The Hon. A. F. Griffith: In view of what I have said, Mr. Watson might not move the new clause.

The Hon. H. K. WATSON: I shall refrain from moving the new clause, but I wish to refer to its purport and effect. The provisions in the clause are really designed to meet the objective the Minister has of covering all classes of people, except those who are exempted under the Act.

The Hon. A. F. GRIFFITH: Every clause in the Bill has now been cleared up, except clauses 25 and 27. If we arrive at alternatives to what is contained in the Bill and in the amendments on the notice paper, it might be necessary to come back to clause 42.

The Hon. F. J. S. Wise: If this Bill is so important and the amendments so vital, could the Minister have the amendments drafted as an addendum to a subsequent notice paper?

The Hon. A. F. GRIFFITH: I can put them on the notice paper for Tuesday, and I shall do all I can to have that notice paper printed by tomorrow afternoon.

Postponed clause put and passed.

Progress

Progress reported and leave given to sit again, on motion by The Hon. A. F. Griffith (Minister for Justice).

House adjourned at 8.50 p.m.

Legislative Assembly

Thursday, the 11th November, 1965

CONTENTS

The SPEAKER (Mr. Hearman) took the Chair at 2.15 p.m., and read prayers.

PIG INDUSTRY COMPENSATION ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Mr. Nalder (Minister for Agriculture), and read a first time.

QUESTIONS (9): ON NOTICE

POWER-DRIVEN BOATS

Registrations

1. Mr. DAVIES asked the Minister for Works:

   (1) How many power-driven boats were registered with the Harbour and Light Department as at—
   The 31st December, 1963;
   The 31st December, 1964?

   (2) What is the number currently registered?

Mr. BOVELL (for Mr. Ross Hutchinson) replied:

(1) 31st December, 1963 6,828
31st December, 1964 9,478

(2) 10,694.

ELECTRICITY METERS IN FLATS

Responsibility for Payment of Accounts

2. Mr. GRAHAM asked the Minister for Electricity:

   Where, for example, a block containing four self-contained flats has been built, and they are

served by a master meter plus submeters for each individual flat, and two of the flats have subsequently been sold and are now owned by a completely different person, is a new meter or master meter allowed the new owner, or is the original owner required to regard the new owner as a "tenant," which he is not, and have the responsibility for payment of the entire account with the job of collecting from this new owner?

Mr. NALDER replied:

It is not possible to answer this question without knowing the structural arrangements of the particular flats units.

MOTOR VEHICLES

Revenue from Tax of 1s. per Cwt.

3. Mr. BICKERTON asked the Premier: What revenue would be produced from a tax of 1s. per cwt. placed on the tare weight of every motor vehicle in Western Australia?

Mr. NALDER (for Mr. Brand) replied:

Because of the number of licensing authorities and the various types of vehicles, it is not possible to make an accurate assessment. However, as an approximate estimate, the amount would be in the vicinity of £450,000.

NURSES' TRAINING COLLEGE

Establishment

4. Mr. SEWELL asked the Minister representing the Minister for Health:

(1) Has the Government been requested to establish a college of nursing in Western Australia by persons interested in all phases of nursing, such college to be similar in character to those operating in Victoria, New South Wales, and Queensland?

(2) As Western Australia is short of highly qualified staff, particularly tutorial staff, will he give consideration to supporting a college of nursing in Western Australia similar to those operating in Melbourne and Brisbane, such college to be mainly under the control and supervision of the University of Western Australia?

Mr. BOVELL replied:

(1) and (2) No; but the Nurses' