUSE: The point is that playing sport with people of the likes of John Inverarity and Graham McKenzie gave me a great boost. There was no question that they resorted to anything other than fair, hard, competitive play to achieve their ends. Those guys are household names in Australian sport, and particularly in Western Australia. They achieved greatness through their talent, hard work and commitment.

It is interesting to note the injuries that Dennis Lillee suffered early in his career, and the rehabilitation he underwent to regain his ability to play at the very highest level and do so well at that level. Members may recall that his back problems came to the fore during a tour of the West Indies in the early 1970s. This was after he proved during the 1972 tour of England that he was up there with the very best of them. Suddenly he became crippled and could not get out of bed. Through sheer hard work, dedication and the application of sports science, he managed to rehabilitate himself and develop his muscular structure to offset his skeletal problems. The way he did that made him a role model for people who are undergoing rehabilitation. He could not bowl for a year, and during that time played A-grade cricket in Perth as a batsman. Just before the finals that year, he suddenly got the urge to bowl again. He managed all right and he was then back in the best of the test teams the following year.

A regrettable comparison I draw is that of Duncan Spencer. As members know, he was a terrific fast bowler for Western Australia. He resurrected his career last year to come back and play state cricket, but he was exposed by a drug-testing program and subjected to, I think, an 18-month ban because he had used anabolic steroids, an illegal substance. He probably tried to cut a few corners, resorted to an illicit substance and paid the penalty. At the elite level of sport perhaps money has an effect on people, because the money at the highest level is significant. People obviously strive to get back into the game as soon as they can. We have seen that in Australian league football with Justin or Sean Charles - I cannot remember which.

Hon G.T. Giffard: It was Justin I think. He is the big one and Sean is the little one.

Hon BARRY HOUSE: Yes, he was banned because he was using anabolic steroids. At times people such as Alistair Lynch of the Brisbane Lions have suffered unintended consequences. He was using anabolic steroids to overcome chronic fatigue syndrome and needed special dispensation to use them. He was able to continue his career and, as we all know, he is still playing and doing well.

Other sports have been more prominent in the media. Cycling is probably Australia's Achilles heel in drug use and international exposure. All sorts of innuendos are made about international cyclists at the highest level. Members who are taking an interest in the Tour de France at the moment, will know that pointed references have been made to Lance Armstrong's association with a certain person who heads an international drug company. Cycling perhaps has a way to go.

By international standards, Australia has been exceptionally good in swimming. There have been one or two indiscretions; for example, there was an unintended consequence when Samantha Riley took a headache tablet for which she was pinged. Generally, Australians are very embarrassed by the exposure of any Australians who indulge in illicit drug use to enhance their sporting performance. That is the way it should be. As a nation we should stand behind those principles.

On the subject of cricket, I am still involved in the administration of cricket as President of the South West Cricket Association. It operates a cricket development program in conjunction with the Western Australian Cricket Association, first, to get as many young people playing cricket as possible, and, secondly, to identify talent to try to open up career paths. I am pleased that Hon Barbara Scott mentioned the role of Healthway. Healthway provides a filter for the proceeds of the use of harmful drugs in our society towards worthwhile community development objectives, and it does it well. I can recall when Healthway legislation was introduced into this place about 10 or 12 years ago. There was some concern at that stage that it would become a political vehicle for the Government of the day. During that 10 to 12-year period, I saw no evidence of that under Governments of both persuasions. Healthway has adopted its role very successfully to pursue drug-free messages in our community. It puts a bit of money into the South West Cricket Association's cricket-coaching clinics. That message is always in the background for young kids involved in cricket or in any sport. It is a healthy pursuit to filter the profits from a very harmful, distasteful industry.

Like other members who have spoken, and as one involved in the administration of a sport, I am concerned about the cost of local testing. I am not suggesting that our association, for instance, or individual cricket clubs at the same level at which I am involved, will be affected directly. Many sporting bodies which, in the main, consist of volunteers will be asked to fund this drug-testing program. That will be financially depleting for many sporting bodies.

