

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SOCCER

A report from the Senate Environment, Recreation, Communications
and the Arts References Committee

Second Report
November 1995

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Cover Photos of young soccer players provided by the Australian Soccer Federation.

Left Inset: Two young soccer players, photographer unknown

Centre Inset: Group of young soccer players, photographer unknown

Right Inset: One young soccer player, photograph by Mr Ron Hughes

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MEMBERSHIP OF THE COMMITTEE

Core Members

Senator Meg Lees (AD), South Australia (Chair)
Senator Kim Carr (ALP), Victoria (Deputy Chair)
Senator Eric Abetz (LP), Tasmania
Senator Michael Baume (LP), New South Wales
Senator Paul Calvert (LP), Tasmania
Senator Alan Ferguson (LP), South Australia
Senator the Hon Margaret Reynolds (ALP), Queensland
Senator Thomas Wheelwright (ALP), New South Wales

Substitute Members

Senator Grant Chapman (LP), South Australia
Substitute member for Senator Calvert for part of the duration of the Soccer inquiry

Participating Members

Senator Julian McGauran (NPA), Victoria
Participating member for the duration of the Soccer inquiry

Former Members

Senator John Devereux (ALP), Tasmania (Former Deputy Chair)
Period of Appointment – 10.10.94 to 10.2.95
Senator Stephen Loosley (ALP), New South Wales
Period of Appointment – 10.10.94 to 19.5.95
Senator John Coulter (AD), South Australia (Former Chair)
Period of Appointment--10.10.94 to 16.11.95

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Senate Environment, Recreation, Communications and the Arts References Committee
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SOCCKER INQUIRY

Terms of Reference

On the 8 December 1994 and 2 February 1995 the Senate resolved that the Senate Environment, Recreation, Communications and the Arts References Committee-

inquire into the role of coaches, players, agents, clubs, officials and others in the transfer of Australian sportspeople and into any other matters relating to corruption, conflicts of interest, tax evasion, and improper financial transactions with particular reference to the sport of soccer; and review the report by the Hon. D. G. Stewart to the Australian Soccer Federation; and that the Committee report to the Senate on this matter by 11 May 1995.

The Committee's reporting date was extended to 29 June 1995 by resolution of the Senate on 11 May 1995; to 31 August 1995 by resolution of the Senate on 22 June 1995; to 28 September 1995 by resolution of the Senate on 30 August 1995; to 30 November 1995 by resolution of the Senate on 27 September 1995; and to 15 December 1995 by resolution of the Senate on 30 November 1995.

SUMMARY

The Committee's inquiry, over the period June to November 1995, as outlined in the Second Report:

- dealt with progress in implementing the recommendations of the First Report; made findings arising from the inquiry since the First Report; and carried out the required parliamentary procedures in relation to adverse comment on persons contained in evidence taken during the inquiry;
- reaffirmed the findings and recommendations of the First Report;
- reiterated the need to abolish the domestic transfer fee;
- recognised a potential conflict of interest between the public positions held by the *Head Coach (Soccer)* at the Australian Institute of Sport (AIS) and by the Australian Women's Soccer Association (AWSA) National Coach and their private business interests;
- **recommended** that the Australian Institute of Sport insert a conflict of interest clause in all contracts for soccer coaches preventing them acting for or on behalf of or assisting players' managers or agents in overseas transfers of AIS players or former players;
- **recommended** that the Australian Soccer Federation urgently discuss with FIFA the need for genuine and effective co-operation from overseas clubs in dealing with allegations of improprieties relating to transfers of Australian players overseas;
- **recommended** that discussions should continue between women's soccer representatives and the Australian Soccer Federation (ASF) to ensure that women's soccer interests are adequately represented at national level and are effectively incorporated within the new administrative arrangements.
- concluded that the Committee's inquiry has served the best interests of soccer football: firstly, by providing an opportunity to clear the air of the allegations, rumours and speculation affecting the sport over a considerable period; and secondly, by allowing those alleged to have been guilty of misbehaviour the opportunity to respond to the allegations; and
- has already led to significant improvements in the administration of soccer football in Australia, although the ASF's recent decision to implement several significant recommendations of the Committee's First Report should not be seen as the end of the process, and the process of reform must continue.

FINDINGS AND RECOMMENDATIONS

PREAMBLE

1.1 The First Report on the Soccer Inquiry was tabled in the Senate on 26 June 1995.

1.2 This Second and final Report deals with progress in implementing the recommendations of the First Report; findings of the inquiry since the First Report, and parliamentary procedures followed by the Committee in relation to adverse comment on persons contained in evidence taken during the inquiry.

1.3 Additional evidence was presented to the Committee following the tabling of the First Report, and hearings were held on 27 September and 21 November 1995 further to investigate apparent conflicts of interest.

1.4 In reaffirming the findings of its First Report, the Committee notes:

- (a) the significant changes in the conduct and administration of soccer football in Australia following the Committee's inquiry;
- (b) the recent decisions taken by the Australian Soccer Federation (ASF) to implement many of the recommendations made in the Committee's First Report and in the Stewart report; this demolishes the tendentious remark in the Government Senators' minority report that the Committee's First Report "makes generalised recommendations of little use to the code";
- (c) most of these changes were facilitated by the public release of the Stewart report, the Senate's own inquiry and its First Report; until these, the desire for reform within the ASF did not appear strong enough to overcome the entrenched difficulties that appeared to dominate the administration of the sport; and
- (d) the process of reform is still far from complete.

1.5 The Committee's First Report received a mixed response. Those, particularly in the media, who believed the Senate failed to uncover evidence of corruption of which they claimed to be aware, were disappointed that there were no sensational outcomes; those who believed the process had allowed damaging allegations to be retailed under parliamentary privilege were outraged, despite the fact that "in camera" hearings prevented the great bulk of unsubstantiated allegations made to the Committee going on the public record;

those who looked for a report that would, on the basis of conclusive evidence, resolve all the public and private allegations made over almost two years about impropriety in the sport, were not satisfied, as many potential witnesses who may have been of assistance to the inquiry chose not to appear.

1.6 In the main, however, the objects of the Committee were met; the recommendations of Mr Stewart were comprehensively dealt with, all the available evidence (except for that taken "in camera") relating to these matters of proper public concern was published, so enabling the public to make their own judgements on it, and responses by those subject to public allegations were put on the record. The Committee's primary concern was with the public interest; not particular vested interests.

1.7 The great majority of witnesses welcomed the opportunity to participate and did so without specific invitation. Many of them looked to positive outcomes from the inquiry, particularly by way of reform of Soccer's administration policy objectives and regulatory mechanisms. Mr Neville Wran AC QC, President of the Australian Soccer Federation, emphasised at a public hearing on 24 March 1995 that the ASF would be behind any player who came to the Committee to give evidence:

As the President, I would like to use this opportunity to emphasise that my weight and the weight of the Board would be put behind any player who came to this Committee to give evidence of any malpractice or breach of ethics in relation to the conduct of the code.¹

The Chief Executive of the Australian Unity Soccer Players' Association (now the President of the Australian Soccer Players' Association), Mr Kimon Taliadoros, commented on the significance of the Committee's inquiry for the future of Australian soccer:

I thank the Senate for the opportunity to appear before you. We regard the matters before us as critical and of absolute fundamental importance to the future of Australian soccer. We cannot overestimate the significance and the role the Senate committee does play and will play in the future of Australian soccer.²

1 Mr Neville Wran, *Transcript of Evidence*, p 206

2 Mr Kimon Taliadoros, *Transcript of Evidence*, p 86

Mr Ron Smith, Head Coach (Soccer) at the Australian Institute of Sport was reported in the press on 24 November 1995 as describing the Senate inquiry into soccer administration as "a worthwhile exercise"³.

