

Fair or foul: sport and the law

Lecture Notes

Middle Temple

8 July 2014

INTRODUCTION

1 The question is: how does one earn a living in sport? By skill? Hand-eye co-ordination? Fancy footwork? Fast reactions? By luck? By cheating – and getting away with it? Or none of these. As far as we are concerned, the living is earned in the law. The law by, with, to and from all aspects of sport because a legal principle from every page of every textbook will apply somewhere in the entire spectrum of sports activities on and off the field. Think of the law that applies to staff, betting, merchandising of team brands, the corrections of misdemeanours and their effects, ownership of buildings, copyright issues. If I just do a list, it will go on forever. I do not have “a little list.” Mine is endless and what I propose to do is to follow, if not the rules, then the pattern of sport by touching on a topic haphazardly then running back, in an intellectual sort of way, to the other side of the court before starting again on a different tack. There are so many sporting metaphors to mix.

2 As the base of the Belgian cycling team in the 2012 Olympic Games and the best viewing point of the Tour de France, which passed by our hallowed portals yesterday, Middle Temple can truly be said to be a pivotal venue for international sport and an ideal place to discuss the interaction between sport and the law.

3 The basic premise is that all sporting activities are governed by rules, sometimes even called laws, as in rugby and cricket, to indicate international standards. These rules are subject to the overriding requirements of the criminal law: a player can dislocate someone’s shoulder in a rugby game and that will not be an assault as long as he obeyed the rugby laws in the way that he did it. The other branch of the law, the civil side, applies across the entire spectrum of sport and its ancillary businesses.

4 Law which involves sport has a title of its own: *sports law*. This is a title which encompasses vast areas of law. The playing of any game can be understood from, rather than defined by, rules set by over-arching, self-governing sports organisations which, in turn, set the standards for subsidiary member clubs: football clubs obey the rules of the Football Association; the Premier League has its own set of rules for its member clubs; managers, referees, agents have their own associations. There are specialist über organisations which cover international competition. This is the moment where no more than a mention is made of FIFA, taking heed of the principle that a football association is innocent until proven guilty.

PLAYING FAIR

5 Sport embodies the principles of fairness, or it should. This means playing on the metaphorically even playing field. Excellence should only be achieved by hard work, not by artifice. However, there is a fearsome undercurrent of doping in sport as one element of cheating. Those who take drugs which might even be lawful in any non-competitive scenario but are on the long list of drugs which are banned by national and international sporting organisations and drug control associations are likely to be deemed as cheats. Athletes obtain sporting advantage by taking performance enhancing drugs. The icon of drug abuse in sport, Lance Armstrong, is said to have done more to clean up the sport than all the policing carried out by the World Anti-Doping Agency (WADA) or local agencies such as In the UK where anti-doping and monitoring processes are subject to regulation by UK Anti-Doping¹ (UKAD).

6 Athletes are not barred from taking therapeutic drugs but they are barred from competition unless they have a Therapeutic Use Exemption (TUE) certificate. This allows them to use an otherwise banned drug for the treatment of a certified, legitimate medical condition. The Global Drug Reference Online² system shows at a glance whether a TUE should be sought and this is not an area where an athlete should take any chances. Treatment without approval by the use of any medication should only be started without a TUE in an emergency situation such as an asthma attack or an acute allergic reaction and even then a retrospective application must be made. The application for exemption in national sport is made to UKAD. Random testing is the rule of the game and competing athletes are required to keep their clubs informed of their whereabouts at all times so that they can be called for random tests. This is in addition to routine testing,

7 Even so, drugs are one of the main ways of cheating to enhance performance. Just a few months ago, UKAD banned a Welsh rugby-union player from competitive rugby for two years for taking anabolic steroids. Last week, the Court of Arbitration for Sport³ (CAS), also known as TAS (Tribunal Arbitral du Sport), an organisation with power to fine, suspend or ban athletes from their particular sport, partially upheld the appeal of a Belgian judoka against the finding of the Executive Board of the International Judo Federation (FIJ) that she had violated an anti-doping rule by taking cocaine. On the facts, she had taken cocaine but had been the victim of sabotage. Her victory in the 2013 world championships remained annulled since, as a matter of fact, she had taken the drug at the time of the competition but the two-year ban imposed by the FIJ was revoked. CAS deserves a lecture and even a textbook of its own but the key element for consideration today is that it is the forum for resolving disputes ranging from those of a commercial nature in sport (e.g. a sponsorship contract) to appeals against national or sports organisation disciplinary sanctions.