For many members of the Aboriginal community sport is even more vital than it is for the Australian community in general. I have mentioned the program in the south west to which some money is allocated by the Lord's Taverners, which is an organisation of cricket devotees. It channels money through our association so it can support the development of cricket in the Aboriginal population in the south west. We have been involved in this for three seasons. During the first season, Aborigines in Bunbury, Collie, Busselton and Manjimup were encouraged to play cricket not in a rigidly structured way, but in a carnival. The following year, a senior side was put together at the request of players. It played in the Bunbury B-grade competition and did extremely well. It played again this season and a junior team has also been added, which is very encouraging. Both teams have done well. Next year there are plans to take that further and, hopefully, another junior team will be developed. Some people who have been initiated into the game now want to play at a higher level. A couple of them are going to another club so they can play A-grade cricket. The whole program is being encouraged and has gone very well. Following the story and photograph of the Prime Minister's XI versus the Aboriginal and Torres Strait Islander Commission Chairman's XI, I wrote to the coach, care of ATSIC, telling him not to be too critical because I know of some other examples around the nation in which good things are being done for Aboriginal development in cricket. I have not received a reply yet.

In my role as Parliamentary Secretary to the Minister for Education, I worked on a project involved with initiating and encouraging Aborigines into education through sport in Port Hedland. I encourage the Government to take up and pursue that project. In broad terms, the program in Port Hedland used sport and recreation as a catalyst for consistent attendance at school or a training course, which is mandatory to continue participation in the program. Strong parental involvement was encouraged as well. Some of the aims included the development of shared-use, jointly managed sports facilities on land adjacent to the Hedland Senior High School and Pundulmurra College; the development of the Port Hedland Primary School and Hedland Senior High School as active schools at which sport and recreation are

integral to the curriculum; the participation of teachers and students in daily organised physical activities; the establishment of strong links with local sporting clubs; and the fostering of leadership programs such as sports fun, which is a Department of Sport and Recreation program, in which secondary students are trained and then fulfil the role of coaches at local primary schools. The whole idea was to integrate sport into community development in Port Hedland and to readjust facilities if necessary. Through sport, which most Aborigines are interested in and are very talented at, they can pursue careers. It is terrific for their personal development. The opportunity for substance abuse is reduced. The whole point is to develop role models in the Aboriginal community and that, in turn, generates more success. I will not go through the rest of the program, but it involved the high school in Port Hedland, Pundulmurra College, the Eastern Pilbara College of Technical and Further Education and the North West Academy of Sport program. The parliamentary secretary should take that message to the Government; he should not let it die. Some good work was done to lay the foundations for it. We had not moved much past the foundations, but that is one of the best ways we can promote healthy lifestyles and a better community all round.

The legislation is important for our national identity and our national focus on sport. It is important for us as a drug-clean country, where the attitude taken is to compete hard but fairly and that anybody who resorts to performance-enhancing drugs is a cheat. Those cheats need to be exposed and taken out of the sport. I am sure we all have some doubts about whether technology can keep up. We have seen it on the international stage. Drug companies seem to be able to stay one step ahead in many cases. However, we should never give up the fight. It is important that we put into prevention as many resources as the drug companies put into the creation of these drugs. With those few comments, I support the legislation.

HON G.T. GIFFARD (North Metropolitan - Parliamentary Secretary to the Minister for Sport and Recreation) [2.50 pm]: I thank all the members who have spoken in this debate for their contributions. I acknowledge that everybody who has spoken has indicated their support of the Bill, and I thank them for that. I probably have as many issues to address as clauses in the Bill, because there are only seven. First, I will address the issue raised by the Leader of the Opposition about acknowledging the work of the previous Government in the development of this Bill. He indicated that the first time this Bill came before the House, one got the impression that its introduction was the a result of work done by the new Government. He noted that the work of the previous Government was not mentioned in the second reading speech. I am not entirely familiar with the protocols or the formalities regarding what normally goes into a second reading speech. I acknowledge that in the second reading speech no reference was made to the work of the previous Government. However, I say to the Leader of the Opposition that I have no difficulty in acknowledging the work of the previous Government in the development of this Bill. I also point out to the Leader of the Opposition that the minister is on the public record as acknowledging the work of the previous Government. It was not a deliberate omission on the Government's part, and the Leader of the Opposition should not think that.

A number of speakers mentioned the cost of the tests, which is approximately \$550.

Hon B.M. Scott interjected.

