

The Parliament of the Commonwealth of Australia

**THE CIRCUMSTANCES SURROUNDING THE POSITIVE
DRUG TEST ON MR ALEX WATSON**

A report by the Senate Standing Committee on
Environment, Recreation and the Arts

MAY 1992

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ISBN 0 642 18011 3

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CONTENTS

Preface	Page ix
Acknowledgments	x
Acronyms and Abbreviations	xi
Recommendations - Committee Report	xiii
Recommendations - Minority Report	xvii

COMMITTEE REPORT

Alex Watson's Positive Drug Test	1
. Background	1
. The Positive Test	1
. Recommendations	4

MINORITY REPORT

Chapter 1	Annual Reports of the Australian Sports Commission	9
Chapter 2	Drugs in Sport and the Olympic Games	13
	. The Emergence of a Drug Problem Among Australian Athletes	13
	. Efforts to Combat Drug Misuse	14
	- The IOC Medical Commission	
	- Australian Authorities and Sports Drugs	
	. Proscribed Drugs	17
	- Caffeine as a Doping Substance	
	- Agreements and Briefings	
Chapter 3	Mr Watson's Positive Drug Test And Its Consequences in Australia	21
	. The Positive Drug Test: 21 September 1988	21
	. Aftermath of the Drug Test: 22-24 September 1988	24

	Simulated Drug Test in Australia: 29 October 1988	25
	Drugs in Sport - Senate Hearing: 21 November 1988	29
	Drugs in Sport - Senate Hearing: 30 November 1988	30
	- Complaints Against the AOF	
	- Complaints About Caffeine Testing	
	Mr Watson's Appeal Against the AOF Ban: 11 May 1989	32
	Further Senate Hearings	36
	- Senate Hearing: 10 May 1991	
	- Senate Hearing: 4 November 1991	
	- Senate Hearing: 5 December 1991	
	Findings About the Role of the AOF	38
	- Complaints Against the AOF	
	- Origin of the AOF Attitude	
	- Timing of Advice about Positive Test	
	- Separation from the Team	
	- Denial of Contacting Parents	
	- Lack of Contact with AOF	
	- Access to Facilities for Test Simulation	
	- Letter to Mr Roh	
	- Lack of Advocate	
	- Appropriateness of AOF Penalty	
Chapter 4	International Inquiries: Findings and Conclusions	57
	Mr Watson and the IOC Caffeine Rule	57
	An IOC Appeal?	63
	- The Principles of Olympism	
	A UIPMB Appeal?	76
	The Court of Arbitration for Sport	77
	- The Powers of the Court	
	- The Procedures of the Court	
	- Mr Watson's Request: September 1989	
	The British Experience	81
Chapter 5	Caffeine: Doubts and Scientific Evidence	87
	Confusion in 1988	87
	- The Australian Team Briefing	
	- Statements from Seoul	
	- Mr Watson's Understanding	
	- Accepted Views in Pentathlon in 1988	

	Recent Scientific Studies	94
	- Article by Professor D. Birkett and Dr J. Miners	
	- Caffeine Levels	
	- Dr K. Donald	
	- Professor A. Beckett	
	Conclusion on the Scientific Evidence	102
	General Findings and Conclusions	107
	Recommendations	109
Appendix 1	List of Submissions	115
Appendix 2	List of Public Hearings and Witnesses	117
Appendix 3	Letters to IOC Officials	119
Appendix 4	Letter from British Olympic Association	143
Appendix 5	Letter from Professor R. Day	155

PREFACE

At Seoul in September 1988, Mr Alex Watson became the first Australian athlete ever disqualified from an Olympic Games for a drug offence. The disqualification raised a number of questions about the ways in which such an occurrence should be handled. Accordingly, under its reference for examining issues relevant to annual reports, the Senate Standing Committee on Environment, Recreation and the Arts resolved at a private meeting on 18 September 1990:

That this Committee inquire into the circumstances surrounding the positive drug test on Mr Alex Watson.

ACKNOWLEDGMENTS

The Committee is mindful of the assistance of Secretariat staff under the direction of the Secretary. For this report the Committee acknowledges Dr Anne-Gabrielle Thompson and Mr Derek Drinkwater (Research Officers), and Ms Angela Misic (Executive Assistant).

ACRONYMS AND ABBREVIATIONS

AIS	Australian Institute of Sport
AOC	Australian Olympic Committee
AOF	Australian Olympic Federation
ASC	Australian Sports Commission
ASDA	Australian Sports Drug Agency
ASMF	Australian Sports Medicine Federation
BOA	British Olympic Association
CAS	Court of Arbitration for Sport
IOC	International Olympic Committee
UIPMB	Union Internationale de Pentathlon Moderne et Biathlon

RECOMMENDATIONS - COMMITTEE REPORT

Recommendation 1

The Committee's inquiry has revealed that scientific knowledge about Caffeine blood and urine levels reached by drinking coffee, the effects of Caffeine ingestion, particularly the effects on athletic performance, the individual variation in effects and the reliability of urine analysis to determine levels of ingestion, is inadequate. It therefore recommends:

- A. That until the performance enhancing effects and the likelihood of athletes exceeding the International Olympic Committee (IOC) Caffeine limit are clarified, the Australian Olympic Committee (AOC) recommend to the IOC the removal of Caffeine from the list of proscribed drugs.

- B. That the Australian Sports Drug Agency commission research into:
 - (i) the ingestion of Caffeine comparing alternative routes; for example: by drinking, by suppository, by injection;
 - (ii) the likelihood of athletes exceeding the IOC Caffeine limit;
 - (iii) reliable measurements of Caffeine levels;
 - (iv) the effects on performance;and that it report its findings to the Minister for the Arts, Sport, the Environment and Territories.

Recommendation 2

The Committee heard evidence about the ready availability of coffee by the Games organisers on the day Mr Watson was drug-tested. The Committee recommends:

- . That the AOC recommend to the IOC that while Caffeine remains on the IOC list of proscribed drugs, Caffeine beverages not be available at Olympic Games competition venues and athletes be advised of the possibility of exceeding the proscribed limit by simply drinking coffee.

Recommendation 3

In view of the events leading to Mr Watson's disqualification at Seoul, the Committee recommends:

- . That the AOC provide comprehensive drug briefings for Australian Olympic athletes both at the time of selection and immediately prior to departure for future Olympic Games.

Recommendation 4

The Committee has noted that an advocate was not available to assist Mr Watson before the IOC at Seoul, but that an Australian advocate will be present at Barcelona in 1992. To ensure that athletes receive the fairest representation of any case arising from drug testing procedures at Olympic Games, the Committee recommends:

- . That the AOC:
 - (i) formulate comprehensive procedures for when Australian athletes are found to have positive drug tests or infringe IOC drug rules at Olympic Games;
 - (ii) provide all Australian Olympic athletes with a copy of the procedures; and
 - (iii) ensure the availability of an appropriately qualified advocate for any Australian athlete infringing IOC drug rules.

- . That Australian athletes found to have breached drug guidelines be penalised in accordance with internationally accepted standards: up to three months ban for inadvertent use, two years for a first offence, and a life ban for any subsequent offence.

Recommendation 5

The Committee considers that the significance of positive drug tests on prominent Australian athletes justifies discussion in relevant annual reports. The Committee therefore recommends:

- . That the Australian Sports Commission comment in its annual reports on positive drug tests by prominent Australian athletes and the procedures established to deal with them.

RECOMMENDATIONS - MINORITY REPORT

Recommendation 1

Given the lack of conclusive scientific evidence and knowledge about Caffeine blood and urine levels reached by drinking coffee, the individual variations in Caffeine readings, even with uniform consumption by athletes and the reliability of urine analysis to determine levels of ingestion, we support the initiative of the Australian Sports Drug Agency (ASDA) in commissioning research into these and related matters. It is our understanding that the ASDA will be reporting on its findings during the first half of this year, and it is recommended:

- . That the details of this research and the subsequent findings be made available to the Australian Olympic Committee (AOC) and the International Olympic Committee (IOC) Medical Commission.

Recommendation 2

In view of the events leading to Mr Watson's disqualification at Seoul, we recommend:

- . That the AOC provide a thoroughly detailed and comprehensive drug briefing for Australian Olympic athletes both at the time of selection and immediately prior to departure for future Olympic Games.

Recommendation 3

In order to ensure that Australian Olympic athletes may appeal against any drug bans it is recommended:

- . That the Australian Olympic Committee appoint an independent Sports Drug Tribunal to hear disputed cases of positive drug tests and to facilitate any appeals to international authorities.

Recommendation 4

While it may have been of limited assistance in Mr Watson's case, the Australian Institute of Sport (AIS) could assist athletes testing drug positive in the future. For this reason we recommend:

- . That the AIS rule prohibiting access by (drug) banned athletes be amended to permit assistance to such athletes who may require AIS facilities in order to appeal against positive drug tests.

Recommendation 5

The Committee has noted that an advocate was not available to assist Mr Watson before the IOC at Seoul, but that an Australian advocate will be present at Barcelona in 1992. To ensure that athletes receive proper and qualified representation in cases arising from drug testing procedures and findings at Olympic Games, it is recommended:

- . That the AOC:
 - (i) provide a legal adviser who can assist;
 - (ii) provide a technical expert;
 - (iii) formulate comprehensive procedures for Australian athletes found to have positive drug tests or alleged to have infringed IOC drug rules at Olympic Games;
 - (iv) provide all Australian Olympic athletes with a copy of the procedures; and

- (v) ensure the availability of an appropriately qualified independent advocate for any Australian athlete infringing IOC drug rules.

That Australian athletes found to have breached drug guidelines be penalised in accordance with internationally accepted standards: up to three months ban for inadvertent use, two years for a first offence, and a life ban for any subsequent offence.

Recommendation 6

Mr Watson's experience on returning to Seoul on 24 September was unwise and unhelpful to the rest of the team and officials. In order to avoid a recurrence we recommend:

That the AOC devise and publish a protocol to be signed by Australian Olympic athletes covering the manner in which any athlete would return to Australia if disqualified from a Games. Such a protocol would determine aspects of travel, escort arrangements, communications with family, protection from media attention and the particular requirements of adolescent athletes.

Recommendation 7

Until the risks of exceeding the present IOC proscribed level of Caffeine are established it is recommended:

- That Caffeine in any concentration in the urine be proscribed.
- That an appeal against the finding of Caffeine in a sample could be based on inadvertent use and that a level for inadvertency be set.

Recommendation 8

The Committee considers that the significance of positive drug tests on prominent Australian athletes justifies discussion in relevant annual reports. We therefore recommend:

- . That the Australian Sports Commission comment in its annual reports on positive drug tests by prominent Australian athletes and the procedures established to deal with them and other investigations conducted by the ASC into alleged doping practices including self admission of the use of banned drugs and possession of banned drugs.

Recommendation 9

That the IOC adopt the hearing and appeal provisions as set out in their brochure Annex 6 headed 'Rights and Responsibilities of Sports Organisations, Athletes and their Entourage' together with Annex 7 'Guidelines for Sanctions and Penalties'.

COMMITTEE REPORT

ALEX WATSON'S POSITIVE DRUG TEST

Background

1. Mr Alex Watson, a pentathlete, was selected to participate in the 1988 Seoul Olympic Games. On 20 November 1987 Mr Watson signed an agreement with the Australian Olympic Federation (AOF) acknowledging the implications of breaking any of the rules relating to drug use contained in the International Olympic Committee (IOC) *List of Doping Classes and Methods*. The nominated AOF penalty was ineligibility for life for selection in any Australian Olympic Team.

2. Australian athletes selected to compete at Seoul were briefed about drug misuse in August 1988 by Dr B. Sando, the Australian Olympic Team doctor. Dr Sando advised that drug testing would occur at Seoul. He also stated that Caffeine ingested through 'normal' social intake of coffee, tea, cola drinks or chocolate would not result in a higher than permissible level of Caffeine. Mr Watson was present at this briefing. (*Evidence*, p. 89)

The Positive Test

3. On 19 September 1988, after a day-long series of fencing bouts at Seoul, Mr Watson was among competitors selected for a urinary drug test by the Medical Commission of the IOC. Mr Watson provided urine which, according to normal practice, was divided into A and B samples. On 21 September 1988 Mr Watson was told that a level of Caffeine above the allowable limit had been detected in both samples. Above a concentration of 12 micrograms per millilitre (mcgs/ml), Caffeine is classified as a proscribed drug by the IOC; Mr Watson's samples revealed a concentration of more than 14 mcgs/ml.

4. According to the IOC *List of Doping Classes and Methods*, '...the presence of the [proscribed] drug in the urine constitutes an offence, irrespective of the route of administration'. Consequently, in line with Rule 29 of the Olympic Charter, the IOC banned Mr Watson from further participation in the Seoul Olympics. He thus became the first member of an Australian Olympic Team ever to be disqualified from an Olympic Games for a drug-related offence.

5. Because the Australian Olympic Federation (AOF) (which became the Australian Olympic Committee (AOC) from May 1990) is a constituent chapter of the IOC it was bound to comply with the IOC determination. To be consistent with the IOC, all the AOF had to do was to implement the ban on Mr Watson for the remainder of the Seoul Olympics. The AOF went much further, however, and applied its own ban. Mr Watson was banned for life from any future Australian Olympic Team consistent with Section 2 of the AOF *Doping Policy*, adopted on 6 November 1987. The Union Internationale de Pentathlon Moderne et Biathlon (UIPMB) also applied a ban, disqualifying Mr Watson from athletic competition for two years.

6. The AOF revised its *Doping Policy* on 3 February 1989, introducing the possibility of appeals and the option of a lesser penalty than a life ban. On 11 May 1989, under the new AOF *Doping Policy* provisions, Mr Watson appealed successfully against the AOF life ban. The AOF reduced the life ban to two years, determining that for so long as Mr Watson was subject to any ban by the UIPMB, he would be banned by the AOF, during which time he would receive no funding nor be eligible to hold any office with the AOF. Effectively, Mr Watson remained banned from international competition in the modern pentathlon for two years from September 1988.

7. On 18 September 1990, the Senate Standing Committee resolved to inquire into the circumstances surrounding the positive drug test on Mr Watson at Seoul. Public hearings (see Appendix 2) were held at which evidence was taken from representatives of the AOC (10 May and 4 November 1991) and from Mr Watson (10

May 1991). In the evidence presented to the Committee there was no dispute that Mr Watson had exceeded the IOC Caffeine level. As Mr Watson said in his own evidence, he has always accepted that he registered a proscribed Caffeine level.

8. For Mr Watson, the following were the points at issue:

- (i) In the course of one day's competition he consumed coffee - some of which was provided by the IOC - which caused him unintentionally to exceed the limit. (*Evidence*, pp. 13-14)(Mr Watson has stated that during competition on 19 September 1988 he drank some 12-14 cups of brewed coffee and two cans of Coca-Cola, and an additional two cups of brewed coffee for breakfast on that day. Mr Watson made clear that he did not have these (Caffeine-containing) drinks to enhance his athletic performance, but to maintain his fluid level, and he denied that he had ingested Caffeine by other methods.)(*Mr A. Watson, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B*, pp. 8-11; *Evidence*, p. 13)
- (ii) That for the IOC, exceeding the proscribed level presumed illegal behaviour. (*Evidence*, p.14)
- (iii) That the initial AOF penalty was most inappropriate, his treatment at Seoul was harsh and peremptory and there were no appeal provisions. (*Evidence*, pp. 25-26)
- (iv) That his reputation and good name were seriously damaged. (*Evidence*, p. 34)

9. On 5 December 1991 the Committee heard evidence from Professor D. Birkett of Flinders University that, among some individuals, seven to eight cups of coffee in an hour could produce urinary Caffeine levels in the vicinity of 12 mcg/ml. Professor Birkett also said that up to three cups of strong brewed coffee each day could produce a similar level (*Evidence*, pp. 228-230) and that there is a large variability in the ability of individuals to metabolise Caffeine in the liver:

If you are the individual who has got slow metabolism in the liver and you have taken in four or five cups of coffee in a day, you may be in danger of transgressing and being banned for life, as occurred on this occasion. (*Evidence*, p. 211)

The Committee notes that there is considerable uncertainty about the effects of Caffeine on different individuals, the blood and urine levels reached by drinking coffee, its performance-enhancing effects and the reliability of urine analysis to determine levels of ingestion.

10. While the penalty imposed upon Mr Watson by the AOF in 1988 was in accordance with AOF guidelines applying at that time, the Committee notes that the AOF under its revised (1989) policy allowing an appeal accepted that there was no evidence that Mr Watson intended to breach the Caffeine level. The AOF then changed its ruling of a life ban to a two year ban in line with the UIPMB. The Committee notes the AOF Executive Board evidence that Mr Watson's account of events has been consistent and that there is nothing to suggest that his ingestion of Caffeine was by any other means than drinking beverages. The Committee concludes that, particularly for a first offence, a life ban was an excessive penalty.

Recommendations

11. The Committee's inquiry has revealed that scientific knowledge about Caffeine blood and urine levels reached by drinking coffee, the effects of Caffeine ingestion, particularly the effects on athletic performance, the individual variation in effects and the reliability of urine analysis to determine levels of ingestion, is inadequate. It therefore recommends:

- A. That until the performance enhancing effects and the likelihood of athletes exceeding the International Olympic Committee (IOC) Caffeine limit are clarified, the Australian Olympic Committee (AOC)

recommend to the IOC the removal of Caffeine from the list of proscribed drugs.

- B. That the Australian Sports Drug Agency commission research into:
- (i) the ingestion of Caffeine comparing alternative routes; for example: by drinking, by suppository, by injection;
 - (ii) the likelihood of athletes exceeding the IOC Caffeine limit;
 - (iii) reliable measurements of Caffeine levels;
 - (iv) the effects on performance;
- and that it report its findings to the Minister for the Arts, Sport, the Environment and Territories.

12. The Committee heard evidence about the ready availability of coffee by the Games organisers on the day Mr Watson was drug-tested. The Committee recommends:

- . That the AOC recommend to the IOC that while Caffeine remains on the IOC list of proscribed drugs, Caffeine beverages not be available at Olympic Games competition venues and athletes be advised of the possibility of exceeding the proscribed limit by simply drinking coffee.

13. In view of the events leading to Mr Watson's disqualification at Seoul, the Committee recommends:

- . That the AOC provide comprehensive drug briefings for Australian Olympic athletes both at the time of selection and immediately prior to departure for future Olympic Games.

14. The Committee has noted that an advocate was not available to assist Mr Watson before the IOC at Seoul, but that an Australian advocate will be present at Barcelona in 1992. To ensure that athletes receive the fairest representation of

any case arising from drug testing procedures at Olympic Games, the Committee recommends:

. That the AOC:

- (i) formulate comprehensive procedures for when Australian athletes are found to have positive drug tests or infringe IOC drug rules at Olympic Games;
- (ii) provide all Australian Olympic athletes with a copy of the procedures; and
- (iii) ensure the availability of an appropriately qualified advocate for any Australian athlete infringing IOC drug rules.

. That Australian athletes found to have breached drug guidelines be penalised in accordance with internationally accepted standards: up to three months ban for inadvertent use, two years for a first offence, and a life ban for any subsequent offence.

15. The Committee considers that the significance of positive drug tests on prominent Australian athletes justifies discussion in relevant annual reports. The Committee therefore recommends:

. That the Australian Sports Commission comment in its annual reports on positive drug tests by prominent Australian athletes and the procedures established to deal with them.

Rosemary Crowley

Chair

MINORITY REPORT

**Senator N.A. Crichton-Browne
(Deputy Chairman)**

Senator I. Campbell

Senator W. Crane

CHAPTER 1

ANNUAL REPORTS OF THE AUSTRALIAN SPORTS COMMISSION

1.1 In its report on Annual Reports in December 1990, the Senate Standing Committee on Environment, Recreation and the Arts commended the Australian Sports Commission (ASC) on several aspects of its 1988/89 report. Nevertheless, the Committee noted some shortcomings. In particular, the Committee considered that with regard to Guideline 7 for statutory authorities (requiring a description of major problems that have arisen in the body's activities), there needed to be more coverage of problems faced by the ASC.

1.2 One matter that the 1988/89 ASC annual report did mention concerned this Committee's Drugs in Sport inquiry and allegations relating to involvement with prohibited drugs by past and (then) present athletes of the Australian Institute of Sport (AIS) and the alleged involvement of AIS coaches; it noted this issue under the *Marketing and Public Relations* sub-heading of the *Other Corporate Services* section. Further, under the *Major Corporate Issues* section the ASC report also discussed the Drugs in Sport inquiry; that discussion covered the Committee's Interim Report. In the Committee's Interim Report, the positive drug test recorded by Australian pentathlete Mr Alex Watson at the Seoul Olympics in 1988 was covered (pp. 116-117); it was noted that his appeal was being considered at that time (May 1989) by the AOF appeals committee. By contrast, although it was not transmitted to the Minister until December 1989, the 1988/89 ASC annual report did not comment on Mr Watson's positive drug test or the appeal decision of May 1989.

1.3 Mr Watson is the first (and only) Australian athlete ever disqualified from an Olympic Games for a drug offence. It is remarkable that the ASC did not discuss this matter as a relevant problem in the appropriate annual report; it is the type of problem that should be canvassed because it raises a number of questions

about the ways in which such an occurrence should be handled. Further, despite not covering the problem of Mr Watson's disqualification and the difficulties that he faced by not having an independent tribunal to which he could appeal, the ASC annual report rejected the Interim Report's recommendation for such an authority; the ASC 1988/89 annual report advised:

The Commission also disagreed with the suggestion that such a tribunal should hear appeals from the sporting federations and individual athletes over decisions made in Australia as a result of Australian or international test results. (*Australian Sports Commission Annual Report 1988-89*, p.33)

1.4 Although Mr Watson's appeal to the AOF had been determined and he was still under a (two-year) ban, the ASC 1989/90 annual report also made no reference to Mr Watson's case. This was despite the fact that the report advises (p. 2) that the Commission is concerned with drugs in sport, and the report's advice (p. 8) that in 1989/90 it had allocated \$1 million to the Australian Olympic Committee, the first payment of a total contribution of \$7 million for the preparation of Australian athletes in the leadup to the 1992 Olympic Games. Notably, Mr Watson will compete at Barcelona in 1992.

1.5 With regard to Mr Alex Watson's positive drug test, then, the annual reports of the ASC are less than satisfactory. The Senate Resolution of 14 December 1989, referring annual reports to Senate Standing Committees, provides at para. 5:

That each committee consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration.

This reference from the Senate has been followed in considering the issue of Mr Watson's positive drug test and the failure of the ASC to discuss the matter in its annual reports for 1988/89 and 1989/90. At a private meeting on 18

September 1990, the Senate Standing Committee on Environment, Recreation and the Arts resolved:

That this Committee inquire into the circumstances surrounding the positive drug test on Mr Alex Watson.

CHAPTER 2

DRUGS IN SPORT AND THE OLYMPIC GAMES

2.1 Mr J. Coates, President of the Australian Olympic Committee (AOC) has confirmed that:

The Olympic Games is all about the high performance athlete, and we are all about providing as much assistance to achieve high performance as possible. ...
(*Drugs in Sport Evidence*, p. 356)

The Emergence of a Drug Problem Among Australian Athletes

2.2 As Australian athletes prepared for the Seoul Olympics in 1988, the issue of drugs in sport received increased international attention. It had become necessary for Governments and sporting bodies to devise policies and implement programs aimed at curbing the misuse of performance enhancing drugs, a practice that had been growing since the 1960s.

2.3 The emergence of a drug problem among Australian athletes was documented and discussed in this Committee's recent Reports on *Drugs in Sport* (1989 and 1990 respectively). As the Preface to the 1989 Interim Report stated:

At the time the Committee received [its] reference [to inquire into the issue of drugs in sport] a number of allegations that Australian athletes were using performance enhancing drugs were on the public record, and had received wide publicity.

Perhaps most notable was a *Four Corners* program of 30 November 1987 which had suggested the widespread use of drugs by athletes and made specific allegations concerning the Australian Institute of Sport. The press coverage following this program noted a widespread

belief, at least among athletes and coaches, that it was impossible to compete on equal terms with the world's best sportsmen and sportswomen without the use of performance enhancing drugs. (*Interim Report of the Senate Standing Committee on Environment, Recreation and the Arts on Drugs in Sport*, 1989, p. xvii)

The Interim Report confirmed that:

... there has been a problem with drug use in Australian sport and that this has extended to all levels, and included sportspeople of all ages. (p. xix)

2.4 The situation in Australia was similar to that prevailing elsewhere: for two or three decades, athletes around the world came to depend increasingly on various drugs - from stimulants to steroids - to boost their performance and secure victories at the most elite levels.

Efforts to Combat Drug Misuse

The IOC Medical Commission

2.5 International measures to eradicate drug use in sport were introduced as early as 1960, though the fight against doping gained momentum in 1967 following the death from proven drug misuse of Tour de France competitor Tommy Simpson. The Medical Commission of the International Olympic Committee (IOC) was then reestablished to deal with all aspects of sport and medicine. Drug tests were introduced at the 1968 Olympic Games, and since then the drug testing and evaluation program has been refined constantly.