1.8 Press coverage of the inquiry, subsequent to the tabling of the First Report, included an article in *Inside Sport* titled, "Why Eddie Thomson has to go", which was critical of the Committee inquiry and its decision not to subpoena witnesses⁴. Senator Coulter replied as Chair of the Committee, defending the conduct of the inquiry and outlining why witnesses were not subpoenaed⁵. The Deputy Editor of *Inside Sport* responded to Senator Coulter's letter, reiterating doubts about Mr Thomson's truthfulness⁶. The credibility of the article may be measured by its finding significance in the fact that there is "no evidence that Mr Thomson did not receive remuneration" from the transfers. Its concern at Mr Thomson's evidence that he did not know Mr Van Dalen was an agent while he was also the Dutch Football Association's liaison officer at Papendaal during the Olyroo's training camp, may have greater weight, as Mr Thomson's evidence on the point conflicts with evidence given by others to the Stewart inquiry.

1.9 While regretting that so many players and officials chose not to give evidence, despite several of them giving indirect advice (generally via the media) that they had information of relevance to the Committee's inquiries, the Committee expresses its appreciation of those players who did answer its invitation to appear before it to give evidence. This is particularly so for players like Mr Michael Petersen and Mr Kimon Taliadoros who may have risked their playing careers by coming forward.

1.10 Mr David Hill, the Chairman of the Australian Soccer Federation (Soccer Australia) elected on 1 April 1995, gave assurance of support to the Committee in public evidence on 7 April 1995:

We want to address the issues that are of concern to you and to other soccer stakeholders and constituents. We want to do that as soon as possible. I know that scheduling meetings and

3 Mr Matt Taylor. "Sermanni's chasing a magic recipe". Soccer World. *The Canberra Times*. 24 November 1995, p 29

4 Mr Graem Sims. "Why Eddie Thomson has to go". *Inside Sport*. No 45 September 1995, pp 20-29

5 Senator John Coulter. Letters. *Inside Sport*. No 47 November 1995, pp 6-7

6 Mr Graem Sims. Reply *Inside Sport*. No 47 November 1995, p 7

writing the report will take time, but it will help us in getting on with the job of a fresh start for soccer.⁷

The Committee was therefore disappointed that, despite this early assurance of support, Mr Hill and others brought pressure to bear for a speedy conclusion to its inquiry rather than a properly considered one. Mr Hill also gave scant practical assistance to the progress of the Committee's inquiry in its early stages. He went so far as to make it known before the Committee brought down its First Report that he proposed to offer contract renewals to the National Coach and the National Youth Coach, regardless of the outcome of the inquiry.

1.11 It is a matter of serious concern that, after more than four years, and despite critical comments in both the Stewart and Senate reports, neither the Australian Soccer Federation nor Club Marconi has been able to take any action against whoever was responsible for the grossly improper actions by the Club in conspiring on at least two occasions, with an official of the Belgian Club Brugge, Mr Jacques De Nolf and an agent, Mr Israel Maoz, to provide false receipts for hundreds of thousands of dollars which the Club did not receive. Until this matter is resolved (protracted legal actions are continuing) the Club's reputation will remain tainted and the ASF's disciplinary powers will be demonstrated to be inadequate. The Committee stands by its position in relation to Club Marconi president, Mr Anthony Labbozzetta, as expressed in its First Report.

1.12 The Committee's calls for reform have been deflected by some ill-informed criticism of its inquiry, which has served to reinforce the view, among some leading soccer administrators, that improper and/or inappropriate behaviour is seen as acceptable, and not subject to sanction. It is particularly unfortunate that the Committee's search for the truth about widespread allegations of impropriety that began in early 1993 was falsely described as "creating" these allegations by Government members of the Committee.

1.13 Misrepresentations of the findings by the Committee, in relation to the National Coach, Mr Eddie Thomson, have resulted in a regrettable lack of action by the ASF. It is worth noting that the Committee in its First Report found that, while it heard no evidence that Mr Thomson had received any financial benefit from overseas transfers of Australian players, the actions for which he was criticised in the Stewart report were inappropriate.

7 Mr David Hill, *Transcript of Evidence*, p 678

1.14 The ASF's decision to implement appropriate procedures to protect national coaches from similar situations in the future is welcome, but it is regrettable that the ASF does not consider a finding of "inappropriate behaviour" by its National Coach to merit any action whatsoever - not even an admission that the ASF's own failure to state the role and responsibilities of coaches was a significant element in the problem. The lack of a public statement acknowledging that such inappropriate behaviour will not be tolerated in the future, and the protracted failure to complete contracts with coaches including such prohibitions, are matters the ASF should address.

1.15 The lack of co-operation from some European clubs, particularly Club Brugge, with attempts by the ASF and Mr Stewart to establish the facts about improprieties relating to transfers of Australian players overseas, is a matter the ASF should take up with FIFA in the strongest terms. The behaviour of at least one Club Brugge official in these matters appears, on the evidence, to have been grossly improper.

Committee Recommendation 12

The Committee **recommends** that the Australian Soccer Federation (ASF) should urgently discuss with the Fédération Internationale de Football Association (FIFA) the need for genuine and effective cooperation from overseas clubs in dealing with allegations of improprieties relating to transfers of Australian players overseas.

WOMEN IN SOCCER

1.16 The Committee heard evidence outlining current issues in women's soccer, particularly in relation to women's soccer becoming an Olympic sport. Witnesses included the Australian Sports Commission (ASC), the Australian Women's Soccer Association (AWSA) and two women players who had held positions as State and local officials⁸.

1.17 The Committee supports the suggestion of the AWSA that "gender equity" be adopted by the ASF in its management structure, for example, in ensuring that there is adequate female representation on the proposed

8 Mr James Ferguson, *Transcript of Evidence*, pp 356-378

Mr Denis O'Brien, *Submission No 49, Transcript of Evidence*, pp 1005-1027

Ms Tracey McKnight, *Submission No 43, Transcript of Evidence*, pp 334-355

Ms Mary O'Connor, *Submission No 33, Transcript of Evidence*, pp 760-773

Australian Soccer Agents Accreditation Committee and the Players' Commission⁹. As Mr Dennis O'Brien explained to the Committee on 23 May 1995:

The only way to move women and girls forward in this game is for the Australian Soccer Federation to accept that responsibility that they claim they have for all of football in Australia and provide some assistance to women's football in this emerging time.

1.18 The relationship between the women's state associations and the state Federations varies from State to State. The Committee advocates a coherent administrative structure in women's soccer throughout Australia at State and national level¹⁰.

Committee Recommendation 13

The Committee **recommends** that discussions should continue between women's soccer representatives and the Australian Soccer Federation (ASF) to ensure that women's soccer interests are adequately represented at national level and are effectively incorporated within the new administrative arrangements.

ADVERSE COMMENT

1.19 The Committee was conscious of the sensitivity of the evidence received during the course of the inquiry and undertook to ensure that, in accordance with the Senate's privilege resolutions of 25 February 1988, all named parties, where possible, were given the opportunity to reply to such comment within a reasonable timeframe. This greatly added to the workload of the Committee during the course of the inquiry, and required that this Second Report comment on the final results of the adverse comment process.