Hon G.T. GIFFARD: For any test that the Australian Sports Drug Agency conducts under the legislation, the flat charge is \$550. The advice I received when we introduced the Bill was that it was \$550 - it is in that order. The cost of the tests is expected to be absorbed by the state sporting association that is connected to the athlete or athletes. Strictly speaking, the legislation provides that the requesting agency bear the cost of the test. Therefore, if a state sporting association or the State Government requests a test, it will bear the cost of it. One speaker said that it would be very difficult for some clubs to meet that cost. However, I point out that it is the sporting association at the state level that will bear the cost of a test, not the individual clubs. I note that many sporting associations already receive funding from the State Government to conduct their operations. Although it is not an invitation from the Government, no provision denies them the opportunity to seek supplementary funding from the Government. If an organisation receives funding, there is no reason that it could not approach the Government for supplementary funding. Although an organisation may not have the money, it may want to have a drug-testing program. It could ask the Government for help in finding the money.

Hon B.M. Scott interjected.

Hon G.T. GIFFARD: Although we have this legislation, the sporting associations will enter into agreements.

Hon B.M. Scott: They will put forward the athletes who will represent the State, and then they will have a responsibility to test them.

Hon G.T. GIFFARD: The state sporting associations, yes.

Hon B.M. Scott interjected.

Hon G.T. GIFFARD: If a person is in a state squad, he or she is available for testing.

Hon B.M. Scott: I understand that, but I thought the legislation would make it a prerequisite to represent the State that a person be tested.

Hon G.T. GIFFARD: No - not every person will be tested. It is not a prerequisite. A high percentage of the budgets of some sports will go towards drug testing. It will be carried out in the same way that it is carried out in the Australian Football League. It is random testing, and it is not envisaged that every athlete will be tested.

Another point raised was whether the cost of the tests was so high because Western Australian samples must be sent to the eastern States. I think the Leader of the Opposition raised that issue. I have inquired about that. The cost of the test conducted by ASDA is \$550 or thereabouts. The cost in Western Australia is the same as it is in Victoria and New South Wales. It does not matter where a person is tested; ASDA charges that fee for a test. Therefore, it is not a matter of trying to bring in efficiencies to lower the cost of testing by having it done in laboratories in Western Australia, because the charge is the same.

In supporting the Bill, Hon Murray Criddle indicated that he would like the legislation to cover lower levels of sport. I suppose it is a question of practicalities. The purpose of this legislation is to bring state representatives into line with the national framework. Given that I have just spoken about the cost of testing, I think that extending the legislation to sporting organisations at a lower level would obviously have much more adverse cost implications for those associations. Therefore, at this stage the scope of this Bill deals with state-level sporting representatives; it does not extend any further than that.

Hon B.M. Scott: Do you know who will choose the sports to be randomly tested?

Hon G.T. GIFFARD: If a state sporting association or the State Government requests a testing program, it will ask ASDA to conduct that program. ASDA would then select persons for that. The short answer is ASDA.

Hon Giz Watson raised the issue of the drugs for which people are tested. The purpose of this Bill is to extend the rules that prevent drug taking in sport, in particular by Western Australian sports representatives. The second reading speech, which no doubt members have read, referred to scheduled drugs or doping methods. The schedule is set by the International Olympics Committee. As the Leader of the Opposition noted, this is complementary legislation. It is designed to fit into a framework so that the testing regime for the state, national and international framework is the same. The schedule of drugs comes down through those levels of sporting competition. I am not sure it would do us any good to get out of synchronisation with that, if we aspire to have our athletes graduate from the state level to compete in national and international sporting events. I point out also that an extensive education program will be conducted prior to any tests being carried out. Hon Barbara Scott mentioned that aspect. Athletes will be educated about the effects of drugs; not just told that they should not take them but also educated about their potential negative effects.

Hon Murray Criddle also raised a question about parents who refused permission for their child under the age of 18 years to be tested. The legislation requires that parental permission be gained before any person under the age of 18 years is tested. If parental permission is not obtained, the testing will not be carried out. This provision conforms to the national framework because that is how the other States operate.

Hon B.K. Donaldson: Will it be amended at another stage when you provide for 16-year-olds to vote?

Hon G.T. GIFFARD: If the voting age is amended, or is proposed to be amended, at another stage, no doubt Hon Bruce Donaldson will be able to draw out some interesting comparisons.

