
TRANSCRIPT OF PROCEEDINGS

MEDICO-LEGAL SOCIETY OF VICTORIA

THE MELBOURNE CLUB

MELBOURNE

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"Drugs in Sport"

PRESENTED BY: THE HONOURABLE JOHN FAHEY AC

1 DR LYTHGO: If everyone is seated I think it is time we got
2 going. It is a great privilege to introduce our speaker
3 tonight, the Honourable John Fahey, and we thank you,
4 Mr Fahey, for your very generous response to our request
5 that you come here.

6 John Fahey was born in Wellington in New Zealand and
7 migrated to Australia in 1956 at the age of 10. He was
8 educated at Chevalier College in Bowral and at Melbourne
9 University where he graduated in Law. He entered the
10 State Parliament in New South Wales representing the seat
11 of the Southern Highlands and he was Premier from 1992 to
12 1995. In that time he was also Treasurer and Minister for
13 Economic Development. From 1996 to 2001 he was a member
14 of the Federal Parliament representing the seat of
15 Macarthur and was Finance Minister in the Howard
16 Government.

17 Sport has been a lifelong passion, I gather. He was
18 a notable rugby league player and a professional coach and
19 captain and has remained active in administration of rugby
20 league. From 2001 to 2007 he was a director and chairman
21 of the Bradman Foundation which, amongst other activities
22 promoting cricket, operates one of the premier cricket
23 museums in the world in Bowral, I gather.

24 He was also Chair of the committee that was
25 responsible for the bid for the Sydney Olympic Games, the
26 successful bid for the Sydney Olympic Games. In 2007 he
27 was appointed or elected president of the World Anti-
28 Doping Authority for a six-year term which finished last
29 year on 31 December last year.

30 His contributions to the community and to non-profit
31 organisations and his activity on various boards are

1 legion and really too long for us to even start listing.
2 He was appointed a Companion of the Order of Australia
3 which is our highest honour in 2002. Now, the AFL season
4 is hotting up and the drug question over that isn't likely
5 to go away. We have here tonight a number of our
6 colleagues who are very active in the Lycra Brigade who
7 are probably, I imagine, eagerly waiting to find out which
8 professional cyclist doesn't take drugs.

9 Now, there are also questions over some of the less
10 likely sports or the less obvious sports. Lawn bowls, for
11 instance, I was thinking of. I just wondered what the
12 World Anti-Doping Authority's attitude is to all of the
13 beta blockers that the bowlers are taking. And another
14 thought was synchronised swimmers, those pegs on the nose,
15 what exactly is under them? Who could be more qualified
16 to really help us in these observations? I welcome and I
17 ask you to welcome the Honourable John Fahey to enlighten
18 us.

19 MR FAHEY: Well, Marg, thank you very, very much for
20 comprehensive introduction and I thank each of you for the
21 opportunity to spend some time with you. I was asked to
22 do this by one of my colleagues, colleague directors, on
23 the board of Avant which I had been on and associated with
24 Avant and its predecessor for the best part of 10 years
25 and I was more than happy to say, well, yes, if you give
26 me a little bit of room on the date I will be happy to
27 come.

28 I started to think about it and I thought, well,
29 look, in my young days practising law I could not have
30 survived in my motor accident cases without really good
31 medical reports and I couldn't have certainly run so many

1 of those cases without the evidence of capable and
2 articulate doctors. So I presume that was part of why you
3 two are together; medico-legal. I thought, of course,
4 again, about our objectives in Avant and it is there to
5 assist, protect and safeguard the doctors so that they can
6 go about doing what they do and doing it well knowing that
7 there is a back-up.

8 Then I thought about my more recent years and where
9 I am now part of this, my wife describes it as the medical
10 merry-go-round. I started unfortunately with the removal
11 of a lung for cancer 12 years ago which is why I left
12 politics and in more recent times the rugby league that
13 Margo spoke of has required me to get the nose sorted out.
14 It has also required me to have a complete knee
15 replacement and I had something taken off my cheek just
16 last year. And every time I am about to go under
17 anaesthetic they push a piece of paper in front of me
18 which says, "Sign here." And I thought, "My God, doctors
19 can't work these days without a lawyer telling them how to
20 do it. First step: make sure you get the waiver and the
21 disclaimer." So I realised the connection.

22 I have then been informed to know that it has got
23 nothing to do with any of these things. But you just come
24 together because you like each other's company. It is
25 historical and you see it as something that you get an
26 enjoyment out of. So my whole thoughts have been changed
27 from the moment I got here this evening.

28 But, look, tonight I want to talk about something
29 that isn't well known and it isn't well known, if I could
30 suggest, because it is pretty new. They tell me that that
31 there were drugs in sport back to the ancient Greek times.

1 They tell me arsenic was used by the ancient Greeks to
2 assist in performance and I think there is some
3 considerable evidence to suggest that probably the
4 greatest Australia racehorse, Phar Lap, who died in the
5 United States, died because the trainer wanted to get some
6 performance enhancement through the use of arsenic as
7 well.

8 So we know that performance enhancing has been on
9 the mind of those connected with sport long before anybody
10 thought about the World Anti-Doping Authority. It started
11 though as a result of the failure year after year of the
12 Tour de France. And if you think back to the '80s and to
13 the '90s, year after year there was scandal after scandal
14 and some responsible sports administrators including my
15 predecessor, a Canadian who came out of the sport of
16 swimming who has been on the IOC for a long time, and a
17 really good man, Dick Pound, he was one of them.

18 They said, "We have got to do something about this.
19 We cannot continue to let what is a problem, clearly a
20 problem, and most recognise then and now as the biggest
21 single problem to the integrity of sport, performance
22 enhancing drugs. We have got to do something about it."
23 The IOC relented, reluctantly as I understand it, with the
24 then President, Juan Antonio Samaranch, and called a
25 meeting in Lausanne in 1999. They invited not just sports
26 administrators, but also governments come along to that.
27 And I think they lost control of the agenda because the
28 outcome was the formation of a body, one, was independent,
29 two, was international and, three, given the task of
30 developing a set of rules or code that would be obviously
31 harmonious around the world but applicable no matter what

1 the sport was, no matter where the country was, no matter
2 what the gender of the athlete was, and that is what the
3 code was that ultimately was developed.