1.20 The inquiry attracted four types of evidence containing adverse comment:

- (a) the Stewart Report (242 pages)
- (b) Oral evidence at public hearings (1447 pages)

9 Mr Dennis O'Brien, *Transcript of Evidence*, p 1020

10 Senator Michael Baume, *Transcript of Evidence*, pp 1012- 1013

- (c) *In camera* evidence at public hearings (177 pages)
- (d) Submissions (58 including 11 confidential)

1.21 Adverse comment was dealt with in four ways:

- (a) Adverse comment letters were sent on 16 January 1995 to 58 people named in the Stewart report. A total of 14 replies were received and these were treated as submissions to the inquiry. A complete list of submissions is provided at Appendix 1.
- (b) Submissions that were not confidential were distributed on request to witnesses, the media and other interested parties, again with the opportunity for comment. A complete list of public hearings and witnesses is at Appendix 2.
- (c) Copies of the draft Hansard transcripts of each of the 18 public hearings were sent to all witnesses and any interested parties, who were provided with an opportunity to comment.
- (d) Copies of extracts from the *in camera* evidence given at nine hearings (listed in Appendix 2) were provided to individuals named adversely. Priority was given to individuals who were named in the Recommendations of the Stewart Report, and whose adverse comment directly related to the Committee's terms of reference. This resulted in letters being sent to 21 individuals over the period 9 June to 24 November 1995. A total of six replies was received to these letters.

POWER OF SUBPOENA

1.22 A distinction between the inquiry conducted by the Hon D G Stewart and that conducted by this Committee was that, unlike Mr Stewart, this Committee had the power to subpoena persons and papers. During its inquiry, the Committee did not exercise its power to subpoena witnesses (although certain documents were obtained under subpoena, in particular, the Stewart Report itself).

1.23 There were several reasons why the Committee did not subpoena witnesses:

- (a) first, none of the persons against whom allegations had been made in the Stewart report refused to appear before the Committee when invited;
- (b) secondly, although it was suggested to the Committee by Mr Stewart and others that certain persons should be subpoenaed to appear before the Committee if they did not do so voluntarily, none of them were persons against whom allegations had been made in the Stewart report;
- (c) thirdly, the Committee was conscious of the fact that witnesses subpoenaed to appear before it could not, in practice, be compelled against their will to answer questions (and there were indications that that would have happened in some instances);
- (d) fourthly, several persons whose names had been suggested as witnesses were not in Australia during the course of the Committee's inquiry, and so were beyond reach of subpoena; and
- (e) finally, the Committee was aware of the important distinction between a Senate inquiry and judicial proceedings.

1.24 The purpose of the Committee's inquiry was not prosecutory, but to provide an opportunity for information to be provided to the Parliament in relation to the public policy matters raised in the terms of reference. Allegations relating to possible commission of criminal offences fall to the appropriate criminal investigatory bodies (such as the police or the Commissioner for Taxation) to pursue.

1.25 The power of Senate committees to subpoena witnesses should be used only as a final resort and, in the present inquiry, it was judged that any attempt to enforce attendance at a hearing or compel a recalcitrant witness to answer questions by threat of fine or imprisonment would have been generally regarded as extreme and unacceptable. The Committee was able to gather sufficient evidence to complete its inquiry by relying on witnesses who submitted information to it voluntarily.

CONCLUSIONS AND RECOMMENDATIONS ARISING FROM THE COMMITTEE'S FURTHER INVESTIGATIONS

2.1 The Committee has concluded that the responses provided by people under the "adverse comment" procedures and other information that was received after the First Report was completed do not alter the findings of that report.

2.2 The Committee considers that the recommendations of the First Report of the Soccer Inquiry should stand unchanged.

2.3 An additional Committee recommendation relates to the relationship between clubs internationally and the role of FIFA (Recommendation 12) and a further Committee recommendation (Recommendation 13) relates to women's soccer. Another recommendation has resulted from an examination of a potential conflict of interest relating to the National Women's Coach of the Australian Women's Soccer Association (AWSA) and the Head Coach (Soccer) at the Australian Institute of Sport (AIS) (Recommendation 14).

IMPLEMENTATION OF RECOMMENDATIONS OF FIRST REPORT

2.4 The Committee welcomes the progress made towards the implementation of the 11 recommendations made in its *First Report*. After an initial lukewarm reception to the report by the new Chairman of the Australian Soccer Federation (ASF), Mr David Hill, it is pleasing to note the ASF's increasing interest in implementing its recommendations, as stated in supplementary submissions from him to the inquiry, dated 28 and 29 November 1995:

I would like to confirm that the Board of Soccer Australia at its meeting held on Sunday November 26 adopted as policy the recommendations contained in the following agenda papers:

Agenda Item 10 - Accreditation of Player Agents

[The recommendations stated that Soccer Australia establish a committee to be known as Soccer Australia Player Agents Accreditation Committee; that Soccer Australia enter into a Memorandum of Agreement with the Australian Soccer Players' Association concerning the accreditation of Player Agents; and that Soccer Australia adopt the attached rules for

domestic registration and regulation of conduct of Player Agents and attached Application and Certification Statement].

Agenda Item 14 - National Regulation governing the status and transfer of players

[This recommendation stated that the Board approve the attached regulations governing the status and transfer of players. (The regulations concern the following areas: I. Player Categories, II. Non-amateur Players, III Player Eligibility, IV National Transfer Certificates, V Players transferred from One State Federation to Another, VI Procedure of Appeals, VII Reacquisition of Amateur Status, IX Special Provisions, X Release of Player for State Association Representative Matches, XI Clubs faced with Bankruptcy Proceedings or Ceasing to Trade, XII Transfer of Players to Foreign Clubs, XIII Final provisions)].

Agenda Item 19 - Code of Conduct (and other matters)

[includes Code of Conduct, National Teams - Officials Responsibilities and Duties Statement].

I would also like to confirm that the Board of Soccer Australia will now continue to address other issues raised in the interim Report of the Senate Soccer Inquiry as outlined to your Committee Staff on November 20¹.

2.5 Action on the 11 recommendations of the Committee's First Report may be summarised as follows.

Recommendation 1

The Committee **recommends** that the whole process of player transfers must be handled in future in a much more rigorous and transparent manner. Australia's soccer interests must be paramount and the financial aspects of the transfer must be conducted in such a way that no hint of impropriety is possible. There should be no cash payments. All payments must be made in such a manner as to leave a clear audit trail.

¹ Australian Soccer Federation, Submission No 12c dated 28 November 1995

2.6 The Committee notes a general improvement in the way in which the ASF regulates player transfers², but reiterates that all payments must be made in such a manner as to leave a clear audit trail, and the highest standards of accountability must be maintained.

Recommendation 2

The Committee **recommends** that the Australian Soccer Federation (ASF) should accredit an agent, or agents who would act for the ASF in relation to overseas player transfers so as to ensure that Australia's soccer and financial interests are fully protected. These agent(s) must be experienced in the area of player transfers in the international scene, and must be people of integrity.

2.7 The ASF has recently advised the Committee:

Soccer Australia intends appointing an agent to represent Soccer Australia interests³.

The Australian Soccer Players' Association has proposed to the ASF that an Australian Soccer Agents Accreditation Committee be established and this has been accepted by the ASF⁴. A Memorandum of Understanding on this matter has not yet been signed, although the ASF has agreed to do so⁵.

Recommendation 3

The Committee **recommends** that the Australian Soccer Federation should establish a panel of experienced people who can provide advice to players and clubs with respect to a player who had been approached by an overseas club or who wished to seek a transfer to an overseas club. This panel should contain the National Coach, but the National Coach should not provide independent advice to players, and his advice through the panel should relate to football matters and not to other aspects of the potential transfer.

2.8 The ASF has advised the Committee:

2 See Footnote 1

3 Australian Soccer Federation, Submission No 12d, dated 29 November 1995

4 Australian Soccer Players' Association, Submission 20a

5 See Footnote 3

Soccer Australia has agreed to the establishment of a Players Commission which will among other things be an advisory panel. The Commission will include membership from Soccer Australia and the Players' Association⁶.

Recommendation 4

The Committee **recommends** that formal contracts must be concluded between the Australian Soccer Federation and the National Coach and Assistant National Coach and that these contracts must include the matters mentioned in Recommendation 3 and paragraphs 2.5, 2.9 and 2.10 (of the First Report). The contracts must include a clause to the effect that it is inappropriate for them to become involved with overseas transfers in any other way, and must include a clause insisting that coaches use the power conferred by their position in strict accordance with an accepted code of conduct, such as that adopted by the Australian Soccer Federation on 31 October 1992.

2.9 The ASF drew the Committee's attention to the action already being undertaken with regard to the formal contracts, although the Committee notes that these have not yet been signed by the national coaches. The ASF also drew the Committee's attention to the action already being undertaken with regard to the adoption of a *Code of Conduct*.

Recommendation 5

The Committee **recommends** that the domestic player transfer fee be abolished immediately.

2.10 The Committee reiterates the need for the immediate abolition of the internal player transfer fee.

2.11 The Committee notes that this would be in accordance with what is likely to become international practice, as the interim judgement by the European Court of Justice in the case of Jean-Marc Bosman *versus* RFC Liège has ruled that it is a breach of the Treaty of Rome for clubs to request a transfer fee for

6 See Footnote 3

7 See Footnotes 1 and 3

the transfer of a player from one club to another after the expiry of the player's contract.

2.12 However, players should still be able to sign contracts with individual clubs and "compensation payments" should be permitted. The details of how this is to be done are still to be resolved.

Recommendation 6

The Committee **recommends** that player contracts, including contracts with juniors and players with language or other such difficulties, must be reviewed to ensure they are fair and equitable. Players are not chattels to be bought and sold without proper consideration of their interests.

2.13 The Committee urges the Australian Soccer Federation and the Australian Soccer Players' Association to cooperate in pursuing this recommendation. The education of young players in their options regarding overseas transfers is essential, through the clubs, the national team program, the Australian Institute of Sport, State Academies, intensive training centres and elite training venues. The Committee expresses serious concern at the lack of progress relating to the development of adequate processes to protect the interests of minors and other disadvantaged persons in contractual arrangements.

Recommendations 7 and 8

Relating to Stewart recommendations 1 and 2

7. The Committee **recommends** that the Australian Soccer Federation Board takes every step, through implementation of the measures outlined above, to ensure that a National Coach is not allowed to be placed in such a position of conflict of interest again.

8. The Committee **recommends** that the Australian Soccer Federation take every step to ensure that an Assistant National Coach and National Youth Coach is not placed in such a position of conflict of interest again.

2.14 The ASF, in supplementary submissions dated 28 and 29 November 1995, drew the Committee's attention to the action already being undertaken, which was welcomed by the Committee:

Soccer Australia intends to enter contracts with the two National Coaches (Thomson and Scheinflug) as originally intended, till 1998, details of the contracts are still being finalised. The Code of conduct will be included in the contract.⁸

Recommendations 9 and 10

Relating to Stewart Recommendation 3

9. The Committee **recommends** that the Australian Soccer Federation take every step, through providing an adequate contract and the other measures indicated above, to ensure that a national team manager is not placed in such a position of conflict of interest again.

10. The Committee **recommends** that a dedicated and professional team manager should accompany international teams.

2.15 The ASF, in supplementary submissions dated 28 and 29 November 1995, drew the Committee's attention to the action already being undertaken with the adoption of a *Code of Conduct* and the *National Teams - Officials Responsibilities and Duties Statement*⁹. The Committee suggests that the ASF ensure the *Code of Conduct* and other guidelines are adhered to whether the team manager on overseas duty with international teams is engaged in a voluntary capacity or as an employee of the ASF. If a team manager does not accompany international teams, there should be clear lines of responsibility and delegation from the ASF Chairman.

Recommendation 11

Relating to Stewart Recommendation 7

The Committee **recommends** that the Australian Soccer Federation make all players and clubs aware of the new FIFA Regulations.

2.16 The Committee has received the following assurance from the ASF:

8 See Footnote 3

9 See Footnotes 1 and 3

Soccer Australia dealt with this matter at the Board meeting of 26 November, 1995. Clubs and players will now be advised of the new FIFA regulations¹⁰.

10 See Footnotes 1 and 3

INQUIRIES SINCE THE FIRST REPORT

AUSTRALIAN INSTITUTE OF SPORT

3.1 The Committee examined allegations of a potential conflict of interest between the public positions held by the Head Coach (Soccer) at the Australian Institute of Sport (AIS) and by the Australian Women's Soccer Association (AWSA) National Coach and their private business interests.

3.2 On being appointed national women's coach, Mr Tom Sermanni (by agreement with the AWSA) continued his role as a manager of some male players. In letters to overseas clubs seeking to interest them in the young players to whom he had access, he used the AIS Head Coach (Soccer), Mr Ron Smith, as a referee and stated he was associated with a finance management company; at that stage he and Mr Smith were agreed that Mr Sermanni was not aware that Mr Smith was a director of that company and Mr Smith has assured the Committee that he stood to receive no benefit as a director unless he became an employee of it in the event of a career change.

3.3 Whether naivety or impropriety led to it, this was an untenable situation where Mr Sermanni, a coach employed by the taxpayer, was being assisted by Mr Smith, the taxpayer-funded AIS head coach, to facilitate the transfer of taxpayer-funded AIS-trained players to take their taxpayer-funded skills to overseas football clubs.

3.4 Although Mr Sermanni assured the Committee he received no financial benefit from his efforts in assisting the placement of some talented young amateur AIS trainees with overseas clubs, he would stand to receive a benefit in the event of any of these players whom he managed being signed as professional footballers with overseas clubs.

3.5 Whether or not he breached FIFA rules (and according to FIFA itself his actions were those of an agent and he is not registered as one) his role represented an apparent conflict of interest in regard to the Australian taxpayer - even though it may have been in the best interests of the players themselves. This conflict would have been far greater had he "touted" for business among the players. But Mr Sermanni has insisted that, in every case, he was approached by the players or their families to advise them in the very difficult and risky task of negotiating with professional managers overseas. The Committee received no evidence to the contrary in the time available for its inquiry.

3.6 To an extent, Mr Sermanni was filling a void that should not have continued for so long once it had become evident that there was strong demand from overseas for young Australian soccer players.

3.7 The ASF's inability to provide appropriate professional advice to such young people meant there was a need for someone to undertake the role filled by Sermanni. This reinforces the need for the Committee's Recommendation 3 to be implemented.

3.8 It is also worth noting that Mr Sermanni had, since March 1995, sought advice from the ASF on how to become an agent, and had at all times made no attempt to hide either his actions or his intentions. He wrote, as the Director of SportsQuest, to the ASF on 1 March 1995:

The enquiries and level of interest I have received from players and also from some clubs strongly suggests that there is a need for someone to perform this role, who is an Australian citizen, representing Australian interests.¹

3.9 Mr Smith's assistance to his friend Mr Sermanni does raise problems in view of his directorship of the finance company associated with the Sermanni venture; he also recommended at least one player go to Mr Sermanni for assistance. Mr Smith's actions do appear to be far less in conflict with his primary duty to the AIS than they seem on the surface; for example, he actively sought recompense from the representative of a British Premier League club of the AIS's costs in respect of one of Mr Sermanni's players under the new FIFA recompense arrangements. Mr Smith, however, should not have allowed himself to be placed in such a position of potential conflict of interest.

Committee Recommendation 14

The Committee **recommends** that the Australian Institute of Sport insert a conflict of interest clause in all contracts for soccer coaches preventing them acting for or on behalf of or assisting players' managers or agents in overseas transfers of AIS players or former players.

3.10 The need to compensate the AIS for the overseas transfer of AIS-trained players was discussed at 2.14 of the First Report. The Committee has been advised that a proposal is being considered, as a recognition of taxpayer involvement, to require a three year bond from AIS-trained players to remain in

¹ Mr Tom Sermanni. Letter to Mr Ian Holmes, Chief Executive Officer, Australian Soccer Federation. 1 March 1995, 2 pp

Australia after training, subject to such a bond being capable of being bought out at a realistic price. Such a proposal has merit, particularly in the lead-up to the 2000 Olympics, and would require close consultation between the Australian Soccer Federation/the Australian Soccer Players' Association/the Australian Institute of Sport/the Australian Sports Commission and other appropriate government agencies.

3.11 Otherwise, the AIS should consider entering into arrangements with the ASF that prevent the ASF granting clearances to AIS trained players including amateurs to play as professionals overseas unless an agreed recompense payment is made to the AIS.

3.12 The Committee believes the AIS soccer programme should be controlled by the AIS itself although it should be fully integrated into the ASF's overall strategic directions for the sport. There should be the closest co-operation between the two parties and the strictest accountability for the expenditure of taxpayers' money.

MINORITY FIRST REPORT BY GOVERNMENT SENATORS

A RESPONSE

4.1 The minority report by Government Senators claimed that the inquiry was a "gross abuse of the processes of the Senate" and an assault on civil liberties. This is strongly denied. Such an attempt to denigrate both the substance of the Committee's report and those Senators who assiduously sought to discover the truth and to resolve the wide-spread serious allegations made in public about leading participants in the sport of soccer football, is to be regretted.

4.2 After the determinedly non-political approach to this matter by the non-Government Senators, the minority report is in striking contrast with unanimous support given by the then Government members of the Committee to the processes decided on by the Committee when it first began its task and resolved to provide parliamentary privilege to the Stewart report.

4.3 It is false to assert that "the Committee was the vehicle by which these allegations could first be made". This assertion displays ignorance of the facts of the matter. The Senate inquiry followed public accusations made in the media from April 1993 which prompted the ASF to appoint the Stewart inquiry.

4.4 These allegations of corruption in Australian soccer were given high profile media coverage. No-one with an interest in soccer football could have missed them:

- (a) The SBS TV World Sport programme on 2 April 1993 covered the investigation by the English Football Association into claims of illegal dealings between an English football agent and certain English clubs over the transfer to them of three Australian soccer players from their Australian clubs;
- (b) The June 1994 issue of *Inside Sport* detailed allegations concerning the involvement of the Australian National Coach, Mr Eddie Thomson, in international transfers and the improper access of agents to Australian teams overseas that became the substance of Mr Stewart's subsequent inquiry. It also raised the Marconi transfers, where there was a discrepancy of hundreds of thousands of dollars between the purchase price of Australian players by an

overseas club and the price received by Marconi and it questioned the ASF's resolve to investigate "questionable transfer matters generally".

- (c) The ABC radio programme *Grandstand* on 28 May 1994 included a panel discussion between the President of the ASF, Neville Wran AC QC, the Chief Executive of the Australian Unity Soccer Players' Association, Kimon Taliadoros, and ABC TV Four Corners journalist, Ross Coulthart. This programme dealt with allegations of National Coach Eddie Thomson's involvement in overseas player transfers, the proposed inquiry into them by the ASF and concerns expressed by soccer players. Messrs Wran, Taliadoros and Coulthart and the programme's presenter, Tracey Holmes, subsequently appeared before the Senate inquiry; and
- (d) The ABC TV Four Corners programme *Kickback* on 6 June 1994 provided further allegations of corruption and improper involvement of soccer officials, coaches and overseas agents in the transfer and selection of players, the payment of secret commissions, redirection of transfer fees to other parties and other matters of concern. It named Club Marconi and Tony Labbozzetta, and the gap between the \$515,000 Club Brugge paid for the transfer of Paul Okon and the \$240,000 that Marconi actually received, Eddie Thomson, Frank Arok, the agent Israel Maoz and suitcases of cash, with several Australian soccer footballers expressing their concern with such quotes as: "I was ripped off"; "It's a meat market - it's a mug's game"; "We believe the game is riddled with corruption"; "Something has to be done to fix it".

4.5 These accusations were made over a period of up to 21 months before the Committee's inquiry gave parliamentary privilege to the Hon D G Stewart's inquiry into them. It was Mr Stewart's recommendations, not the evidence printed in his report, that had the potential to damage some people who were subject to his adverse remarks. This Committee largely absolved those people from the levels of "guilt" that Mr Stewart attributed to them. However, it should be noted that all of the people subject to Mr Stewart's critical recommendations had nevertheless taken part in matters, in some cases innocently, that are no longer permissible because they are now recognised to be not in the best interests of soccer football, or else in matters that have been referred to the appropriate law enforcement authorities.

4.6 The fact that the Committee did not support the level of "punishment" recommended by Mr Stewart cannot be taken as an indication that the Committee found their behaviour, in all cases, to be appropriate. For example, one person Mr Stewart recommended (in our view unfairly) to be barred from soccer, had signed a false receipt for hundreds of thousands of dollars on behalf of his club, and it was entirely proper that he should be asked by the Committee to explain his actions (which had been the subject of public concern). Despite his own protestations to the contrary, the Committee's inquiry provided him with an opportunity to clear his name, which he accepted.

4.7 The claim in the minority report that, "by allowing itself to be used for the airing of allegations of illegal acts" the Committee has put at risk any subsequent prosecutions for such acts, is a misrepresentation of the advice by the Department of the Senate¹ and is another element of an extraordinary campaign to denigrate the Committee's report. Raising an allegation of illegality in a privileged hearing would only create a problem for law enforcement agencies if evidence demonstrating that illegality, which was not readily available elsewhere, was given the protection of parliamentary privilege and therefore not useable in the courts.

4.8 It is illogical to assert that raising such an unsubstantiated allegation before the Committee would result in the evasion of subsequent conviction. The Committee went out of its way to ensure that such a risk at no time arose. Where evidence relating to criminal offences was offered to the Committee, it was deliberately not received and, instead, was forwarded to appropriate law enforcement agencies. In the Government Senators' own words, the Committee found "no sustainable evidence of impropriety (let alone illegality) to support Stewart's allegations". The absence of such evidence underlines the absurd and irrelevant nature of the minority Government Senators' objections that the Committee behaved improperly in this respect.



Meg Lees
Chair

¹ Letter from Committee Secretary to Committee Chair. 28 April 1995. 3 pp

APPENDIX 1

LIST OF SUBMISSIONS

Submissions are not confidential unless indicated

- 1 Mr David Faber, SA (Confidential)
- 2 Mr David N Brady, Renaissance Marketing, NSW
- 3 Mr J Hurley, General Manager, Banks Hotel, VIC
- 4 Mr John L Hegarty, NSW(Confidential); 4a (Confidential)
- 5 Mr Edward Thomson, National Coach, Australian Soccer Federation, NSW
(Confidential); 5b;5c
- 6 Mr Peter Bracher, NSW (Confidential)
- 7 Mr Ned Zelic, c/o Mr Peter Dwyer, ACT
- 8 The Hon Neville Wran, AC, QC, President, Australian Soccer Federation, NSW
- 9 Mr John Gilson, VIC
- 10 Mr Stephen Owen-Conway, QC, Patron, Perth Soccer Club, WA
- 11 Mr Miron Bleiberg, QLD
- 12 Australian Soccer Federation, NSW; 12b (Confidential), 12c(Confidential), 12d
- 13 Mr Frank Arok, VIC
- 14 Mr Alan Rydge, Commissioner, Australian Soccer Federation, NSW
- 15 Mr Alfio Bulic, VIC
- 16 Mr John Constantine, AM, OAM, NSW
- 17 Mr Ian Holmes, Chief Executive, Australian Soccer Federation, NSW; 17a
- 18 Amateur Soccer Federation of Northern New South Wales Inc, NSW
- 19 Mr Alberto Mariani, NSW
- 20 Australian Unity Soccer Players' Association (now Australian Soccer Players'
Association), NSW
- 21 Mr Geoff Boyd, NSW
- 22 Mr Les Scheinflug, Assistant National Coach and National Youth Coach,
Australian Soccer Federation, NSW
- 23 Professor Braham Dabscheck, NSW
- 24 Mr J de Nolf, Secretary and Mr A Vanhove, Director-Administrator, C.Q.,
Club Brugge, Belgium

-
- 25 Mr David Wright, ACT
- 26 Mr Mike Wells, National Director of Coaching, Australian Soccer Federation, NSW
- 27 Mr Joseph Zarb, NSW
- 28 Mr Osvaldo el Ali, NSW
- 29 Mr Adrian Kenyon, Publisher, Troubadour Publications, WA
- 30 Mr Basil Scarsella, Commissioner, Australian Soccer Federation, SA
- 31 Mr Fred Villiers, VIC
- 32 Mr Eugene Marie, WA
- 33 Ms Mary O'Connor, WA
- 34 Mr Sebastian Raco, NSW
- 35 Mr Frank Baroni, NSW
- 36 Mr Rale Rasic, NSW; 36a
- 37 Mr D G Sewain, NSW
- 38 Mr Ron Smith, Head Coach (Soccer), Australian Institute of Sport, ACT; 38b
(Confidential); 38c(Confidential)
- 39 Anonymous
- 40 Australian Transaction Reports and Analysis Centre (AUSTRAC), ACT
- 41 Mr Phillip Harris, ACT
- 42 Mr John Higgins, ACT
- 43 ACT Women's Soccer Association, ACT
- 44 Australian Sports Commission, ACT; 44a
- 45 Mr Anthony (Tony) Labbozzetta, President, Club Marconi, NSW; 45a; 45b; 45c
(Confidential)
- 46 Mr Grame Plath, ACT
- 47 Mr John Johnson, TAS (Confidential), 47a(Confidential), 47b(Confidential),
47c(Confidential)
- 48 Dr Graham Bradley, NSW; 48a
- 49 Australian Women's Soccer Association, ACT
- 50 Senator the Honourable Nick Bolkus, Minister for Immigration and Ethnic Affairs and
Minister Assisting the Prime Minister for Multicultural Affairs.
- 51 The Hon Gary Punch, MP, Minister for Defence Science and Personnel
- 52 New South Wales Soccer Federation Limited, NSW

- 53 Mr David Lee, NSW Director of Coaching, NSW Soccer Federation, NSW
- 54 Mr Tom Sermanni, Director, Sportsquest, ACT; 54a (Confidential)
- 55 Anonymous
- 56 Anonymous
- 57 Anonymous
- 58 Anonymous

APPENDIX 2

LIST OF PUBLIC HEARINGS AND WITNESSES

Friday, 27 January 1995:

**Legislative Assembly Conference Room 814/815
Parliament House
Sydney**

The Hon Donald G Stewart

Mr John Hegarty

Mr John Constantine, AM, OAM

Mr Ian Holmes

Chairman, Australian Soccer Federation

Chief Executive, Australian Soccer Federation

Tuesday, 7 February 1995:

**Senate Committee Room 2S3
Parliament House
Canberra**

Mr Kimon Taliadoros

Chief Executive, Australian Unity Soccer Players' Association

Mr Brendan Schwab

Legal Adviser, Australian Unity Soccer Players' Association

Mr Mark Ryan

Assistant Federal Secretary, Media, Entertainment, and Arts Alliance

Tuesday, 7 March 1995:

**Senate Committee Room 2S1
Parliament House
Canberra**

Mr James Killaly

First Assistant Commissioner, International Tax Division, Australian Taxation Office

Ms Catherine McPherson

Acting Assistant Commissioner, Parliamentary Business Unit, Australian Taxation Office

Mr Graham Pinner

Deputy Director, Australian Transaction Reports and Analysis Centre

Mr Ron Smith

Head Coach (Soccer), Australian Institute of Sport

**Friday, 24 March 1995: Legislative Assembly Conference Room 814/815
Parliament House
Sydney**

The Hon Neville Wran, AC, QC President, Australian Soccer Federation
Mr Peter Kogoy Senior Sports Journalist, *Sun Herald*
Mr Ross Coulthart
Mr Roger Seal
Ms Tracey Holmes Sports Commentator and National Program Host,
Australian Broadcasting Corporation

**Wednesday, 29 March 1995: Senate Committee Room 2S1
Parliament House
Canberra**

Mr Graham Pinner Deputy Director, Australian Transaction Reports and
Analysis Centre
Ms Tracey McKnight President, ACT Women's Soccer Association
Mr Jim Ferguson Executive Director, Australian Sports Commission
Mr Peter Hugg Sports Consultant, Sports Management Division,
Australian Sports Commission
Mr Geoffrey Strang Director, Sports Management Division, Australian
Sports Commission

**Friday, 31 March 1995: Legislative Assembly Conference Room 814/815
Parliament House
Sydney**

Mr John Warren
Mr Sam Vella, OAM President, Parramatta Eagles Soccer Club
Director, NSW Soccer Federation

**Monday, 3 April 1995: Legislative Assembly Conference Room 814/815
Parliament House
Sydney**

Mr John Johnson
Mr Les Murray
Mr Peter Gray President, NSW Amateur Soccer Federation Ltd
Mr Tony Popovic

Tuesday, 4 April 1995: **Legislative Assembly Conference Room K
Parliament House
Melbourne**

Mr Henry Siwka
Mr Frank Arok, AO

Chairman, Victorian Soccer Federation

Friday, 7 April 1995: **2nd Floor Conference room
Parliament House
Adelaide**

Mr Basil Scarsella
Mr Zoran Matic
Mr David Hill
Mr Tony Vidmar
Mr Tony Farrugia
Mr John Gibson
Mr Ned Zelic
Mr Peter Dwyer

Commissioner, Australian Soccer Federation
Senior Coach, Adelaide City Soccer Club
Chairman, Australian Soccer Federation
General Manager, SA Soccer Federation
(by telephone from Germany)
(legal counsel for Mr Ned Zelic)

Tuesday, 11 April 1995: **Ground Floor Conference Room 3
Legislative Council Committee Office
Parliament of Western Australia
Perth**

Ms Mary O'Connor
Mr Stephen Owen-Conway, QC
Mr Ennio Tavani
Mr Adrian Kenyon
Mr Roger Lefort

Patron, Perth Soccer Club
President, Perth Soccer Club
Managing Director, Troubadour Publications
Chief Executive, Soccer Federation of WA

Wednesday, 17 May 1995: **Jubilee Room
Parliament House
Sydney**

Mr Kimon Taliadoros
Mr Osvaldo el Ali
Mr Charles Zarb
Mr Peter Bracher
Sir Arthur George, AO

Chief Executive, Australian Soccer Players' Association

Thursday, 18 May 1995:

**Legislative Council Committee Room
Parliament House
Melbourne**

Mr Alfio Bulic
Mr John Dimtsis
Mr Michael Petersen
Mr Gary Hasler
Mr Paul Wade

Tuesday, 23 May 1995:

**Senate Committee Room 2S3
Parliament House
Canberra**

Mr Jerry Lissing
Mr Phillip Harris
Mr Denis O'Brien

President, Australian Women's Soccer Association

Thursday, 25 May 1995

**Legislative Assembly Conference Room 814/815
Parliament House
Sydney**

Mr Anthony Labbozzetta
Mr John Constantine
Mr David Lee
Mr Peter Raskopoulos

President, Club Marconi
Director of Coaching and High Performance Manager,
Soccer NSW

Friday, 26 May 1995:

**Legislative Assembly Conference Room 814/815
Parliament House
Sydney**

Mr Edward Thomson

Australian National Soccer Coach
Australian Soccer Federation

Wednesday, 14 June 1995:

**Commonwealth Parliament Offices
70 Phillip Street
Sydney**

Mr Les Scheinflug Australian Assistant National Soccer Coach and
National Youth Coach, Australian Soccer Federation
Dr Graham Bradley
Mr Rale Rasic
Mr Kimon Taliadoros Chief Executive, Australian Soccer Players'
Association
Mr Alberto Mariani
Mr David Hill Chairman, Australian Soccer Federation

Wednesday, 27 September 1995:

**Senate Committee Room 2S1
Parliament House
Canberra**

Mr Tom Sermanni National Women's Coach, Australian Women's Soccer
Association
Mr Jim Ferguson Executive Director, Australian Sports Commission
Mr Robert Hitchcock Manager, Elite Sports, Australian Institute of Sport

Tuesday, 21 November 1995:

**Senate Committee Room 2S1
Parliament House
Canberra**

Mr Ron Smith Head Coach (Soccer), Australian Institute of Sport

In camera hearings were also held on 27 January, 24 March, 3 April, 4 April, 7 April, 11 April, 18 May, 25 May, and 21 November 1995.