Hon Barbara Scott also mentioned the question of civil liberties, but I note that she supports the Bill regardless of the argument about civil liberties.

Hon B.M. Scott: There are arguments against that argument.

Hon G.T. GIFFARD: That is right. The Bill does not compel state sporting representatives to be tested for drugs. It provides for random testing of those persons. If a person refuses to take a drug test, then ASDA can place his or her name on the register of notifiable events. State sporting representatives whose tests prove positive will have their names entered on the register of notifiable events, and the national or state organisation will deal with the question of sanctions. If a person refuses to provide a sample, without reasonable cause - that is determined by ASDA - ASDA has the right to place his or her name on the register of notifiable events, in which case the national or state sporting organisation will deal with the question of sanction. The legislation does not make tests compulsory, but people who refuse to take a test may have their names placed on the register and be punished accordingly. Those who have a reasonable explanation for refusing the test, will not be penalised.

Those are the only issues pertinent to the Bill that I wanted to discuss, because they were raised by many members. This is important legislation, and many members have indicated how important sport is to Australians and Western Australians. It is important that we be proud of and confident in our high-level athletes and their achievements. This complementary legislation will continue to raise the standards. It is worthy legislation and I commend it to the House.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon George Cash) in the Chair; Hon G.T. Giffard (Parliamentary Secretary to the Minister for Sport and Recreation) in charge of the Bill.

Clauses 1 and 2 put and passed.**Clause 3: Interpretation -**

Hon B.M. SCOTT: The parliamentary secretary may be able to clarify the details of the commonwealth Act. During my speech I referred to the variations of samples that could be taken when conducting urine or blood tests and the variations of hormone levels and physiological differences in testing. Will the parliamentary secretary explain how "sample" is defined under the commonwealth Act and how it will be interpreted for sportspeople? Will that vary physiologically with findings of different impacts of different drugs on different human beings?

Hon G.T. GIFFARD: The interpretation and meaning of the word "sample" are determined by the International Olympics Committee's schedule of prescribed drugs and are set by the International Olympics Committee's medical committee. The definition is that set by the IOC. It is accepted as a natural occurrence that the impact of testing will vary between athletes. However, a test is deemed to be positive when the sample tests higher than the range that is accepted as occurring naturally.

Hon B.M. SCOTT: I appreciate that explanation, but I was specifically asking whether the legislation would determine that the samples must be urine or blood. Will samples vary with technological advances? We know that as the drug companies develop different performance-enhancing drugs, the chemicals will be different. Are we able to say that "sample" has the same meaning as it has in the commonwealth Act, and would that provide for a saliva test to be taken to keep up to date?

Hon G.T. GIFFARD: Until the 2000 Olympics, only urine samples had been taken for the standard test. A blood test was developed for the Sydney Olympics that tested for the drug erythropoietin - EPO. The commonwealth Act, which is referred to in this legislation, allows for developments within the IOC as it updates its sampling capacities and procedures. The commonwealth jurisdiction allows that to be adopted into the commonwealth arena as well. We do not have to amend this legislation every time the IOC develops its own techniques and procedures; that just allows the commonwealth to adopt whatever the IOC uses.

Hon B.M. SCOTT: I spoke about developing case histories for elite sportspeople. Sports science has a very valid theory of fairness and develops a case history for sportspeople, so the variables of performance, chemicals and physiology can be accommodated. Is there any ability within this sampling to consider the case histories of individual sportspeople?

Hon G.T. GIFFARD: If individuals take prescription drugs, when they are tested they are required to provide evidence supporting the use of those drugs. The information provided by athletes about those sorts of issues is checked at a national level, so to that extent those athletes will have a case history.

Hon B.M. SCOTT: I thank the parliamentary secretary for that answer but it does not answer my question. When developing a case history of an individual athlete, a record can be kept of skin folds, aerobic levels, levels of red and white blood corpuscles and that sort of thing. This has nothing to do with chemical invasion of the body, but a lot to do with hormonal changes and variations because of an illness. Can we be assured that the sampling will accommodate the variations of the naturally changing physiological elements in the elite sportsperson's body? I am concerned about an element of fairness.

Hon G.T. GIFFARD: If the test result is within a naturally occurring range, all the factors the member has mentioned will be taken into consideration. This establishes the range of naturally occurring levels and accommodates all the issues the member has raised. If the test result is above that range, it is ruled as not naturally occurring and is recorded as positive.