4 They got together a few years later in 2003 in
5 Copenhagen and signed off on this set of rules and the
6 sign off involved the IOC particularly leading sport but
7 193 countries of the world agreed that they would adopt
8 this code, this set of rules, to deal with cheating, which
9 is what taking some drug that gives you an advantage is,
10 this would deal with cheating in sport no matter where.

11 How are you going to make that work? Sport said
12 that first the Olympic sports have to be compliant with
13 the rules that we have set up - and that is, of course,
14 governed by that code - by the start of the Olympics in
15 Athens in 2004. And the government said, "We will aim to
16 enshrine this code in law through a UNESCO or a United
17 Nations Convention by 2006." I can say on the eve of the
18 Athens Olympics, cycling signed up as the last of the
19 Olympic sports, summer and winter. Not surprising as we
20 look at how things unfolded in that sport.

21 Now, I can say today of the 193 countries, who have
22 ratified the UNESCO convention, who said they would move
23 to ratify the UNESCO convention, there are 175 of those
24 countries who have done so. Of course, that includes in
25 the early pieces, in the early years, Australia. So, of
26 course, if you ratify a United Nations convention it
27 effectively makes it law in your own country.

28 Some countries have subsequently moved to have
29 independent legislation and Australia is one. There is an
30 ASADA Act of Parliament which supports and backs up that
31 UNESCO convention and I think that is good because what I

1 like about it is in that it allows again having due regard
2 for privacy and due regard for information which must be
3 protected. It allows ASADA to work constructively with
4 Australian Federal Police and with such other agencies as
5 customs because a lot of the stuff, of course, comes
6 through the mail, comes across the borders from other
7 parts of the world and, dare I say it, particularly from
8 China.

9 So that is how this thing started. What of course
10 it contains is somewhat complex and I will do my very,
11 very best to be brief on trying to explain it. To become
12 code compliant were some 650 bodies ranging from
13 individual sports to international federations of sport
14 and anti-doping organisations the like of ASADA, UKAD, the
15 United Kingdom Anti-Doping, USADA, the United States Anti-
16 Doping, RUSADA, and on its goes, the Russian Anti-Doping.
17 They have independent anti-doping organisations that are
18 stand alone and there are about 71 of those in those
19 countries that I spoke of that signed up to it.

20 The remaining countries are picked up in what are
21 called regional anti-doping organisations. If I could
22 take you to Oceania, there is an office in Suva in Fiji
23 and that office endeavours to look after all of the
24 Pacific Islands. There are some 14 countries there
25 including Papua New Guinea. If I could suggest to you
26 that at the level of international sport there is not a
27 huge demand in those Pacific Islands for sporting events,
28 et cetera. But they certainly do have a compliant
29 program.

30 So how do you become complaint? Well, compliant
31 requires a few ingredients. One: a set of rules that is

1 compliant. Not hard to do but I have got to say sometimes
2 I am very, very frustrated with some of the suggestions
3 that came out of the legal profession. Even being a
4 previous member of that profession it is amazing that if
5 you give a set of rules to a group of lawyers in any
6 country they will tell you where they can be improved and
7 I guess that is the nature of the beast. But patience
8 gets you there. So: a set of rules.

9 An education program and I want to finish up - end
10 my remarks on that education area. That is important.
11 Your athletes have got to be educated as to it means.
12 That education has to be based upon values. Why do you
13 not take these? Well, I would say to you, and I will come
14 back to this of course also, just think about that phone
15 call that came on Melbourne radio one morning last year
16 from a plaintiff cry from a mother who used the words,
17 "What about my son?" And say to yourself if these sort of
18 things are going into the bodies of young people, and it
19 is invariably young people, what damage is it doing to
20 their health or to their quality of life and we know sadly
21 too much about that to be able to suggest there is
22 anything in it that is good.

23 So that education has to be values-based, as to why
24 you wouldn't do it. Not because of, you know, you will be
25 found and you will be kicked out. But you can destroy
26 your life if you start taking some of these things which
27 may give you a short-term benefit but a long-term
28 headache. So education is the second thing.

29 You have got to have a testing program. A testing
30 program requires what is called in competition and out of
31 competition. Out of competition is when you are in the

1 offseason, when you are outside the actual contest. For
2 example, the in competition in the Olympics is from the
3 time you go into the village until the time you finish
4 competing at those Olympics. Then you go into out of
5 competition again because there is no event on your
6 horizon in the foreseeable or in the immediate future.

7 So you have to have a program that not only allows
8 those who have got a responsibility of ensuring that there
9 is a good testing program to get access to you when you
10 are competing and to get access to you when you are in the
11 offseason when you are not competing. And it is an
12 amazing set of arguments and views you get on that. But I
13 can say to you that I have had from the very top of
14 soccer, without mentioning names, but names that are well
15 known around the world, of: "Surely the soccer players are
16 allowed to have a holiday where they can get on the
17 drugs?" And I think we all know that some of these things
18 have a residual value in them and you can do it if you had
19 a holiday and it will certainly help you when you go back
20 to work, back to work in competing in sport.

21 So the reality is that it can't. We know you can't,
22 apart from that health aspect of it. So the in
23 competition and the out of competition process as well.
24 It also involves, of course, a capacity within that
25 program to put people on a registered testing pool and it
26 is easy if you want to simply stay one step ahead of the
27 knock on the door that might want a sample from you, urine
28 or blood, because you just keep moving around. And I had
29 a problem the year before last in Kenya. There are some
30 wonderful academies there at altitude where athletes from
31 around the world, the best distance athletes, go there

1 year after year to train at altitude. It is a very hard
2 place to get to take a sample of blood or urine and to get
3 it back within the rules which says must test within 24
4 hours in some part of the world in one of the accredited
5 laboratories. We have only got 34 of those around the
6 world as well and I will give you a reason for that before
7 I finish as well.

8 So that is effectively it. Now, if you go through
9 that process and you step outside what is required under
10 those rules, it is described as an anti-doping violation.
11 It is easy if the laboratory say you have got X or Y drug
12 in your system and that is on the prohibited list you are
13 in trouble straight away. It is not quite so easy when it
14 comes to possession. It is not quite so easy when it
15 comes to trafficking. It is not quite so easy when it
16 comes to the issue of tampering.