**MINORITY REPORT BY SENATORS CARR, REYNOLDS
AND WHEELWRIGHT**

MINORITY REPORT BY SENATORS CARR, REYNOLDS AND WHEELWRIGHT

PREAMBLE

1.1 Except for the recommendation that women's soccer interests be adequately represented at national level and be effectively incorporated within new administrative arrangements, Government Senators disagree very strongly with the findings and recommendations of this report, for the same fundamental reasons as set out in their minority report of the Committee's First Report of June 1995.

1.2 As stated in that report, Government Senators believe that this inquiry was unnecessary, because Soccer Australia has undertaken, of its own volition, a major administrative reform process under a new Board and management team, who have begun to implement an energetic five year plan.

1.3 This inquiry can take little credit for changes which have taken place in soccer, the need for which had been recognised long before the inquiry was established. The changes such as abolition of player transfer fees were not necessarily the result of the Committee's work, but came from the pressure and negotiation of the players' union, the Australian Soccer Players' Association (ASPA). Where there are changes in soccer administration they will occur despite this inquiry rather than in response to its recommendations.

THE ISSUE OF CIVIL LIBERTIES

1.4 The inquiry, as far as the Government Senators are concerned, was not a party political matter, but entirely an issue of civil liberties and the proper use of a Senate committee. The Government, or Labor Party, interests have not been, in any way, challenged, but the same cannot be said for the good reputation and standing of at least 79 citizens adversely named in the Committee's proceedings. The inquiry has been a clear case of a situation where politics and sport do not mix.

1.5 Sensationalised claims make good media stories, but unfounded allegations and malicious rumours have made persons prominent in soccer the object of public vilification for which there is no effective redress.

1.6 We should not confuse the "public interest" with the partisan political advantage of individual politicians.

1.7 Moreover, the current inquiry has provided an opportunity for the airing of many unfounded or unsupported allegations against persons prominent in soccer. At just one *in camera* hearing, in a transcript comprising no more than 23 pages, 36 persons were named. In public hearings, many people were named in contexts unfavourable to their good name.

1.8 The Chairman of the ASF, Mr David Hill, said in evidence on 7 April 1995:

The mud sticks in these things. Just because people have an axe to grind and have a version of events, I do not think that constitutes grounds for sacking a national coach. It is a very difficult question. You have it; and when you finish your report, we will have it. As well as making decisions in the best interests of soccer, I think we have to have significant regard for the rights of individuals who may have been wronged in this.... In the end, my Board colleagues and I will have to act in a way we think serves the best interests of soccer. I have some regard—as I am sure my Board colleagues do—for the integrity of evidence. Really, Senator, you would have to agree that there are people who have appeared before this Committee who have said the most outrageous things based on what they have heard... Or they have repeated some rumour they are familiar with. The people who have been branded have not been charged with any offence and have not had the opportunity to say anything.

1.9 There was continual mention made by witnesses during the course of the Committee's inquiry of possible commission of serious crimes by persons connected with soccer, including non-payment of tax on significant international transfer fees; alleged bribes to ensure permanent residence status for soccer players from overseas; and financial improprieties relating to outstanding payments made to ASF Board members and staff.

1.10 The majority report claims that Government Senators misinterpreted advice from Senate officers. We reiterate our view that the Committee continued to allow itself to be used for the airing of these allegations, even though it was aware that evidence gathered by it during its inquiry may not be used in a court of law. The Clerk of the Senate gave advice that evidence before a Parliamentary committee could not be used in judicial proceedings and therefore, a committee's inquiry could make it difficult for law enforcement authorities to conduct successful investigations into the same matters. Defence counsel would obviously use the fact that a matter had been uncovered by a committee to obstruct prosecution. It was conceivable that a guilty party could intentionally raise a matter before a committee to evade subsequent conviction.

Therefore there was a distinct possibility that the Committee's pursuit of its inquiry would impede inquiries into the same matters by law enforcement authorities, and subsequent judicial proceedings.

1.11 Senator Carr voiced his concerns on these matters at the hearing on 25 May 1995:

I want to make it very clear that I am very concerned about the abuses of natural justice that are involved in this Committee. On the one hand, you have allegations being made willy-nilly that go to the very heart of people's integrity throughout this country. Ordinary citizens' civil liberties are being infringed in that way without regard to due evidence. On the other hand, there are allegations being made about criminal activity which, in themselves, if true, cannot be used in a court of law. We have a situation where, through the work of this Committee, the innocent are being slandered and the guilty are being protected. That is why I have argued that this Committee is not doing its job well and is not doing a service to the Senate. That is why I am concerned.

1.12 Government Senators note the advice from the Department of the Senate contained in the memorandum of the Committee's Secretary to the Chair dated 28 April 1995, and express regret that the Committee did not heed the advice that it should:

consider whether it has now reached the stage in its inquiry where it has gathered sufficient evidence to report to the Senate, as a matter of urgency, that it has concluded that a judicial inquiry should be established to inquire into the possible involvement in illegal activities of persons mentioned in the Stewart report or otherwise connected with soccer. With regard to the findings and recommendations in the Stewart report which refer to the administration of soccer (Recommendations, 8, 9, 12, 13 and 14) the Committee can report on the significant changes that have taken place since Mr Stewart reported, and make recommendation on what further action should be taken by the code of soccer itself and by the Commonwealth government in relation to it. With regard to Mr Stewart's recommendation that the internal transfer system be abolished, the Committee should note that this matter is currently before the Industrial Relations Commission, and is also being addressed directly in negotiations between the ASF and AUSPA.

1.13 The Stewart Report made serious allegations against a number of persons, but the evidence subsequently gathered by this Committee could not substantiate any of the Stewart findings against those persons.

1.14 The Stewart Report should not have been made public by this Committee.

1.15 The Committee may have been well intentioned when it released the Stewart Report, but the wisdom of hindsight shows it to have been a mistake. The Stewart Report was a private, confidential report to the Australian Soccer Federation. If its contents had appeared in the press or elsewhere, in the form of "allegations, rumours and speculation", as referred to by the majority report, those persons so referred to would have been able to seek legal redress. However, once the Stewart Report was made public by the Committee, it was under parliamentary privilege and anyone was free to publicise any of the findings about individuals with impunity.

1.16 One of the most serious threats to civil liberties posed by the current inquiry has been the denial of the opportunity for legal redress.

1.17 There were adverse findings in the Stewart Report about certain persons which, if they had been publicised, would have enabled those persons to seek damages from the perpetrators. However, when the Stewart Report was tabled their only redress was to appear before the Committee. All they received by way of compensation was a finding by the Committee that they had done no wrong, but that finding was not more than an opinion by the Committee. It did not carry with it the force of a legal determination made after proper legal process.