8 Consider this: a suspension, even for a limited period of time, may have the effect of ending a sportsman's career. He or she will need a good lawyer to help. A

¹ www.ukad.org.uk

² www.globaldro.co.uk

³ www.tas-cas.org 20 questions about the CAS - an institution independent of any sports organization which provides for services in order to facilitate the settlement of sports-related disputes through arbitration or mediation by means of procedural rules adapted to the specific needs of the sports world.

finding of guilt by a sporting body for drug misuse may cause irrevocable damage to a sportsman's reputation so that, even if he is rehabilitated by completion of the period of suspension, any subsequent victories remain tainted by the suspicion that he may have had more help from substances than from training.

Dwain Chambers (the sprinter), completed his 2-year athletics ban, given in 2003, for taking the performance-enhancing drug THG. He returned to competition, if not a sadder or a wiser man, perhaps one who found out that his own 2 legs could do just as well on a less proscribed diet. Although he qualified for the 2008 Beijing Olympics in the selection trials, the British Olympic Association barred him from selection under its bye-law 25 because of the serious nature of his doping offence. CAS overturned the Olympic ban on the grounds that it was not compliant with the WADA Code. The Daily Mail headline of 12 July 2008 sums it all up: “Chambers lays down the law - now a judge must decide if drug cheat Dwain can take his place at Beijing Olympics.”

9 Sport is big business in so many ways and business relies on the assistance of lawyers. Apart from dealing with player and manager agents, there is sponsorship, the general running of a Club, the ownership of property, employment of staff (and by staff, I include management, players, trainers, maintenance people, clerical staff, matchday stewards – this is another list which is not little), sales (of merchandise and match tickets), travel, betting. All these, and more, are affected or controlled by areas of the law as we know it: contract, tort, law of property, the specialities of employment law, IP, competition, PI. These everyday legal areas do not encompass the glamour that goes with anything to do with sport. Sports cases carry an adrenaline surge that does not go with a small claim or slipping and tripping.

DUTY OF CARE

10 The duty of care is a thread that runs right across all sporting activities, both on and off the pitch. Sport is a risky business, not just in the win-or-lose outcome. Stepping into the arena involves a degree of risk of injury. On the one hand, sporting activities require players to go voluntarily to that risk. Perhaps there is a boxer who has complained of being subjected to an assault when an opponent's fist made contact with his – or her – face. Perhaps a competitor has been injured in a wrestling match. And rugby? If a player comes off the pitch unmarked, he can't have played the game properly. Although, I am happy to tell you that law, as we know it, and rugby are combined in the activities of Wayne Barnes, a professional rugby referee and practising barrister (Lincoln's 2002).

11 Rugby, because it is seen as such an injury-prone sport, is a cue for mentioning that knowledge of the extent of the duty of care is widening. It is now an established medical principle that the sort of tap on the head that leaves a person unconscious even for a short period of time can have disastrous later effects. This is concussion. This has long been known in boxing but there are wider implications in sport generally. How long will it be before a footballer gets the idea that he should have been warned of the risks of heading a ball? Repeated short-term impact may have similar long-term effects to those of the big bang of one concussive experience. A football is a heavy article. Its momentum is colossal when hurled towards a fragile head and the effect of its impact at speed should not be underestimated.

12 The point is that the voluntary acceptance of risk only applies when players obey the rules and the relevant health and safety procedures, including appropriate training and appropriate on-pitch treatment of emergencies, are followed. Players who are injured when the rules are broken such as may happen in, say, a deliberate foul, may have a claim for personal injury against the assailant or even against the referee who failed to take appropriate action to prevent the incident.