17 I will always remember this: my mum and dad were
18 Irish and came out to New Zealand originally as migrants
19 and so I guess I have still got that affinity with Ireland
20 and am, you know, very proud of the fact. I never
21 understand back in the games in Atlanta that the swimmer
22 that scooped the pool, her name was Michelle Smith, a very
23 Irish name, Michelle Smith, she in fact was running about
24 48th in all the trials and the next thing she was winning
25 gold medals. Everybody believed she was a cheat and of
26 course to make it even more complicated for my simple
27 brain, I knew that Ireland in those days never even had an
28 Olympic size pool so where the hell was she getting all
29 this skill from? She was married to a Dutchman and I
30 think he was a discus thrower and I think we subsequently
31 found out.

1 But, look, they didn't get her in those days. They
2 subsequently got her when she tampered with a urine
3 sample. She put of all things Irish whiskey in it and
4 that was found out and, of course, that is an offence and
5 so she was rubbed out and never competed again. So there
6 are many, many sort of areas where there is an offence and
7 it is in that context that you have to again make these
8 rules work in the interests always of clean sports men and
9 women and I believe the overwhelming majority of everybody
10 who is involved in sport it is just inherent in sport that
11 there be fair play and the overwhelming majority are
12 interested in fair play and not in cheating.

13 So, in any event, the code was then ratified and the
14 implementation started around 2004 and I have got to say
15 we have got better since. The original process was in
16 fact to look at it from the point of view of just random
17 testing, a bit like the breathalyser that might go on the
18 roads tonight. If you do enough tests in a particular
19 spot, the odds are you might pick somebody up who has gone
20 over the 0.05 and that was the feeling. We realised very
21 quickly that mostly these tests and the analysis of those
22 tests in laboratories, bearing in mind the laboratory
23 might be a fair distance, there is only 34 in the world
24 and in Oceania it is in the Northern suburbs of Sydney
25 near Ryde. It is the only one in Oceania that is an
26 accredited laboratory.

27 That is expensive and I think I can say to you that
28 your average test, blood and urine, comes out somewhere
29 between about \$800 and \$1,000 by the time you get
30 transportation in and the process from start to finish.
31 So you have got to be a little bit sensible how you use

1 scarce resources and in that regard it has become clear in
2 more recent years, and it will change as a result of our
3 conference last year, that there was a reluctance to do
4 blood tests, which is strange in many ways. I mean, if I
5 could suggest to you there are 650 signatories to this
6 code.

7 We talked about funny sports or Margo did when she
8 started. I mean, the sports there, I don't know what they
9 are. I have never seen Korfball. I can imagine what dog-
10 sledding is. But they are all code compliant. You know,
11 this one always amuses my wife when I tell her, "Well, you
12 know, Bridge, they are code compliant." And chess, they
13 assure me that there is some benefit in drugs that might
14 make the mind a little bit more alert and active and I
15 think the doctors here probably know more about that than
16 I do. But, you know, there are 650 signatories from weird
17 and wonderful sports, some of which I have just described
18 to you.

19 So it is in that context that we see that there has
20 been an enormous embracing around the world of this
21 particular code. We haven't stopped still. We have
22 reviewed it. In fact, we reviewed it last year and I
23 believe we took some very productive steps to tighten it
24 up a little bit. And it must always be a responsive type
25 thing that allows you ensure that it is there. For
26 example, under that code one of the international
27 standards deals with the prohibited list. That is
28 examined by two experts every single year and things go
29 and come out. Not that often but, you know, you can bring
30 things in and brings things out.

31 One of the big issues was about the inhalers for

1 things like asthma. If they get enough of that, it is an
2 enhancer. I am told too much maybe go the other way. I
3 have always wondered about Marijuana. I thought, my God,
4 when I was playing football, if Marijuana was around I
5 would run around in circles. That is how I understand how
6 Marijuana works. I don't really know, of course. But it
7 is on the prohibited list as well. But only in
8 competition as is Cocaine.

9 So it is all right if you get picked up for
10 Marijuana or Cocaine outside of in competition or out of
11 competition. But in competition of course it is there.
12 But this list comes and goes a little bit; not much, it
13 has become pretty static over the years. Who does this?
14 All those signatories. I have mentioned 71 equivalents of
15 ASADA in the world in the more settled countries and in
16 the regional organisations there is a process as well.

17 So I guess that is the system and I am sure you may
18 have some questions when I conclude shortly. I want to
19 just quickly talk about the law because there are lawyers
20 present. I struggled with this initially and then the
21 more I talked to people, including lawyers, involved in
22 sport the more I realised there was no other way. There
23 is a strict liability. If there is a drug in your system,
24 you may be able to get some mitigation of sanction or
25 penalty, but you are gone. That is the start and finish
26 of it all. If the laboratory gives you a certificate
27 which cannot be challenged in any way and people do try
28 very, very regularly, but I can say almost with - unless
29 sometimes the occasional technicality - rarely do they
30 have success in challenging the laboratories, then
31 unfortunately sanctions will flow.

1 So in that context, strict liability takes us away
2 from so called beyond reasonable doubt and even that civil
3 onus of balance of probabilities. And I can say in the
4 340 submissions in the review we have put together over
5 two years and culminated in our world conference in
6 Johannesburg last November, one person said change that,
7 including sport, including lawyers. Because the
8 recognition is that there will always be an excuse if you
9 go to some other form of liability.

10 And if I could say you can get mitigation. There
11 are some really interesting stories. I mean, most of the
12 athletes will tell you, "There must have been a mistake.
13 The laboratory must have got it wrong and I am going to
14 fight this," and more often than not they start. But
15 there are sometimes when they are a success. I thought
16 the one that amused me the most as I think back on this
17 was a tennis player who did very well here in Melbourne
18 last month in the Australian Open, a Frenchman, Richard
19 Gasquet, and Richard was in a tournament and still in it
20 come Thursday night, had an injury, decided he couldn't
21 turn up the next day and play but it was too late to
22 notify the organisers that evening that he was pulling out
23 which he intended to do then. But because he couldn't
24 convey that withdrawal, he thought, "It doesn't matter. I
25 will go off and have a night out because I am not playing
26 tomorrow."