1.18 Far from "providing an opportunity to clear the air", as the majority report claims, those persons were subjected to considerable expense for little reward. Senators are not so naive as to ignore the fact that witnesses in such matters incur considerable expense in retaining barristers and solicitors to advise them on their evidence. Those witnesses incurred considerable expense in giving evidence to the Committee and were at the same time denied the possibility of recovering at law what could have been a substantial sum of money incurred in protecting their good name. It would have been better if the law had been left to take its normal course.

1.19 Australians should not have cause to fear their Parliament, but this inquiry has needlessly and improperly subjected persons named in its proceedings to an inquisition.

1.20 Government Senators repeat the view that they strongly expressed in their June 1995 minority report, that no clear evidence was presented that would justify the findings of the majority report against Mr Anthony Labbozzetta in connection with the Okon transfer.

1.21 It is most inadvisable for a Senate committee to allow itself to become a party to the internal political rivalries of a sporting body, such as the Australian Soccer Federation.

1.22 The Committee's inquiry was extended a number of times after the First Report was presented in June 1995, to investigate further allegations of possible conflict of interest. No such conflicts of interest were established as a result of the prolonged inquiry, but again the inquiry provided an opportunity for damaging allegations to be made under the protection of parliamentary privilege.

1.23 The recommendations arising from the Committee's investigations of alleged instances of conflict of interest leave individuals' reputations sullied, even where no findings have been made against them.

1.24 The reference in the majority report to "potential conflicts of interest" is particularly insidious. Many people are in such a situation. The only question that matters is whether they have acted in that way.

AUSTRALIAN INSTITUTE OF SPORT

1.25 Mr Tom Sermanni was called before the Committee. It should be noted for the public record that he is a highly respected soccer coach. He has in the past acted as manager for a number of soccer players, most notably Ned Zelic, whom he managed for many years well before his departure to Europe. Mr Sermanni claimed, correctly, that he was frequently approached by young players concerned about their future. He had provided advice to some without consideration of remuneration. He had become manager to a number and, in one or two cases, had advised and/or assisted players to obtain trials overseas.

1.26 In the past, most athletes who came into the AIS program were already contracted to State or National League clubs when they joined the AIS. If this was the case, they were obliged to return to their contracted club at the conclusion of their scholarship. In recent years, the majority of athletes joining the AIS have been amateurs i.e. they have not been contracted professionally to any club. The reason for this is that this has given them more flexibility in determining their future.

1.27 It has long been a matter of concern that young players contracted to League clubs are the property of the club and many have had their playing career frustrated as a result of a club being unwilling to release them, or seeking an exorbitant price for them, or selling them to make a profit for the club rather than in the interests of the players. The Australian Soccer Players' Association has taken up this issue with the Australian Industrial Relations Commission. As amateurs, players can be selected to play for any club without the requirement of a negotiation or transfer fee. This is obviously in the interest of the players.

1.28 A number of AIS players in recent years have gone overseas on the completion of their scholarship. Presumably somebody facilitated their arrangements, but in most cases these seem to have been through family or other contacts, not through the AIS. While it is regrettable that players choose to go overseas the solution is not to impose an impediment, which would probably be an illegal restraint of trade, but to improve the standing and attractiveness of the National League. The Soccer Federation under its new direction is attempting to do this.

1.29 The question arises as to whether Sermanni has acted improperly in managing players from the AIS. Under FIFA regulations an agent must be registered. An agent is a person who receives a commission on the transfer of a professional player he organises. Mr Sermanni has never claimed to be an agent. A manager is a person who receives a fee for managing the affairs of a particular player. He may organise their publicity, their marketing and promotional activities, their financial affairs, etc. There is no doubt that what Mr Sermanni has done is not illegal under Australian law or under FIFA regulations.

1.30 If an amateur player goes overseas they must be released from their club, in much the same way as a professional but without the transfer arrangements. FIFA has agreed that for these purposes the AIS can be considered to be a club. Prior to this agreement by FIFA, the AIS was informally regarded as the club. Transfers are also approved by the Australian Soccer Federation. This, however, has been a fairly informal system and the Australian Sports Commission is working with the Australian Soccer Federation to put in place an arrangement whereby an athlete leaving the AIS will be required to get a specific clearance from the ASF, which will only be granted after completely independent advice to the young player concerned. This will ensure that there is no perception of any undue pressure or that people giving advice to young players might benefit financially. It is not intended to prevent either agents or managers operating according to FIFA requirements.

1.31 The allegation concerning Mr Ron Smith was that he had somehow been implicated in this "traffic of players". It is clear that Smith has from time to time signed release papers on behalf of the AIS club as he would be required to do. There is also no doubt that he has provided advice to young players as to their future. This would be regarded as a normal and proper part of his job and inevitable in any case as the major authority for the young players in the program. He has had a friendship with Mr Sermanni for some years and there is no doubt that he has advised some players to seek advice and assistance from Mr Sermanni. Again, there is nothing wrong with this.

1.32 Mr Smith was for a time a Director of Capital Financial Services. Australian Sports Commission policy requires that employees who wish to accept positions outside the Commission require the permission of its Executive Director. Mr Smith obtained permission from Mr Robert de Castella as Director of the AIS. While this was not strictly in accordance with the policy it was in accord with its spirit.

1.33 The question must be asked as to whether non-Government Senators fairly considered all the evidence the Committee took relating to Mr Smith. In evidence before the Committee on 27 September 1995, Mr Jim Ferguson stated, in relation to Mr Smith being a director of Capital Financial Services:

He would be required to obtain permission to take up a position like that. Had it come to me for permission, I would not have had any objection provided there did not appear to be any conflict of interest and, on the surface, there did not. Subsequently, it has been suggested that this company has provided or may provide advice to players. Mr Smith informs me that he is not aware that it has provided advice to players. He has volunteered to me that he will resign from that position.... He has advised me that he has not received any benefit. He has also advised me that he, in fact, was not aware that the company was in this position until the last week or so.... There is a potential conflict of interest if that company is providing financial services to soccer players, particularly if they are soccer players associated with the AIS. I think Mr Smith would agree with that and for that reason has intended to resign.

1.34 There is no evidence that Mr Smith has ever made any gain out of athletes leaving the AIS or indeed has encouraged athletes to go overseas. Of the 150 players who have passed through the AIS, only something in the

vicinity of six to eight have gone directly overseas; the rest continuing to play in Australia at least for some time before their departure overseas.

1.35 For the non-Government Senators to say there should be a much stronger prohibition of conflict of interest in the contracts signed by soccer coaches than in those for other sports is discriminatory. There has always been a clause prohibiting conflicts of interest in ASF contracts. How strictly could such a contract be enforced given that coaches are called upon every day to provide advice to players? At what point do we say they are acting in conflict?

1.36 With regard to the issue of compensation for AIS-trained players, paragraph 2.14 of the First Report contradicts Recommendation 14 of the Second Report. The question arises of how the AIS would assess the value of their players without talking to the coach. The recommendation of the majority report in relation to this matter is therefore confused and contradictory.

CONCLUSION

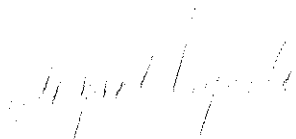
1.37 The majority report spends an enormous amount of time seeking to justify the Committee's actions during the inquiry, and is almost entirely defensive.

1.38 The inquiry has left the Committee in the position where it has even less credibility than the Stewart Report.

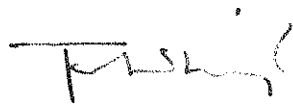
1.39 Government Senators believe that the Senate should consider very carefully before it again asks one of its committees to investigate conflicts of interest. Such a quasi-forensic function is not appropriate for a Senate committee and should be left to the proper judicial tribunals, who have the powers, trained officers and established procedures to undertake such difficult and sensitive tasks. It is too easy for Senate committees in such inquiries to be used to unjustly damage reputations and careers.



Senator Kim Carr



Senator Margaret Reynolds



Senator Tom Wheelwright