2.6 The IOC Medical Commission operates through several subcommissions. For the purposes of this inquiry the most relevant is that relating to 'doping and biochemistry of sport' which is responsible for defining the rules pertaining to:

- . the classes of prohibited drugs;
- . the collection of samples;
- . the selection of accredited laboratories;
- . the procedures for testing;
- . the preparation of education programs on the implications of drug misuse among athletes; and
- . co-ordination with national sporting bodies.

2.7 Three months before the 1988 Seoul Olympics, the first World Anti-Doping Conference, 'calling for world-wide action to combat the problem of doping in sport' was held in Ottawa. This led to an International Anti-Doping Charter aimed at promoting co-ordination between international sporting organisations and governments. Thus, on the eve of the Seoul Olympics a concerted effort was made to combat a practice which had become well-entrenched and accepted *ipso facto* by the sporting community.

Australian Authorities and Sports Drugs

2.8 Concern about drug abuse among athletes in Australia had gathered momentum in the late 1970s when the Australian Sports Medicine Federation (ASMF) formed a committee to examine the extent of the practice. Between 1979 and 1981 the Federation undertook a survey which '... highlighted the extent of substance abuse by sportspeople ...' (*Drugs in Sport Evidence*, p. 242) The survey was the foundation stone of a National Program on Drugs in Sport created in 1985 under the aegis of the (then recently formed) Australian Sports Commission (ASC).

2.9 In 1982 the AOF issued its first official statement on the subject of drugs in sport, condemning the practice. Five years later, in November 1987, both the AOF and the ASC released anti-doping policy statements; they were almost identical. The statements contained provisions for the drug-testing of prospective Olympic competitors and measures to exclude from selection anyone breaking IOC

doping rules. Sanctions could include suspension for life from participation in AOF or Olympic competitions.

2.10 In June 1988 the AOF Secretary-General, Mr P. Coles, issued a memorandum advising all national sporting bodies that testing prior to selection would commence in January 1989. In November 1988 Mr J. Coates, then AOF Vice-President, stated that:

... the purpose of a strong doping policy such as ours is the deterrent element. It is not to catch athletes. (*Drugs in Sport Evidence*, p. 347)

2.11 Efforts to deter Australian athletes from drug use were strengthened with the establishment of the Australian Sports Drug Agency (ASDA) which was created:

To educate the sporting and general communities on health and fair play issues related to drug use in sport and to carry out an independent drug sampling and testing program on sports people at sporting events, during training sessions and out of competition. (*Australian Sports Commission Annual Report 1989-90*, p. 70)

The *Australian Sports Drug Agency Act 1990* specifies that the Australian Sports Drug Agency (originally recommended by the Senate Standing Committee in its 1989 *Interim Report on Drugs in Sport*) is:

... to encourage the practice of sport free from the use of drugs, in a manner consistent with the objectives of protecting:

- (i) the health of competitors; and
 - (ii) the values of fair play and competition; and
 - (iii) the rights of those who take part in sport...
- (*Australian Sports Drug Agency Act 1990*, s. 8(a))

with responsibility:

... to maintain an up-to-date schedule of drugs and doping methods, and permitted levels (if any) in relation to each drug or method, listed by the International Olympic Committee as drugs and doping methods in respect of which competitors may be tested, and to disseminate the contents of the schedule. (*Australian Sports Drug Agency Act 1990*, s. 9(1)(a));

Proscribed Drugs

Caffeine as a Doping Substance

2.12 The fact that Caffeine is a potential performance enhancer was responsible for its inclusion in the IOC list of doping substances in 1962. It was removed from the list in 1972, however, and reintroduced only after a study of 775 Belgian racing cyclists in 1982 found that:

... some professional cyclists were probably using excessive amounts of caffeine to help them in their races. (R. Gilbert, *Caffeine*, 1988, p. 80)

In 1982 the allowable level of Caffeine was set at 15 micrograms per millilitre (mcgs/ml). The IOC Medical Commission and national sporting organisations agreed that this level was 'quite reasonable'. It was adopted by the Medical Commission for the 1984 Los Angeles Olympic Games. Following tests at Los Angeles on cyclists known to have taken Caffeine in concentrated form but who nevertheless remained within the allowable limit, the IOC Medical Commission decided to lower the level to 12 mcgs/ml. This decision was approved by the Executive Board of the IOC and became effective from 1 January 1986. It remained the level for the Seoul Olympics.

Agreements and Briefings

2.13 In December 1987 the IOC Executive Board approved modifications to its *List of Doping Classes and Methods* which had been recommended by the Medical Commission's Doping and Biochemistry Sub-Commission when it met in Moscow in September 1987: diuretics and substances that alter the integrity of urine samples were banned. The revised list was forwarded immediately to national sporting federations throughout the world. The AOF had released its anti-doping policy one month earlier, advising all national federations on 10 November that their athletes would be obliged to sign an agreement to submit to a random test prior to selection for the Seoul Olympics. In line with this requirement, on 20 November 1987 and 2 May 1988 Mr Alex Watson signed agreements acknowledging the implications for his sporting career of breaching any of the rules contained in the IOC *List of Doping Classes and Methods*. The AOF agreement that Mr Watson signed on 20 November 1987 provided the penalty of lifetime ineligibility for selection in any Australian Olympic Team.

2.14 In August 1988 Mr Watson was among athletes intending to participate in the Seoul Olympics who were briefed about drug misuse by Dr B. Sando, the Australian Olympic Team doctor. Dr Sando advised that drug testing would occur in Seoul; according to the AOC, Dr Sando also stated that Caffeine ingested through 'normal' social intake of coffee, tea, cola drinks or chocolate would not result in a higher than permissible level of Caffeine. (*Evidence*, p. 89)

2.15 There remains some dispute about Dr Sando's exact words during the briefing. The Olympic pentathlon manager, Mr R. Barrie, set out his recollection of Dr Sando's briefing in a written statement to the AOF Executive Board:

During the course of the briefing Dr Brian Sandow [sic] ... stated that for any athlete to go over the Olympic limit set for caffeine would require him drinking a lot of coffee in a short time. I cannot remember his exact words but I believe he may have said 20 cups of coffee in an hour. When this statement was made Alex Watson was

approximately 3 to 5 seats away from me. (*Mr R. Barrie, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, p. 3*)

And in his statement to the AOF Executive Board Mr Watson wrote:

I have been recently told that Dr Brian Sando in that speech stated that a competitor to exceed the Olympic limit would have to drink something like 20 cups of coffee in approximately one hour. I have no independent recollection of this. However, this statement is consistent with a later statement of Dr Sando made to me after my drug testing in Seoul. (*Mr A. Watson, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, p. 6*)

While there is some disagreement about what Dr Sando may have said, *the most significant issue for Mr Watson is what he understood Dr Sando to have said about Caffeine* at the briefing. Crucially, Mr Watson left the briefing without a proper understanding about the amount of coffee that could be consumed:

At no stage prior to that was I aware of the effects of caffeine nor was I aware of the methods in which the Olympic limit could be reached, nor was I aware of the effects until after 19 September as I cannot recall Dr Sando's remarks... I was certainly aware after hearing Dr Sando that caffeine was a banned substance but thought that at this Olympic level [it] could only be reached by deliberate use of caffeine in the form of tablets or suppositories which I have never used. (*Mr A. Watson, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, pp. 6-7*)

Accordingly, it is notable that the AOF briefing attempted to cover all proscribed substances including Caffeine, and Mr Watson knew that Caffeine was (quantitatively) a banned substance.

CHAPTER 3

MR WATSON'S POSITIVE DRUG TEST AND ITS CONSEQUENCES IN AUSTRALIA

The Positive Drug Test: 21 September 1988

3.1 Mr Alex Watson's participation as a pentathlete in the Seoul Olympics began on 18 September 1988. On 19 September after a day-long series of fencing bouts, he was (randomly) selected for a urinary test by the Medical Commission of the IOC; the urine provided was divided into A and B samples. The result of testing both samples was not known until 21 September, by which time Mr Watson had competed in two further pentathlon events: swimming on 20 September and shooting on 21 September. Mr Coates advised the Committee that, while he had been told of the positive result on the A Sample at 1.20 am on 21 September, he did not inform Mr Watson as he had to compete later that day. Mr Coates did not want Mr Watson's performance adversely affected by something that could prove to be of no effect and he decided to await the result of the test on the B sample. (*Evidence*, p. 158)

3.2 During the afternoon of 21 September Mr Coates and Dr Sando attended the unsealing of the B sample and were advised for the first time, that the proscribed substance was Caffeine and of the level of Caffeine detected in the A sample. At the completion of Mr Watson's event that afternoon he was told by his coach Mr Barrie that he had returned a positive drug test; however, Mr Barrie did not advise Mr Watson about the type of drug detected. At approximately 6.00 pm that evening Mr Coates and other AOF officials met with Mr Watson and Mr Barrie; they were advised that Mr Watson had tested positive to Caffeine. It was during that meeting that Mr Coates was informed by the IOC Medical Commission that the testing of the B sample had confirmed the A sample result.

3.3 Mr Watson's urine samples had revealed a concentration of Caffeine higher than 14 micrograms per millilitre (mcgs/ml); the IOC limit is 12 mcgs/ml. Following the B Sample's confirmation of the IOC positive drug test, the issue was acted upon without delay. The AOF complied with the IOC procedures which required Mr Watson to appear before the IOC Medical Commission; this occurred at 10.00 pm on the evening of 21 September 1988. At that hearing Mr Watson appeared in the company of Messrs Coates, Barrie and Dr Sando (*Evidence*, p. 90). The meeting comprised some 20 people made up of the IOC Medical Commission and UIPMB officials who were seated around a rectangle of tables; interpreting microphones were used. Mr Coates provided a character reference: he said he had known Mr Watson and that in Australia Mr Watson had been active in Olympic fund raising, and that he was reliable. (*Evidence*, pp. 16-17)

3.4 Mr Watson's hearing before the IOC Medical Commission contrasted with that of the British athlete, Mr Linford Christie. Mr Christie had tested positive for pseudoephedrine but appealed on the grounds of inadvertent use. Mr Christie's appeal was upheld. Unlike Mr Christie's IOC hearing at Seoul in 1988, where he was accompanied by a legally qualified advocate (who was Honorary Treasurer of the British Olympic Association), Mr Watson did not have access to an advocate. While being legally qualified, Mr Coates was present as the Australian Chef de Mission rather than as an advocate for Mr Watson.

3.5 According to the IOC *List of Doping Classes and Methods*, '...the presence of the [proscribed] drug in the urine constitutes an offence, irrespective of the route of administration'. Therefore, in line with Rule 29 of the Olympic Charter, the IOC Executive Board banned Mr Watson from further participation in the Seoul Olympics. (He thus became the first member of an Australian Olympic Team ever to be disqualified from an Olympiad for a drug-related offence.) Accordingly, in keeping with section 6.3.9 of the revised IOC *List of Doping Classes and Methods*, issued in December 1987, the IOC Executive Board advised Mr Coates as Chef de Mission of the Australian Olympic Team (at the time he was also Vice-President of

the Australian Olympic Federation), of this decision. The AOF, as a constituent chapter of the IOC, was:

... bound to observe and comply with decisions of the IOC and its Commissions, including the IOC Medical Commission. (*Evidence*, p. 98)

The disqualification was applicable automatically to Mr Watson and he was directed by Mr Coates to return to Australia. Mr Coates has advised that:

... the IOC accredits and disaccredits athletes. The minute they are disaccredited, they are out of the village. There is nothing that the AOC can do about that. It is our policy, under our agreements with officials and athletes, that if that happens the athlete returns home forthwith. (*Evidence*, p. 157)

Mr Coates has stated further that in directing Mr Watson to return immediately to Australia, his concern at the time was for the team as a whole. The good sense of such a concern is demonstrated by the adverse effect on the Canadian team following the disqualification of Mr Ben Johnson who tested positive for anabolic steroids at the Seoul Olympics. Mr Coates confirmed:

Also, when you have a responsibility for the other 400 members of your team, you have a responsibility so far as they are concerned that all of the emphasis and the focus of the team - the administration, the medical section - is on those athletes still competing. I do not think it is fair to them that someone who has breached the doping rules of the IOC should then be the centre of media and other attention. (*Evidence*, pp. 157-158)

3.6 Following Mr Watson's disqualification by the IOC, the AOF chose to apply its own ban. At the time the AOF 'doping' policy provided that:

Any athlete who is found ... to have taken or used drugs or stimulants ... prohibited by ... the IOC ... will be

ineligible for life for selection in any Australian Olympic Team or to hold any position on the AOF. (AOF, *Doping Policy*, 1987)

The ban, though not confirmed in writing, was regarded nevertheless as a *fait accompli* by the AOF.

Aftermath of the Drug Test: 22-24 September 1988

3.7 With Mr Watson disqualified, there were no Australian pentathletes with events to contest. Accordingly, early in the morning of 22 September 1988 Mr Watson and the rest of the Australian pentathlon section left Seoul to return to Australia via Hong Kong. In evidence Mr Coates stated that the Assistant General Manager and the Transport Director were made available to accompany Mr Watson to the airport and were with him until he left. (*Evidence*, pp. 162-163)

3.8 Reacting rather precipitately to the swift developments of the twelve hours preceding his departure from Korea, Mr Watson then made a number of decisions which contributed to the development of a rift with the AOF. He telephoned Mr B. Walsh of Channel Ten from Hong Kong to arrange for a press conference to be held in Seoul at which he could present his case. He returned to Seoul on 24 September. Mr Watson claimed that the penalty imposed by the IOC was unjustified. Going somewhat further, he alleged that he was the victim of foul play, and also possibly of a smear campaign. (*Mr A. Watson, Media Statement, Seoul, 24 September 1988, Schedule 4.2 to AOC Submission No 48B; Evidence*, pp. 58-62). The press conference, which gave rise to considerable publicity, soon brought forth statements by various medical experts in support of Mr Watson's assertion that the amount of coffee he had ingested was sufficient to reveal a high concentration without intake of the drug in concentrated form.

Simulated Drug Test in Australia: 29 October 1988

3.9 In October 1988 the Australian Modern Pentathlon Union sought the assistance of the Australian Institute of Sport (AIS) in conducting a simulation of the Seoul test on Mr Watson. That assistance was denied because of the AIS policy not to assist any athlete who had returned a positive test. On 29 October 1988 Mr Watson took part in the simulation at a gymnasium in Sydney. It was sponsored by Channel Ten.

3.10 Professor D. Birkett, of the Department of Clinical Pharmacology, Flinders University, was asked by the Channel Ten *Page One* television program and Mr Watson to assist in advising on a sampling schedule. Professor Birkett and his colleague, Dr J. Miners prepared a suggested sampling schedule for urine, blood samples and the caffeine-containing drinks. The study protocol that Professor Birkett suggested was, he explained, essentially a simple one starting at the time of waking up and continuing to the final sample collection at the time the Seoul urine sample was taken. It was based on periodic urine collections over periods of four hours with a blood sample at the mid point of urine collection to allow correlations to be made between blood and urine concentrations.

3.11 Professor Birkett has stated that at all times he remained in possession of the samples collected and believed that the chance that any of the samples were tampered with was extremely slight. The samples were under his supervision for most of the time and the results from the samples are entirely consistent with what he would have expected. He has stated that it would be an extremely difficult task to 'spike' such samples in a way that was pharmacologically credible. Nevertheless, Professor Birkett has also stated that he was not in the room the whole day and that it is just possible that Mr Watson could have taken tablets by sleight of hand or in some other way. Professor Birkett, however, believed this to be unlikely:

I do not believe that any caffeine was consumed other than that in the coffee and coca-cola that he ingested as the urine and blood concentrations measured were

entirely consistent with the intake in the coffee and coca-cola. (*Prof. D. Birkett, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, p. 13*)

3.12 During the simulated test, Professor Birkett collected spot samples of all the "non-caffeine" drinks consumed by Mr Watson and they were analysed to determine whether there was Caffeine in them. Caffeine-containing drinks were measured by a specific and precise high pressure liquid chromatography method employed previously in Professor Birkett's laboratory. All samples were analysed in duplicate, a standard curve was run each day and high and low quality control samples were included in each analytical run. The co-efficient of variation of this method is in the order of 2 to 5.6%. Professor Birkett stated that the method used is essentially the same as that reported by him and his co-authors in an article in *Clinical Pharmacology and Therapeutics* (39), 1986, pp. 54-59. Professor Birkett noted that:

The caffeine concentrations in the drinks that were consumed were in the upper range of caffeine concentrations for brewed coffee and I would regard the coffee as being unusually strong. The concentrations coupled with the volumes of the drinks resulted in a total caffeine intake over the 16 hour period of close to *1500 milligrams* or 1.5 grams. This is a very high caffeine intake ...

The average caffeine intake I have measured in a group of 18 moderate to heavy coffee drinkers was 463 milligrams per day with a range of about 180 to 850 milligrams per day.

The intake by Alex Watson on the study occasion was nearly twice the upper end of that range and his blood and urine caffeine levels were also nearly twice the range referred to in paragraph 32 [That is, in the order of 6.7 to 11 milligrams per litre] ...

The plasma concentrations were as expected from the caffeine intake starting at 4.5 milligrams per litre in the first sample which was blood taken after the first cups of coffee in the morning and increasing through the day to

reach a peak level of 22.4 milligrams per litre in the last sample ...

Urine concentrations began at 2.35 milligrams per litre in the overnight urine and increased to 13.7 milligrams per litre in the urine collected over the period to 5.00 pm at which time 1260.1 milligrams of caffeine had been consumed and reached a peak concentration in the urine taken at about 9.50 pm of 28.1 milligrams per litre... (*Prof. D. Birkett, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B*, pp. 13-15).

3.13 Professor Birkett concluded that:

The caffeine intake was unusually high mainly because of the strength of the coffee used. It was not possible to know the caffeine concentration in the coffee provided in Seoul, but one would assume that it was lower than that used in Sydney.

The plasma and urine concentrations are consistent with the intake of caffeine in the coffee and coca-cola consumed by Alex Watson during the day. The results are also consistent with what we would have expected from the known pharmacokinetics of caffeine that I referred to in paragraph 17 and with data in the literature obtained by both ourselves and the workers. (*Prof. D. Birkett, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B*, p. 15)

Paragraph 17 referred to above reads as follows:

My recollection also is that it was stated in the Australian press and by Olympic officials that Alex Watson could only achieve urine concentration [sic] of 14 milligrams per litre if he had taken caffeine in tablet form or suppository form. At that time I calculated that, based on the information on caffeine pharmacokinetics readily available in scientific literature (both our own work and others), the urine concentration set by the International Olympic Committee could easily be achieved by moderate coffee intake in the order of 5-10 cups per day. (*Prof. D. Birkett, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B*, pp. 4-5)

3.14 Professor Birkett went on to conclude:

It seems clear from this study of one individual and other studies with greater numbers of subjects that *it would be possible to reach the 12 milligram [sic] per litre urine concentration with a caffeine intake contained in 5 to 10 cups of brewed coffee over the course of the day.*

This is in fact the situation with Alex Watson who reached a level of 13.7 milligrams per litre at a time when he had taken approximately 11 cups of brewed coffee and 2 cans of coca-cola. Should he have consumed similar amounts of coffee or more in Seoul it is highly likely that his urine concentration would have been as [sic] measured *solely* on the basis of the caffeine content of the coffee and coca-cola consumed. (*Prof D. Birkett, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, p. 15*)

3.15 The Caffeine concentrations of the plasma and urine samples obtained by Mr Watson during the fencing re-enactment analysed at Professor Birkett's laboratory at Flinders University were analysed by Dr John Miners. The principal conclusion arrived at by Dr Miners is:

... that urine caffeine concentrations far in excess of the permissible Olympic level can be obtained from the drinking of caffeine containing beverages and that a high urine caffeine concentration does not necessarily imply the use of illicit caffeine preparations. The view that caffeine concentrations in excess of 12 mg/l cannot be obtained from the consumption of caffeine containing beverages is incorrect. In addition our results suggest that if Alex Watson had consumed 8 to 10 cups of average strength coffee and 2 cups of coca cola on the day of the Seoul fencing event, his urine caffeine concentration would have been expected to be in the region of that measured by the Olympic authorities (assuming equivalence of conditions) ie. the urine caffeine concentration measured in Seoul could well be explained solely on the basis of his caffeine intake from the coffee and coca cola. (*Letter from Blake Dawson Waldron, to R.K. Gosper, 16 April 1992*)

3.16 It is important to note that the test was not conducted and controlled by Professor Birkett but rather with his assistance and advice. The simulation was not conducted with the rigor of a scientific study. As Dr E. Maslen, Director of the Crystallography Centre at the University of Western Australia has observed:

The simulation did not reproduce the original conditions as closely as an expert scientist would consider desirable. The simulation would be less helpful to those trying to set limits on caffeine concentrations than better conducted experiments.

Nevertheless ...

...

Its blemishes should not obscure the fact that the results of the Page One simulation were essentially correct, and drew public attention to Birkett's work. (*Dr E. Maslen, Letter to Senator N. Crichton-Browne, 9 April 1992*)

3.17 The simulated test may be described as a demonstration and it would be wrong to regard it as a re-enactment which reproduced in identical detail the events in Seoul. According to Professor Birkett, however, the test did demonstrate, that it is possible to reach a urine caffeine concentration level of 12 milligrams/litre by the consumption of five to ten cups of coffee in the course of a day.

Drugs in Sport - Senate Hearing: 21 November 1988

3.18 At the time of the events in Seoul, the Senate Standing Committee was conducting an inquiry into Drugs in Sport. On 21 November 1988, in evidence to that inquiry, Mr J. Coates and Dr B. Corrigan of the AOF pointed out that in the simulated drug test Mr Watson was given 1500 milligrams of Caffeine and that the specific gravity of his sample had not been recorded; without a specific gravity reading it is not possible to gauge the extent of dehydration. Even if the specific gravity of the sample had been recorded, however, some experts consider that

dehydration is not a factor affecting concentration levels in urine. In evidence to the Committee, Professor Birkett stated:

...neither dehydration or water loading really affect the concentration of caffeine in urine. (*Evidence*, p. 208)

Drugs in Sport - Senate Hearing: 30 November 1988

3.19 On 30 November 1988 Mr Watson appeared before the Drugs in Sport inquiry; he advised the Committee that he no longer believed that his drinks in Seoul had been tampered with. (This earlier claim would not have assisted Mr Watson's credibility.) At the 30 November hearing, Mr Watson outlined complaints which fall into two categories - those against the AOF (from May 1990, the AOC), and other complaints that centre on the legitimacy of testing for Caffeine. Many of these complaints were repeated at the Mr Alex Watson Inquiry hearing on 10 May 1991.

Complaints Against the AOF

3.20 Mr Watson's main complaints against the AOF on 30 November 1988, and 10 May 1991, were as follows:

- . He had been misinformed by the AOF doctors about the amount of coffee he could drink without running the risk of returning a positive drug test.
- . He had been separated by the AOF from other members of the Australian Olympic team prior to his appearance before the IOC Medical Commission, which placed him at a disadvantage in preparing his case.
- . He had been prevented by the AOF in Seoul from contacting his parents in Australia.

- . He had not been told immediately to which drug he had tested positive, which put him at a disadvantage when he came to appear before the Medical Commission of the IOC.
- . No proper relationship existed between the alleged offence and the AOF penalty.
- . He had been deprived of a fair hearing because no appeal mechanism existed for challenging the findings of the IOC.
- . Officials of the AOF had refused to have any contact with him after his return from Seoul - they did not return his telephone calls nor attend the test simulation in Sydney.
- . The AOF denied Mr Watson the use of AIS facilities to conduct the test simulation, and that the use of Cumberland College facilities was refused through AOF and AIS intervention.
- . He had been the subject of a smear campaign by certain AOF officials. (*Drugs in Sport Evidence*, pp. 496, 502, 507, 508, 512-514; *Alex Watson Evidence*, pp. 7, 18, 19, 25, 42, 48, 58, 59 and 90)

Complaints About Caffeine Testing

3.21 Further, Mr Watson made the following major claims and complaints about testing for Caffeine:

- . The level of Caffeine concentration set by the IOC was changed prior to Seoul; since it had been 15 mcgs/ml at the Los Angeles Olympics in 1984, had he been tested then he would have been under the limit.
- . His enforced separation from other athletes between the time he allegedly returned a positive drug test and his appearance before the IOC Medical Commission had prevented him from seeking professional or other advice and hindered his attempts to prepare his case.
- . Medical opinion supported his arguments regarding the Caffeine concentration which can be reached through social drinking without recourse to concentrated forms of the substance.

- . Prior to the Seoul Games he had been led to believe and was convinced that the number of cups of coffee he drank could not give rise to the reading obtained.
- . The Caffeine test was unreliable and its use should be reviewed. (*Drugs in Sport Evidence*, pp. 495-497, 502 and 510)

3.22 An analysis of Mr Watson's complaints regarding the AOF and Caffeine testing are provided in this chapter and Chapter 5 respectively.