27 One thing led to another and somewhere in the early
28 hours of the morning he finished up at a nightclub and in
29 the company of one very attractive young lady. It seems
30 they got fairly friendly with one another. The knock came
31 on the door the next morning for a sample and he gave the

1 sample and it showed up with Cocaine. He made it clear
2 from I must say day one that he never had taken or had
3 used Cocaine and the only thing he could explain it with
4 was that the darkness of the nightclub and the little bit
5 of kissing that was going on and bodily fluid was
6 transferred into his body and that's what showed up the
7 next morning in the sample.

8 Two months later when he went before the Tribunal,
9 they believed that and let him off at the two-month mark.
10 So I have got to tell you, the excuses - that is one - but
11 the excuses I have seen over the period are just, you
12 know, "The dog ate the homework" is very, very moderate by
13 comparison. So I guess that is why we go to strict
14 liability. But the onus is on you if you apply a strict
15 liability rule to ensure that from a technical point of
16 view you are as close to perfect as you can. And that is
17 why only 34 laboratories in the world are accredited to
18 undertake the analysis of samples associated with the
19 anti-doping code.

20 We go through a quality control process annually.
21 We send samples in. The blind samples go in each time and
22 they sometimes contain things and sometimes they don't and
23 you look for the result. They have no idea they are
24 getting these samples because there just a number on them
25 and ultimately that may lead to a suspension of a
26 laboratory and I have got to say last year, for example,
27 and heaven forbid, because we have got World Cup coming up
28 this year in this city and the Olympics in 2016, but we
29 were forced to take the accreditation off the laboratory
30 in Rio de Janeiro and how helpful would that be to World
31 Cup soccer and also for the Olympics this year and in two

1 years' time?

2 But you must be able to say to your athletes that
3 the process is waterproof, it is watertight, it is not
4 going to - you are never going to - you know, we are going
5 to do everything we possibly can with the strict
6 liability, so you are not going to lose because the
7 skillset wasn't there. And that is why we go to great
8 pains with these laboratories to make sure that they are
9 as competent as humanly possible.

10 So that is, I guess, the law which is very
11 different. The other thing our code says is that you
12 should have any dispute dealt with by the Court of
13 Arbitration for Sport and by and large that happens. We
14 would see about - I have got to say when all of these
15 cases and results management, as we call it, when there
16 has been an infraction notice issued, a tribunal hearing
17 and a decision taken, all of the transcript comes through
18 to WADA and Montreal at our headquarters and we have got a
19 right of appeal on behalf of the athlete or on behalf of
20 the sport and of the 2000 that came through in 2012 we
21 appealed 40 cases to the Court of Arbitration for Sport.

22 We designate the Court of Arbitration for Sport
23 because it was set up by the Olympic movement for the
24 purposes of being: affordable, and in that context, the
25 suggestion in the early days was: you don't necessarily
26 need a lawyer to put your case; to be your accessible so
27 you could get there quickly, not have a hell of a waiting
28 list which took you a year or so to actually get through
29 the door; and to be expeditious, that is that waiting
30 issue as well.

31 So I think it is fair to say that most of the cases

1 have lawyers attached to them. Some of them go on for a
2 long time and I remember Floyd Landis, the cyclist who
3 took on WADA and said, "I am innocent," despite the fact
4 that he flew over the mountain in a way which no human
5 could possibly have done it having been a miserable rider
6 the day before. He blamed the Paris laboratory and by the
7 time we finished in the case in the United States it cost
8 WADA \$1.5m because the US Anti-Doping didn't have the
9 money so we said, "Look, it is the principle. We have got
10 to defend you."

11 And, of course, no consolation when a year later he
12 said, "I was telling lies. I was a cheat always." We had
13 to run that case. But it can be expensive because some
14 jurisdictions are expensive but the intention was that
15 CAS, the Court of Arbitration for Sport, would give you a
16 relatively simple process of getting justice.
17 Unfortunately I see this development where it is not quite
18 so simple. So I guess it is important that those appeal
19 rights are there on behalf of athlete and sport.

20 We come to Australia. Nothing in my six years got
21 even close to what happened here in February of last year
22 in terms of shock, surprise and wrong way about, do I
23 describe it. Most of what occurs is an enquiry that is
24 kept very much quiet and our code requires people like
25 ASADA or any other anti-doping organisation to maintain
26 strict confidentiality. If you start talking about who
27 you are interviewing, there is an immediate conclusion by
28 the public out there that that person must be a cheat. So
29 you try and protect the innocent by keeping it in-house,
30 keeping the whole thing confidential all the way through.

31 Then all of a sudden one day in February last year

1 we were all regaled by the head of the Australian Crimes
2 Commission standing up alongside two Ministers of the
3 Crown and the heads of our major sporting bodies in this
4 country and we were told that there was a problem, that it
5 involved more than one code of football, that it involved
6 association with the underworld and it probably included
7 match fixing.

8 After that particular press conference, ASADA was
9 told to go out, gather the information and they could not
10 use the Australian Crime Commission information. They had
11 to gather their own information and proceed under the WADA
12 code to determine whether there had been breaches, anti-
13 doping violations as I described them to you earlier. So
14 the cart was before the horse. The expectation
15 understandably of the public, fans, particularly the fans
16 of Essendon - and dare I say it for those who understand a
17 little bit about Sydney, the Cronulla Sharks - they
18 immediately started to wonder where their club was going
19 and we saw of course that unfold in its own way last year.

20 I don't think ASADA ever had clear air to deal with
21 that properly. The fans had an expectation. I can tell
22 you the media - my life - they want tomorrow's news today
23 and are the most impatient of everybody. They don't
24 particularly want to patiently wait for things to unfold.
25 They want to report what the news is going to be tomorrow
26 on tonight's news. So time and again the scrutiny was
27 placed on ASADA and the accusations were made, you know,
28 "What is holding you up?" et cetera, et cetera.

29 It is clear in both codes that patience ran out. In
30 the case of Essendon, the AFL had decided they had to get
31 it behind them as best they could before the finals series

1 started and they dealt with it under the code of conduct
2 and you know the consequences there. Quite frankly I
3 thought a shemozzle in the end and I think as we look back
4 on what they did do they achieved not a hell of a lot and
5 left a lot of questions still hanging out there.

6 I might say they also seem to suggest that whilst
7 they had worked hand in hand, and there is nothing wrong
8 with that, with the anti-doping organisation ASADA, they
9 seemed to suggest that they were convinced that that was
10 the end of it from ASADA's point of view as well. As far
11 as I am aware, and I don't know details of what player and
12 I don't want to, or what official, there is a chapter or
13 two to go in this story just yet.