Hon B.M. SCOTT: I would like clarification of the reference to a "WA competitor". The Bill provides that that means -

. . . a person, other than an Australian competitor . . .

(d) whose name is entered on a register under the Commonwealth Act.

I imagine that is inclusive of all the others. In some sports - particularly in developing young lead oarspeople in which I have been involved - a large squad of competitive young people want to claim a spot in a state team. I understand that we would want to random test those squads at some point. Will entire squads be well prepared for random tests? Will a benchmark be the development of case histories of all aspiring young sportspeople to ensure fairness? This is wide-ranging when one considers entire squads of young people who are trying to achieve state selection. I want clarification of paragraph (d). Does it include all the others and those whose names have been registered under the commonwealth Act? Is someone who wants to be a state gymnast, diver, rower or whatever named under the commonwealth Act?

Hon G.T. GIFFARD: Paragraph (d) refers to the register of people who have already tested positive to a banned drug. As a consequence, they may be dropped from a squad. They might not necessarily be covered by paragraphs (a), (b) or

(c). Therefore, paragraph (d) has been included to enable such people to be tested again, even if they are not in a squad, to establish whether they are still using performance-enhancing drugs.

All state squad members will go through an extensive education program. After that, Sports Medicine Australia is expected to provide further advice to all athletes in state squads. After those two things have been done, state squad members will be subjected to random testing. As I said, it is not anticipated that all of them will be tested, but they will form a pool from which those random samples will be drawn.

Hon B.M. SCOTT: My concern about paragraphs (b) and (c) is the added impost on amateur sporting associations in Western Australia that have large squads of young people in training. Squads may have 20, 30 or 40 members. Will this impose a cost on amateur sporting associations and will they be required to keep detailed records? I am referring not only to those on Western Australian Institute of Sport scholarships - the details of those sportspeople would be well documented. However, many people not in those programs are training for state selection.

Hon G.T. GIFFARD: Individual state sporting associations will be required to keep accurate records of state squad members, which we expect they will keep anyway. They will be identification records. The records are provided to the Australian Sports Drug Agency, which is able to identify who they are and who they can choose to take the samples. I appreciate the member's comments about the size of the squads. However, in many sports that will represent a relatively small number of athletes. Hundreds of athletes may participate on an intrastate competition level, but only a small squad will be selected to represent the State.

The state sporting association will be required to provide only that personal identification information to the drug testing authority when drug samples are taken.

Clause put and passed.

Clause 4 put and passed.

Clause 5: Competitors under 18 -

Hon RAY HALLIGAN: This clause appears to create ambiguity. It provides that before competitors under 18 years of age can be asked for a sample, written consent must be given. I understand that. Under subclause (2) a refusal by a parent or guardian to give consent is not a failure by a competitor to provide a sample, and the individual's name will not be included on the register as having failed to give consent. Will inferences then be drawn that because a parent or guardian did not consent to a sample being taken, therefore there must be something wrong with the athlete who is under 18 years of age?

Hon G.T. GIFFARD: The insertion of clause 5 acknowledges that people under the age of 18 will be involved and that there is an element of intrusiveness about drug testing those children. If a parent or guardian refuses to approve testing, as the clause states, ASDA cannot place that person on the register of notifiable events, as opposed to an adult person who does not give a reasonable explanation. The purpose of this is to provide that if a competitor is under 18 and a parent or guardian refuses a test, that assumption cannot be made about him or her and his or her name cannot be put on the register. It is not worded in the sense that if a parent objects a child cannot be tested; consent is required before a child can be tested. It is not a matter of parents objecting; it is a different emphasis but it recognises those considerations.

Hon RAY HALLIGAN: I thank Hon Graham Giffard for that explanation. It seems then that it is possible to override the fact that consent was not given. I understand the intrusiveness aspect. However, if people under 18 were able to convince their parents to always refuse consent, they could take whatever drugs they wanted. Would that be the case?

Hon G.T. GIFFARD: I have tried to clarify why that clause was included, although I understand Hon Ray Halligan's perspective. The Government's emphasis is the respect and protection of people under the age of 18 from the invasiveness of testing. If a juvenile under 18 years wanted to hide behind that clause in the way Hon Ray Halligan described, in theory he could do that. However, when he turned 18 he would not be able to continue to do so. It is not the intention of the legislation to provide for that sort of attitude.