Mr Watson's Appeal Against the AOF Ban: 11 May 1989

3.23 By virtue of its position as a constituent chapter of the IOC, the AOF was obliged to implement IOC policies on drugs. The AOC Counsel, Mr S. Rofe has remarked that the AOC is bound to observe and comply with the decisions of the IOC and its Commissions, including the Medical Commission. (*Evidence*, p. 78)

3.24 The 1987 AOF drug testing policy, in operation at the time of the Seoul Olympics, was a one-page document expressing succinctly what constituted an offence, the penalties involved, the responsibilities of athletes in regard to drug controls, the procedures governing the analysis of samples and the obligations of the AOF in administering the policy. While the drug testing policy of the IOC remained the same as that in force at Seoul, the AOF revised its policy on 3 February 1989, conferring on the AOF Executive Board a discretionary power with regard to penalties, and refining definitions in the policy.

3.25 On 11 May 1989 Mr Watson appealed to the AOF Executive Board against the AOF ban imposed at Seoul. In view of the somewhat fragile relations between Mr Watson and the AOF since the events in Seoul, which had deteriorated during his attempts to appeal his case, a deed of agreement for the conduct of the hearing was signed prior to the hearing.

3.26 It was a particularly low point for sport in Australia in May 1989 when the AOC and Mr Watson entered into this Deed which was considered necessary before Mr Watson's appeal to the AOC could proceed. The Deed read in part:

Watson hereby releases and forever discharges the AOF, the members of its Executive Board, its legal advisers and any witnesses called by or on behalf of the AOF from and against all and any liability arising out of or in respect of submissions made, evidence given and comments made during the hearing and in respect of the official announcement made by the AOF and its Executive Board as to the outcome thereof. (*Deed of Agreement: Mr A. Watson and the AOF Executive Board, 11 May 1989, Schedule 4.1 to AOC Submission No 48B, p. 2*)

The AOF gave similar undertakings. Such was the state of the relationship.

3.27 Mr Watson's return to Seoul at which point he breached the provisions of his undertakings contained in the AOF Competitor's Agreement, notwithstanding that he notified Mr Coates of his intention to do so, no doubt added to the difficulties of the relationship. The AOF showed no inclination to review Mr Watson's penalty or to amend its own rules so as to expedite such a process until the Channel Ten *Page One* Program was screened. The degree to which the relationship between Mr Watson and the AOC had deteriorated is reflected in Mr Coates' evidence to the Committee:

... Alex had placed this matter in the hands of his lawyers, and the AOC did likewise. Dawsons were acting for him. It was very adversarial. (*Evidence, p. 182*)

Mr Rofe disagreed with Mr Coates, though any sensible examination of circumstances leading up to that point clearly demonstrates that the relationship had thoroughly degenerated.

3.28 In presenting his case Mr Watson summarised the basis for his appeal to the AOF:

- . Very real doubts existed about the usefulness of urine samples as an index of the content of Caffeine consumed by an athlete.
- . The excess recorded in this case was perfectly consistent with the amount of coffee and Coca-Cola consumed by Mr Watson on the day.
- . Mr Watson never intended to exceed the limit, or to derive unfair advantage.
- . Mr Watson was a dedicated athlete whose whole life had been devoted to athletics, and to the enhancement of his chosen sport.
- . The imposition of a life ban in these circumstances was an extremely heavy penalty.
- . There is reason to doubt whether Mr Watson deliberately exceeded the set limit. Indeed, there was very strong reason to suggest that Mr Watson exceeded the limit 'innocently', not intending to do so, and not hoping to derive an unfair advantage.
- . Mr Watson had already undergone substantial penalty. He was disqualified from his event in Seoul and sent home in disgrace. (*Mr A. Watson, Summary of Submissions to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, p. 4*)

And Mr Rofe opened Mr Watson's appeal proceedings as follows:

The issue is quite clear, Mr President, that it is the question of the review of the penalty to be imposed upon Alex Watson, he having been found by the IOC to have exceeded the prescribed urinary caffeine concentration of 12 micrograms per millilitre at the Seoul Games. (*Mr S. Rofe, AOF Appeal Hearing Transcript, Schedule 4.4 to AOC Submission No 48B, p. 2*)

3.29 The Executive Board considered Mr Watson's case, his concern for fair testing of all athletes as much as for himself, and his longstanding involvement in

the pentathlon as well as the conflicting statements made by himself and other witnesses. While the AOF Executive Board hearing relied in part on Mr Watson's evidence (and therefore his credibility was important) the attempts by the AOF at the appeal hearing to cast aspersions on Mr Watson's character were unseemly. After hearing Mr Watson's appeal the Executive Board, through its Chairman, Mr K Gosper, informed Mr Watson of its decision:

So we have decided to not apply a life ban in this first case. That means that you will be free to make yourself available to compete in the next Olympic Games. But what we will do is that we will comply with the penalty that has been handed down by the UIPMB in parity, in such a way that if by any review that is adjusted to your benefit, we will move in line with that. (*Mr K. Gosper, AOF Appeal Hearing Transcript, Schedule 4.4 to AOC Submission No 48B, p. 223*)

An AOF suspension, following the two-year ban imposed by the UIPMB, was to remain in force.

3.30 The AOF review of Mr Watson's case was capable of denying him natural justice because his case was being reviewed by precisely the same Executive Board members who imposed the life penalty. At least two of those members had expressed strong views publicly about Mr Watson's guilt. This is not to suggest that Mr Watson's hearing or the subsequent determination was in any way prejudiced by the presence or contributions of either of these members.

3.31 Our understanding is that Mr Watson's case was the first to be reviewed by the AOF under its revised doping policy of 3 February 1989. To deal with similar cases which may arise in future, the AOC has established an independent Tribunal, comprising a minimum of three persons. Notwithstanding this development, it was only after a great deal of public debate and private agitation, including costly legal representation, that Mr Watson appeared in May 1989 before the same men who had banned him some eight months previously. As Dr E. Maslen has observed:

The importance of the Page One experiment was that it established the answer to that question in the public eye with a force that the erudition and excellent science of Prof Birkett was not able to command. (*Dr E. Maslen, Letter to Senator N. Crichton-Browne, 9 April 1992*)

It says more about Mr Watson's tenacity and determination than the willing co-operation of the AOF that he managed to persuade the AOF to review his case. We acknowledge that since the Seoul games, by reforms to its doping policy of February 1989 and March 1991, the AOC has established an appeals process. Mr Coates and the AOC are to be commended for the steps they have taken since the Watson case to ensure that athletes have access to a proper appeals process.

3.32 We acknowledge particularly the work Mr Coates has undertaken to have an Oceanic Division of the Court of Arbitration for Sport (CAS) established in Australia. It is our understanding that the amendments required to the Statutes and Regulations of the CAS and the Operating Plan and Budget were submitted to the CAS for approval on 1 April 1992. We further understand that the amendments, if approved by the CAS will be submitted to the IOC Executive Board at its meeting in May 1992 and then to the IOC Session in Barcelona for adoption. We very much support this initiative which will greatly improve the arbitration and dispute settling process for drug positives.

Further Senate Hearings

3.33 On 21 December 1988 Mr Watson provided the Senate Standing Committee with documentation on the events in Seoul; it was received as Submission No. 48 to the Drugs in Sport inquiry. The Committee's *Interim Report on Drugs in Sport* very briefly considered Mr Watson's positive drug test. That report was finalised prior to Mr Watson's appeal to the AOF, which was heard on 11 May 1989. Consequently the report, tabled on 14 June 1989, advised:

The Committee has noted that, at the time of writing, the matter of Mr Watson's ban as a result of caffeine use is

being considered by the AOF appeals committee. It is possible that this issue may require further investigation in later deliberations of the Committee. (*Interim Report of the Senate Standing Committee on Environment, Recreation and the Arts on Drugs in Sport, 1989*, p. 117)

3.34 Mr Watson subsequently wrote to the then Chairman of the Committee, Senator J. Black, on 13 December 1989 stating that his case had been presented fully at the Drugs in Sport inquiry hearings on 30 November 1988, and requesting that the Committee provide a 'determination' of the issue. On 24 April 1990 Mr Watson wrote again to Senator Black asking 'that you please inform me what you are able to do in resolving this matter'. Senator Black replied on 18 May 1990 that 'any relevant decision in relation to your ban lies with the international sporting body'. Mr Watson confirmed on 23 May 1990, however, that he still wished 'to have the Committee make an objective assessment' of his case. On 18 September 1990, the Committee resolved to inquire into the circumstances surrounding the positive drug test on Mr Watson.

3.35 On 21 September 1990, the UIPMB two-year ban on Mr Watson expired, and on 4 December 1990 the Committee wrote to Mr Watson inviting any further evidence he wished to present. On 4 February 1991, Mr Watson notified the Committee that he had no further evidence to present given his previous appearance before the Committee, and that he wished the Committee inquiry to proceed. He wrote to the Committee on 22 April 1991, however, outlining a case he would be presenting at the 10 May 1991 hearing; this letter was received as Submission No 48A. In it Mr Watson wrote: 'I implore the Committee to see that the truth of this case is exposed and that justice is done.'

Senate Hearing: 10 May 1991

3.36 At the public hearing on 10 May 1991 when Mr Watson again presented his case to the Committee, Mr J. Coates (President of the AOC) and the AOC Counsel, Mr S. Rofe, also attended and gave evidence. The Committee was

presented with a submission from the AOC relating to Mr Watson's positive drug test; due to the extensive attachments and its late receipt, the Committee was unable to consider those documents at that hearing.

Senate Hearing: 4 November 1991

3.37 The Committee invited the AOC to attend a further public hearing to respond to the views put by Mr Watson. At that hearing on 4 November 1991 the Committee incorporated two submissions from the AOC: Submission No 48B (presented on 10 May 1991), and Submission No 48C (dated 20 June 1991).

Senate Hearing: 5 December 1991

3.38 In order to receive expert advice about Caffeine, its effects and urine testing, the Committee heard evidence on 5 December 1991 from Professor D. Birkett, Head of the Department of Clinical Pharmacology at Flinders University.

Findings About the Role of the AOF

Complaints Against the AOF

3.39 Mr Watson has claimed with some credibility that the following AOF actions were unfair:

- . He had been separated from other members of the Australian Olympic team prior to his appearance before the IOC Medical Commission, which placed him at a disadvantage in preparing his case.
- . He was not permitted to contact his parents before leaving Seoul.
- . Officials of the AOF had refused to have any contact with him after his return from Seoul - they did not return his telephone calls nor attend the test simulation in Sydney.

During his appeal hearing before the AOF on 11 May 1989, the AOF had raised a number of character issues that were of questionable relevance. (*Drugs in Sport Evidence*, p. 496; *Alex Watson Evidence*, pp. 18-19, 25, 58-62)

With respect to these assertions, Mr Coates advised the Committee that his concern in Seoul was for the team as a whole. (*Evidence*, pp. 157-158) Further, Mr Coates stated that he had wanted to protect Mr Watson from the media. (*Evidence*, p. 164) He believed that any communications by Mr Watson prior to his departure from Seoul were likely to alert the media to his positive drug test and subsequent Olympic ban. Mr Coates stated also that following Mr Watson's decision to put the matter in the hands of his solicitors, the situation needed to be dealt with through lawyers. (*Evidence*, p. 182)

Origin of the AOF Attitude

3.40 Following examination of all the documentation available to the Committee, questions remain about the attitude and conduct of the AOF in this case. The attitude of the AOF probably originated in the immediate aftermath of the positive test in Seoul. Mr Coates had been assured by officials in Seoul that Mr Watson could not have exceeded the IOC Caffeine limit simply by drinking coffee. He (Mr Coates) advised the Committee:

I asked the question of Dr Park, who was the head of that laboratory, 'Is it possible to reach this level from normal consumption of coffee?', and he said, 'No. It is impossible. You would reach that level only from taking suppositories or tablets'. (*Evidence*, p. 155)

Mr Rofe informed the Committee:

... the initial advice that the IOC received in Seoul, for example, was that for Alex Watson to have recorded his level of 14.45 he must have taken tablets or suppositories. (*Evidence*, p. 154)

Mr Rofe also stated that:

Dr Fitch's view was that to exceed the limit from caffeine consumption you would have to take tablets or suppositories. If you tried to do it from coffee consumption, he thought that you would almost become physically ill, if not physically ill. (*Evidence*, p. 148)

Perhaps the attitude of the AOF towards Mr Watson is best summed up by Mr K. Murton, Transport Director for the Australian team and a member of the Team Executive when he said to Mr Watson on the way to the car pool to travel to the airport words to the effect, 'I am very disappointed in you Alex. I thought I knew you better than to get involved in this sort of business'. (*Evidence*, p. 125)

3.41 In some respects Mr Watson's complaints about the attitude and the conduct of the AOF towards him derive from his perceptions while in others they are matters of dispute. Undoubtedly the conduct and attitude of Mr Coates and the AOF in Seoul and subsequently were influenced by their judgment that Mr Watson had cheated. (*Evidence*, pp. 158, 169, 170, 174-175) It may be reasonably asserted that there is substance in some of Mr Watson's objections to the manner in which the AOF dealt with this matter.

Timing of Advice about Positive Test

3.42 Mr Watson has claimed that he was not told immediately to which drug he had tested positive, which put him at a disadvantage when he came to appear

before the Medical Commission of the IOC. This matter has been dealt with already at some length at 3.1.

3.43 The evidence of Mr Watson and Mr Coates appears to agree on the timing of Mr Watson's advice as to the substance for which he tested positive. Mr Watson stated that the completion of the shooting events on day four of the games Mr Barrie advised Mr Watson that he had tested positive in a drug test.

3.44 Mr Watson, Mr Barrie and it appears Mr Stephen Paul the fencing coach returned to the AOF headquarters at the Olympic village where they met John Coates, John Boulton, Dr Brian Sando and Bill Hoffmann. Mr Watson states that 'I was asked what I had eaten and drunk on the day of the fencing. I replied as per my statement in paragraph 19, namely that I had consumed 10 to 12 cups of coffee and several cans of Coca-Cola. Coates did most of the talking and after some questioning, I was told that I had been found positive to caffeine above the allowable limit. I said that this was ridiculous, as I had only consumed coffee and Coca-Cola. I was then asked whether I had taken caffeine pills or a suppository. I answered definitely no, and stated my innocence to any drug consumption. During this time Dr Sando picked up the telephone in the room and phoned the IOC drug testing laboratory. He spoke to Dr Park who confirmed that the second, or B, sample was positive to caffeine at a level of 14.24 micrograms'. (*Evidence*, pp. 15,16)

3.45 The AOC submission to the Committee states:

... at 7.15 a.m. that day, Mr Coates advised Mr R.G. Barrie the Pentathlon Section Manager of the Team, of the receipt of the letter and the nature of its contents. Mr Coates further advised that, unless and until the "B" sample testing confirmed the "A" sample result, there was no problem for Watson. Mr Coates was of the view that Watson should not be informed as he was competing that day in the shooting event of the Pentathlon. Mr Coates did not want Mr Watson's performance adversely affected by something that could prove to be of no effect.

Mr Coates and Dr Sando attended the unsealing of the "B" sample and at that time were advised, for the first time, that the proscribed substance was caffeine and the level of caffeine detected in the "A" sample.

At approximately 6.00 p.m. that evening, Mr Coates was joined by Watson and Mr Barrie. Also present were Messrs. Boulton and Hoffmann and Dr Sando. Approximately 15 minutes later, Mr Coates telephoned [sic] the IOC Medical Commission and was advised that the testing of the "B" sample had confirmed that of the "A" sample. In consequence discussions with Messrs. Coates and Barrie, Watson was unable to give any explanation of these test results, other than his consumption of coffee and coca cola during 19 September, 1988. (*Evidence*, p 90)

3.46 It is our view that Mr Coates' conduct in dealing with the timing of notifying Mr Watson of his positive test and the relevant substance was in the circumstances sensible and proper.

Separation from the Team

3.47 Mr Watson stated that he had been separated by the AOF from other members of the Australian Olympic Team prior to his appearance before the IOC Medical Commission, which placed him at a disadvantage in preparing his case. (*Drugs in Sport Evidence*, p. 496; *Alex Watson Evidence*, p. 16) It seems in fact that Mr Watson is referring to Team members and officials other than those in the Pentathlon Section. Presumably Mr Watson had it in his mind that other Team members may have been able to offer advice. It could be that he envisaged finding an advocate amongst them. Whether access to the rest of the Team would have assisted Mr Watson when he appeared before the IOC Medical Commission is a matter of conjecture. The facts of the matter are, however, that Mr Watson was denied what he perceives as that advantage. Due to the possible detrimental effects on the other members of the Team, Mr Coates requested that Mr Watson not speak to Team members, with the exception of those in the Pentathlon Section. (*Evidence*, pp. 90, 164-165)

3.48 We have considerable sympathy for Mr Coates' course of action and underlying motives. However isolating Mr Watson at a time of his very considerable anxiety and anguish was particularly harsh. In respect to the particular matter of this quarantine denying Mr Watson his best advantage before the IOC Medical Commission, the AOC's proposal to provide athletes at future Olympic Games with an independent and legally qualified advocate will overcome for the future that dilemma.

Denial of Contacting Parents

3.49 Mr Watson stated that in Seoul he had been prevented by the AOF from contacting his parents in Australia. (*Evidence*, pp. 18-19) Mr Coates stated in evidence to the Committee:

There was no restriction once he got to the airport. At the airport there was agreement that he could stop off in Hong Kong. I do not know whether he made phone calls from the airport...(*Evidence*, p. 164)

It is clear from Mr Watson's evidence that his understanding from Dr Sando was that he was banned from telephoning Australia prior to his departure from the Seoul airport. (*Evidence*, pp. 18-19) While a persuasive case can be made for AOF officials ensuring that publicity surrounding a disqualified or expelled athlete does not detrimentally affect the performance or the morale of the rest of the team, it is unacceptable that athletes are unable to communicate with their immediate family prior to their departure. For the families of disqualified athletes to learn of such matters through the media is intolerable. A number of options are available to the AOC to ensure that these matters are dealt with in a reasonable and sensitive way in the future.

3.50 In Mr Watson's case the AOF could have undertaken to telephone his family after he left the airport or following his departure from the village. There seems no sensible reason why Mr Watson's family could not have been contacted at

the very latest after he passed through the immigration barrier at the airport. Certainly they should have been contacted prior to the daily press conference of the AOF at 8.00 am. Having said that, however, we believe that arrangements should be made for disqualified athletes to speak to their families at the earliest practical time which will not interfere with the interests of the rest of the team. Without wishing to categorise various offences there is a distinction between steroid use, the inadvertent use of pseudoephedrine, and exceeding a proscribed level of Caffeine or alcohol. We do no more than draw the distinction while suggesting that each case may need to be treated differently. We acknowledge the evidence of the AOC that Mr Watson was the first Australian athlete to have failed a drug test at an Olympic Games and that the AOF officials were not experienced in dealing with such matters. No doubt much was learnt from this unfortunate experience and that the AOC better understand the need to treat Australian athletes with sensitivity and fairness while managing the competing interests of the rest of the Team. Given also the very young age of some Olympic competitors it is essential that a protocol be designed to deal with potential future incidents.

Lack of Contact with AOF

3.51 Mr Watson complained that officials of the AOF had refused to have any contact with him after his return from Seoul - they did not return his telephone calls nor attend the test simulation in Sydney. This matter has been dealt with elsewhere in the report, along with a number of other complaints. For the sake of completeness, however, we note that Mr Watson stated he had telephoned Mr Coates on sixteen occasions for the purpose of prosecuting his case for a review of his adverse finding and penalty by the AOF. In response to this claim the AOC stated:

Following Watson's return from Seoul, he engaged Solicitors to act on his behalf. Following this engagement, I [Mr J. Coates] and AOC representatives regularly communicated with these Solicitors. It may be that individual AOC representatives declined to talk with Watson, although that is a matter of their prerogative. (*Evidence*, p. 108)

There is little doubt that the disinterest and intransigence demonstrated by the IOC in the matter of Mr Watson's requests for a review of his case and the belief of the IOC Medical Commission that Mr Watson had deliberately cheated, percolated through the AOF, and influenced the attitude of those AOF officials and Australian IOC officials who had been in Seoul at the time of Mr Watson's positive test.

3.52 Given that Mr Coates and the AOC were clearly convinced that Mr Watson had cheated in Seoul presumably other than going through the formal process they believed no good purpose would be achieved by communicating with Mr Watson either informally or on a personal basis. No doubt Mr Watson's return to Seoul had further soured the relationship.

Access to Facilities for Test Simulation

3.53 The AOC has disputed Mr Watson's claims that the AOF was at least in part, responsible for the denial of facilities at the AIS and Cumberland College for the test simulation. The AOC has claimed that the AIS acted on its own behalf in refusing access by Mr Watson; the AIS has a policy to ban from the facility those athletes who have tested positive to drugs. The AOC further pointed out that Professor Birkett had informed the AOF that Cumberland College considered that it needed ethical committee approval, and as a consequence was unwilling to be involved. (*Evidence*, p. 107)

Letter to Mr Roh

3.54 In appearing before the Committee on 10 May 1991 Mr Watson complained of a letter from Mr Coates to the President of the Republic of Korea (and Chairman of the Seoul Olympics Organising Committee) Mr Roh Tae Woo, at the time of Mr Watson's return to Seoul to conduct a press conference about his expulsion from the Seoul Games. (*Evidence*, p. 63) A copy of that letter dated 24 September 1988 has been provided by the AOC as part of its Submission No 48C. (*Evidence*, p.133) In the letter Mr Coates advised Mr Roh that Mr Watson had been

disqualified by the IOC and that he (Mr Coates) had subsequently expelled Mr Watson 'from the Australian Olympic Team, the Olympic Village and the country of Korea'. Mr Coates noted that Mr Watson had left the country on 22 September 1988. In these aspects Mr Coates' letter was consistent with the powers of the General Manager as acknowledged by Mr Watson in the Competitor's Agreement that he signed on 2 May 1988.

3.55 Nevertheless, Mr Coates went considerably further in his letter to Mr Roh. Mr Coates requested that:

- . Mr Watson be denied entry to the Republic of Korea on 24 September 1988;
- . Mr Watson be kept in transit at the airport 'under full supervision';
- . Mr Watson not be permitted to make any telephone calls; and
- . Mr Watson 'be put on the first 'plane back to Hong Kong'.

In writing to Mr Roh in this manner it is accepted that Mr Coates considered that he was acting properly and in the best interests of the Australian Team. This action by Mr Coates, however, was the cause of very considerable inconvenience to Mr Watson, who has testified that he was detained for several hours at Seoul Airport while being questioned by security police. (*Evidence*, p. 64) Although Mr Coates had the authority to send Mr Watson home, Mr Coates' action in writing to Mr Roh in the terms that he did was most ill-advised; it is not an initiative to be emulated by Australian sports officials.

Lack of Advocate

3.56 Further, Mr Watson felt inadequately prepared for his appearance before the IOC Medical Commission. He has stated that, by preventing him from communicating with other athletes, the AOF hampered his efforts at preparing a defence before the IOC Medical Commission. (*Drugs in Sport Evidence*, p.496) Mr Watson drew the Committee's attention to two British athletes in the pentathlon

team at Seoul who tested positive for sedatives and who were represented by a barrister; Mr Watson also referred to the Linford Christie case. (*Evidence*, pp. 24-25) The facts are that at Seoul, one UK athlete admitted his wrongdoing, and another three British athletes were successful before the IOC Medical Commission. The Honorary Treasurer of the British Olympic Association, a barrister, assisted in each of these cases (see Appendix 3). In conceding the merit of having an advocate present, the AOC Counsel, Mr S. Rofe stated to the Committee:

There is no doubt that to be called in before a doping inquiry - as the IOC Medical Commission was - when you are half way through an event, your mind is on other things, you would be absolutely shot to pieces and your ability to present a well-founded, dispassionate argument would be next to zero. (*Evidence*, p. 172)

Mr Coates observed:

If we had an advocate there, the advocate would obviously have sat there with him for six hours and with his manager and would have had the opportunity to put far more time and expert preparation into the appearance at 10 o'clock before the IOC than I was able to do or did. I am just a bush-lawyer, not an advocate. (*Evidence*, p. 179)

Mr Rofe noted:

Obviously, any advocate is going to be bound by the facts as he is told by the athlete, but at least he can make sure that those facts are properly presented to the IOC Medical Commission. In addition, having got to that stage, and this is of course what appears to have happened with the British Olympic team, the IOC Medical Commission could take a different view on how it interprets those facts. (*Evidence*, p. 172)

Mr Rofe concluded:

... if an advocate were to present material on behalf of Alex Watson, it might have been and almost definitely would have been presented in a slightly different way than Alex presented it himself. (*Evidence*, p. 179)

Mr Coates advised the Committee that he had spoken to the Australian New Zealand Sports Law Association about the issue of the appointment of an advocate. (*Evidence*, p. 184) He made it clear he thought it important that some body other than the AOC should nominate the advocate and that the advocate ought to remain independent of the AOC. An advocate has subsequently been appointed for the Barcelona Games.

3.57 We are now advised that the AOC have appointed Mr John Winneke QC of the Melbourne bar as athletes advocate for the Australian Olympic Team for the 1992 games in Barcelona. Mr Winneke was nominated by the Australian New Zealand Sports Law Association Inc. Mr Winneke's role will be to advise and represent any members and officials of the team in relation to doping offences at the games.

3.58 However, we are attracted to the British Olympic Committee proposal to also have a legal adviser who can assist by ensuring that the proper documentation is available and that the correct legal procedures are observed.

3.59 Many of Mr Watson's problems and those of the AOC stem not only from the fact that Mr Watson did not have access to a qualified advocate in Seoul, but that there was a poor knowledge of the effects and consequences of consuming caffeine.

3.60 Given the technical nature of the matters relating to doping tests and the results, we believe Australian athletes and officials should be provided with the assistance of an independent technical expert at the Olympic Games.

Appropriateness of AOF Penalty

3.61 Mr Watson has claimed that no proper relationship existed between the alleged offence and the AOF penalty. The relationship between an offence and a penalty can always be disputed, however the AOF penalty imposed on Mr Watson was the maximum that could be imposed upon an athlete. Mr Coates stated in a Channel Nine television interview:

The AOF has a strong doping policy which we brought in last November 1987 and our position is that anyone who breaks the doping provisions where we're satisfied it's not inadvertent or where there might be some other extenuating circumstance is liable to an automatic life ban from Olympic competition and that's the position now for Alex.

This statement was made against the background of Mr Coates' earlier statements that Mr Watson's conduct was unacceptable. In a Channel Nine interview, Mr Coates stated:

... the IOC Medical Commission has reached the conclusion on the basis of the analysis of both the first and a second sample, that there was no possibility of that having been reached through a normal consumption of coffee or the amount of consumption of coffee that Alex Watson in appearing before them, stated that he had consumed.

...

The medical advice from our team doctors, and there were some fifteen doctors or professors of medicine present at the meeting last night from the IOC, their conclusion is that, you couldn't reach it unless you took a concentration of caffeine in some other form by way of tablet or suppository.

Clearly Mr Coates is implying that had the AOF been satisfied that Mr Watson had reached the proscribed level inadvertently or that there were extenuating circumstances, the AOF could have imposed no penalty or a lesser penalty.

3.62 A sensible interpretation of Mr Coates' words is that Mr Watson had taken either Caffeine tablets or a suppository and therefore the drug was not taken inadvertently. There were no extenuating circumstances and hence the automatic life ban. Had the circumstances been different so may have been the penalty.

3.63 The route of ingestion was very much a matter of concern to Mr Coates who undoubtedly believed that the AOF had a measure of discretion, the IOC mandatory penalty having been applied. This is supported by the AOC Submission which states that:

Whilst, as this Senate Committee has noted, there was no express statement in that policy as to discretion, the AOC interpreted that policy as allowing it some discretion to impose a lesser penalty than life. (*Evidence*, p. 93)

3.64 Mr Rofe subsequently advised Senator Crichton-Browne that:

Although the policy adopted on 6 November 1987 did not expressly provide for any appeal or review of penalty, it was the view of the AOC that it was at liberty to impose a lesser penalty than life for any breach. (*Letter to Senator Crichton-Browne, 24 April 1992*)

3.65 A reading of the Australian Olympic Federation's Doping Policy as at 6 November 1987 discloses no such discretion. Rule 7 of the policy stated:

Samples taken by the AOF Medical Commission shall be analysed by a laboratory accredited by the IOC. Two samples shall be taken and upon being informed by the laboratory that the analysis of the first sample reveals a breach of the doping provisions, the Chairman of the AOF Medical Commission will authorise the analysis of

the second sample. Upon being informed that the analysis of the second sample confirms the breach of the doping provisions, the President or Secretary-General of the AOF will notify the athlete and any coach, official or medical officer involved that he or she is or they are ineligible for life for selection in any Australian Olympic Team or to hold any position on the AOF and, if a member of an Olympic Team, is immediately removed from that Team. (*AOF Doping Policy 1987, Schedule 1.2 to AOC Submission No 48B*)

As noted earlier, the AOF Doping Policy was revised and a new policy was adopted on 3 February 1989. Rule 7 of the revised doping policy read as follows:

Subject to Rule 8 of this policy:

- (1) Any athlete who is found by a responsible authority to have taken or used drugs or stimulants or participated in other related doping practices prohibited by that responsible authority (all of which are hereinafter called "doping provisions") will be ineligible for life for selection in any Australian Olympic Team or to hold any position on the AOF.
- (2) Any official or other person who aids, abets, counsels or procures or is knowingly involved in an athlete's breach of a responsible authority's doping provisions will be ineligible for life for selection in any Australian Olympic Team or to hold any position on the AOF.
- (3) If already selected in an Australian Olympic Team or holding an AOF position, the athlete and/or official will be immediately removed from that Team or position upon any breach of the doping provisions. (*AOF Doping Policy, 1989, Schedule 1.3 to AOC Submission No 48B*)

Rule 8 read:

Upon receipt of notification pursuant to Rule 5, or upon being notified by any responsible authority that there has

been a breach of that authority's doping provisions, the Secretary-General shall notify in writing the athlete or official or other person concerned of the finding of the responsible authority and stating that such person shall have the opportunity to be heard by the Executive Board of the AOF at the meeting stated in such notice and present any relevant material as to why he or she should not be subject to the penalties prescribed by Rule 7. Any decision of the Executive Board of the AOF to impose a lesser penalty than prescribed in Rule 7 shall be in its sole and absolute discretion. *(AOF Doping Policy, 1989, Schedule 1.3 to AOC Submission No 48B)*

3.66 A new doping policy was adopted by the AOC on 15 March 1991. On the subject of sanctions the policy read in part:

9. *Sanctions*

9.1 Any person to whom this policy applies who is found to have breached this doping policy shall be ineligible for membership of or selection in any Australian Olympic team, or to receive funding from or to hold any position on the AOC as follows:

9.1.1 a two year suspension for the first offence;

9.1.2 life ban for the second offence.

PROVIDED THAT the AOC may in its discretion impose a suspension for a period of three months for a breach of this doping policy where the analysis of the sample reveals the presence of a drug prohibited by the IOC taken orally as a cough suppressant, pain killer or decongestant and the AOC is satisfied that it was not taken for the purpose of enhancing sporting performance.

BUT the AOC shall not impose a suspension for a lesser period than any sanction imposed by the IOC. *(AOC Doping Policy, 1991, Schedule 1.4 to AOC Submission No 48B)*

This further amendment enshrines in the doping policy for the first time a particular reference to inadvertency. The clause covers a circumstance where a

banned substance is taken for reasons other than for the purpose of enhancing sporting performance.

3.67 The 1991 policy provides an appeals mechanism for the first time:

8. *Appeals*

8.1 A person or member body who is dissatisfied with a decision made in relation to them under this doping policy may within 14 days of receiving written notification of the sanction imposed write to the Secretary-General and request that an appeal be conducted in relation to:

8.1.1 the determination that a breach of this doping policy has occurred and the imposition of the sanction; or

8.1.2 the sanction that has been imposed. (*AOC Doping Policy, 1991, Schedule 1.4 to AOC Submission No 48B*)

3.68 Another avenue of appeal is now available under clause 11:

11. *Review of Sanction*

11.1 Where a person or member body to which a sanction has been applied under this doping policy has new and relevant information concerning the breach he or she or it may make written application to the Secretary-General setting out the grounds for a possible review of that sanction. The AOC may consider the application and determine in its sole and absolute discretion whether to review any sanction imposed under this doping policy and may alter a decision made previously including a reduction or withdrawal of the sanction. (*AOC Doping Policy, 1991, Schedule 1.4 to AOC Submission No 48B*)

Although Mr Watson's appeal was heard in May 1989, no such provision existed in the AOC doping policy until 1991.

3.69 The fact that the AOC reduced Mr Watson's penalty from a life ban to a two year suspension in May 1989 gives substance to Mr Watson's claim that the original penalty was too severe. This view is endorsed by the findings of the AOF Executive Board as stated by its Chairman, Mr K. Gosper:

The Board determined that Alex Watson's evidence throughout has been consistent and that it could see no evidence of consumption of caffeine other than by his drinking coffee. The Board took into consideration his character and his contribution to sport, particularly in Modern Pentathlon.

We were also conscious of the fact that the drug which has been involved is caffeine, which was a stimulant, and a banned drug, is socially accepted and is used widely throughout the world by athletes and the general public, the matter of drinking coffee.

Whilst in no way detracting from the seriousness of this breach, caffeine should not be considered, in our opinion, in the same light as other more damaging drugs such as anabolic steroids. Having considered all the matters, the Board considers that Alex Watson's disqualification by the International Olympic Committee in Seoul, was in itself severe punishment. Since then, the necessary drawn-out processes added to the personal anguish that he has clearly suffered. I should say to you these processes have had to be gone through, but he had to put up with that. Accordingly, today we decided not to apply a life ban, which leaves Alex Watson to be considered for selection in future Australian Olympic teams. However, for so long as he is subject to any penalty from the UIPMB - that is the Modern Pentathlon International Federation, he will receive no funding from the AOF, nor be able to hold any office with the AOF. Finally, I want to say to you that this decision, which is a threshold decision for us, does not detract from the AOF's doping policy and the Federation re-affirms its life ban for breaches of this policy. (*Mr K. Gosper, AOF Appeal Hearing Transcript, Schedule 4.4 to AOC Submission No 48B, pp. 232-233*)

3.70 It was reasonable for Mr Watson to complain that the offence did not deserve the life ban imposed by the AOF at Seoul. Despite the possibility of a life ban for such an offence, acknowledged by Mr Watson when he signed his

Competitor's Agreement on 20 November 1987, that sanction was hardly commensurate with his offence, given that the penalties then widely applying internationally included a two-year ban for a first offence and a life ban for any subsequent breach. Notably, when a lesser AOC penalty was possible (and following Mr Watson's appeal hearing in May 1989) the AOC revoked the life ban.

3.71 Had the 1989 AOF revised doping policy been in operation prior to Seoul, the matter may have proceeded differently - Mr Watson could have been banned for two years at the outset, rather than initially receiving a life ban. The 1991 doping policy refined the definition of 'doping' to include 'the taking or using of drugs or stimulants or participation in other doping methods prohibited by the IOC'. The new revision was more thorough, containing provisions covering doping tests, the manner in which an alleged breach is to be notified, the procedure for determining the merits or otherwise of the alleged breach, provisions for appeals against a decision and variations of the penalties applicable to first and subsequent offences.

CHAPTER 4

INTERNATIONAL INQUIRIES: FINDINGS AND CONCLUSIONS

Mr Watson and the IOC Caffeine Rule

4.1 The agreements signed by Mr Watson in November 1987 and May 1988, indicate clearly that he was aware of the implications of breaching the existing drug rules and that he accepted the terms of the AOF drug testing policy as a condition of his participation in the Seoul Olympics. From the outset Mr Watson has claimed that he was (at the time of the Seoul Games) convinced that the amount of coffee and Coca-Cola he drank on 19 September 1988 could not take him above the limit set by the IOC Medical Commission.

4.2 As he revealed in his correspondence with (and evidence to) the Committee, Mr Watson's principal objection to the IOC ban is based on his claim that the penalty was imposed *because he had ingested Caffeine in concentrated form*. This objection was set out at length by Mr Watson in his letter to the Committee of 22 April 1991:

... the International Olympic Committee and the Union Internationale de Moderne Pentathlon [sic] et Biathlon (UIPMB) have never accepted my claim that my caffeine level came from nothing other than the coffee and coca-cola that I have admitted consuming from the outset of accusations at Seoul. It is, and always has been the opinion of the IOC, the UIPMB and the Australian Olympic Committee that to reach the level of 14.24 mg/l recorded in Seoul I must have taken caffeine in a concentrated form by way of pills, suppository or injection.

In other words, the IOC, UIPMB and AOC are claiming that it is impossible to fail the IOC caffeine test injecting [sic] a moderate amount of caffeine by way of coffee and

coca-cola. Failing to believe my story of consuming nothing other than 10-12 cups of brewed coffee and 1-2 cans of coca-cola the IOC, the UIPMB and the AOC separately penalised me for failing the test under the mistaken assumption that I had deliberately taken caffeine in a concentrated form which I was not prepared to disclose. (*Evidence*, p. 10)

Mr Watson added:

... the IOC, the UIPMB and AOC are guilty of ineptitude in fully appreciating the complexities of the caffeine test, in providing incorrect advice to athletes and officials on the true possibilities of how the caffeine level can be exceeded and of deliberately obstructing justice in allowing me a proper opportunity to present conclusive scientific evidence that the assumptions reached by the IOC on how I exceeded the caffeine level in Seoul are erroneous. (*Evidence*, p. 10)

4.3 Mr Watson's interpretation of the reasons behind the IOC ruling were raised with the AOC by the Senate Committee. While Mr Coates has often made clear that the IOC took its decision on the grounds that Mr Watson must have used concentrated Caffeine, when invited to provide the basis for that claim Mr Coates stated:

I do not have, nor have I ever had or seen "any documentary evidence to the effect that the IOC Medical Commission based its decision concerning Mr Watson on the belief that concentrated caffeine had been employed."

...

Ken Fitch has advised that the attitude of the IOC Medical Commission was that Alex Watson's urinary caffeine level could not have been reach [sic] inadvertently... The IOC Medical Commission apparently did not accept that Alex Watson had breached the prescribed [sic] urinary caffeine level from consumption of coffee and Coca-Cola alone. It was further of the view that if he had only consumed coffee and Coca-Cola then, given the amount of coffee (or more accurately the

volume of caffeine) consumed, then Alex Watson must have been acting deliberately or recklessly.

The portion of the note to the "List of Doping Classes and Methods" issued by the IOC appears to creat [sic] a strict liability for any doping offence, i.e., an athlete in whose urine is detected a substance of the banned classes is guilty no matter how that substance was consumed. These written words appear to be at odds with the manner in which the IOC Medical Commission conducts its enquires and the penalties that are imposed as a result thereof. In Alex Watson's case, the IOC Medical Commission explored and investigated how he may have achieved his recorded urinary caffeine level from substances other than coffee or coca-cola. In fact, the hearing was postponed whilst Dr Sando collected the energiser tablets from Alex's room. (*Mr J. Coates, Letter to the Committee, 27 February 1992*)

4.4 Dr K. Fitch, a member of the IOC Medical Commission, was present during the IOC hearings into Mr Watson's case, but abstained from taking part in the discussion and voting (*Dr. K. Fitch, Letter to Dr E. Maslen, 14 November 1988*) It is reasonable to believe from the following interview, given by Dr Fitch to Katrina Lee on the Channel Ten *Page One* program on 17 November 1988, however, that the attitude and views of the IOC Medical Commission were known to him:

Lee: Yes, he's guilty of exceeding the, the level of 12 micrograms. What I'm saying is, isn't there some doubt as to whether he did that knowingly or unknowingly, and doubt as far as the scientific basis for reaching that particular level?

Fitch: I can only say that with all the experience of the doping that the Commission of the IOC, and it's pretty considerable - it, you know, it goes round a lot of countries in the world, that nobody there has any doubts that something stronger than coffee was in the coffee that caused the levels to get to 14.5. I don't think any one single person believes that 14.5 came from drinking the weak coffee that was available and the coca-cola, which was small cans which would have contained 40 milligrams, no more, of caffeine.

Lee: Do you know how much caffeine there was in the coffee that was had?

Fitch: No, I don't.

Lee: Has anyone attempted to find out?

Fitch: Er, I don't believe so. I don't see why, I mean nobody really believes that this came from, from coffee.

Lee: So there's not enough doubt, as far as you're concerned, to look at that particular test again and say there might be a reason to reach that level without any additional caffeine?

Fitch: With the information that has been given to me, to the Medical Commission of the IOC - by the competitor concerned, relating to his intake throughout the day of caffeine containing and non-caffeine containing fluids, then I believe one's got to say that the Medical Commission of the IOC is quite satisfied that some additional caffeine was taken to produce this level. I don't believe. They are not in any way concerned that this came from the statements that he gave.

4.5 According to Mr Watson, Mr Coates said to him following the decision of the IOC Medical Commission:

Believe me, they were looking for a way out for you last night. (*Evidence*, p. 18)

Mr Coates has himself stated:

"He (Alex) says he consumed 10-12 cups of coffee and 1-2 cans of coca-cola but that statement does not equate with the caffeine level reached. It is the opinion of the IOC that you cannot reach the level recorded by Alex Watson on his stated coffee consumption. Alex offered no suitable explanation for reaching this caffeine level so the IOC decided that he could not participate any longer in these Olympic Games. (*Network Ten in Seoul Interview, Transcript; Schedule 5.1 to AOC Submission No 48B*)

In a later television interview on Channel Nine Mr Coates said:

We had further discussion and the IOC could not conclude that the level of caffeine recorded was what would be possible by just consuming cups of coffee and coke and I was told that it was consistent that it would be only possible to achieve that level of caffeine if you took it by way of tablet or suppository and at 1.30 am, as I said, they gave me the decision that forthwith he could not participate in these Olympic Games.

The statements made in Seoul by Mr Coates immediately following Mr Watson's expulsion and subsequently by Dr Fitch leave little doubt about the grounds on which they believe the IOC made its determinations.

4.6 This evidence is supported by the fact that the IOC Medical Commission hearing questioned Mr Watson carefully about his consumption of coffee, general liquid intake and what he had eaten during the day. The hearing was suspended while an energizer bar was retrieved from his room and returned to the Commission for examination.

4.7 Perhaps the most unequivocal evidence that the IOC Medical Commission arrived at its decision in respect to the suspension of Mr Watson from the Seoul games in the belief that he had ingested caffeine in a quantity and manner other than that which he claimed, is found in correspondence between Mr Grut, the Honorary Secretary of the UIPMB and Professor M. Donike, Chairman of the Doping and Biochemistry Subcommittee of the IOC Medical Commission. Dr Donike states:

Meanwhile I have received the simulation study concerning the coffein-absorption [sic] you mentioned. This study includes grave faults.

1. Watson was not from the beginning of the experiment on, under permanent control, so that he had the chance to take coffein-tablets [sic] or more strong coffee in between.

2. The liquid-absorption is not identical with the quantity, Watson drunk in Seoul. This is proved by the less density of urine (sp. 1.010) found in Seoul and the statement of the athlete at the medical commission of the IOC.

Due to these circumstances I don't see any reason neither for the medical commission of the IOC nor for the UIPMB to review the decision of Seoul.

4.8 Not until 27 February 1992 did Mr Coates question that the IOC had given their ruling against Mr Watson on the basis that he must have taken Caffeine in a form other than the consumption of coffee. Of particular interest is the evidence given by Mr Coates to the Committee which apparently led him in part to that view. He stated:

Also, we then had the opportunity for Alex to tell the IOC Medical Commission what he had consumed during the day in the hope that there had been something inadvertent, that he had picked up at the Mazuno bar or whatever; the energiser tablets. I had been advised by the IOC laboratory, and I had seen the Medical Commission hearing. At the time I would have to say in my own mind that there was no question of inadvertency. (*Evidence*, pp. 169-170)

The following exchange then took place between the Chairman and Mr Coates:

Chairman - If that was the case and we eventually get to a very clear understanding that drinking coffee during the day could put you over the limit, does this make us any wiser about how Alex Watson felt and behaved?

Mr Coates - It certainly will. The IOC, who imposed the penalty on the basis that it could not be reached inadvertently, will owe a very great apology to him. So if ASDA can come up with some conclusions based on scientific research then, firstly, the Australian Olympic Committee will submit those to the IOC as will ASDA

because ASDA adopts the IOC's guidelines. ASDA, in the legislation, has still adopted the caffeine limit that the IOC has prescribed and had prescribed in Seoul. (*Evidence*, p. 170)

Of further interest is the following exchange:

Chairman - Further to that, while we may accept a limit, what has been the interesting thing in this case all along is how you get to that limit, and it seems to me the jury is still out on that?

...

Mr Coates - As far as the IOC is concerned, they have seen all the submissions that the AOC received from Alex. He sent it to the UIPMB; they referred it to the IOC and the jury is clearly not still out. It is not a matter that they are continuing to review. They have looked at all that material and have not changed. We are going to have to find new evidence and conduct new studies if we want to take it further, in my view. (*Evidence*, pp. 170-171)

4.9 Clearly Mr Coates's understanding of the basis for the IOC finding on Mr Watson derives largely from his attendance at the IOC Medical Commission hearing. Mr Coates would have been in a reasonable position to judge the views and attitudes of the IOC Medical Commission. He has stated that "... I had seen the Medical Commission hearing". (*Evidence*, p. 170) Mr Coates' evidence is supported by the fact that the IOC Medical Commission hearing questioned Mr Watson carefully about his consumption of coffee, general liquid intake and what he had eaten during the day.

An IOC Appeal?

4.10 Mr Watson claimed that he had been deprived of a fair hearing because no appeal mechanism existed for challenging the findings of the IOC. Further, we understand that it is only with the approval of the IOC Executive Board that such

a matter may be referred to the Court of Arbitration for Sport. Mr Watson sought the agreement of the Board to refer the matter to the Court of Arbitration for Sport. The Board declined this request without explanation.

4.11 The question of an appeals mechanism is addressed by Professor Beckett, a member of the IOC Medical Commission and Founding Director of the Drug Control and Teaching Centre, King's College, London University, who stated that:

... in the case of Caffeine concentration in urine exceeding 12 mcg/ml, the stated rule is breached and thus the ruling must be correct since it is in accordance with the stated rules. However the IOC Medical Commission examines each case before considering the case to be a 'Doping Positive'. I agree that the procedure is not spelt out clearly in the rules. I confirm that I am not aware of an official appeals mechanism. (*Letter to Senator Crichton-Browne, 10 April 1992*)

Dr Fitch of the IOC Medical Commission stated that:

I am unaware of any appeal procedure following a decision by the IOC Executive Board after a recommendation of the IOC Medical Commission in relation to a positive doping test at the Olympic Games. (*Letter to Senator Crichton-Browne, 22 April 1992*)

4.12 The IOC preamble to its *List of Doping Classes and Methods* reads:

... the presence of the drug in the urine constitutes an offence, irrespective of the route of administration. (*IOC, List of Doping Classes and Methods, Schedule 4.2 to AOC Submission No 48B*)

And Rule 29 of the Olympic Charter headed 'Medical Code' provides:

Clause D

Any Olympic competitor refusing to submit to a medical control or examination or who is found guilty of doping shall be excluded from competition or from the present or future Olympic Games. (*Olympic Charter, Schedule 4.2 to AOC Submission No 48B*)

The relevant provisions contained under the Olympic Charter 'Procedures' provide:

6.3.7 Should the result of the A sample be confirmed, the Chairman of the IOC Medical Commission shall then call a meeting of the IOC Medical Commission, to which a representative of the delegation concerned, a representative from the International Federation concerned and the Chairman of the Dope Control Committee will be invited. The competitor will also be invited to attend. Following this meeting, the IOC Medical Commission will establish a recommendation for the IOC Executive Board.

6.3.8 The Chairman of the IOC Medical Commission shall then pass this recommendation to the President of the IOC for submission to the IOC Executive Board, which [shall] be responsible for taking the necessary action.

6.3.9 Following the sanction decided upon by the IOC Executive Board, the head of the delegation to which the competitor belongs and the IF concerned will be informed, before the sanction is made public by the IOC. (*IOC, List of Doping Classes and Methods, Schedule 4.2 to AOC Submission No 48B*)

4.13 Mr Watson having a urine caffeine concentration of 14.45 mcgs/ml was deemed to have tested positive. Accordingly, the IOC Medical Commission recommended to the IOC Executive Board that:

The analysis of the urine of competitor Alexander James WATSON, Australia (Modern Pentathlon) revealed the presence of caffeine in excess of the limit established by the IOC.

The IOC Medical Commission recommends the following sanction:

- disqualification of this competitor from the Games of the XXIVth Olympiad in Seoul in 1988

This decision remains independent of any sanction which the International Federation concerned may adopt in accordance with its own regulations. (Schedule 3.1 to AOC Submission No 48B)

On 22 September 1988 the Executive Board resolved that:

1. The IOC Medical Commission's recommendation concerning suspension of Alexander Watson from further participation in the Games of the XXIVth Olympiad approved. ... (Schedule 3.1 to AOC Submission No 48B)

4.14 A reading of Rule 29 of the Olympic Charter in conjunction with Annex 6 of the IOC International Olympic Charter Against Doping in Sport suggests that the IOC discretion appears to be limited to disqualification of the competitor from the present or future Olympic Games. However, the IOC has on a number of occasions exercised a much wider discretion. At the Seoul Olympics several athletes tested positive for banned substances and were not penalised. Perhaps the most well-publicised example was the case of the British athlete Mr Linford Christie who won a bronze medal in the 100 metre dash and who was subsequently awarded the silver medal for the event, upon the disqualification of Mr Ben Johnson. Mr Christie was found to have taken the banned substance pseudoephedrine, a stimulant on the same banned list as caffeine, but for which no limit was set at that time. Mr Christie claimed the substance was contained in ginseng tablets he had taken to counteract a throat infection. Notwithstanding that the rules make no provision for inadvertent use, the IOC ruled that Mr Christie would not be subject to a disqualification.

4.15 Irrespective of the circumstances of each case, Mr Christie was dealt with under the same rules as Mr Watson. To suggest that the IOC does not give itself a considerable degree of discretion is a nonsense. Had the IOC chosen it could have imposed a different penalty on Mr Watson. As Dr Carrard stated in his correspondence with Mr Watson's lawyers:

... please be advised that under Rule 16 of the Olympic Charter, the Executive Board of the IOC shall be the interpreter of the rules. (Dr F. Carrard, *Letter to Blake Dawson Waldron, Solicitors, 6 February 1989, Schedule 3.1 to AOC Submission No 48B*)

4.16 The practices and procedures of the IOC contrast sharply with the IOC International Olympic Charter Against Doping in Sport Annex 6. The IOC International Olympic Charter Against Doping in Sport entitled *Rights and Responsibilities of Sports Organisations, Athletes and their Entourage*, (undated but apparently adopted after the Seoul games) sets out the disciplinary procedures and under the section "Hearing" reads:

6. *Hearing*

- 6.1 A hearing is held to provide an opportunity to the concerned parties to be heard before determining the nature of the doping infraction and the relevant penalty.
- 6.2 The main elements and criteria for a hearing whether at a national or international level, are:
 - 6.2.1 The persons bringing the case and those who may impose penalties should be separate and distinct;
 - 6.2.2 The accused person should be informed of the case against him or her in writing; the charge, and all other relevant documentary evidence and material which form the basis of the charge should be communicated to the accused person beforehand;

- 6.2.3 The accused person should be informed of the initiation of proceedings and given a reasonable time to prepare the defence;
- 6.2.4 The accused person should have the right to present evidence, [to] comment on the accusation, to defend him/herself, and to be represented by a person with the same rights. Regulations may require the accused person to submit a written statement on the alleged infraction;
- 6.2.5 The proceedings should be thorough and impartial;
- 6.2.6 The accused person should be informed of the decision reached, together with the reasons for the decision, in writing.

Section 7 sets out appeal procedures:

- 7. *Procedures for appeals within the sports system*
 - 7.1 An individual found guilty should be informed of the judgement and of his/her right of appeal to a body empowered to hear such appeals, and the method for lodging such an appeal.
 - 7.2 An appeal of the judgement should be conducted before a duly constituted body with that authority. Sports bodies are strongly advised to refer appeals to a neutral body appointed by them for the purpose of hearing appeals. This body should ensure that the hearing and examination are in accordance with the principles of natural justice. The Chairman and members of this body should be independent of any involvement in the processes described in this annex. It is advisable that the chairman be experienced in legal procedures.
 - 7.3 The sports organisation has the right to appeal against what it considers to be an inappropriate judgement.
 - 7.4 The principles of a hearing as outlined at 6.1 to 6.7 above should also apply to the proceedings within the appeal process.

Note: Sports using animals should make clear the rules covering doping of them in competition. In some countries the animals are regarded as being part of the athlete.

4.17 Annex 7 of the IOC International Olympic Charter Against Doping in Sport entitled *Guidelines for Sanctions and Penalties* recommends the following minimum penalties for doping infractions:

1. DOPING CLASSES AND METHODS
 - 2 years for the first offence
 - life ban for the second offence

2. Ephedrine, phenylpropanolamine, pseudoephedrine, codeine, etc., (when administered orally for medical purposes in association with decongestants and/or anti-histamines):
 - maximum 3 months for the first offence
 - 2 years for the second offence
 - life ban for the third offence

Note: Violations of anti-doping rules involving the supplying, administration and trafficking of doping substances should be regarded as extremely serious offences. The penalties levied for these actions should appropriately reflect even more severe sanctions than those described above.

Note: The penalties applied to an individual found guilty of a doping infraction in one participant role or sport, should apply fully to all other roles and all other sports and be respected by the authorities of other sports for the length of the penalty period.

Mr Watson was denied the benefit of such an International Olympic Charter Against Doping in Sport and the IOC refused to apply either the spirit or the principles of such a Charter to Mr Watson.

4.18 Annex 6 of the IOC International Olympic Charter Against Doping in Sport states that one of the responsibilities of sports organisations is:

1.7 to protect the rights of suspected persons, by ensuring that the regulations:

- are adequate and sufficient;
- include the right of suspected persons to an examination and hearing and the right of appeal;
- are framed in such a way to give effect to the fundamental points set out in Section 4, 5, 6 and 7 below;
- include a published list of penalties which are applicable and appropriate (bans, suspensions, disqualifications, fines, loss of eligibility, etc.);

In Mr Watson's case the IOC appears to have paid scant regard to the rights of athletes subsequently set out and adopted in the IOC International Olympic Charter Against Doping in Sport.

4.19 If it is accepted that the IOC Medical Commission's decision was in part based on a finding that Mr Watson returned a positive drug test by the ingestion of caffeine tablets or suppositories then the apparent failure of the IOC to provide an appropriate appeals mechanism was in large part responsible for the sanction imposed on Mr Watson by the AOF and UIPMB.

4.20 Mr Watson's lawyers complained to the IOC Medical Commission that it had failed to notify Mr Watson in writing of his penalty and that transcripts of the proceedings of the IOC Medical Commission hearings had not been provided to him. The IOC responded by stating that the transcripts of the proceedings of the IOC Medical Commission are not supplied to the athletes and that notification of the expulsion of Mr Watson from the Games was handled through the usual channels,

namely through officials from the AOF. (*Dr F. Carrard, Letter to Blake Dawson Waldron, Solicitors, 6 February 1989, Schedule 3.1 to AOC Submission No 48B*)

4.21 This contrasts with later sections of Annex 6 dealing with disciplinary procedures and hearings:

5.1 An analytically positive result from Sample B shall always lead to appropriate procedures.

6.2.2 The accused person should be informed of the case against him or her in writing; the charge, and all other relevant documentary evidence and material which form the basis of the charge should be communicated to the accused person beforehand.

6.2.3 The accused person should be informed of the initiation of proceedings and given a reasonable time to prepare the defence;

...

6.2.6 The accused person should be informed of the decision reached, together with the reasons for the decision, in writing.

4.22 The attitude of the IOC towards Mr Watson and consideration of his appeal is in part explained by Dr K. Fitch, Professor M. Donike, and Mr K. Gosper in the following terms. Dr Fitch, a member of the IOC Medical Commission was interviewed by Katrina Lee on the Channel Ten *Page One* program:

Lee: But as a doctor, if there is scientific doubt about a test, should a person be given the right of appeal to answer that doubt?

Fitch: I, well he was given - you know, a chance to be heard. He had his hearing - it's my understanding that that's the end of the matter as far as the IOC is concerned. As far as the IOC is concerned it was only relating to the Seoul Olympic Games, and that's all history. And, anything you did or didn't

do wouldn't have any effect on Alex Watson in Seoul.

Lee: What if a person, as in this case, has, has insisted that they haven't taken anything knowingly. Should there be an appeal.

Fitch: Well I can only say that I've sat now at two of the big games on the Medical Commission of the IOC and with-almost without exception, there was no exception admitted or stated, they did not take the drug that was in their limit.

Lee: What do you think he (Watson) should do?

Fitch: I don't have any advice for Alex, except to say that he was one of ten people banned in the - Olympic Games and - whatever - he was banned because his levels were too high, and however it got there is going to make no difference to him in the long term. And - you know, really end of story I guess.

Fitch: Firstly it doesn't matter whether it does or doesn't reach that level by whatever means. He was above the level, therefore he's banned and you know, and he should take that, that decision for what it is, which is he's banned. Secondly, I would have grave doubts in my mind that this could ever happen the way that he said. In other words, to take the number of hours, the number of cups of the coffee that he drank, etcetera, the amount of fluid that he took, and what he did that day, and I still don't believe the level is going to come to 14.5.

4.23 Professor M. Donike, of the IOC Medical Commission wrote to Colonel Grut, Honorary Secretary of the UIPMB on 30 January 1989:

Meanwhile I have received the simulation study concerning the coffein- [sic] absorption you mentioned. This study includes grave faults.

1. Watson was not from the beginning of the experiment on, under permanent control, so that he had the chance to take coffein- [sic] tablets or more strong coffee in between.

2. The liquid-absorption is not identical with the quantity, Watson drunk in Seoul. This is proved by the less density of urine (ap. 1.010) found in Seoul and the statement of the athlete at the medical commission of the IOC.

Due to these circumstances I don't see any reason neither for the medical commission of the IOC nor for the UIPMB to revise the decision of Seoul. What shall the other athletes of the modern pentathlon say, who have all joined the competition with lower, acceptable coffeein- [sic] concentration and who have drunk the same coffee in approximately the same quantity? (*Letter from Prof. M. Donike to Col. W. Grut, 30 January 1989, Schedule 5.1 to AOC Submission No 48B*)

4.24 In a letter to Mr Watson of 13 September 1989 Mr K. Gosper, a member of the IOC Executive Board stated:

In my talks with Prince de Merode [Chairman of the IOC Medical Commission] there was a belief on his part that full consideration had been given to your case in the last appeal and that he felt it was necessary to stand by the scientific outcome of the testing at the Seoul Games... He felt there was no case for questioning the results of your Seoul test.

...

So, Alex, there is no change and I feel I've gone as far as possible on an AOF and personal level with the IOC. (*Mr K. Gosper, Letter to Mr A. Watson, 13 September 1989, Schedule 5.1 to AOC Submission No 48B*)

The Principles of Olympism

4.25 The Olympic Charter proclaims as its fundamental principles the educational value of good example and respect for universal ethical principles:

The goal of Olympism is to place everywhere sport at the service of the harmonious development of man, with a view to encouraging *the establishment of a peaceful society concerned with the preservation of human dignity.*

...

The goal of the Olympic Movement is to contribute to building a peaceful and better world by educating youth through sport practised without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair-play (*Principles of Olympism*, p. 7)

That the IOC has failed to match its own proclamation of principles with practice and in respect of such a fundamental principle is of grave concern. Given the importance of the Olympic Charter to the international sporting movement, we are appalled that the IOC failed to provide an appeals mechanism for Mr Watson to preserve and protect his rights. Dr Fitch stating that "As far as the IOC is concerned it was only relating to the Seoul Games, and that's all history. And, anything you did or didn't do wouldn't have any effect on Mr Alex Watson in Seoul" is akin to a Court of Law imposing the death penalty and the system of justice refusing a review because the execution had been carried out.

4.26 Dr Fitch also seemed to fail to understand that as long as the IOC drug test and the fairness of the penalty was without question or review, the AOC and UIPMB penalties on Mr Watson remained in place. In the case of the AOC, at that time the penalty was a life ban. The IOC has handled this matter with unmitigating obstinacy and clear disregard for Mr Watson's rights. As Dr Carrard wrote to Mr Watson's lawyers on behalf of the IOC:

... the IOC Executive Board decided, pursuant to the Olympic Charter, to disqualify your client from the Games of the XXIVth Olympiad in Seoul. The Australian Olympic Federation accepted the decision. Consequently,

as far as the IOC is concerned, the matter is closed.
(*Dr F. Carrard, Letter to Blake Dawson Waldron, Solicitors, 6 February 1989, Schedule 3.1 to AOC Submission No 48B*)

4.27 The IOC should adopt the hearing and appeal provisions set out in Annex 6 of its International Olympic Charter Against Doping in Sport entitled *Rights and Responsibilities of Sports Organisations, Athletes and their Entourage* together with Annex 7 entitled *Guidelines for Sanctions and Penalties*.

4.28 The disinterest and disregard that the IOC demonstrated towards Mr Watson's plea for a review of his case has been amply reflected in the attitude the IOC has demonstrated towards this Committee. The attached correspondence between Senator Crichton-Browne, the Committee Secretary and various members of the IOC Executive bears testimony to that.

4.29 Notwithstanding numerous attempts to obtain answers to a small number of questions relating to the Watson doping case, the IOC has declined to respond to these questions.

4.30 Having perused the correspondence between Mr Watson's lawyers and the IOC contained in the AOC's submission to the Committee which highlighted the difficulty Mr Watson had in obtaining answers to questions from the IOC, correspondence between Senator Crichton-Browne and the IOC was simultaneously sent to Mr Samaranch, Prince Alexandre de Merode and Professor M. Donike (see Appendix 3).

4.31 Notwithstanding numerous requests for a response, none was forthcoming.

4.32 Our experience is that the IOC's publicly expressed concern for drugs in sport is quite different to their conduct.

4.33 There must be considerable concern for the level of commitment demonstrated by the IOC in this matter.

A UIPMB Appeal?

4.34 Mr Watson appealed to the Union Internationale de Pentathlon Moderne et Biathlon (UIPMB) and addressed the UIPMB General Assembly. The Assembly referred Mr Watson's evidence to the IOC Medical Commission. This evidence was further referred to the Doping Biochemistry of Sport Sub-Commission of the IOC. Nevertheless the IOC Medical Commission determined not to alter its previous position (*Evidence*, p. 94)

4.35 Dr F. Carrard, Juridical Adviser to and Counsel for the IOC wrote to Mr Watson's lawyers on behalf of Prince A. de Merode, IOC Vice-President and Chairman of the IOC Medical Commission to advise that the material submitted to the UIPMB by Mr Watson requesting an opinion by the Commission had been considered and the opinion had been sent to the UIPMB. The UIPMB would not alter its two year suspension without the IOC Medical Commission overturning its previous decision and there the matter rested.

4.36 The position of the IOC Executive Board was summed up in correspondence by Dr Carrard to Mr Watson's lawyers in the following terms:

As you know, following the recommendation of the IOC Medical Commission, the IOC Executive Board decided, pursuant to the Olympic Charter, to disqualify your client from the Games of the XXIVth Olympiad in Seoul. The Australian Olympic Federation accepted the decision. Consequently, as far as the IOC is concerned, the matter is closed. It is up to the other national or international organisations concerned to decide, in accordance with their rules, on possible measures or sanctions which lie within their respective authorities and jurisdictions (*Dr F. Carrard, Letter to Blake Dawson Waldron, Solicitors, 6 February 1989, Schedule 3.1 to AOC Submission No 48B*)

The dilemma for Mr Watson was that until such time as he could persuade the IOC Medical Commission and Executive Board to review and rescind their finding on him, the AOF in accordance with the Olympic Charter was bound to observe and comply with the decisions of the IOC and its Sub-Commissions.

4.37 The UIPMB was also obliged to impose its own sanction upon Mr Watson given the findings of the IOC Medical Commission that he had failed a drug test. At issue was not the penalty imposed by the IOC Executive but rather the positive drug test. To the extent that the AOF rules appeared to impose a mandatory life ban, the AOF were obligated to apply it until such time as they changed their sanctions for such offences. The UIPMB penalty was a two year ban and they were likewise obligated to impose it. That said, it should be understood that had these two bodies given themselves discretion in respect of penalties, which in 1989 the AOF chose to do, they need not have suspended Mr Watson at all had they deemed that appropriate. Subsequently the AOC reduced its penalty for a first offence from a life ban to a two year penalty and reduced Mr Alex Watson's penalty accordingly.

The Court of Arbitration for Sport

The Powers of the Court

4.38 Following his election as President of the International Olympic Committee in 1980 Juan Antonio Samaranch found himself involved in actions in the Civil Courts that had the capacity to bring the Olympic Movement into potential disrepute. He decided that there had to be a better way, and as a result, at his instigation, the 85th Session of the IOC held in Rome in 1982 upheld the idea of creating a Court of Arbitration, the jurisdiction of which would lie within the scope of activities linked more or less directly with sport.

4.39 Statutes and Regulations were drawn up and in 1983 the Court of Arbitration for Sport was constituted and took up residence in Lausanne.

4.40 Jurisdiction is limited to what are described as 'non technical' as opposed to 'technical' disputes - the latter being referred to as affairs of the Sports Governing Bodies. The non technical disputes appear to fall into two categories:

1. Differences relating to the general principles which govern sport.
2. Litigations concerning matters of commerce which arise from activities relating to sport.

4.41 Either natural persons or corporate bodies have the right to submit disputes to the Court provided they are disputes of a private nature.

4.42 Basically access to the Court arises in two ways:

1. By an agreement or contract relating to sport having inserted therein an arbitration clause with undertakings by the parties to the agreement to comply. The Court in fact provides an example of a suitable arbitration clause.
2. When no such agreement or contract exists, by parties to a sporting dispute agreeing to submit their dispute to the Court and again undertaking to comply.

The Court comprises 60 members, any 3 of whom sit on the panel.

The Procedure of the Court

4.43 The procedure of the Court provides:

1. That submissions are initially made in writing, then orally.
2. That parties may be represented by Counsel, but only with the permission of the Court.
3. The law applied is Swiss, unless the parties have otherwise agreed.

4. The language of the Court is French and English.
5. The costs of the Court are borne by the IOC. This does not of course mean the costs of the parties, but the very considerable costs of arranging the hearing and bringing the arbitrators together from various parts of the world to sit and of arranging the facilities for sitting.
6. The panel initially may try to conciliate.
7. Deliberations are held in camera and awards are read out in public sessions by the Secretary General. (*Mr Brian Doyle, Turnbull Hill Partners, Newcastle, in the Australian New Zealand Sports Law Association, Newsletter, (1), September 1991, p.8*)

4.44 IOC Vice President Mr K. Mbayne writing in the foreword of the *Court of Arbitration for Sport (CAS) Practical Guide* states:

The CAS is composed of a list of sixty well-known jurists who also have a good knowledge of sports-related issues. The duties of President of the CAS are performed by one of these jurists who must also be a member of the IOC.

Thus the IOC has put at the disposal of any individual or corporate body, public or private, involved with sports activities or their development, an arbitration institution whose members have a good knowledge of sport and can find satisfactory and final solutions to any duties.

Sports bodies, individuals practising or teaching sport, businessmen, corporate bodies, public or private, may all refer to the CAS with a view to settling any conflict by arbitration, provided that this dispute has a bearing on private interests.

Naturally, any problems of a technical nature arising during the practice of a particular sport remain the competence of the International Federations and other sports bodies concerned.

The CAS has the task of settling non-technical disputes of a pecuniary or non-pecuniary nature, whose settlement is not provided for by the IOC Olympic Charter, nor by

the international or national regulations in force which govern sport. The CAS also acts as a court of appeal (and of last resort) against the decisions by internal tribunals of sports federations.

In addition to its normal function, the CAS may give an advisory opinion on any judicial matter concerning sport.

It is interesting to note that when a case is being heard, the CAS may try to reconcile the parties if they so agree. This power and the extreme simplicity of the procedure, makes the CAS a valuable instrument for the rapid and inexpensive resolution of disputes resulting from the practice of sport and the economic or financial activities arising from it.

4.45 During the last eight months, the CAS secretariat has registered five new cases on its cause list, all appeals lodged against suspension decisions taken by an IF on the grounds of doping. (*Report on the Activities of the Court of Arbitration for Sport (CAS) June 1991 to February 1992*). Given the IOC itself does not have a proper or formal appeals mechanism, the CAS appears to be an ideal Court of Arbitration to deal with cases such as Mr Watson's, for which purpose it was apparently established.

Mr Watson's Request: September 1989

4.46 On 15 September 1989 Mr Watson's lawyers wrote to the IOC requesting that it submit the Watson case to the CAS under Article 5 of the statutes for an advisory opinion under Article 65 of Chapter VI - The Advisory Procedure. Article 5 reads in part:

Any of the following parties may submit a case to the CAS, provided they have an interest in so doing: The International Olympic Committee (IOC)...

Article 69 reads in part:

The CAS is authorised to issue an opinion on legal questions concerning the practice of sport or its development and, in a general way, all activities pertaining to sport.

Article 65 of the Regulations reads in part:

Any request for an advisory opinion from the CAS by the IOC and in a general way, any other person concerned, shall be submitted to the President of the CAS who shall, after consideration with the parties concerned, formulate the questions on which he deems that an advisory opinion may be given by the CAS. Any document likely to offer information to the designated Panel shall be added.

On 25 September 1989, however, Dr F. Carrard, Counsel for the IOC, responded as follows to Mr Watson's appeal request which had been made through his solicitors:

In answer to your letter dated September 15, 1989, for which I thank you. This is to inform you that the IOC will not refer the above matter to the Court of Arbitration for Sport. (*Dr F. Carrard, Letter to Blake Dawson Waldron, Solicitors, 25 September 1989, Schedule 3.2 to AOC Submission No 48B*)

Thus Mr Watson's last attempt to have his case formally reviewed in an international forum was abruptly dismissed in three short lines.

The British Experience

4.47 We are advised by Mr R. Palmer, General Secretary of the British Olympic Association (see Appendix 4) in the following terms:

When I, as Chef de Mission, was notified of a positive test by the IOC Medical Commission a number of procedures were put into place. The athlete concerned and the team

doctor were interviewed by the Honorary Treasurer of the BOA, Robert Watson, who also happens to be a Barrister in criminal law. At that point his job was not to prepare a case on behalf of the athlete rather it was to establish the facts in the matter. The athlete underwent a very careful cross examination by Robert Watson in order to achieve this. In the case of three of our athletes in Seoul there was [sic] very considerable doubts concerning the situation and Robert Watson, on behalf of myself as Chef de Mission, presented the facts to the IOC Medical Commission. In the case of the fourth athlete we established that he had, at the very least, acted very foolishly. We obtained from the athlete a written statement which effectively detailed his guilt and/or stupidity and Robert Watson represented this to the IOC Medical Commission.

(I might, incidentally, point out the time scale in the situation. The notification from the IOC was received in the evening. The second sample was tested very early the following morning. The BOA's internal enquiry took place in a 2/3 hour period prior to lunch and the hearing in front of the IOC Medical Commission took place either in the late afternoon or around 8 o'clock in the evening).

We have, as you see from the Seoul Report, taken a further step. Should we have problems in Barcelona we have asked our Honorary Legal Advisor to be present at both the BOA enquiry and at the IOC hearing to ensure that justice prevails insofar as the athlete is concerned. (*Mr R. Palmer, Letter to Senator N. Crichton-Browne, 1 May 1992*)

4.48 Upon returning to Britain the National Olympic Committee initiated an inquiry into the use and misuse of drugs with a view to drawing up plans for the future. Following are the relevant conclusions and recommendations of the BOA Report:

The International Olympic Committee

Conclusions

1. Throughout the International Olympic Committee acted with great integrity and with the best interests of the

competitors in mind. At the hearings we are satisfied that our competitors were treated fairly and given a proper hearing.

2. Nevertheless the Working Party heard from the competitors involved (in particular those against whom no action was taken by the IOC following the adverse report) expressing concern at the procedures of the IOC Medical Commission in hearing the cases. Dominic Mahony (Modern Pentathlon) perhaps best summed it up by saying:

"Appearing before the IOC Commission in Seoul was an intimidating and unpleasant experience".

The British Olympic Association felt itself fortunate in having proper professional support for its competitors at the hearings. Given different circumstances from those which obtained with the British Team the Working Party questioned whether or not the rights of individual competitors would have been properly safeguarded under the present protocols which apply at IOC Medical Commission hearings.

...

Recommendations

1. Perhaps the IOC Medical Commission should discuss with its Legal Advisers and with experienced Chefs de Mission the procedures and protocols to apply at hearings into positive drug tests. These should be announced to NOC's prior to the Games.
2. In order to obviate unnecessary stress and publicity to competitors the IOC Medical Commission should consider whether or not to establish an informal hearing procedure to simplify the existing formal system. A senior member of the IOC Medical Commission could informally meet the competitor and his representatives to establish the basic facts and only if, following this meeting, the situation is considered unsatisfactory should a competitor be requested to appear before the full Commission with all the publicity and opprobrium which it entails.

The British Olympic Association

Conclusions

...

At the Games

1. The Working Party formed the view that the situation at the Games had been handled in a wholly proper and effective manner by the BOA. Indeed it was the view expressed to us by competitors that they were fortunate in having the support and expertise of the BOA made available in their hour of need. Nevertheless there were lessons to be learnt for the future.
2. The basic procedure of thoroughly examining all the circumstances in a professional manner and then presenting the facts fully to the IOC Medical Commission was regarded as the proper, indeed the only, course of action.
3. The Working Party recognised fully the exceedingly stressful circumstances surrounding matters of drug abuse created, in no small measure, by news hungry media. Nevertheless the confidentiality and the privacy of the competitors was a matter of grave concern and places a heavy responsibility on the BOA, the Chef de Mission, the Press Officer and the Management of the individual Sports Teams (often unused to dealing with the IOC and the media).

The Working Party spent a considerable time on the matter of leaks and further discussed informally with members of the media the situation which developed in Seoul. It was unable to come to any satisfactory conclusion as to the source of any leaks which caused the media speculation, particularly those surrounding Christie and Brown. In the case of Phelps and Mahony the news did not reach the Press for three days (this was prior to the Ben Johnson affair) and the leaks could only have come from within the sport itself although not from the British contingent (who were anxious that the information should be kept confidential)...

Recommendations

...

At the Games

1. The BOA should plan for a "Domesday Scenario" and work out procedures beforehand. In Seoul, fortuitously, the right people were on hand. At future Games they should be present by design.
2. The Working Party recommends that:
 - a) There should be a legal team on hand comprising an advocate who can, by his training and background, establish the facts and ensure that they are properly presented at the right time - and a legal adviser, who can assist by ensuring that the proper documentation is available and that the correct legal procedures are observed.
 - b) The smallest possible number of people be informed about such affairs in order to preserve confidentiality for the competitor concerned.
 - c) Only one spokesman should deal with the media, acting on the instructions of the Chef de Mission. This should be the BOA Press Officer. Neither the individual sports management nor the competitors should attempt to deal with media matters in these affairs. (*British Olympic Association, Report of the Drug Working Party, Appendix 3 to this Report*)

4.49 The British Olympic Association clearly questions whether it is possible for athletes to have their rights properly safeguarded under IOC Medical Commission protocols which apply at the hearings when not provided with proper professional support, support of a nature which was not available to Mr Watson.

CHAPTER 5

CAFFEINE: DOUBTS AND SCIENTIFIC EVIDENCE

Confusion in 1988

The Australian Team Briefing

5.1 Mr Watson's pentathlon manager, Mr R. Barrie, in a statement to the AOF advised: "I cannot remember his [Dr Sando's] exact words but I believe he may have said 20 cups of coffee in an hour.' (*Mr R. Barrie, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B*, p.3) Mr Barrie conceded, however, that his recollection may have been inaccurate, and that Dr Sando might not have mentioned any particular number of cups of coffee. He stated that Dr Sando had said that an athlete would have to drink a lot of coffee in a short period to exceed the allowable limit. (*Mr R. Barrie, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B*, p.3)

5.2 In evidence to the AOF Executive Board appeal hearing into Mr Watson's case on 11 May 1989, Dr Sando stated that he could not remember specifically the words he had used at this briefing to advise athletes. He could recall advising, however, that the usual social use of a few cups of coffee, pieces of chocolate or cans of coca-cola consumed by a normal individual would not lead to an excess of Caffeine:

I deny having made such a statement, as it is not possible to quantify caffeine consumption in such a manner due to the differing caffeine concentrations per cup of coffee.

It is possible to exceed the IOC prescribed [sic] caffeine limit by consumption of coffee. (*Dr B. Sando, Summary of Statement to the AOF Executive Board, Schedule 4.3 to AOC Submission No 48B*, p. 1)

Dr Sando stated at the AOF appeal hearing:

No, I have never - never prior to the Games, been prepared to say what quantity was required, because I must confess I did not know. But I knew it was well in excess of what would be regarded as normal - normal social use of coffee. (*Dr B. Sando, AOF Appeal Hearing Transcript, 11 May 1989, Schedule 4.4 to AOC Submission No 48B, p. 157*)

Questioned about whether it was possible to exceed the IOC proscribed limit by consuming coffee containing Caffeine, Dr Sando replied:

Yes, though I did think that to consume that amount of coffee, probably there would be vomiting, and effects that would prevent a person in a short space of time, consuming that volume of coffee. (*Dr B. Sando, AOF Appeal Hearing Transcript, 11 May 1989, Schedule 4.4 to AOC Submission No 48B, p. 158*)

When asked at the AOF appeal hearing "if you had been aware that an athlete was consuming that amount [between 10 and 14 cups of coffee during a day's competition], would you have warned them that that would have been an excessive amount in your opinion?" (*AOF Appeal Hearing Transcript, pp. 158-159*) Dr Sando responded:

... I guess I would not have, at that stage, thought it would produce an excess quantity of caffeine in the urine from the point of view of drug testing. (*Dr B. Sando, AOF Appeal Hearing Transcript, 11 May 1989, Schedule 4.4 to AOC Submission No 48B, p. 159*)

Statements from Seoul

5.3 In his Seoul statements not only did Dr Sando quantify the number of cups of coffee required to reach Mr Watson's level but he described the strength of the coffee. At that time he felt qualified to state that not only could Mr Watson not

have reached a level of 14.45 mcgs/ml by the consumption of coffee, but he described the alternative routes of ingestion and stated that tablets or suppositories would have been taken several times during the course of the day to register a reading of 14.45 mcgs/ml. Dr Sando stated at the AOF appeal hearing:

... I think I was asked [at Seoul] what it would require and in an effort to say that I knew it was a large amount, I think I indicated that it could be as many as 30 or 40 cups, would certainly achieve that. (*Dr B. Sando, AOF Appeal Hearing Transcript, 11 May 1989, Schedule 4.4 to AOC Submission No 48B, p. 158*)

5.4 Recent expert scientific evidence indicates that Dr Sando's public comments in Seoul about Mr Watson were incorrect. Dr Sando stated during a Channel Ten television interview in Seoul that for Mr Watson to have reached his level of 14.45 mcgs/ml he would probably have had to drink more than 30 or 40 cups of coffee. He (Dr Sando) considered it unlikely that anyone could consume that amount of Caffeine by drinking coffee because of the likelihood of their becoming physically ill before that amount of Caffeine could be ingested. Dr Sando, went on to say that:

... one could only assume that to have that high level of Caffeine, the thing that would have been done is to have had Caffeine in another form and probably not just once during the day but at various times during the day when you realise that it was probably about a 12 hour day that that person had to compete over.

Mr Watson's Understanding

5.5 Of relevance to the Caffeine levels registered by Mr Watson is his understanding of safe levels of coffee consumption. He told the AOF appeal hearing that prior to the Los Angeles Olympic Games, when the limit of 15 mcgs/ml applied:

... the general understanding amongst all pentathletes is that an unlimited amount of coffee can be consumed without putting yourself at risk. (*Mr A. Watson, AOF Appeal Hearing Transcript, 11 May 1989, Schedule 4.4 to AOC Submission No 48B, p. 18*)

When asked if he thought he might be "... pushing the risk a bit high?", by consuming so much coffee, Mr Watson responded:

No, it never crossed my mind, because it is the general understanding - there's - I can give you two examples, the Swedish manager, Bent Lager, who is a very experienced competitor, and now manager, he's told his athletes that they can drink, " sixty cups of coffee and not be at risk, and that's just a figure to indicate that it's unlimited. When I was giving my appeal in Monte Contini, I spoke to Carlo Massulo who is in his final year of passing medicine who was a bronze medallist from LA in pentathlon, and his understanding is also that you can drink an unlimited amount of coffee and not be at risk.

...

... my manager, Bob Barry [sic] has been to two Olympics as a competitor and another one as a manager. Steven [sic] Paul, my coach, has fenced in two Olympics for Great Britain. All of us, it never even crossed out [sic] mind that I would be being put at risk by drinking the coffee I did. (*Mr A. Watson, AOF Appeal Hearing Transcript, 11 May 1989, Schedule 4.4 to AOC Submission No 48B, pp. 40-41*)

5.6 A statement by Mr W. Ronald, Section Manager of the Fencing Team in Seoul, while casting no light on the briefing, does give some indication of the Fencing Team's understanding as to the quantities of caffeine they would have to consume to reach the proscribed limit:

In August, 1988 I attended the Australian Olympic Federation Team General Assembly which was held at Canberra for the Australian Olympic Team attending Seoul. I believe this occurred on the weekend of 26 to 28 August. During that weekend there were numerous presentations including presentations by sports

psychologists but I am unable to specifically recall any briefing on drugs.

However I do recall that a similar briefing was held at the Sheraton Hotel in Melbourne and I believe this to have been prior to the Los Angeles Olympics. This briefing was held by the Australian Olympic Federation. I recall that either Brian Sando or Ken Fitch the Medical Representatives for the Australian Olympic Federation addressed us on the subject of caffeine. As a result of that address I came away with a clear understanding that the Olympic caffeine limit could not be reached by normal injection [sic] of caffeine. Indeed my impression was that they were suggesting that to exceed the limit one would have to take caffeine in some form of tablets, suppository or drops. I recall that the talk was on having to drink "pots of coffee and several litres of coca cola" over a very short period of time.

On the basis of that information provided to me as the Team Manager in the sport of fencing that sport has approached the use of caffeine on that basis. Indeed we have passed that information on to our fencing athletes and have spoken to them of the sorts of quantities of caffeine they would have to consume to reach the limit. (*Mr W. Ronald, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, pp. 1-2*)

Accepted Views in Pentathlon in 1988

5.7 In a letter of 4 December 1988 from the Danish Modern Pentathlon Association to the UIPMB amongst others, the Association stated that "The Danish Modern Pentathlon Association would like to underline that the UIPMB has published that an athlete would have to consume 30 to 40 cups of coffee to achieve the limit of 12 milligrams of Caffeine per litre of urine". This view appears to have been widely accepted. Mr M. Kellam, counsel for Mr Watson at the AOF Executive Board hearing, tabled a statement from Mr R. Phelps, an English competitor in the Modern Pentathlon, in which he expressed the view:

... that the amount of caffeine required to be ingested to exceed the IOC limit is far less than athletes have been

advised. Pentathletes and indeed British athletes I know believe that something in the order of 40 cups of coffee (an undrinkable amount), or in other words pills or suppositories containing super concentrations of caffeine have to be taken to exceed the IOC limit.

This belief filters through our managers, coaches and competitors. Along with other team members I drank coffee and coke on the day of the fencing in Seoul. (*Mr R. Phelps, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, p. 2*)

5.8 Those members of the Australian Olympic Pentathlon team who provided evidence at the AOF appeal hearing all stated a belief that a much greater consumption than 12-14 cups of coffee would have been necessary to reach the proscribed limit. As Dr Sando stated, he would not have advised Mr Watson that a consumption of some 10 to 14 cups of coffee would produce a positive dope test had he known that that was Mr Watson's consumption.

5.9 We are convinced, on the basis of the written and oral evidence, that a great deal of misunderstanding and confusion existed in the minds of the AOF team officials and doctors at Seoul as to the probable safe limit of coffee consumption for competing athletes. The level of advice and instructions given to the athletes reflected this uncertainty. Undoubtedly, the generalised and vague nature of the information provided to the athletes was capable of misleading them.

5.10 Dr A. Reynolds, Acting Deputy Director (Treatment) of the Alcohol and Drug Dependence Services of the Queensland Department of Health stated:

I have concerns that the senior medical director of the Australian Olympic Team, Dr Brian Sando, stated on several occasions on television that Alex Watson would need to have consumed 35 to 40 cups of coffee in order to achieve a urinary caffeine level of 14.25 micrograms per ml, as detected in the tests performed on Alex. The data provided by the Royal Brisbane Hospital experiment indicates that this may be quite incorrect. In addition, Dr Sando stated that in Australia one could not obtain

caffeine containing medications from a chemist without a doctor's prescription. Of course this is also incorrect since it has been possible for quite some years to obtain NO DOZ (each tablet of which contains 100mg of caffeine), over the counter from a pharmacist without a prescription. I do not wish to be overly critical of Dr Sando; he must be regarded as highly competent in order to have been selected as one of the Australian team doctors. However, given the high relevance and significance of the impact in drugs in sport, I would hope and expect that all Olympic team doctors from all countries would have a thorough knowledge of the impact of drugs on human performance and in particular, the toxicology and physiological responses in relation to the drugs which are banned and the drugs for which limitations are set. (*Dr A. Reynolds, Letter to the Committee, 4 November 1988, Schedule 4.2 to AOC Submission No 48B, p. 3*)

5.11 To the extent that it is relevant, Mr Watson's consumption of Caffeine on the day of his test can reasonably be described as well above 'normal daily consumption'. Having said that, we are mindful of the definitional difficulty in describing normal consumption. We regard approximately six cups of coffee as a normal daily intake which, in Dr Miners view, is 'the average for normal Caffeine consumed in the general population'. According to Mr Watson, his normal daily consumption is 4 or 5 cups of coffee a day. (*Evidence, p. 13; Mr A. Watson, Submission to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, p. 7*)

5.12 Mr Watson complained that the level of caffeine concentration set by the IOC was changes prior to Seoul: since it had been 15 mcgs/ml at the Los Angeles Olympics in 1984, had he been tested then he would have been under the limit.

5.13 Senator Crichton-Browne wrote on several occasions to Juan Antonio Samaranch, President of the International Olympic Committee, Prince Alexandre de Merode, Chairman, International Olympic Committee Medical Commission and Professor Manfred Donike, Chairman of the Doping and Biochemistry Subcommittee of the IOC Medical Commission requesting advice of the

scientific evidence and grounds upon which the IOC reduced the proscribed limit from 15 mcgs/ml to 12 mcgs/ml. Each of these gentlemen declined to respond to the numerous requests notwithstanding subsequent urgent facsimiles.

5.14 Dr Fitch, a member of the IOC Medical Commission responded to a similar request by advising that the reduction of the proscribed level of caffeine was a decision of the IOC Medical Commission on the recommendation of its Doping Sub-Commission and as he is not a member of this Sub-Commission he does not receive minutes of the meetings. He suggested Senator Crichton-Browne write to Professor Donike. Similar requests by the Australian Sports Drug Agency's Chairman (Professor P. Baume) and its Chief Executive (Mr S. Haynes) to Professor Donike on 11 July 1991 and 27 March 1992 respectively failed to elicit a response.

5.15 Given the lack of co-operation by the various senior members of the IOC and their failure to respond to requests for information we are unable to further advance this matter other than to say we have no knowledge of any scientific grounds which influenced the IOC's decision to reduce the allowable level from 12 mcgs/ml to 15 mcgs/ml.

Recent Scientific Studies

5.16 Although scientific knowledge regarding the secretion of Caffeine has emerged slowly, real advances in understanding this complex subject are beginning to occur. Several scientists have conducted studies and identified their relevance to Caffeine use by athletes.

Article by Professor D. Birkett and Dr J. Miners

5.17 Professor D. Birkett is Head of the Department of Clinical Pharmacology at Flinders University. His evidence before the Committee and his published articles make two facts clear:

- (i) The IOC proscribed level of 12 mcgs/ml of Caffeine can be reached by the consumption of a moderate daily intake of coffee; and
- (ii) The urine Caffeine concentration levels of individuals who have consumed identical quantities of Caffeine can vary as much as twentyfold.

5.18 In regard to point (i), a recent study by Professor Birkett and Dr Miners examined the relationships between plasma and urine concentrations and clearances of Caffeine over successive dosages. For the study, successive dosage intervals at steady-state were investigated in six healthy volunteers who were administered Caffeine, at the rate of 150 mg eight hourly for six days. The study found that the intra- and inter-individual variability in urine Caffeine concentrations were similar to those for plasma, the overall range of urine Caffeine concentrations being 0.7 mg per litre to 11.1 mg per litre (15.9-fold). (*Prof D. Birkett and Dr J. Miners, Caffeine Renal Clearance and Urine Caffeine Concentrations During Steady State Dosing: Implications for Monitoring Caffeine Intake During Sports Events, Journal of Clinical Pharmacology (31), 1991, pp. 405,407*)

5.19 The relevance of this finding is that an individual consuming 450 mg of Caffeine per day or 150 mg eight hourly for six days may record a reading of slightly less than the allowable IOC limit. 150 mg is approximately two cups of coffee. As Professor Birkett stated in his evidence:

So a reading of 11 is very close to the legal limit and this person had what would be three to four cups of strong coffee per day for four or five days. (*Evidence, p. 230*)

5.20 Further, in regard to point (ii), the Birkett - Miners study found wide variations in Caffeine readings between individuals. In Professor Birkett's view:

These compounds are really not well eliminated in the urine by the body and with caffeine about 98 to 99 per

cent of the elimination from the body is by being broken down in the liver to other substances which are then excreted. So the urinary excretion pathway is only about one per cent to two per cent of the total elimination from the body.

It turns out therefore that the concentration in the urine, when you are drinking coffee on a regular basis, is determined by an individual's ability to metabolise the drug in the liver because that determines the concentration in the blood. The group of enzymes that does this in humans characteristically varies up to about twentyfold in its activity between individuals. So, in thinking about setting limits, you have got to bear in mind a background variability of something like twentyfold at least in the population. That is a healthy population. Therein lies the difficulty, basically, that the urinary caffeine concentration is determined in the end by the rate at which the liver metabolises the drug, and that can vary about twentyfold between individuals. When we are treating patients, we bear these factors in mind, but a difference of two in the dose for an individual may not make a big difference, so we try to find doses that suit a majority of the population. When you are looking at a situation where the consequences of an individual exceeding the limit are very severe consequences, you really have to think in terms of individuals rather than populations of people. Therein lies the difficulty of legislating in this sort of area. (*Evidence*, p. 206)

5.21 Professor Birkett went on to say when discussing other factors that are capable of influencing urine caffeine levels:

So there is a range of genetic and environmental factors - diet, smoking, what you eat and drink and other drugs that can interact that will change the activity of these enzymes and then change the rate at which an individual can metabolise Caffeine. (*Evidence*, pp. 221-222)

In response to a question from the Deputy Chairman of the Committee, Senator N. Crichton-Browne, Professor Birkett stated:

Senator Crichton-Browne - Are you saying that another athlete standing next to Alex Watson who had taken exactly the same amount of coffee could have won the bronze medal?

Professor Birkett - An athlete who had taken exactly the same amount of coffee could have had a level of one or two at the extreme, but certainly below 12. So it is what I referred to at the beginning. It is all right looking at populations but where you have individuals who are going to be banned for life from something if they transgress a particular limit, then you have really got to allow for the extremes in the population, not just the one or two standard deviations around the average. So that normally in a population that went like that, you might cut off there and leave 10 per cent of the population at the extremes. (*Evidence*, p. 223)

5.22 Professor Birkett provided extensive advice to the Committee during the public hearing on 5 December 1991. In summary, he claimed that:

- . Caffeine is not well eliminated in the urine; the urinary excretion pathway is only about one per cent to two per cent of the total elimination from the body. (*Evidence*, p.206)
- . The urinary caffeine concentration is determined by the rate at which the liver metabolises the drug, and that can vary twentyfold between individuals. (*Evidence*, p. 206)
- . Caffeine does not turn on its own metabolism. It can be turned on, however, by cigarette smoking and barbequed steak, for example. (*Evidence*, pp. 219, 220)
- . Dehydration does not affect the concentration of Caffeine in the urine. (*Evidence*, p. 207)
- . On average, measuring Caffeine concentration in urine is quite a good measure of blood concentration. (*Evidence*, p. 208)
- . Caffeine is a stimulant which can enhance performance in endurance events like cycling. (*Evidence*, p. 217)

- . An athlete consuming the same amount of Caffeine as Mr Watson did at Seoul could have reached a level of one or two mcgs/ml, but certainly below 12. (*Evidence*, p. 223)
- . A conventional social drinker of coffee consuming two or three cups of coffee a day could be disqualified from an Olympic Games. (*Evidence*, p. 230)
- . Urine concentrations of about five cups of coffee a day range from less than one up to just on twelve micrograms of Caffeine per millilitre. (*Evidence*, p. 211)
- . Caffeine is extremely well absorbed into the body so virtually 100 per cent will get into the bloodstream. (*Evidence*, p. 211)
- . The average half-time to eliminate Caffeine from the body is about three to four hours. (*Evidence*, p. 212)
- . Lean body weight is capable of influencing Caffeine urine concentration level readings. (*Evidence*, p. 216)
- . A number of drugs such as cimetidine and erythromycin will block the enzymes in the liver that metabolise Caffeine. (*Evidence*, p. 220)
- . A range of dietary factors will have the same effect. (*Evidence*, p. 221)

Caffeine Levels

5.23 In his evidence to the AOF on 11 May 1989 Mr Watson stated that he drank two cups of brewed coffee for breakfast and twelve to fourteen cups of brewed coffee and two cans of Coca-Cola (during competition) on the day on which he was tested at Seoul, 19 September 1988. Professor Birkett, who was present at the simulated test in Sydney on 29 October 1988, has claimed that:

- . it is possible to reach 12 mcgs/ml (the IOC limit) in urine with a Caffeine intake of between five and ten cups of coffee over the course of a day;
- . to reach 12 mcgs/ml it is not necessary to resort to Caffeine in tablet or suppository forms;

- . the method of testing the concentration of Caffeine *in urine*, is 'scientifically unsound';
- . Mr Watson's simulated test indicates that it is possible to reach the proscribed level of Caffeine by drinking the amount of coffee and Coca-Cola that he claimed to have consumed at Seoul; and
- . the IOC Caffeine level rule is unfair because of variations in the way individuals secrete Caffeine from the liver, and because of the existing doubts about the ways in which individuals can reach the proscribed level.

5.24 The Birkett-Miners study found that:

- . there was a marked inter-individual variation in the urine concentrations of Caffeine among individuals who had consumed identical amounts of that drug under controlled conditions; and
- . a regulatory urine Caffeine concentration limit of 12 mcgs/ml may be exceeded by some individuals with coffee intake in the range of 3 to 6 cups per day.

Professor Birkett and Dr Miners concluded:

In summary, the urine caffeine concentration is a measure of the unbound concentration of caffeine in plasma over a wide range of urine flow rates. For a given steady state caffeine intake, there is marked intra- and inter-individual variability in both urine and plasma caffeine concentrations, and the current regulatory limit for urine caffeine concentration in international sporting events is likely to place some individuals at risk after only modest coffee intake. The limit needs to be revised, or athletes advised to limit their intake to the order of

two to three cups of coffee per day or the equivalent in terms of caffeine intake. (*Prof D. Birkett and Dr J. Miners, Caffeine Renal Clearance and Urine Caffeine Concentrations During Steady State Dosing: Implications for Monitoring Caffeine Intake During Sports Events, Journal of Clinical Pharmacology, (31), 1991, pp. 407-408*)

5.25 In commenting upon Professor Birkett's study, Professor Richard Day, Professor of Clinical Pharmacology at St Vincent's Hospital Sydney wrote:

I am familiar with the work of Professor Donald J. Birkett on Caffeine and have reviewed his paper entitled 'Caffeine renal clearance and urine caffeine concentrations during steady state dosing. Implications for monitoring caffeine intake during sports events'. Professor Birkett is considered a leading world figure in research into caffeine metabolism and he has contributed much to knowledge of the routes and mechanisms of caffeine elimination. I have reviewed his current work which is in a prestigious international journal. This paper would be reviewed independently by three individuals. This in itself is a measure of quality of the scientific work. The key points of the work are:

1. Substantial intersubject variability in urine caffeine concentrations of the order of 15 fold.
2. The regulatory limit of 12 mg/l in urine could be exceeded by normal individuals taking 3-6 cups of coffee in a day.

This is a clear and well performed piece of work which supports the authors' conclusion that the regulatory level for urinary caffeine concentrations may be too low. (*Letter to Senator Crichton-Browne, 23 April 1992, see Appendix 5*)

Dr K. Donald

5.26 The conclusion of the Birkett - Miners study is consistent with an opinion by Dr K. Donald, Chairman of the 1982 Commonwealth Games Dope

Testing Laboratory, a member of the Doping Commission for the 1982 Commonwealth Games and author of *The Doping Game* (1983). In a statement to the AOF Executive Board Dr Donald wrote:

It is my opinion that there is a real possibility that a 14.5 milligram per litre caffeine reading may be the result of Alex Watson consuming approximately 14 cups of coffee and a couple of cans of Coke without consuming caffeine tablets or using suppositories.

My opinion is based on experience and in particular laboratory research (of which I was a Chairman) conducted at the Royal Brisbane Hospital in Queensland.

The laboratory research was conducted in the lead up to the 1982 Commonwealth Games. The 1982 Games was the first sporting event in which a quantitative level for caffeine had been set, and I was very worried about that, which was why in fact this research (never published) was conducted. To my knowledge there was no other research in regard [to] this matter.

...

The research conducted by the laboratory consisted of a group of 20 people who were given 500 milligrams of caffeine, which is the equivalent of somewhere between five and 10 cups of coffee, depending upon the sort of coffee you drink.

A single dose was given to each person and analysed thereafter for eight hours. Between a period of one hour and six hours following that ingestion, there were always members of the group above 12 milligrams/litre; in the first two hours a number of the group went as high as 10 milligrams/litre. The average over the two hours was 11, and members of the group of 20 went as high as 18.

...

It is my opinion that there is a real possibility that a 14.5 milligram [sic] per litre caffeine reading may be the result of Alex Watson consuming approximately 14 cups

of coffee and a couple of cans of Coke without consuming caffeine tablets or using suppositories. (*Dr K. Donald, Statement to the AOF Executive Board, Schedule 4.2 to AOC Submission No 48B, pp. 2-4*)

Professor A. Beckett

5.27 Emeritus Professor A. Beckett a member of the IOC Medical Commission and Founding Director of the Drug Control and Teaching Centre, King's College, London University, advised Senator Crichton-Browne that he did not question the validity or integrity of Professor Birkett's study and that speaking as an individual he had considerable concern with proscribed quantitative levels because there would always be "outliers", though he stressed that according to many reports they are likely to be rare. (*Prof. A. Beckett, Letter to Senator N. Crichton-Browne, 10 April 1992*) Professor Beckett also stated that had Mr Watson been able to prove at the IOC hearing that he had reached urine caffeine concentration levels of 14.25 and 14.45 mcgs/ml by the consumption of the coffee which he claimed to have consumed, then the IOC Medical Commission may well have considered a lesser penalty than banning him from the Games. Professor Beckett acknowledged that the IOC Medical Commission did not provide a formal appeals mechanism. He emphasised that he was speaking as an individual and not on behalf of the IOC Medical Commission.