14 If I could say and come back to that plaintiff cry
15 from that mother that morning on Melbourne radio that was
16 certainly played up in my part of the world and asked this
17 question. We all know something happened. We know by
18 admissions that in that club there were literally hundreds
19 of needles given over a period of time. We know they were
20 asked to sign declarations - I think I started in a light-
21 hearted manner talking about it at the beginning of these
22 remarks - effectively saying, "Look, you know, we won't
23 hold you, Essendon, liable. What you are doing for us" -
24 we know that many of these players are very much
25 influenced by, and we are all, by people in authority,
26 particularly when you are a young person, in this case
27 coach and other officials. And we don't know what was
28 inside the syringes.

29 We are told certain things and I can say without one
30 little bit of hesitation the so-called anti-obesity drug,
31 AOD-9604, never been approved for human consumption to

1 USADA's(?) knowledge anywhere in the world; therefore, on
2 the prohibited list. Before a Brownlow medal winner went
3 on television and said that is what he was taking. So I
4 know how it is going to finish up but it would seem to me
5 that a workplace and its duty of care which lawyers know
6 about and doctors know about. Avant Insurance knows about
7 this duty of this care. That is what we are there for.

8 It requires surely in your workplace to be able to
9 undertake your duty as an employee, and footballers are,
10 knowing that they are not going to make you do something
11 which may be of damage to your health, damage to the
12 quality of your life in the years ahead and that is again
13 what that mother was asking that particular day. And I
14 still am bewildered by the fact that WorkSafe Victoria has
15 never been in this particular equation. It seems to me
16 any other workplace they would have been there very, very
17 quickly and been examining all this under the Occupational
18 Health & Safety Act. But I haven't seen that occur
19 anywhere at all.

20 So is it all over in Sydney or in Melbourne? As far
21 as I know it is not. As far as I know they will draw
22 their conclusions. They will see and to me I won't be, I
23 suppose, totally satisfied. I accept that I personally
24 think that ASADA is a very good organisation. Having
25 looked at them all around the world I think they are a
26 very genuine and professional group. But in the end, if
27 this goes to a particular hearing, a proper hearing, and
28 nobody gets taken out, that is fine, I accept that. That
29 is the nature of process that I think is important. But
30 after what we have seen, after what the Switkowski report
31 suggested, surely there has got to be some more steps than

1 that before it is over.

2 I would like, like you, and particularly if you are
3 a Bombers fan, to see it have happened now. I would like
4 to see it happen soon but, in my view, something has to
5 happen that allows this to be dealt with and examined
6 fully and properly otherwise I believe we will be the
7 laughing stock. Now, here it is, Australians. The
8 reputation around the world to be good sports, if we don't
9 see this dealt with in a proper fashion, irrespective of
10 whether there is nothing in it or not, then I suspect
11 there will always be a finger pointed at us.

12 If I could say, each year in February I have gone
13 off to in my six weeks off to Europe somewhere for a media
14 symposium to try and explain where we are at, what is
15 going on and anti-doping, et cetera, and we have gone to
16 Europe always. Last February, a week after that
17 announcement that I described to you that you all saw
18 anyhow, I was in London for a symposium. We had double
19 the journalists, the bulk of them being British, and, boy,
20 did they enjoy it. Saying about the Aussies, you know,
21 "What's going on over there?" I couldn't get away from
22 the questions on what was happening in Australia.

23 So I think the eyes of the world are on us and, as I
24 say, I don't draw any conclusion to what happened. I just
25 simply say that if there is a code that we have signed up
26 to, along with another multiple of countries, the bulk of
27 countries. In fact, those who have actually signed up to
28 the UNESCO convention ratified it, represent 98 per cent
29 of the world's population. Let us have at least a proper
30 process to bring a conclusion rather than nothing to
31 happen from this point on. If you listen to some people,

1 it is all over.

2 I finish with this: the challenges. I should be
3 very careful when I say I am concluding. When I was the
4 Premier I had a detective sergeant who was there to
5 protect me and I can tell you what he did was made sure I
6 never jaywalked. I always go to the lights and cross over
7 when it was green and it took us a hell of a long time to
8 get around Sydney when we could have slipped through the
9 traffic much easier. But that was his job. He was a
10 lovely fellow. In fact, he ended up marrying my personal
11 assistant and they had their reception in our garden in
12 Bowral. And dare I say it, they fell in love because I
13 took them all to Monte Carlo and while I was out trying to
14 get votes I said to Geoff, "Detective Sergeant, look after
15 Barbara," and realised months later he was doing that very
16 well, thank you. So he is a friend.

17 He is a friend but many a time he would be as he
18 was. He had to be with me. He would be in the back of
19 the room when I would make a speech and sometimes my wife
20 is there and on one occasion he said to my wife,
21 "Colleen," he said, "you know, when John says he is coming
22 to the end he says words like 'in conclusion', he has got
23 eight minutes to go." I promise you it will only take me
24 another minute.

25 I wish the education program had been adopted more.
26 If I could tell you in Japan there is a module about the
27 dangers of performance enhancing drugs in every high
28 school. Every student and high school is given some
29 knowledge and information about the dangers of performance
30 enhancing drugs. We haven't embraced that in too many
31 other countries of the world and I haven't been too

1 successful in getting support from Canberra on that to
2 introduce it to where we are here.

3 I say that because to me it was always as important
4 to deal with young people in our gyms and health centres
5 to make sure that they never got off the rails. I mean,
6 you can go to the ones that give you the publicity, the
7 Lance Armstrong's and everybody else. But you know that
8 tonight in this city there is somebody popping a pill out
9 there and pumping iron in front of a mirror to look good.
10 This image enhancing process that is assisted by
11 performance enhancing drugs and I worry about what that
12 does to the health and quality of life of those people
13 going down that track and I believe only education can do
14 that.

15 The last thing I can say to you is that I am yet to
16 meet a minister who sincerely looked me in the eye
17 anywhere in the world and said, "When I catch a cheat in
18 my country I see that as a badge of honour." They hate
19 it. It is a nuisance. I remember in London around the
20 time of the Olympics talking to the Minister of Sport from
21 Luxembourg, a guy called Andy Schleck had been picked up
22 in the Tour de France a month before and he said, "What am
23 I going to do about it? How can I make this go away? It
24 is just such a nuisance?" You know, "Why has this
25 happened to me while I am the sports minister?"