Hon DERRICK TOMLINSON: How will his explanation apply to a sport such as gymnastics, in which competitors tend to be juvenile and not many continue in elite competition beyond the age of 18?

Hon G.T. GIFFARD: There is no distinction between sports in the legislation. Before the drug testing program is undertaken an education program will be provided for all athletes who are available for testing. Advice will continue to be available to provide counselling for those athletes. The legislation does not prohibit testing of people under 18. It allows parents or guardians to refuse permission to test. Athletes can still be tested if their parents or guardians say yes to the testing.

Hon Derrick Tomlinson: What if they say no?

Hon G.T. GIFFARD: If they refuse, the scenarios mentioned earlier will be available. A range of initiatives will be implemented to make them aware of the issues involved with drugs in sport and to counsel and advise people on appropriate behaviour.

Clause put and passed.

Clause 6: Agreement about performance of functions -

Hon DERRICK TOMLINSON: The effect of clause 4 is that the functions of the Australian Sports and Drug Agency will apply to Western Australian competitors as though they were Australian competitors or, conversely, as though the relevant sections of the commonwealth Act were a Western Australian Act. However, clause 6 states that those functions must not be exercised by ASDA unless an agreement is in force between ASDA and the minister. I assume that refers to the Western Australian minister and not the commonwealth minister, although it is not clear in the Bill. What will be the nature of that agreement?

Hon G.T. GIFFARD: The minister referred to is the Western Australian minister. The purpose of this Bill is to give the ability to the minister to enter into the agreement with ASDA that is referred to in clause 6. At the moment the minister does not have the ability to enter into that agreement. This is the purport of the debate that we have been having. The agreement will allow for ASDA to conduct the testing under all of the conditions that we have been discussing.

Hon DERRICK TOMLINSON: It is an agreement between ASDA and the minister to enable ASDA to carry out functions upon Western Australian competitors?

Hon G.T. Giffard: Yes.

Hon DERRICK TOMLINSON: What will be the nature of that agreement? Who will know about the nature of that agreement? To what extent will competitors or sporting agencies be able to read, understand and see the application of that agreement to competitors? To what extent will it be transparent? They know the content of the commonwealth Act; they know the functions of ASDA under the commonwealth Act; and they know what they must do to comply with or, if they want to, to cheat or avoid it. That is transparent. Here the agreement is between the minister and ASDA for the application of the functions of ASDA to Western Australian competitors. Who will know about that agreement and will it be transparent?

Hon PETER FOSS: I shall pose another question related to that of Hon Derrick Tomlinson which the parliamentary secretary might answer at the same time. Has he considered the effect of the Hughes decision on this legislation? Have any amendments been made as a result of the case of Hughes? In particular, how is this clause impacted on by the Hughes decision?

[Continued on page 1946.]

SPORTS DRUG TESTING BILL 2001

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon George Cash) in the Chair; Hon G.T. Giffard (Parliamentary Secretary to the Minister for Sport and Recreation) in charge of the Bill.

Clause 6: Agreement about performance of functions -

Progress was reported after the clause had been partly considered.

Hon G.T. GIFFARD: Before the break I was asked who will know about the agreement referred to in clause 6, who will read it and who will understand it. Hon Peter Foss also referred to the implications of the Hughes decision.

After the legislation is enacted, the Department of Sport and Recreation will have responsibility for developing the agreement in consultation with the Australian Sports Drug Agency. I understand that it has a standard agreement that it enters into with the States. Obviously the appropriate name changes will be made. That document will be signed off by the minister. State sporting associations will be able to obtain copies of the agreement from the department and they will be able to provide feedback about the agreement if they wish. All state sporting associations that will be affected or potentially affected by the legislation will be advised of its enactment and will have their obligations explained to them.

The Bill was drafted prior to the Hughes decision and it was reviewed when the judgment was handed down. The advice from the Crown Solicitor and parliamentary counsel was that, notwithstanding the Hughes decision, the Bill could be and should be progressed. I cannot provide a more detailed legal explanation of why the legislation is not caught by that decision, other than to say that it was reviewed.

Hon PETER FOSS: It is an interesting point. Perhaps it would be worthwhile putting on the record some observations about how the Hughes decision may impact on this legislation.