13 Case law on negligence causing personal injury in sport:

13.1 In *Wooldridge v Sumner* [1963] 2QB 43, a case involving injury of a spectator (a photographer at a horse show), it was held that: *“If the conduct is deliberately intended to injure someone whose presence is known, or is reckless and in disregard of all safety of others so that it is a departure from the standards which might reasonably be expected in anyone pursuing the competition or game, then the performer might well be held liable for any injury his act caused.”* Thus, mere consent to the risk of injury was insufficient; there must be consent to the breach of duty in full knowledge of the nature and extent of the risk.

13.2 In *Smoldon v Whitworth and Nolan* [1997] PIQR 177, CA, the referee was held liable for injuries sustained by a 17-year-old rugby player whose neck was broken when the scrum collapsed on him. As serious spinal injury was a foreseeable consequence of the collapse of a scrum, the referee’s failure to prevent the collapse amounted to a breach of the referee’s duty of care. The claimant’s voluntary acceptance of the risk of injury, applied only to the ordinary incidents that often occur in a game of rugby. He had not consented to a breach of duty by the referee whose duty it was to apply the rules and ensure, at least as far as possible, that they were observed by the players involved.

13.3 In *Allport v Wilbraham* [2004] EWCA Civ 1668, the claimant was rendered tetraplegic by a severe injury sustained during a rugby scrum. The allegation that there was negligent failure on the part of the referee to control the scrum in accordance with the Laws of the Game was not supported by the evidence.

PARALLELS: THE SPORTS PERSPECTIVE

14 Sport and the law are competitive activities with the projected outcome of each encounter being a win. Except that, there are not too many draws in the legal process. Although we do have own goals such as losing out on costs where the award comes out as less than the offer to settle.

15 In law, every client wants to know that he has a percentage chance of winning, and this is a feature both of the criminal law and in civil law. The CPS will advise whether there is sufficient evidence for there to be a reasonable prospect of success in a criminal prosecution. Lawyers assess the prospects of success when litigants propose to bring or defend civil claims. Litigation, in all its forms, is a competition. The aim is to win and the referee, whether judge or jury, makes the decision. The underlying principle in sport and law is that of fairness. But the concept of fairness is a moveable feast. In this Magna Carta anniversary year, we are

reminded of the concepts of fairness which it embodies in relation to the law. But the laws of the land and the rules of sport change according to the times.

16 Go back in time to ancient Greece. The way of life, for the otherwise idle rich, obviously, involved much hard work at the gym, practice at the flinging of the discus and much throwing of javelins. Running and wrestling were not only popular but were established Olympic sports. Winning competitors received an “athlon”, a prize. The word is the root of “athletics” and, although the prize may not have been financial in the stadion⁴, the winning athletes would be feted at home and given monetary rewards. There remains a degree of nostalgia about the effort that went into training in those ancient days and the concept of fair play. In the 19th Century when some sports, of which football particularly comes to mind, were becoming professionalised, there was an upper-class concept of returning to what was called the Corinthian ideal in which fairness could only be achieved in amateur competition. Commercial sport was played for implicitly grubby, vulgar – indeed, distasteful – money. Amateur sport was played for love, enjoyment and mutual respect. The Corinthian ideal would not envisage penalties. How could one be awarded for an innocent mistake which, in a truly sporting environment it would have to be? In a sense, if followed through, the Corinthian ideal almost removes competitiveness. The example of ultimate fairness is that of the injured player being carried off and the other side sending one of its players to the bench so that the equal footing can be re-established.

17 The point of the Corinthian ideal is the untainted achievement of excellence wherein sport teaches genuine team spirit, respect for opponents, courage and all within the rules of the game. The ‘Corinthian Spirit’, defined for the eponymous Corinthian Football Club, set up in the 1880s, was that a player should have...

‘... learnt to control his anger, to be considerate to his fellow men, to take no mean advantage, to resent as dishonour the very suspicion of trickery, to bear aloft a cheerful countenance under disappointment, and never to own himself defeated until the last breath is out of his body.’

18 Apart from that being an excellent framework for a closing submission, adaptable for many situations, perhaps that should go out as an aide memoire to Premier League players. It is true that it says nothing about refraining from biting your opponents but it seems that a few weeks’ time off is a proper punishment for what, in any other language might be described as an unprovoked assault. For anyone who was not on this planet a couple of weeks ago, this is a reference to Suarez, an orthodontically challenged football player who might now have time to get his teeth straightened so that, were he in the future to land open-mouthed on an opponent, his dental prominences would not get him into trouble again. You will have noticed that the referee did not see the incident.