26 I could say the same thing about sport: they don't
27 want to know that their sport has got a problem. So every
28 one of them tells you, "We support what you are doing. We
29 are committed to it." But, you know, that is the talk and
30 I don't like the expression all that much. I rarely see
31 it matched up by the walk and I wish that was better. I

1 mean, there are lots of problems in the world. In this
2 instance, I guess this is a chance for us to ensure that
3 our young people go through life healthy rather than go
4 through life believing that it is important. And if you
5 need to sort of realise how you have failed and sometimes
6 maybe I am little bit over-critical over the role that I
7 have played which has been a great privilege and an
8 enormous challenge.

9 I saw an article two weeks ago in our Sunday paper
10 in Sydney saying that we are now seeing in the fitness
11 clubs in Sydney these containers where you can drop your
12 needles and syringes into: please. You know, I mean, I
13 know I had to wrestle in my days in New South Wales
14 politics with the fact that we were providing clean
15 needles in gaols because we couldn't stop drugs going into
16 gaols and we didn't want it to spread. It took a while
17 for me to convince myself that that was the lesser of two
18 evils. But surely we can get our gyms right in the
19 context of avoiding what is happening there that might do
20 damage to our young people right across the board, whether
21 they are good at sport or don't even play sport but want
22 to get fit through the gyms.

23 Look, it has been a great privilege for me to have
24 had this opportunity, as I indicated. I found it
25 absorbing. I found it challenging. I got a few joys out
26 of it. It was great to go to the World Cup rugby final in
27 Auckland. That was one of, I guess, the things that flows
28 from it all. It was certainly very demanding. I was
29 offshore about 14 weeks of every year and I found myself
30 certainly trying to battle the body clock because I
31 figured that in those six years I did something more than

1 350 international flights

2 If there is one thing I would ask my government to
3 do right now, and it happened to me again today, because I
4 have got an artificial knee they make me take my belt off,
5 my shoes off, every time I go through it and when I did
6 that all around the world I always thought, "God, there
7 has got to be a simpler way of getting through security.
8 I really am not a terrorist and never will be as best I
9 know myself." But sometimes, of course, when you have got
10 to do all of that it becomes very, very tedious.

11 But the privilege and the joy and the fact that it
12 was worthwhile I think outweighed all of that. I have
13 probably long exceeded the time I suggested I was going to
14 take and taken all chances of questions out of the
15 equation because you are all very hungry but thank you
16 anyhow for listening.

17 DR LYTHGO: Well, I think we have got time for a few questions
18 but we don't want to upset the dining room. Michael
19 Gronow has got his usual microphone that he will wander
20 around with if anyone would like to ask any questions.
21 You will probably want to get down to the nitty gritty
22 now.

23 QUESTION: (Indistinct) a psychiatrist. Thank you for a really
24 interesting talk. I just wondered about your point about
25 WorkCover or WorkCare. If we brought in legislation the
26 same as for bullying that any workplace that had these
27 drugs available or had occurred on their workplace they
28 got a fine of \$250,000 or half a million dollars, do you
29 think that might be helpful, the same as for bullying?

30 MR FAHEY: Look, I guess, you know, I would just simply put it
31 this way. I mean, I fully understand the influence a

1 coach or management have over young players and saying,
2 "This will improve the way you play and improve the output
3 from our team." Is there an undue influence there that
4 suggests that these guys are bullied into doing what they
5 do? I mean, our code says you are personally responsible
6 for anything that goes into your body. You can't blame
7 the coach. You are personally responsible.

8 But I simply say this, that a football club is a
9 workplace. If things were happening in a workplace, and
10 it wasn't just here but I saw the admissions made as to
11 what was happening and they are mentioned through the
12 Switkowski report, the same thing was acknowledge in
13 Sydney with Cronulla, then I just wonder where the
14 regulators are that are supposed to be responsible for
15 ensuring that there are safe work practices in all places
16 of employment.

17 I think the bullying comes to another level and I am
18 not sure how it surfaces in clubs or in sport. I
19 certainly do though acknowledge that young people will
20 invariably follow directions. If that overbearing
21 approach is there it will cross over to the point of being
22 bullying.

23 QUESTION: Thank you for the presentation. Greg Whelan:

24 medical. I hope this is not an unfair question. I can
25 understand that stimulants on game day are performance
26 enhancing but I would actually put it that used during
27 training they are also performance enhancing because they
28 allow the athlete to train to a much greater extent than
29 otherwise. So I was interested in why they were in one
30 basket and not in the other.

31 MR FAHEY: Well, look, if I could indicate to you, there

perhaps another arm to it which I didn't say in my remarks tonight, to satisfy an anti-doping violation it must come within two of three criteria. The three criteria are performance enhancing which is easy and we talked about in competition, out of competition, game day. And game day, I mean, I mentioned game in the Olympics being when you go into the village until such time which may be two and a half, three weeks later you complete your event.

In other games, for example in a tennis competition, it is the opening game through to the time that you either win the competition or lose in the competition, whatever day that is in the days that follow in an open like Australia. It is 14 days of competition and so you are in competition for in some cases if you get to the final for 14 days.

I hear what you are saying about stimulants being available in training but the three arms are, firstly, performance enhancing, secondly, adverse to the health of the athlete, and thirdly, against the spirit of the sport. So as much as certain things are not seen as being performance enhancing, they can be picked up at training if somebody takes a sample on the other two arms and only two of the three are satisfactory.

I might say one of the longest debates I had in my six years was trying to define cannabis or marijuana. The feeling was, and I have to say personally and one shouldn't express personal views in roles like this, I have never liked the word "recreation drug." To me it is illicit, it is illegal. You know, "recreation": please, it does harm. So to me it is not a recreation drug.

But to the extent that I have to be realistic and

1 acknowledge that most young people have a go sometime when
2 they are at a party or otherwise. We work very hard to
3 say, "Well, look, because that actually hangs around in
4 the system much longer than most other drugs, how do we
5 deal with it?" And we decided to lift the threshold. So
6 effectively if I could describe, and most people would, it
7 would mean that you have had marijuana within a couple of
8 days of game day, not two weeks earlier when you are at a
9 party because you are not going to take a drag two weeks
10 before you are about to compete on the basis, "Oh, gee,
11 this will do me wonders in two weeks' time when I get on
12 the" - you don't think that way; most people don't.

13 So we changed the threshold, the level that is in
14 your system for that purpose and again being a simple
15 lawyer I never understood what damage marijuana could do
16 but they tell me it is fantastic for putting in golf.
17 They say, gee, you have got a steady hand when you have
18 got a long putt. And they also tell me it is good for
19 pistol shooting and I have got to say the thought of
20 somebody under the influence of marijuana with a live
21 pistol in their hand and spraying the crowd perhaps
22 instead of aiming at the target scares me a bit also. So
23 apparently it can be of some benefit in some sports. On
24 the other hand there are certain drugs that are banned for
25 certain sports. For example, in motor sports alcohol is
26 prohibited. I think we all understand why.

27 QUESTION: Mr Fahey, thank you for your presentation and your
28 (indistinct). You spoke in detail about AFL and rugby
29 league. Reflecting on that experience do you think local,
30 very well established sports, pose different political
31 challenges for implementation of the code than

1 international sports like the disciplines in the Olympic
2 Games?

3 MR FAHEY: Look, I have done my best to just do a bit of road
4 testing as best you can informally do that. It is very
5 clear to me talking to former cyclists that drug taking in
6 that sport was endemic around the world. I don't think
7 there is any doubt about that. You know, we all hear the
8 world body, UCI, defend itself regularly and we all know
9 the Armstrong story and the lies that were told there. It
10 is also clear to me that in sports like body building that
11 it is rampant, particularly the steroids and in weight
12 lifting. It is getting better but it was pretty ordinary
13 a few years ago.

14 So in this road testing I also went to I guess up
15 where I live in the sports that I - the football that I
16 have been associated with and to players that were around
17 at the top in my area that are friends of mine or I know
18 well enough to ask them and I said, "What did you do when
19 you were back playing for whatever that club was in the
20 Sydney competition in the 60s and 70s?" And they will
21 tell me there were a lot of people who were taking those
22 tablets that the interstate truck drivers were taking to
23 stay awake.

24 And I even had the big temptation myself I have got
25 to tell you. When I was playing when I first left school
26 for a club in the town of Camden, the trainer was the man
27 who turned out to be ultimately my father-in-law. So I
28 said to him at the end of that season when he was giving
29 these little white pills to the players, "Terry," I said,
30 "look, I am not really happy about this." I mean, I can
31 tell you honestly I never took them. I said, "I am not

1 really happy about this, you know. It just seems to me
2 that these guys complain they can never go to sleep on the
3 night after the game as they drink as much, you know, to
4 sort of sink a mule but they still can't go to sleep." So
5 I said, you know, "That can't be good." He said, "Look,
6 seeing you have been taking out my daughter I had better
7 be honest with you." He said, "Please don't tell them."
8 He said, "They are just salt tablets," but they thought
9 they were getting these enhancing drugs.

10 So I think it has been around but perhaps to the
11 point nowhere near as sophisticated. And I can say to you
12 that elite athletes will pay as much for performance
13 enhancing drugs on the black market, and that is where
14 mainly it occurs, than they will for the cocaine, the ice,
15 the legal drugs which we know can be frightfully
16 expensive. We hear that every time we hear someone going
17 through the courts. I think it has increased
18 significantly simply because they have the money, the
19 sport has got money in it, and they are looking constantly
20 for that little bit of an advantage.

21 QUESTION: Thank you very much. I am a doctor and middle aged
22 man in Lycra. I just had one question for you. Do you
23 have any views or any evidence on much WADA and all these
24 activities have in actually cleaning up sports and
25 actually diminishing the drug use in sport?

26 MR FAHEY: Yes, look, I think that is the \$64 question. I look
27 back on my six years and say, "Have we made a difference
28 in my time? Have I assisted in any way? Have we made a
29 difference?" I think people understand the problem now
30 and I am not sure they saw it as a problem. This whole
31 thing came out of the Eastern Bloc and can you recall what

1 was going on in those countries? You know, who remembers
2 that Chinese swimmer in the World Championships in Perth
3 in 1998? Monstrous person. I was talking to Dick Pound
4 about her once and, I mean, she had a suitcase full of
5 steroids and she got deported very quickly when it was
6 discovered.

7 But it was just par for the course in China. It was
8 just part for the course. In East Germany, the academies
9 of sport they estimate that 10,000 athletes in East
10 Germany alone were tampered with, with performance
11 enhancing drugs during the 60s, 70s and 80s. I might add
12 when I spoke to Dick Pound about that swimmer he gave me a
13 lovely line. Dick was good at that. He said, "I remember
14 her, John." He came from swimming. He said, "She had
15 muscles in places where most people don't have places."
16 And I thought: great description.

17 I would say this, that there is a greater awareness
18 that there are still a significant percentage of athletes
19 who are taking drugs. We are catching, I suspect, much
20 less than half. But I think overall there is less
21 cheating because of the awareness. I can also say this,
22 that the Olympics are pretty clean now. Only an idiot
23 would take drugs during the Olympics because everyone that
24 gets into the first five places of a medal round has to
25 give a sample. So, you know, you are not going to get
26 anywhere without having to give yourself up for analysis.

27 So that is getting a whole lot less. What worries
28 me is the micro-dosing and I think it is fair to say that
29 it goes through your system, a bit like alcohol, take a
30 drug, it's not there in 15, 25 hours later, whatever it
31 is, it goes out of your system and can't be detected. But

1 there is a benefit if you are micro-dosing of staying just
2 below the radar; a little bit today, a little bit
3 tomorrow. Knock it off three days before the event.
4 Nobody is going to pick you up at the event because it has
5 run out of your system. But there is a benefit there.

6 So that is why we have to be a whole lot smarter and
7 I believe we are. For example, we tackle now players
8 coming back from injury, athletes coming back from injury
9 who need a bit of a hand, or at least they think they do.
10 We tackle those that come out of retirement with about a
11 year to micro-dose and all the rest of it. We obviously
12 look at the athletes of certain coaches who have been
13 known to have erred in the past. But we are not catching
14 them all sadly. We are catching more than was the case
15 before and I believe we are deterring many more.