Strictly speaking, this clause probably is not necessary to confer on the minister the power to enter into contracts. In fact, it constrains the power of the minister to enter into contracts. Often, when legislation comes before this Parliament it confers capacity on the Executive, which it has in any event. By conferring it in a particular manner it deprives the Executive of plenary power. The clause reads -

ASDA must not exercise any functions conferred by this Act -

There is no doubt this Parliament can say what ASDA cannot do. It continues -

- unless there is in force an agreement between ASDA and the Minister about the performance of those functions.

That is well within constitutional capacity. It further states -

An agreement between the Minister and ASDA may require ASDA to perform those functions in the manner, or subject to the conditions, provided in the agreement.

A commonwealth authority can enter into all sorts of agreements. The mere fact the entity is a state entity is again no problem. My only concern is that subclause (2) almost seeks to turn the nature of that agreement into something that is essentially statutory. Of course an agreement between the minister and ASDA may require ASDA to perform those functions in the manner, or subject to the conditions, provided in the agreement. Why say that? That can be done without being told. The fact it is in the Bill is a hint indicating that it should be there. If it says something is required to be done in that manner, it almost becomes statutory rather than executive. I am concerned about that. There is a little hint that that may have an impact. The good thing is that nobody will take it to court. Although the Hughes type of problem must have been around for almost a century, nothing happened about it until it was captured by Corporations Law when very moneyed people thought it worthwhile to challenge it. It is not likely that will happen in this situation, although some sports people are extremely moneyed and someone who has made a lot of money out of sport and is eliminated due to an ASDA test in a state contest may think it worthwhile to take action. That takes me back to the point that this whole area should be looked after by the Commonwealth. The Commonwealth should be involved in an international treaty to support this arrangement. It is unsatisfactory for this arrangement to be subject to a scheme of this nature.

Hon DERRICK TOMLINSON: In spite of the sentiments expressed by Hon Peter Foss that it is preferable that some such functions be carried out by a commonwealth agency under commonwealth law in conformity with international agreements, subclause (2) indicates a discretionary authority is available to the state minister. It reads -

An agreement between the minister and ASDA may require ASDA to perform those functions in the manner, or subject to the conditions, provided in the agreement.

The parliamentary secretary indicated that ASDA has a hatful of these agreements that it pulls out and flogs around. The expectation in clause 6(2) is that the Western Australian minister may have some requirement to impose upon ASDA. I believe that is in the federal system, which we all uphold and which is highly desirable. I hope I am correct in that interpretation and that there is a discretionary authority. Although it must be agreed to by ASDA before it goes anywhere, there is the authority and the power of the state minister.

Am I also correct in my expectation that nothing can be agreed to that is outside or in conflict with this Act; for example, under clause 5 a WA competitor under the age of 18 must not be tested without the prior consent of the competitor's parent or guardian? In other words, a competitor under the age of 18 cannot be compelled to be drug tested. I assume that that will apply even within the agreement and it could not contradict that clause.

Hon G.T. GIFFARD: It is part of the national framework. That is the standard and it is reflected in the Bill and will be reflected in the agreement. It is one of the drug-testing guidelines.

Clause put and passed.

Clause 7 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

HON G.T. GIFFARD (North Metropolitan - Parliamentary Secretary to the Minister for Sport and Recreation) [4.47 pm]: I move -

That the Bill be now read a third time.

HON DERRICK TOMLINSON (East Metropolitan) [4.47 pm]: I apologise to the House for speaking to the third reading; I know it is an unusual occurrence. However, my interest in sport is well known, as is reflected in my somewhat adipose physique!

Hon N.D. Griffiths: You watch a lot of it on television.