Conclusion on the Scientific Evidence

5.28 We are satisfied that scientific evidence provided to both the Senate Committee and the AOF Executive Board hearing by Professor Birkett, Dr Donald and Dr Maslen compels the view that the proscribed IOC level of caffeine can be reached by a moderate consumption of coffee. We are also satisfied that it demonstrates a very wide disparity in urine caffeine concentration levels amongst individuals who have consumed identical amounts. Neither the Senate Committee nor the AOF Executive Board has been presented with contrary scientific evidence.

5.29 Despite variations in metabolisms, the limit set must be taken to indicate the point at which concentration of Caffeine in the human body acts as a stimulant providing an advantage over other competitors. Since the consumption of equal amounts of Caffeine is known to reveal different readings in different individuals, it could be argued that there is an inherent difficulty in creating a specific limit to disqualify competitors unless that limit is a high one. It remains to be demonstrated whether the IOC Caffeine limit is set high enough. The dilemma is that:

- . the Caffeine limit needs to be set high so as not to disqualify athletes who have consumed only a moderate amount of coffee; and
- . the Caffeine limit needs to be set low enough to prevent athletes achieving an ergogenic benefit from Caffeine.

5.30 With regard to this second point, a recent journal article by T. Graham and L. Spriet reports on a study which found that Caffeine can have an ergogenic effect at urine concentrations below the IOC limit at 12 mcgs/ml. Dr A. Pipe's abstract of the article outlined a study performed on seven elite runners who participated in four randomised double-blind trials using placebo or Caffeine. The Caffeine effect was associated with large increases in adrenalin and moderate increases in plasma-free fatty acids and glycerol. The article abstract stated:

These data suggest that fat metabolism was increased and this could spare muscle glycogen. However it is also quite possible that caffeine was influencing the central nervous system.

Despite being below the IOC Caffeine limit, the subjects were found to have dramatic increases in exercise endurance performance after Caffeine ingestion. Every subject exercised longer during both the running and cycling trials. The journal article concluded:

In summary, this study demonstrated that consuming 9 mg/kg of caffeine produced a powerful ergogenic effect during running and cycling to exhaustion in trained competitive runners ... This study also demonstrated that ingestion of caffeine in amounts that produce acceptable urinary caffeine levels (as indicated by the IOC) was associated with dramatic ergogenic effects. (*T. Graham and L. Spriet, Performance and Metabolic Responses to a High Caffeine Dose During Prolonged Exercise, Journal of Applied Physiology, (71), December 1991, p. 2298*)

The abstract of the article concluded:

While our data clearly show the ergogenic aspect of caffeine, people should be aware that it is a drug with numerous side effects (irritability, sinus tachycardia, hypertension, gastric distress, peptic ulceration, cardiac arrhythmias) which could be detrimental to performance and/or hazardous to one's health.

The abstract ended with the recommendation that the IOC should lower the allowable level of Caffeine.

5.31 If the IOC Caffeine limit is to be lowered to prevent ergogenic benefits, it would be unwise to lower it to a level where moderate coffee drinking could entail breaches of the IOC drug code. The option that avoids that problem and prevents athletes from gaining an ergogenic benefit from Caffeine is to ban Caffeine altogether. Importantly, because recent scientific evidence about Caffeine suggests this conclusion, Recommendation 1 of the Committee Report is quite misguided in recommending that Caffeine be removed from the IOC list of proscribed drugs. Caffeine has a half-life of eight hours and therefore athletes who abstain from its use for twenty-four hours or so will ensure that a doping practice has not been committed.

5.32 The dilemma in setting quantitative proscribed levels for banned substances is that not only must by necessity the levels set be arbitrary but that the levels may be breached by different individuals ingesting different levels of the same

substance. Different individuals taking identical amounts may provide different readings. That different ergogenic benefits may be obtained by different individuals taking identical amounts of substance compounds the problem.

5.33 Caffeine and alcohol are the only two banned substances so measured although certain other banned substances now fall within 'the inadvertency category' to a certain level.

5.34 Testosterone doping is assessed by measuring the ratio of testosterone to epitestosterone. However, given that the set ratio of 6.1 is capable of being breached by an individual's natural physiology, in order to assist in this evaluation the IOC accredited laboratories shall report every case to the proper authorities according to the following criteria:

- A. Negative if the ratio is less than 6 or
- B. T/E greater than 6 and not greater than 10 or
- C. T/E greater than 10.

5.35 In the case of B the Medical Commission recommends that further tests shall be conducted before considering the result as positive or negative. Such investigations may include:

- A review of previous tests.
- Endocrinological investigations.
- Unannounced testing over several months.

5.36 Given that athletes who cheat by taking testosterone may seek to disguise this by also taking epitestosterone to maintain a ratio of less than 6.1, if the epitestosterone concentration is greater than 150 ng/ml, the laboratories are required to notify the appropriate authorities. The IOC Medical Commission recommends that further investigations be performed.

5.37 No such precautions are taken with urine/caffeine concentration levels notwithstanding that natural physiological variations are capable of giving significantly different readings between individuals.

5.38 The distinction to be observed is that naturally occurring high levels of testosterone do not provide an unnatural ergogenic effect.

5.39 At the time of the Seoul Olympics, while inadvertency was accepted as grounds for the IOC Medical Commission deciding not to have a hearing into a 'positive dope test' or for imposing no penalty following a hearing the IOC Olympic Charter contained no such formal provision.

5.40 Inadvertency has been considered in a number of senses. Athletes may inadvertently consume a banned substance without knowing they have done so as in the case of pseudoephedrine which is contained in a number of medications. An athlete may knowingly take a substance in medication form not knowing it is on the banned list. Alternatively caffeine or alcohol may be taken deliberately and an athlete may inadvertently breach the proscribed limit as in Mr Watson's case. At the Seoul Olympics the IOC Medical Commission entertained and accepted the first two grounds while declining to consider the third.

5.41 The effect of that course of action was that some athletes who tested positive for banned substances for which there was no allowable level were not called before the IOC Medical Commission and received no penalty. One athlete (Mr Watson) who tested positive for a banned substance for which there was a proscribed level was brought before a hearing of the IOC Medical Commission found to have tested positive to a dope test and banned from further participation in the games.

5.42 No doubt the IOC considered such matters as the purpose of the ingestion, the athlete's knowledge that he had taken a banned substance, the detected level of the substance and its ergogenic benefit to the athlete.

5.43 Contrary to the strongly expressed views of the signatories to the minority report, the Chairman of the Committee declined to take expert scientific evidence on the question of caffeine-induced ergogenic benefit and we are thus unable to intelligently comment and report on this central issue.

5.44 Clearly in Mr Watson's case the IOC did not accept his explanation for the level of his urine caffeine concentration.

5.45 While the IOC were entitled under their rules to have found Mr Watson had tested positive for a dope test and impose the sanction they did, clearly they judged him to have deliberately cheated.

General Findings and Conclusions

5.46 There are a number of conclusions which can be reasonably drawn from events relating to Mr Watson's experience in Seoul.

1. Mr Watson breached the allowable IOC urine caffeine concentration levels.
2. The IOC Medical Commission was of the belief that Mr Watson did not obtain his urine caffeine concentration levels in the manner he claimed.
3. There is no evidence that Mr Watson reached these levels other than by the manner he claims.
4. Scientific evidence demonstrates that a urine caffeine concentration level of 12 mcgs/ml can be obtained by the normal consumption of coffee.
5. Scientific evidence demonstrates that Mr Watson could have obtained his urine caffeine concentration level of 14.45 mcgs/ml by the consumption of coffee.
6. Scientific evidence indicates Mr Watson could have reached his urine caffeine concentration level of 14.45 by consuming the amount of caffeine he claimed.

7. Mr Watson consumed coffee on the day of his fencing bouts to keep alert and to prevent dehydration.
8. The consumption of caffeine would have not added directly to his fencing skills.
9. The consumption of caffeine was capable of extending his endurance during the fencing bouts.
10. Scientific evidence indicates that Mr Watson may have obtained an ergogenic effect from his caffeine consumption.
11. The IOC medical commission could have recommended a lesser penalty than that imposed on Mr Watson.

5.47 Whether Mr Watson reached his urine caffeine levels by the consumption of the quantity of caffeine he stated or by the ingestion of caffeine tablets or suppositories is only within his knowledge. Scientific evidence provided to both the Senate Committee and the AOF appeal hearing by Professor Birkett, Dr Donald and Dr Maslen leads us to conclude that the proscribed IOC level of caffeine can be reached by the moderate consumption of coffee. We are also satisfied that it demonstrates a very wide disparity in urine caffeine concentration levels amongst individuals who have consumed identical amounts. Neither the Senate Committee nor the AOF Executive Board has been presented with contrary scientific evidence. The study by T. Graham and L. Spriet referred to earlier (which Dr Fitch provided to the Committee) supports Professor Birkett's conclusions:

RESULTS

...

Urinary caffeine concentrations after running and cycling were 8.7 ± 1.2 and 10.0 ± 0.8 mg/ml, respectively. These mean values were below the IOC limit of 12 mg/ml. However, running and cycling values for one subject were 12.0 and 12.4 mg/ml, respectively. A second subject had 12.1 mg/ml after cycling, and a third had 11.7 mg/ml after cycling. The time between ingestion of caffeine and donation of the urine sample was 2 h 21 min in the running trial and 2 h 9 min in the cycling trial. The subjects having the highest urinary concentrations had

the longest performance times and therefore the longest times between ingestion and donation. (*T. Graham and L. Spriet, Performance and Metabolic Responses to a High Caffeine Dose During Prolonged Exercise, Journal of Applied Physiology, (71), December 1991, pp. 2293-2294*)

Recommendations

5.48 Given the lack of conclusive scientific evidence and knowledge about Caffeine blood and urine levels reached by drinking coffee, the individual variations in Caffeine readings, even with uniform consumption by athletes and the reliability of urine analysis to determine levels of ingestion, we support the initiative of the Australian Sports Drug Agency (ASDA) in commissioning research into these and related matters. It is our understanding that the ASDA will be reporting on its findings during the first half of this year, and it is recommended:

- . That the details of this research and the subsequent findings be made available to the Australian Olympic Committee (AOC) and the International Olympic Committee (IOC) Medical Commission.

5.49 In view of the events leading to Mr Watson's disqualification at Seoul, we recommend:

- . That the AOC provide a thoroughly detailed and comprehensive drug briefing for Australian Olympic athletes both at the time of selection and immediately prior to departure for future Olympic Games.

5.50 In order to ensure that Australian Olympic athletes may appeal against any drug bans it is recommended:

- . That the Australian Olympic Committee appoint an independent Sports Drug Tribunal to hear disputed cases of positive drug tests and to facilitate any appeals to international authorities.

5.51 While it may have been of limited assistance in Mr Watson's case, the Australian Institute of Sport (AIS) could assist athletes testing drug positive in the future. For this reason we recommend:

- . That the AIS rule prohibiting access by (drug) banned athletes be amended to permit assistance to such athletes who may require AIS facilities in order to appeal against positive drug tests.

5.52 The Committee has noted that an advocate was not available to assist Mr Watson before the IOC at Seoul, but that an Australian advocate will be present at Barcelona in 1992. To ensure that athletes receive proper and qualified representation in cases arising from drug testing procedures and findings at Olympic Games, it is recommended:

- . That the AOC:
 - (i) provide a legal adviser who can assist;
 - (ii) provide a technical expert;
 - (iii) formulate comprehensive procedures for Australian athletes found to have positive drug tests or alleged to have infringed IOC drug rules at Olympic Games;
 - (iv) provide all Australian Olympic athletes with a copy of the procedures; and
 - (v) ensure the availability of an appropriately qualified independent advocate for any Australian athlete infringing IOC drug rules.
- . That Australian athletes found to have breached drug guidelines be penalised in accordance with internationally accepted standards: up to three months ban for inadvertent use, two years for a first offence, and a life ban for any subsequent offence.

5.53 Mr Watson's experience on returning to Seoul on 24 September was unwise and unhelpful to the rest of the team and officials. In order to avoid a recurrence we recommend:

- . That the AOC devise and publish a protocol to be signed by Australian Olympic athletes covering the manner in which any athlete would return to Australia if disqualified from a Games. Such a protocol would determine aspects of travel, escort arrangements, communications with family, protection from media attention and the particular requirements of adolescent athletes.

5.54 Until the risks of exceeding the present IOC proscribed level of Caffeine are established it is recommended:

- . That Caffeine in any concentration in the urine be proscribed.
- . That an appeal against the finding of Caffeine in a sample could be based on inadvertent use and that a level for inadvertency be set.

5.55 The Committee considers that the significance of positive drug tests on prominent Australian athletes justifies discussion in relevant annual reports. We therefore recommend:

- . That the Australian Sports Commission comment in its annual reports on positive drug tests by prominent Australian athletes and the procedures established to deal with them and other investigations conducted by the ASC into alleged doping practices including self admission of the use of banned drugs and possession of banned drugs.

5.56 That the IOC adopt the hearing and appeal provisions as set out in their brochure Annex 6 headed 'Rights and Responsibilities of Sports Organisations, Athletes and their Entourage' together with Annex 7 'Guidelines for Sanctions and Penalties'.

Senator N.A. Crichton-Browne

Senator I. Campbell

Senator W. Crane

APPENDIXES

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|-------------------|-----------------------------------------|
| Appendix 1 | List of Submissions |
| Appendix 2 | List of Public Hearings and Witnesses |
| Appendix 3 | Letters to IOC Officials |
| Appendix 4 | Letter from British Olympic Association |
| Appendix 5 | Letter from Professor R. Day |

APPENDIX 1

LIST OF SUBMISSIONS

48	Mr Alex Watson, NSW <i>(Drugs in Sport Inquiry)</i>	21 December 1988
48A	Mr Alex Watson, NSW <i>(Alex Watson Inquiry)</i>	22 April 1991
48B	Australian Olympic Committee, NSW <i>(Alex Watson Inquiry)</i>	28 May 1991
48C	Australian Olympic Committee, NSW <i>(Alex Watson Inquiry)</i>	20 June 1991

APPENDIX 2

LIST OF PUBLIC HEARINGS AND WITNESSES

Wednesday 30 November 1988
Committee Room 2S2
Parliament House
CANBERRA ACT 2600

Watson, Mr A.J., NSW

Friday 10 May 1991
Committee Room 1S4
Parliament House
CANBERRA ACT 2600

Coates, Mr J.D., President, Australian Olympic Committee, NSW

Rofe, Mr A.S.F., Solicitor, Australian Olympic Committee, NSW

Watson, Mr A.J., NSW

Monday 4 November 1991
Committee Room 2S1
Parliament House
CANBERRA ACT 2600

Coates, Mr J.D., President, Australian Olympic Committee, NSW

Haynes, Mr S.P., Chief Executive, Australian Sports Drug Agency, ACT

Rofe, Mr A.S.F., Solicitor, Australian Olympic Committee, NSW

***Thursday 5 December 1991
Committee Room 1S2
Parliament House
CANBERRA ACT 2600***

Birkett, Professor D.J., Department of Clinical Pharmacology, Flinders Medical Centre, SA

APPENDIX 3
LETTERS TO IOC OFFICIALS



PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR NOEL CRICHTON BROWNE
SENATOR FOR WESTERN AUSTRALIA

COMMONWEALTH PARLIAMENT OFFICES
ST MARTIN'S TOWER
44 ST GEORGE'S TERRACE
PERTH, W.A. 6000
(G.P.O. BOX B58, PERTH, W.A. 6001)
TELEPHONE (09) 325.4222
FACSIMILE: (09) 221.3348

20 May 1992

Mr Juan Antonio Samaranch
President
International Olympic Committee
Chateau de Vichy
Lausanne
SWITZERLAND

Facsimile No: 0011 41 216 216216

Dear Mr Samaranch

Further to your letter of 19 May 1992, I regret to advise you that unless the International Olympic Committee is able to respond immediately to my various requests dating back as early as 1 April, wherein I asked questions of a relatively elementary nature, the Committee's report will be presented to the Parliament without the relevant material.

This report has already been delayed in the hope that the IOC would respond promptly following my further urgent facsimile transmissions to you. The Committee is unable to delay the presentation of the report any further.

I can only reiterate the urgency of this matter and repeat that the report will be printed in the next day or two.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', with a horizontal line underneath.

Noel Crichton-Browne
SENATOR FOR W A



PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR NOEL CRICHTON BROWNE
SENATOR FOR WESTERN AUSTRALIA

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20 May 1992

M. Francois Carrard
Carrard, Paschoud & Heim
6 Rue de la Grotte
1003 Lausanne
SUISSE
FAX: 0015 4 121 20 0272

Dear M. Carrard

Further to my two letters to you of 7 April 1992 and to my subsequent correspondence of 5 May, I shall be grateful if you would advise me as a matter of urgency, whether you are now in a position to respond to the matters raised in those communications.

The Committee report will be tabled in the next few days and in the event that you are unable to provide material, I shall be pleased if you will notify me immediately.

Yours sincerely

Noel Crichton-Browne
SENATOR FOR W A



PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR NOEL CRICHTON-BROWNE
SENATOR FOR WESTERN AUSTRALIA

15 May 1992

COMMONWEALTH PARLIAMENT OFFICES
ST MARTIN'S TOWER
44 ST GEORGE'S TERRACE
PERTH, W.A. 6000
(G.P.O. BOX 858, PERTH, W.A. 6001)
(09) 325.4222

Prince Alexandre de Merode
Chairman
International Olympic Committee
Medical Commission
Chateau de Vidy
Lausanne Switzerland

Facsimile No: 0011 41 216 216216

Dear Prince de Merode

I am writing further to my numerous faxes to the International Olympic Committee seeking information relating to Mr Alex Watson.

I now write to express my grave concern that the International Olympic Committee is either unwilling or unable to provide answers to quite elementary questions. You will know the lead the Australian Parliament has taken in respect to stamping out drugs in sport and that its present inquiry is frustrated to the extent that it is unable to obtain information from your Committee which is particularly regrettable.

The report is due to be tabled on or about 26 May 1992 and it will give me no pleasure to record in the Senate your Committee's lack of co-operation.

Given the public profile that the International Olympic Committee takes in respect to drugs in sport, it is of little credit that your co-operation and assistance is found wanting.

Kind regards and best wishes.

Yours sincerely

Noel Crichton-Browne
SENATOR FOR W A



PARLIAMENT OF AUSTRALIA · THE SENATE

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SENATOR FOR WESTERN AUSTRALIA

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15 May 1992

Mr Juan Antonio Samaranch
President
International Olympic Committee
Medical Commission
Chateau de Vidy
Lausanne Switzerland

Facsimile No: 0011 41 216 216216

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Kind regards and best wishes.

Yours sincerely

Noel Crichton-Browne
SENATOR FOR W A



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15 May 1992

Professor Manfred Donicke
Chairman, Doping & Biochemistry Subcommittee
Institute of Biochemistry
Deutsche Sporthochschule
Carl-Diem-WEG6
500 Koln 41 Germany

Facsimile No: 0011 49 221 4973236

Dear Professor Donicke

I am writing further to my numerous faxes to the International Olympic Committee seeking information relating to Mr Alex Watson.

I now write to express my grave concern that the International Olympic Committee is either unwilling or unable to provide answers to quite elementary questions. You will know the lead the Australian Parliament has taken in respect to stamping out drugs in sport and that its present inquiry is frustrated to the extent that it is unable to obtain information from your Committee which is particularly regrettable.

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Kind regards and best wishes.

Yours sincerely

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Noel Crichton-Browne
SENATOR FOR W A



PARLIAMENT OF AUSTRALIA · THE SENATE

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23 April 1992

Mr Philip W Coles AM
IOC Member in Australia
Level 13 The Maritime Centre
207 Kent Street
SYDNEY NSW 2000

Dear Phil

Further to my previous correspondence of 13 April 1992, I would be grateful if you could provide me with the information requested.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Noel'.

Noel Crichton-Browne
Deputy Chairman
Senate Standing Committee on Environment
Recreation and The Arts



PARLIAMENT OF AUSTRALIA · THE SENATE

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15 April 1992

M. Francois Carrard
Carrard, Paschoud & Heim
6 Rue de la Grotte
1003 LAUSANNE
SUISSE

FAX: 00 11 4 121 20 0272

Dear Sir

Alex Watson Inquiry

On 7 April a letter was sent by FAX concerning matters relevant to the inquiry by the Senate Standing Committee on Environment, Recreation and the Arts.

Your assistance would be most useful and your urgent response by FAX would be appreciated. Thank you for your assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', written over a horizontal line.

Noel Crichton-Browne
Deputy Chair
Senate Standing Committee
on Environment, Recreation and the Arts



PARLIAMENT OF AUSTRALIA · THE SENATE

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14 April 1992

Professor M Donike
Institut fur Biochemie
Duesche Sporthochschule
KOLN GERMANY

Facsimile No: 0011 49 221 4973236

Dear Professor Donike

Alex Watson Inquiry

Your letter of 8 April 1992 indicated that you would be replying to the Committee's request for comment on your letter of 30 January 1992 to Mr Grut. While you requested a copy of that letter, it is not able to be provided as it is among papers that the Committee regrettably not yet resolved to publish.

Further, you will have received a copy of the article on Caffeine by Professor D J Birkett and Dr J O Miners. I would most appreciate your comments on that article and advice about any similar articles known to you.

Please advise me whether or not there are any scientific studies which repudiate or challenge findings and conclusions of Birkett and Miners.

As this inquiry is being finalised, I would be grateful for your prompt response. My facsimile number is 221 3348.

Thank you for your help.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to be 'N. Crichton-Browne', written over a horizontal line.

Noel Crichton-Browne
Deputy Chairman
Senate Standing Committee on Environment
Recreation and The Arts



PARLIAMENT OF AUSTRALIA · THE SENATE

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(09) 325.4222

13 April 1992

Mr Philip W Coles AM
IOC Member in Australia
Level 13 The Maritime Centre
207 Kent Street
SYDNEY NSW 2000

Dear Mr Coles

As you may be aware, the Senate is presently inquiring into the circumstances surrounding the positive drug test of Mr Alex Watson recorded at the 1988 Seoul Olympic Games.

I understand from correspondence dated 15 September 1989 between Dr Francois Carrard av. and lawyers acting for Alex Watson, that IOC Members in Australia were kept informed of developments relating to the Alex Watson case.

I shall be grateful if you are able to provide to me the relevant correspondence to which Dr Carrard referred.

The Senate Committee inquiring into this matter is anxious to conclude its report so I shall be particularly pleased if you are able to address this matter with a sense of urgency.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', with a long horizontal line extending from the end of the signature.

Noel Crichton-Browne
Deputy Chairman
Senate Standing Committee on Environment
Recreation and The Arts



PARLIAMENT OF AUSTRALIA · THE SENATE

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13 April 1992

Dr Ken Fitch
25/146 Mounts Bay Road
PERTH WA 6000

Dear Dr Fitch

Further to our previous communications, I should be grateful if you would please give the Alex Watson matter your earnest attention.

I apologise for the urgency this matter places upon you.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink that reads 'Noel'.

Noel Crichton-Browne
SENATOR FOR WA



PARLIAMENT OF AUSTRALIA · THE SENATE

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(09) 325.4222

13 April 1992

Mr Kevan Gosper AO
Shell International Petroleum Company
LONDON SE17NA UK
Facsimile No: 44719346544

Dear Mr Gosper

As you may be aware, the Senate is presently inquiring into the circumstances surrounding the positive drug test of Mr Alex Watson recorded at the 1988 Seoul Olympic Games.

I understand from correspondence dated 15 September 1989 between Dr Francois Carrard av. and lawyers acting for Alex Watson, that IOC Members in Australia were kept informed of developments relating to the Alex Watson case.

I shall be grateful if you are able to provide to me the relevant correspondence to which Dr Carrard referred.

The Senate Committee inquiring into this matter is anxious to conclude its report so I shall be particularly pleased if you are able to address this matter with a sense of urgency.

Kind regards and best wishes.

Yours sincerely

Noel Crichton-Browne
Deputy Chairman
Senate Standing Committee on Environment
Recreation and The Arts



PARLIAMENT OF AUSTRALIA · THE SENATE

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13 April 1992

Mr Juan Antonio Samaranch
President
International Olympic Committee
Chateau de Vidy
Lausanne
SWITZERLAND
Facsimile No: 41 216216216

Dear Mr Samaranch

Further to my letter of 1 April, a copy of which I enclose, I shall be pleased if you will also kindly provide me with:

1. Details of the international Olympic Committee's appeal procedures [as they applied at the Seoul Olympic Games] in the event an athlete is found to test positive in a dope test.
2. Details IOC's present appeals provisions as they apply to an athlete who tests positive to a dope test.
3. The provisions in the IOC doping procedures which provided for the discretion applied by the IOC in respect to Lindford Christie and those other athletes who tested positive at the Seoul Olympic Games but who were not penalised.