16 So I finish by saying: is this a race we will win?
17 The answer is we will never get to the finishing line
18 human nature being what it is because I guess human nature
19 says from the days of Adam and Eve, if you believe in
20 that, that, you know, there is a temptation there. It is
21 fame and fortune if you succeed in sport. If you can get
22 that slight advantage people will I suspect, just by
23 nature of what character is, take a chance. So we have to
24 keep going because it is important and it is important for
25 sport. But we are not going to ever say we won this
26 battle.

27 QUESTION: (Off-microphone) (Indistinct.)

28 MR FAHEY: A short answer is what you need, not a short
29 question.

30 QUESTION: Thank you for that. Thank you for putting a human
31 face on WADA as well. That certainly gives a little

1 different insight into things. My name is Dennis
2 Hemphill. My question has to do our sport crazy culture,
3 whether the rewards and the pressures contribute to the
4 temptation for athletes to use drugs.

5 MR FAHEY: I am not quite (indistinct).

6 QUESTION: That is better. The question is whether our sport
7 crazy culture and the rewards and pressures on athletes
8 contributes to the temptation for athletes to use drugs?

9 MR FAHEY: Yes, I mean, that great American gridiron coach once
10 said that winning isn't the only thing, it's everything.
11 And I think we all know that the pressure is there in
12 sport because of the position it occupies in our lives. I
13 mean, the simple fact is that if you don't succeed as a
14 coach, you get sacked. If you don't succeed as a player,
15 your contract is not renewed. That is another one we
16 focus on too: athletes who are coming or wanting to renew
17 their contract. They want to do a few good games there
18 and so are tempted to take a step there just to ensure
19 that they get a second contract.

20 But that is there constantly. I mean, it is all
21 about, you know, who remembers who ran second in last
22 year's Melbourne Cup? I don't. None of us do. It's all
23 about winning and therefore that puts enormous pressure
24 and when the reward is there. I mean, one of the things
25 that I have always had real concern about is this pool of
26 money that we give for success to many of those sports
27 that were previously amateur. We do in Australia. If you
28 win a gold medal or a silver medal or a bronze medal in
29 the Olympics, there is a sum of money the Australian
30 Olympic Committee will give you for it.

31 And I realised just how bad this was when one day I

1 was in Beijing before the Beijing Olympics and the report
2 came through in the news that morning that 11 Greek
3 weightlifters had been picked up for their specimens
4 showed positive. So I said to my Chinese host, because
5 the article also said that they got their stuff in
6 Shanghai, I said, "You would have seen this article this
7 morning," when we met a little later in the day. They
8 didn't know what I was talking about but anyhow.

9 Then I dug a bit deeper as the days went on. I
10 mean, they went down to Shanghai and closed this place
11 down and 42 others. But I suspect there were probably 420
12 others that were making these drugs in China somewhere.
13 But I realised that why you would cheat in Greece because
14 there is no money in weightlifting that I know of. There
15 may be a little bit but it's hardly expenses. What Greece
16 offered to medallists and weightlifting picked it up in a
17 big way and then started to win medals since the Barcelona
18 games. Every Olympics they won more than one medal in
19 weightlifting. They gave them a job for life, 50,000
20 Euros and that job for life was either in the civil arm of
21 the military or in the public sector and a house.

22 And if you are weightlifter, firstly you are usually
23 not a doctor or a lawyer. I am going to offend someone
24 now by saying that. But you are usually not. And here is
25 a chance for in your country, God help me in Greece, for
26 fortune and fame; fame from the gold and fortune because
27 the rest of your life is taken care of. And I think that
28 is just wrong because we are encouraging people to do
29 things, take a chance, if you get away with it there is a
30 reward.

31 It is almost like saying you know rob the bank and

1 hope to God nobody is watching when you are doing it. You
2 might get away with it. You might get away with it once
3 in a hundred times but, you know, is it worth the risk?
4 It isn't. But, I mean, what are your morals and your
5 standards anyhow and that is why I go back to education.
6 And so we have got to get education across the board and
7 say sport is about fair play and we have to have values
8 that underpin everything we do in sport because of all the
9 massive benefits it gives us. And, you know, my life
10 would be empty without sport, I can say that. Well, most.
11 You know, as long as I had my wife and the kids I would
12 probably get by but it would be shallow. It would be
13 shallow without sport. And I suspect there are many
14 people like me. So, you know, there are a lot of wrong
15 signals that we do give and wrong decisions that we make
16 that may encourage people doing things that otherwise they
17 mightn't.

18 DR LYTHGO: I would like to now invite Darren Bracken to thank
19 John Fahey on our behalf. I thought Darren was the
20 appropriate person to ask because he comes to our
21 committee meetings in Lycra and I must say it is lovely to
22 see him so beautifully dressed tonight.

23 MR BRACKEN: I have got the Lycra underneath but perhaps we
24 won't talk about that. John's enthusiasm for a level
25 playing field is obvious and it is clearly something for
26 which the world owes him a debt. I might say that I am
27 almost quite relieved to hear that he like so many others
28 didn't inhale at university. I wanted to print something
29 this afternoon when I was doing a little bit of research
30 from the WADA website and my computer instructed me that I
31 needed to be aware of whether the website was safe before

1 I was able to print it.

2 I told the computer that it was safe and so it
3 printed it for me. Naturally I was glad about that. My
4 trust it would seem wasn't misplaced in placing trust in
5 the WADA website. I didn't and haven't had any trouble
6 with doping authorities since or despite perhaps my
7 addiction to Lycra. That is probably more than we can say
8 for at least one Australian athlete whose mother probably
9 told him that she could be trusted, despite that he found
10 himself in some difficulties with that.

11 WADA's success and its effect on the cleaning up of
12 sport and providing that level playing field is really
13 quite clear. We haven't seen of recent times the
14 difficulties that the Chinese athletes in the 1994 World
15 Swimming Championships presented and clearly we can't
16 forget Mr Armstrong and his associates of recent times.
17 Not only do sports of all stripes owe a great deal of
18 thanks to John and to WADA but the world generally and
19 because of the role sports play in our communities owes
20 him a great deal of thanks as well. Tonight may I ask you
21 to join me in thanking him for the marvellous presentation
22 this evening, it is terribly informative.

23 There is a bottle of wine somewhere but I think
24 Robert may have drank it.

25 - - -