19 In a recent rugby union biting event, the RFU took no action against the alleged biter because even the bitee was not quite sure who had done it. As rugby players wear mouthguards, the forensic evidence would have been obscured but the Suarez indentations, apart from the act being captured on millions of screens around the world, would have been as characteristic as a fingerprint, had there been any doubt about their source. Which leads one to speculate idly as to how it is that such

⁴ Stadion (Greek); stadium (Latin).

an attack and his past history⁵ make it possible for him to have a career in football at all. An informed guess could be that he is very good indeed at getting goals and, in George Orwell's words, "*Serious sport has nothing to do with fair play. It is bound up with hatred and jealousy, boastfulness, disregard for all the rules and sadistic pleasure in unnecessary violence. In other words, it is war minus the shooting.*"⁶

20 Across all sports, champions and teams pit their skills against each other, which are not supposed to include the ability to perform gratuitous acts of violence. Even punching, where allowed, must be above the belt. Based on the premise that each game has its own rules and the sport will be played within those rules, the starting point is the level playing field: the differences should be in team or player skills, not a battle with the environment in which the sport is played. For all the notions of fair play, the expectations of players and audience are not high. The referee, linesmen, camera recordings, interlock to police the game. The assumption is that there is no longer any Corinthian ideal in which fairness would be ensured by the players. Compliance with the rules is achieved by the refereeing system and penalties apply to those who are caught breaking them. In an ideal world, a Corinthian sporting world, skill would be pitted against skill, apologies would be offered for the accidents which impede the opponents' progress on the route to winning and, to use football as an example, no red cards would be needed as the committer of the foul would simply leave the field, knowing and acknowledging his wrongdoing.

PARALLELS: THE LEGAL PERSPECTIVE

21 The rule of law⁷ was originally an Aristotelian concept. The late Lord Bingham⁸ defined the principle as meaning it is "... better for the law to rule than one of the citizens." The law of the land supervenes the will of the ordinary citizen and no man is above the law. In practical terms, the courts will decide the rights and wrongs of any complaint, be it a complaint of the state against the individual (the criminal law) or complaints between individuals (civil law). Beyond the laws of the state are international laws which set out the standards to which states are expected to adhere in their dealings with each other in peace and war.

22 Whether nationally or internationally, it is not easy to opt out of the law. On the criminal side, an opt-out can result in any of a range of punishments: fines, custodial and non-custodial sentences and so forth. On the civil side, we have tended in the last few hundred years to veer away from the eye for an eye concept and to concentrate on financial compensation for the thousand ills to which the claimant is heir.

23 The referees of legal disputes are the judges in various tribunals and courts, with higher ranks of judges dealing with higher levels of compensation or damages and appeals against the decisions of lower-level judges. Although there is no opting-out of the law, there are alternative systems of dispute resolution and sports bodies

⁵ (if the law reports of that most reliable of research sources, Wikipedia is right) attacks – three other biting incidents and one racial abuse (against Patrice Evra) –

⁶ "The Sporting Spirit", 1945. George Orwell, Tribune, London.

⁷ *An Introduction to the Study of the Law of the Constitution, 1885*; AV Dicey

⁸ Thomas Bingham, Baron Bingham of Cornhill, 1933-2010

tend to rely heavily on those. Hence, in the Suarez situation, the police were not called in to deal with the assault (probably too busy dealing with off-pitch riots), nor are they called in to deal with more local (UK) misdemeanours unless there is a public order issue, such as fans invading the pitch or a multiple player brawl. Instead of trawling through the courts, individual sports associations have their own quasi-judicial processes which will determine how the offending sports-person will be dealt with. This does not preclude an injured person suing the person inflicting or being responsible for the injury he has suffered. Hence the claims brought against referees who are supposed to be ensuring that players play within the rules which are themselves designed to achieve safety.

24 What about sport in a lawless situation? In the Second World War, the Geneva Convention which operated to protect prisoners of war, was breached consistently by the Japanese, particularly in relation to the prisoners they held after the fall of Singapore. At best, many British and Commonwealth prisoners suffered inhumane treatment and many more were used unlawfully as slave labour, building the Burma Railway. The prisoners in Changi bear a special mention. In an essentially lawless environment where they had to stay alive by beating disease and malnutrition, they also tried to keep themselves fit and to entertain themselves. This was achieved by organising, playing and betting on sport. And doing so in accordance with strict rules. The Australians set up and trained teams to play the not ungentle game of Aussie Rules football. Over 7,000 prisoners made their way out of the camp, not as a mass break-out - the deterrent of penalty of death by firing squad or beheading was enough - but to see the matches. They had a season and a final at the end of the season. The Australian organisers of the tournament formed a "tribunal" with guidelines for dealing with players who transgressed and for dealing with crowd control. There was only one "incident" in the season and no problems with the supporters.

24 Betting on the outcome of any challenge was rife in Changi. The story is that, in the absence of horses or dogs, stables of frogs were established for racing. Betting was not only permitted and encouraged but underpinned the whole venture. The prisoners established Changi Frog Racing Club Rules, on a par with Jockey Club Rules. The WW1 precedent was that of scorpion-racing but frogs were less dangerous and more interesting, being more varied in appearance, speed and stamina. One race was found to have been "fixed" by the racing steward having pricked it with a pin to make it leap off to a phenomenal start. The CFRC Committee imposed what turned out to be a life ban on the "owner" by forbidding him from attending the next race meeting in any role but a spectator. Then there was the English finder of frogs from the swamp near the camp who was therefore designated as the trainer. He allowed punters to inspect the frogs before placing bets with the bookmaker. A fellow prisoner placed a huge bet on the most rank of outsiders, a pallid, flaccid and apparently moribund frog. On the race day, the animals were set up on the track and released from their traps, ready to chase the lure of a huge dragonfly. The rank outsider did a mighty leap, collared the lure and jumped out of sight before the others had even started. The punter who had bet on him cleaned out the entire kitty and more. The bookmaker had to pay off the outstanding debt for months to come. The punter was an expert biologist in civilian life and had spotted the frog as being one of a breed with exceptional athletic abilities.

25 The point is: sticking pins into a frog amounts to creating a similar advantage to doping outside the rules of the sport. Betting on the best frog, using superior knowledge is fair play. And the other point is that the rules of each game were established at the outset, even where international law had been abandoned. There was no allegation of match – or race – fixing of the sort that bedevils sport today.

DISPUTE RESOLUTION IN SPORT

26 Other than being fervent supporters of or participants in sport, members of the Bar have a particular interest in the work generated by disputes in sport, whether resolving a dispute, advising once the dispute has arisen, assisting or running an alternative dispute resolution procedure or, ultimately representing a disputant in formal legal proceedings or one of the tribunals set up by a sport governing body.

27 Although there is the over-arching rule of law, depending on the type of dispute, many sports organisations are, indeed, a law unto themselves⁹. This does not necessarily work in employment disputes. In *Clyde & Co v. Bates van Winkelhof* (2011) EWHC 668 it was held that an agreement to resolve an employment dispute by arbitration would deprive the employee of the statutory right to bring claims in the employment tribunal. However, it is arguable that employment is a specialised area and, although administrative staff might want to go to an employment tribunal to resolve disputes involving a year's salary of, say, £50,000, that forum will be of little interest to those who earn that in hours or days or who can move on to a new team before the ink is dry on their old – now broken – contract. It is clear that there needs to be an argument about this before one side or the other can resolve the point since alternative dispute resolution by any means is the favoured process by most sports organisations. In any event, “buying” players is arguably just a fancy description for paying damages for the breach of contract that is invited by these legally sanctioned business transactions in sporting flesh.

28 Certainly, in the Premier League Football there is a Premier League Manager's Arbitration Tribunal, specifically for resolving disputes between managers and their clubs. There may be similar organisations in other sports. Arbitration has the advantage of ensuring that there is no publicity attached to the outcome, unless the parties choose or are ordered to waive their rights. Thus it is possible to access the October 2009 matter of *Kevin Keegan v Newcastle United Football Club Ltd* in which the arbitration outcome at paragraph 55, headed “Publication”, reads: “As indicated at the outset, we agree that both our Award and the reasons for it should be made public. To that end, we direct that both the Premier League and the Club should publish both on their respective websites. It also follows that the parties are at liberty themselves further to disclose and publish the Award and our reason for it as they choose.” The findings paragraph reads: “We declare that Kevin Keegan was constructively dismissed by [the Club] for which [the Club] must pay to Kevin Keegan damages in the sum of £2 million plus interest to be assessed if not agreed.” This is a better result than he would have achieved in an employment tribunal.

⁹ Romans ii: 14 For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves

29 Negotiation is the starting point in any attempt to settle a dispute. Before undertaking formal legal processes, mediation is of wide-ranging application as are other forms of ADR. Many sports contracts have ‘after-the-event’ clauses providing for ADR. Arbitration is much favoured because of its finality. An arbitration agreement in the rules of the Football Association was held not to contravene the right to a fair trial guaranteed by article 6 of the European Convention on Human Rights¹⁰ when Wayne Rooney’s agent, Paul Stretford, sought a declaration that the arbitration clause was invalid. To the extent that it did affect some of those rights, it was held that Stretford had waived them voluntarily.

30 The Independent Football Ombudsman (IFO) has been established as an integral part of football’s self-regulatory system by the football authorities (The Football Association, The Premier League and The Football League) to receive and adjudicate on complaints which have not been resolved internally. It’s not all about players:

30.1 IFO adjudication 12/08 resolved a season-ticket-holder’s complaint that withdrawal of his membership was an excessive sanction for the use of his membership card by someone other than himself in contravention of the terms of use. The Club accepted the IFO’s recommendation that the ban be limited to a period of 12 months from the date of cancellation of membership.

30.2 Another matter resolved by the IFO in Adjudication 12/10 related to disturbances at a Blackpool-West Ham Championship Play-Off Match at Wembley when the match organisers had failed to enforce the policy of segregation of the opposing fans, or perhaps that should be “the fans of opposing clubs.” The IFO made wide-ranging recommendations: the Football League should review arrangements for ticket sales and apply strict conditions in writing, with a specific warning that breaches could lead to prosecution, although who would prosecute and on what grounds is not clear. Through one sales route, a single person had bought 600 tickets. All told, 654 Blackpool tickets were acquired by people with addresses within 20 miles of Upton Park.

DOES THE PUNISHMENT FIT THE CRIME

31 Can anyone here imagine an employee remaining in employment after blatantly bringing the employer’s company into disrepute? The best example at the moment is to go back to Suarez. He has several times behaved in a particularly violent, atavistic way. If a man argues with someone on the street and bites him in the course of the altercation, the man on the Clapham omnibus might well consider there to have been an assault. How much more seriously would the employer take this behaviour if the employee bit a fellow worker in the ordinary course of his work or in someone else’s office? And the concerns might be further exacerbated by the adverse publicity. But not in football. A suspension for a few months involving lack of presence from the work he is being paid to do and then, back again. And, as it happens, again and again. The violence of biting is akin to any foul perpetrated: it has the effect of damaging the ability of the victim to play, reduces the capacity of

¹⁰ *Stretford v Football Association Limited* [2007] EWCA Civ 238.

the opposing team and, if the referee has noticed the incident, reduces the aggressor's team when the red card is shown. And this is tolerated because, for the time being, although the teeth are not to be trusted, the feet can be.

32 Some sporting bodies take disgraceful conduct more seriously. In 2009, in an incident which has come to be known as "Bloodgate" a wound was simulated by a Harlequin player, Tom Williams, who was taken off the pitch after biting into a capsule of fake blood – blood injuries must be treated off the pitch. Williams' supposed injury meant a specialist goal kicker could come on to the pitch as a substitute for Harlequins in the dying minutes of the game. Leinster held on to win the match. The physiotherapist was complicit in the procedure and the doctor who treated the wound made sure that there was a wound to treat by applying a scalpel to cut his inner lip. A hearing under the Heineken Cup Disciplinary Rules resulted in the player's suspension for three years from participating in any European Rugby Cup competition. Stephen Brennan, the Club physiotherapist was suspended for two years. The Club was held to be vicariously liable for the misconduct of its employees and fined E300,000. The doctor, Wendy Chapman, was hauled before the GMC as she had not only cut the player's lip but later lied about her role in the event. The GMC ruled that Dr Chapman's fitness to practise was not impaired, despite her actions. It held that her "actions were not in the best interests of her patient" and dealt with the doctor by giving her a warning that her conduct had been "unacceptable and should not be repeated". You can only say: there must have been excellent mitigation by counsel acting on her behalf.

33 What is the underlying precept? It is that rugby plays by the law. It metes out meaningful punishments. It follows the precepts of deterrence but relies on the inherent sense of fairness of its players. In other sports, it seems as if there needs to be a criminal conviction before the sporting body takes its role seriously.

COMING UP TO DATE

34 Something happens in sport every day and there is an awful lot of it. Many papers devote more to sport than to current affairs. Unless the affairs are those of the hearts of footballers. The only way to keep up to date is to read the papers and see if there is anything new. Current demons in sport are: doping; corruption; bribery; match-throwing.

35 Although last month is old news, on 20 June two businessmen and a former Whitehawk FC player were convicted of plotting to fix the results of football matches. The businessmen had particularly targeted lower paid players who would be more susceptible to the economic advantages of corruption. The point of fixing the matches was to ensure that gambling would be guaranteed as profitable.

36 The Telegraph and Channel Four's Dispatches programme reported on 23 Jun 2014 that their undercover investigation had exposed a match-fixing agreement involving Ghana's national team. The allegations have been strongly denied by those allegedly involved. On a similar theme, on 27 May, the National Crime Agency was

reported to have launched a match-fixing investigation into the following night's friendly between Scotland and Nigeria, hosted by Fulham FC at Craven Cottage.

CONCLUSION

37 Bribery and conspiracy to bribe has been described as a cancer in the sport. Some sports writers say that players should be banned for life. Drug misuse is another evil underlying and damaging the sporting ethos. In effect, it appears that white-collar crime has moved into the gap left by crowd crimes and violence on the terraces, now that the terraces have all been replaced by health and safety compliant seating.

38 Although we may be far removed from the Corinthian ideal in some areas of sport, from the legal perspective, it is clear that there is no aspect of sport, whether it is played fair or foul, that does not attract the attention or need the services of our profession. Watching Brazil be humiliated as a post-script to this talk brings to mind George Orwell's views on international sport, having seen national fervour whipped to a frenzy in a match played in November 1945 between Dinamo Moscow and Arsenal at White Hart Lane¹¹. He said:

"I do not, of course, suggest that sport is one of the main causes of international rivalry; big-scale sport is itself, I think, merely another effect of the causes that have produced nationalism. Still, you do make things worse by sending forth a team of eleven men, labelled as national champions, to do battle against some rival team, and allowing it to be felt on all sides that whichever nation is defeated will "lose face".

I hope, therefore, that we shan't follow up the visit of the Dynamos by sending a British team to the USSR. If we must do so, then let us send a second-rate team which is sure to be beaten and cannot be claimed to represent Britain as a whole. There are quite enough real causes of trouble already, and we need not add to them by encouraging young men to kick each other on the shins amid the roars of infuriated spectators."

7.2 For football, read "sport" in general. When Bill Shankly (1913-1981), manager of Liverpool, was asked, "How would you like to be remembered?" He said,

"That I've been basically honest in a game in which it is sometimes difficult to be honest. Sometimes you've got to tell a little white lie to get over a little troublesome period of time. I'd like to think that I have put more into the game than I have taken out. And that I haven't cheated anybody, that I've been working for people honestly all along the line, for the people of Liverpool who go to Anfield. I'd like to be recognised for trying to give them entertainment.

"Some people believe football is a matter of life and death. I am very disappointed with that attitude. I can assure you it is much, much more important than that."

¹¹ This is not the place to explain this anomalous venue.

7.4 And, of course, it is.

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(as amended after Brazil lost 1-7 to Germany in the World Cup Semi-Final.