The Senate is particularly anxious to conclude its findings in respect to the matter and so, to repeat my comments in earlier correspondence, I shall be particularly grateful if you will deal with this matter with a sense of urgency.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', with a horizontal line underneath.

Noel Crichton-Browne
Deputy Chairman
Senate Standing Committee on Environment
Recreation and The Arts

1 April 1992

Mr Juan Antonio Samaranch
President
International Olympic Committee
Chateau de Vidy
Lausanne
SWITZERLAND

Dear Mr Samaranch,

The Australian Senate is presently inquiring into the circumstances concerning the positive drug test of Mr Alex Watson. You will recall that Mr Watson was disqualified from the Seoul Olympic Games when his urine caffeine concentration level exceeded the proscribed dosage of 12mg/ml.

I shall be grateful if, as a matter of urgency, you will advise me on what scientific evidence and grounds the IOC reduced the proscribed limit from 15 micrograms to 12 micrograms.

In evidence to the Senate Committee Mr Watson advised that he had applied to the IOC Executive for the matter of his disqualification to be heard by the Court of Arbitration for Sport. He further advised that the request had been refused. I shall be pleased if you will also advise me of the reasons and the grounds for declining that request.

Finally, I have been advised that the International Olympic Medical Commission was of the view that, at the time of hearing Mr Watson's case, he could not have reached the level of 14.45mg/ml by drinking the amount of coffee that he claimed. I shall be further pleased if you will confirm that my understanding of this is correct.

Kind regards and best wishes.

Yours sincerely

Noel Crichton-Browne
SENATOR FOR W A



PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR NOEL CRICHTON BROWNE
SENATOR FOR WESTERN AUSTRALIA

COMMONWEALTH PARLIAMENT OFFICES
ST MARTIN'S TOWER
44 ST GEORGE'S TERRACE
PERTH, W.A. 6000
(G.P.O. BOX B58, PERTH, W.A. 6001)
TELEPHONE (09) 325.4222
FACSIMILE: (09) 221.3348

9 April 1992

Professor Manfred Donike
Deutsche Sporthochschule Koln
Institut Fur Biochemie
Carl-Diem-Weg 6
5000 KOLN 41

Dear Professor Donike

Further to my earlier facsimile transmission, I understand that in respect to other matters you have communicated with Mr Peter Grundy, Secretary of the Senate Standing Committee for Environment, Recreation and the Arts.

I shall be grateful if you will respond to my recent correspondence.

Thank you for your assistance.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', with a horizontal line underneath.

Noel Crichton-Browne
SENATOR FOR W A



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9 April 1992

Emeritus Professor A H Beckett
Facsimile No: 14167983010

Dear Professor Beckett

Thank you for your courtesy in leaving the meeting you were chairing yesterday to speak to me in respect to the Alex Watson doping matter.

I set out below the points we covered which I should be grateful to have you confirm by facsimile to me.

1. You made the point very clearly and emphasised that you were speaking unofficially and expressing only your personal views.
2. You had considerable concern with proscribed quantitative levels because there would always be, to use your expression, "outliers".
3. You confirm that you had no reason to question the scientific integrity of the study done by Professor Birkett which I understand you had previously read but which I again provided for you.
4. You had no reason to question the scientific findings and conclusions of that study.
5. It was your view that, had Alex Watson been able, by some theoretical method, to prove to the IOC Medical Commission that he had obtained urine caffeine concentration levels of 14.25 and 14.45 mg/ml by the consumption of the quantities of coffee he had claimed to have consumed, then the IOC Medical Commission may well have considered a lesser penalty.

6. You confirmed that it was your understanding that the IOC Medical Commission did not provide an official appeals mechanism which provided for a reversal of any earlier ruling were it to be established that that ruling was incorrect.

Thank you very much for your able assistance and cooperation.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', with a long horizontal line underneath.

Noel Crichton-Browne
SENATOR FOR W A



PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR NOEL CRICHTON BROWNE
SENATOR FOR WESTERN AUSTRALIA

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8 April 1992

Prince Alexandre de Merode
Chairman
International Olympic Committee
Medical Commission
Chateau de Vidy
Lausanne
SWITZERLAND

Dear Monseigneur

I shall be pleased if you are now in a position to respond as a matter of urgency to my facsimile transmissions of 1 and 2 April 1992.

Please find enclosed a copy of my original correspondence.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', with a long horizontal line underneath.

Noel Crichton-Browne
SENATOR FOR W A

1 April 1992

Prince Alexandre de Merode
Chairman
International Olympic Committee
Medical Commission
Chateau de Vidy
Lausanne
SWITZERLAND

Dear Monseigneur,

The Australian Senate is presently inquiring into the circumstances concerning the positive drug test of Mr Alex Watson. You will recall that Mr Watson was disqualified from the Seoul Olympic Games when his urine caffeine concentration level exceeded the proscribed dosage of 12mg/ml.

I shall be grateful if, as a matter of urgency, you will advise me on what scientific evidence and grounds the IOC reduced the proscribed limit from 15 micrograms to 12 micrograms.

In evidence to the Senate Committee Mr Watson advised that he had applied to the IOC Executive for the matter of his disqualification to be heard by the Court of Arbitration for Sport. He further advised that the request had been refused. I shall be pleased if you will also advise me of the reasons and the grounds for declining that request.

Finally, I have been advised that the International Olympic Medical Commission was of the view that, at the time of hearing Mr Watson's case, he could not have reached the level of 14.45mg/ml by drinking the amount of coffee that he claimed. I shall be further pleased if you will confirm that my understanding of this is correct.

Kind regards and best wishes.

Yours sincerely

Noel Crichton-Browne
SENATOR FOR W A



PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR NOEL CRICHTON BROWNE
SENATOR FOR WESTERN AUSTRALIA

6 April 1992

Dr Ken Fitch
25/146 Mounts Bay Road
PERTH WA 6000

COMMONWEALTH PARLIAMENT OFFICES
ST MARTIN'S TOWER
44 ST GEORGE'S TERRACE
PERTH, W.A. 6000
(G.P.O. BOX B58, PERTH, W.A. 6001)
TELEPHONE (09) 325 4222
FACSIMILE: (09) 221.3348

Dear Dr Fitch

Further to our telephone call I shall be grateful if, in your capacity as a member of the International Olympic Medical Commission, you will as a matter of urgency provide me with:

1. Written details of the International Olympic Committee Medical Commission's appeal procedures as they applied at the time of the Seoul Olympic Games and in their present form.
2. Details of appeals heard by the International Olympic Committee Medical Commission in respect to the Watson matter.
3. The scientific grounds upon which the International Olympic Committee Medical Commission reduced the proscribed level of caffeine from 15mg/ml to 12mg/ml.
4. Action taken since Professor Birkett provided his evidence and study to the Australian Olympic Committee executive board.
5. The provisions in the International Olympic Committee doping procedures which provide for the discretion applied by the International Olympic Committee Medical Commission in respect to Lindford Christie and those other athletes who tested positive at the Seoul Olympic Games but who were not penalised.

I am sure you understand that the Senate Committee inquiring into the Alex Watson matter is particularly anxious to conclude its findings.

Kind regards and best wishes.

Yours sincerely

Noel Crichton-Browne
SENATOR FOR WA



PARLIAMENT OF AUSTRALIA · THE SENATE

SENATOR NOEL CRICHTON BROWNE
SENATOR FOR WESTERN AUSTRALIA

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FACSIMILE: (09) 221.3348

6 April 1992

Emeritus Professor Arnold H Beckett

Dear Professor Beckett

The Australian Senate is presently inquiring into the circumstances concerning the positive drug test of Mr Alex Watson. You will recall that Mr Watson was disqualified from the Seoul Olympic Games when his urine caffeine concentration level exceeded the proscribed dosage of 12mg/ml.

I understand that you have read a study done by D J Birkett & J O Miners, Department of Clinical Pharmacology, Flinders Medical Centre and Flinders University of South Australia, Adelaide, South Australia, Australia, *Caffeine renal clearance - Urine caffeine concentrations during steady state dosing. Implications for monitoring caffeine intake during sports events.*

I shall be grateful if you will advise me if you have any doubt as to the validity or integrity of the study. I shall be pleased if you are able to confirm whether you agree with the findings of the study.

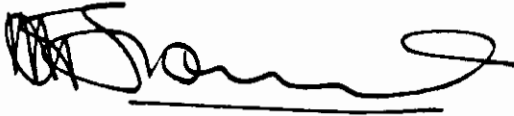
I do not expect you to comment upon Professor Birkett's views as to the proper International Olympic Committee levels, but if you have a view you care to express, I shall be pleased to know of it.

My understanding is that the International Olympic Committee Medical Commission concluded that Alex Watson could not have reached the proscribed limit of 12mg/ml or, more importantly, could not have reached his readings of 14.25 and 14.45mg/ml without ingesting either tablets or suppositories and that reflected in the penalty. I shall be grateful if you will confirm that my understanding is correct.

To the extent that the Senate Committee is particularly anxious to conclude its deliberations as quickly as possible and I shall be very grateful if you are able to respond as a matter of urgency. My facsimile number is 09 221 3348.

Kind regards and best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Noel Crichton-Browne', written over a horizontal line.

Noel Crichton-Browne
Deputy Chairman
Senate Standing Committee on Environment
Recreation and The Arts

APPENDIX 4

LETTER FROM BRITISH OLYMPIC ASSOCIATION



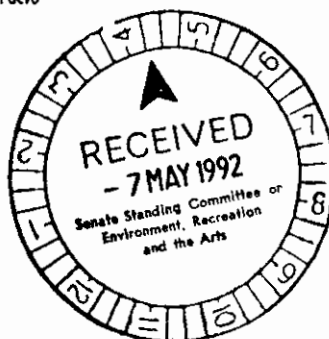
BRITISH OLYMPIC ASSOCIATION

Patron: Her Majesty the Queen President: HRH The Princess Royal GCVO

Our Ref: RWP/cab

1st May 1992

Senator Noel Crichton Browne
Commonwealth Parliament Offices
St. Martin's Tower
44 St. George's Terrace
Perth, WA 6000
Australia



Dear Senator Crichton Browne,

Thank you for your fax to which I am responding regarding your Alex Watson enquiry. I enclose a review which was undertaken by the BOA following the four positive tests which were carried out at the Seoul Olympic Games. As far as the legal representation was concerned the situation was as follows:-

When I, as Chef de Mission, was notified of a positive test by the IOC Medical Commission a number of procedures were put into place. The athlete concerned and the team doctor were interviewed by the Honorary Treasurer of the BOA, Robert Watson, who also happens to be a Barrister in criminal law. At that point his job was not to prepare a case on behalf of the athlete rather it was to establish the facts in the matter. The athlete underwent a very careful cross examination by Robert Watson in order to achieve this. In the case of three of our athletes in Seoul there was very considerable doubts concerning the situation and Robert Watson, on behalf of myself as Chef de Mission, presented the facts to the IOC Medical Commission. In the case of the fourth athlete we established that he had, at the very least, acted very foolishly. We obtained from the athlete a written statement which effectively detailed his guilt and/or stupidity and Robert Watson represented this to the IOC Medical Commission.

(I might, incidentally, point out the time scale in the situation. The notification from the IOC was received in the evening. The second sample was tested very early the following morning. The BOA's internal enquiry took place in a 2/3 hour period prior to lunch and the hearing in front of the IOC Medical Commission took place either in the late afternoon or around 8 o'clock in the evening).

We have, as you see from the Seoul Report, taken a further step. Should we have problems in Barcelona we have asked our Honorary Legal Adviser to be present at both the BOA enquiry and at the IOC hearing to ensure that justice prevails insofar as the athlete is concerned.

I hope you find this information helpful.

Yours sincerely,

R.W. Palmer
General Secretary

BRITISH OLYMPIC ASSOCIATION

REPORT OF THE DRUGS WORKING PARTY

INTRODUCTION

Drug abuse in any form is the very negation of the Olympic ethos. The Olympic Games and the Olympic Movement play a crucial role in the fight against drug abuse. For the Olympic Games not to have an ethical dimension would undoubtedly dilute their influence as a force for good in our modern society. Nowhere should the vigilance against the drug cheaters be more evident than at an Olympic Games. No one should speak out and condemn the misuse of drugs in more strident terms than the I.O.C. and its agents nationally - the N.O.C.s. In this the British Olympic Association supports wholeheartedly the I.O.C., its Medical Commission and all that it is attempting to achieve.

During the 1988 Olympic Games in Seoul four British competitors were required to appear before the I.O.C. Medical Commission because urine samples taken after competition indicated the presence of chemical substances proscribed by the I.O.C. or the I.F. concerned.

The competitors involved were:-

Dominic Mahony	Modern Pentathlon
Richard Phelps	Modern Pentathlon
Kerrith Brown	Judo
Linford Christie	Athletics

In three cases the I.O.C. Medical Commission accepted the explanation of the competitors. The fourth, Kerrith Brown, who admitted and apologised for his wrongdoings, was banned from the Games and subsequently disqualified by his international federation (the I.J.F.) for the minimum two years.

Upon returning to Britain this matter was considered by the National Olympic Committee at their meeting on 25th October 1988 and it was resolved "to instruct the General Purposes Committee to initiate an inquiry into the use and misuse of drugs and to report to the N.O.C. thereafter of any necessary plans for the future." The General Purposes Committee at its meeting of the 23rd November 1988 decided that the Drug Working Party should comprise:-

Sir Arthur Gold	(Chairman)
Roy Evans) N.O.C.
Dr. Neil Townshend) Members

and that the Working Party be serviced by David Dixon, Honorary Legal Adviser and the General Secretary, Dick Palmer.

MODUS OPERANDI OF THE DRUGS WORKING PARTY

During the activities of the Working Party the desire of the N.O.C. for it to be positive and forward thinking rather than negative or accusative were fully respected. The Working Party met on four occasions as follows:-

23rd December - the Working Party considered the general situation and mapped out its future programme of work.

25th January - The Working Party met to hear evidence from members of the British Olympic Association involved. It received written and oral evidence from:-

Dick Palmer, Chef de Mission
Caroline Searle, Chief Press Officer, British Team
Robert Watson, Honorary Treasurer who acted during the hearings on behalf of the competitors
Dr. Roy Axon, Chief Medical Officer, British Olympic Delegation

23rd February - The Working Party heard evidence from the competitors involved. They were invited to bring whatever support they wished. The Working Party received the following:-

Modern Pentathlon

Written evidence from Dominic Mahony (both Phelps and Mahony were abroad on the date in question)
Oral evidence from Ron Bright, Team Manager, Modern Pentathlon Seoul 88.

Judo

Oral evidence was received from Kerrith Brown, Dr. Ken Kingsbury (Medical Officer, Judo, Seoul 88), Arthur Mapp (Team Manager, Judo, Seoul 88).
Mr. Eric Dominey, Vice Chairman, B.J.A. was also in attendance.

20th April - Linford Christie gave evidence to Sir Arthur Gold and Dick Palmer at the B.O.A. Offices.

10th May - Final meeting of the Drugs Working Party when final conclusions were drawn up and recommendations agreed.

Oral evidence was recorded by shorthand and the contemporaneous transcripts were available to the Working Party. These transcripts are available for reference to members of the N.O.C. at the B.O.A. offices upon request.

In the Report the conclusions have been drawn from the various aspects of the situation in which the B.O.A. found itself and recommendations have been made for the future guidance and action.

CONCLUSIONS AND RECOMMENDATIONS

The International Olympic Committee

Conclusions

1. Throughout the International Olympic Committee acted with great integrity and with the best interests of the competitors in mind. At the hearings we are satisfied that our competitors were treated fairly and given a proper hearing.
2. Nevertheless the Working Party heard from the competitors involved (in particular those against whom no action was taken by the I.O.C. following the adverse report) expressing concern at the procedures of the I.O.C. Medical Commission in hearing the cases. Dominic Mahony (Modern Pentathlon) perhaps best summed it up by saying:

"Appearing before the IOC Commission in Seoul was an intimidating and unpleasant experience".

The British Olympic Association felt itself fortunate in having proper professional support for its competitors at the hearings. Given different circumstances from those which obtained with the British Team the Working Party questioned whether or not the rights of individual competitors would have been properly safeguarded under the present protocols which apply at I.O.C. Medical Commission hearings.

3. The role of the International Federation vis a vis the I.O.C. is a matter of some interest particularly in so far as Modern Pentathlon is concerned. The Working Party understood the need for the International Federation to be present since, if the competitor is disqualified from the Olympic Games, the subsequent punishment i.e. suspension from competing for a period of time, is a matter for the International Federation.

In the case of the UIPMB there was much anecdotal evidence suggesting that, despite the traces of the proscribed drug being present in the competitors' samples in only very minute quantities and then during events when it would have had a negative effect on performance, the competitors were made to go through the trauma of appearing before the I.O.C. Medical Commission, apparently at the insistence of the UIPMB. The reasons for this have not been made clear to the Working Party.

4. It was not apparent to competitors or officials exactly which drugs are proscribed during the Olympic Games. There appears to be considerable confusion between I.O.C. lists and those of the I.F. especially when the I.F. lists are more extensive. In such a case which list applies at the Games? (In the case of Mahony and Phelps (Modern Pentathlon) the letter stated that their samples "revealed the presence of a substance banned by the UIPMB under the group of sedatives").
5. The majority of the Working Party suggest that there are possibly unreasonable limits placed on competitors taking drugs which may be useful medically whilst giving no unfair advantage in their competitive event or sport. Would it be less restrictive but equally comprehensive if the testing was limited to drugs which are shown to give unfair advantage in a particular event or sport?
6. Drug Levels At present the rules proscribes drugs qualitatively rather than quantitatively. Is there an unpublished quantitative level which the I.O.C. Medical Commission use as a rule of thumb in deciding whether or not to ask a competitor to appear before them?

Recommendations

1. Perhaps the I.O.C. Medical Commission should discuss with its Legal Advisers and with experienced Chefs de Mission the procedures and protocols to apply at hearings into positive drug tests. These should be announced to N.O.C.'s prior to the Games.
2. In order to obviate unnecessary stress and publicity to competitors the I.O.C. Medical Commission should consider whether or not to establish an informal hearing procedure to simplify the existing formal system. A senior member of the I.O.C. Medical Commission could informally meet the competitor and his representatives to establish the basic facts and only if, following this meeting, the situation is considered unsatisfactory should a competitor be requested to appear before the full Commission with all the publicity and opprobrium which it entails.
3. The role of the International Federation vis a vis drug abuse at the Olympic Games should be clarified as should rules relating to the list of proscribed substances applicable at Olympic Games - vide the U.I.P.M.B.

4. It would be an improvement on the present system if the I.O.C. list of proscribed drugs was more sport specific.
5. The Working Party was concerned at the need to eradicate drug abuse whether deliberate or inadvertent and felt that every encouragement should be given to the I.O.C. in its campaign to institute out-of-competition random drug testing on a global basis. It was felt that the I.O.C., with its influence and resources, was best placed to bring this about.

The British Olympic Association

Conclusions

Prior to the Games

Whilst the British Olympic Association disseminated information regarding the I.O.C. list of Banned Drugs and discussed the issues involved amongst its Medical Officers and those of the governing bodies of Olympic Sports, nevertheless its role in educating potential Olympic competitors against drug abuse was no more than passive.

Medical management

1. There is a need for a more closely defined structure to the medical service which the B.O.A. provides.
2. The Working Party were made aware of the shortcoming in the recording of the various drugs and preparations taken by competitors not only at Games but in the period leading to the Games.
3. Furthermore there is a lack of information available to competitors about drugs they are banned from taking (including derivatives of proscribed drugs) as well as knowledge as to the drugs they may take both on prescription and "over the counter".
4. Whilst the Working Party appreciate the need for the phrase "related substances" the complications it brings about for those untutored in the nuances of pharmacology are evident. Even medical officers, let alone competitors, find this gives rise to much confusion especially when these are widely contained in over the counter preparations.

Pre-Games Testing

There was a divergence of opinion regarding the Pre-Games Testing of all British competitors.

In the context of a comprehensive programme of random out of competition testing this should be unnecessary. Indeed it could be regarded as trying to make sure that competitors who had been using proscribed drugs were now safe from detection. Certainly in the case of the majority of the British competitors it is arguable whether any proscribed substances would have been detected by pre-Games checks.

At the Games

1. The Working Party formed the view that the situation at the Games had been handled in a wholly proper and effective manner by the B.O.A. Indeed it was the view expressed to us by competitors that they were fortunate in having the support and expertise of the B.O.A. made available in their hour of need. Nevertheless there were lessons to be learnt for the future.
2. The basic procedure of thoroughly examining all the circumstances in a professional manner and then presenting the facts fully to the I.O.C. Medical Commission was regarded as the proper, indeed the only, course of action.
3. The Working Party recognised fully the exceedingly stressful circumstances surrounding matters of drug abuse created, in no small measure, by news hungry media. Nevertheless the confidentiality and the privacy of the competitors was a matter of grave concern and places a heavy responsibility on the B.O.A., the Chef de Mission, the Press Officer and the Management of the individual Sports Teams (often unused to dealing with the I.O.C. and the media).

The Working Party spent a considerable time on the matter of leaks and further discussed informally with members of the media the situation which developed in Seoul. It was unable to come to any satisfactory conclusion as to the source of any leaks which caused the media speculation, particularly those surrounding Christie and Brown. In the case of Phelps and Mahony the news did not reach the Press for three days (this was prior to the Ben Johnson affair) and the leaks could only have come from within the sport itself although not from the British contingent (who were anxious that the information should be kept confidential).

Recommendations

Prior to the Games

1. The B.O.A. should undertake an immediate campaign of educating against the misuse of drugs either deliberate or inadvertent and a programme of education of all potential Olympic competitors, coaches, managers and all concerned with the medical management of competitors. (The Working Party warmly welcomed the suggestions of Linford Christie and his offer of active help in this respect. In particular his suggestions of a Competitors Drugs Line and the fact that it was more effective if competitors spoke to competitors).

3. The authority of the B.O.A.'s Chief Medical Officer at a Games should be paramount and should be recognised by medical officers of governing bodies who are present as part of the British Olympic delegation. Indeed the Working Group strongly recommends that Drs Roy Axon and Mike Turner turn their attention to defining the roles and responsibilities of the medical management for future British Olympic delegations.
4. The present system of medical documentation should be reviewed and suggestions made to ensure that this is of an acceptable standard for future Games.

The Governing Bodies of Olympic Sport

The Working Party were conscious that the governing bodies of Olympic sport were in direct contact with their competitors throughout the four years and were directly responsible for them.

They stressed:-

- a) The need for management teams to be aware of the potential problems and to be properly prepared.
- b) The key role that they, the Olympic governing bodies, can play in educating competitors, coaches, managers and doctors.
- c) The role they can play in developing communications at all levels in matters of drug abuse either deliberate or inadvertent.
- d) Their role in facilitating the proper medical management of competitors.
- e) Their role in bringing pressure to bear on their respective International Federations on matters such as the clarification of drug lists.
- f) Their role in encouraging and implementing the programme of random out-of-competition drug testing initiated by the Drugs Advisory Group of the Sports Council.

FINAL COMMENT

The Drugs Working Party wish to place on record their gratitude to those who gave freely of their time in appearing before them and for the frank manner in which they made their submissions.

They submit their recommendations to the National Olympic Committee in the hope that, their implementation will ensure that the British Delegation at future Olympic Games will not be placed in the difficult position it found itself in Seoul.

Sir Arthur Gold (Chairman)
Roy Evans
Dr. Neil Townshend

APPENDIX 5

LETTER FROM PROFESSOR R. DAY



St. Vincent's Hospital Sydney Limited

A.C.N. 054 038 872

UNDER THE CARE OF THE SISTERS OF CHARITY

CLINICAL PHARMACOLOGY AND TOXICOLOGY.

Tel: (02) 361-2368

Fax: (02) 361-2724

RD/lp

23rd April, 1992.

Senator Noel Crighton-Browne
Senator for W.A.



Dear Sir,

Re: Scientific Paper on Caffeine Concentrations in blood and urine
by Prof. D.J. Birkett published in the British Journal of Clinical
Pharmacology in 1991.

I am familiar with the work of Professor Donald J. Birkett on caffeine and have reviewed his paper entitled "Caffeine renal clearance and urine caffeine concentrations during steady state dosing. Implications for monitoring caffeine intake during sports events". Prof. Birkett is considered a leading world figure in research into caffeine metabolism and he has contributed much to knowledge of the routes and mechanisms of caffeine elimination. I have reviewed his current work which is in a prestigious international journal. This paper would be reviewed independently by 3 individuals. This in itself is a measure of quality of the scientific work. The key points of the work are:

1. Substantial intersubject variability in urinary caffeine concentrations of the order of 15 fold.
2. The regulatory limit of 12 mg/l in urine could be exceeded by normal individuals taking 3-6 cups of coffee in a day.

This is a clear and well performed piece of work which supports the authors conclusion that the regulatory level for urinary caffeine concentrations may be too low.

Yours sincerely,

Richard Day

Richard Day,
Professor of Clinical Pharmacology.