HON DERRICK TOMLINSON: I watch none and have no interest in any of it. I listened to the debate, particularly in committee, with some interest and concluded that perhaps this Bill should not proceed. My first concern arises from clause 5, which exempts competitors under the age of 18 from being subject to a drug-testing regime. My second concern is the process of adopting commonwealth laws by agreement. Although I respect that taking samples of tissue from a juvenile should be within the province and at the discretion of a parent or guardian and under the protection of a parent or guardian, the effect of clause 5 is to enable any Western Australian competitor who is under 18 years to take performance-enhancing substances, whether they be chemical, hormonal or any other form, and to compete at an elite level, succeed at an elite level and avoid detection. I listened to the parliamentary secretary explain that there is of course education, advice and counselling for all of those things. Yes, indeed, they are in place and, yes, indeed, they have been for some time. Yes, indeed, all elite athletes know the consequences of drug taking or the consumption or injection of performance-enhancing substances. They know through a process of education and counselling the consequences of being caught, but they still do it. Why do they do it? It is because they want to win. Whether they want to win for some financial gain or whatever buzz sportspersons get out of winning, I do not know, but they still do it. Furthermore, not only do they cheat in that way - it is fair to say it is cheating, is it not - they are aided and abetted by chemists, biochemists and snake-oil physicians who are constantly refining and developing products that are undetectable given the present technology. There is an industry associated with the avoidance of drug-testing regimes. People will cheat. People want to win. I am told that which drives an elite athlete is the desire to win, and for some the desire to win at all costs. If we relate that to our knowledge of international and national competition of the past 12 months -

Point of Order

Hon KIM CHANCE: The third reading debate, as I understand it, is not an occasion to raise matters relating to the policy of the Bill; nor is it an occasion to raise new material relating to the policy of the Bill or in support of arguments that go to that policy. It is an occasion, as I understand it, to address matters of why or why not a Bill may be read a third time.

The PRESIDENT: There is no point of order. The member did start off by relating specifically why the Bill may not be read a third time, but I will pay close attention to the point the Leader of the House raises of not canvassing once again the second reading debate or other non-relevant matters.

Debate Resumed

HON DERRICK TOMLINSON: Thank you, Mr President. I will try to avoid contravening the convention regarding the third reading. If I was introducing new material, it was in response to matters that had been discussed at the

committee stage. I was using that argument to demonstrate why this Bill should not proceed because the Bill does not meet the requirements of its own policy by clause 5.

An increasing number of athletes are under the age of 18 years. Therefore, an increasing number of elite athletes are succeeding at national and international levels of competition who under this Bill, and I assume under the commonwealth Act, will be exempt or will avoid the consequences of drug-testing regimes. It exposes a conflict of the desire to protect the interests of juveniles and the desire to protect the authority or discretion of parents and guardians of juveniles versus the desire to protect sports from cheats. Whether they are juveniles or not, if they rely upon performance-enhancing drugs and substances, they are cheats. If the Bill does not meet its expectations, it has no purpose.

The second reason is related to clause 6. Again, this was discussed during the committee stage of the Bill. In spite of expressions during the committee stage that it might be desirable to have a commonwealth regime that applies to the States and is consistent with international treaty obligations, the simple fact is that the application of commonwealth law is by agreement. We do one of two things: we give the power to the Commonwealth and allow the Commonwealth to legislate and regulate or we do it ourselves. I do not believe that the authority of this Parliament should be usurped by a process of ministerial agreement. That is what this Bill does. The parliamentary secretary said something to the effect that the purpose of the Bill is to enable an agreement between the minister and the Australian Sports Drug Agency that the minister is not otherwise authorised to enter into. If the Bill is about giving the minister the power to enter into an agreement that he is not otherwise authorised to enter into, the Bill is intended to transfer a power of the State to the Commonwealth by what appears to be a convenient method.

I would suggest that in spite of the admirable and perhaps desirable purposes of the Bill, there are better ways to regulate the use by elite athletes - particularly juvenile athletes - of performance-enhancing substances than this legislation. I therefore believe the legislation should not proceed.

HON RAY HALLIGAN (North Metropolitan) [4.59 pm]: I share the concern of Hon Derrick Tomlinson. The title of the Bill is “to provide for drug testing of persons representing Western Australia in sport”. In the light of clause 5, certain athletes can be involved in sport and not be tested. I wonder whether the policy should not be for the testing of certain persons, which is referred to in the second part of the title which applies to other persons participating rather than representing. The difficulty is that Ian Thorpe is only 18 years of age, has been swimming for many years and has many world records.

Hon N.D. Griffiths: What are you saying?

Hon RAY HALLIGAN: Only that many of our elite athletes are under 18 years of age. If this Bill is to do what it purports to do - that is, to drug test persons representing Western Australia - it appears to fall short because of clause 5.

Debate adjourned, pursuant to standing orders.