

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 other 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 discomfoting 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 Aborigines, 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 Aborigines 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

Hon Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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 Eveleigh 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 Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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.

Hon Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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 forget 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 Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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

Hon Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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 Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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.

Hon Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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 Barbara Scott; Hon Barry House; Hon Graham Giffard; Hon Ray Halligan; Hon Derrick Tomlinson; Hon Peter Foss

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.]

Sitting suspended from 3.45 pm to 4.00 pm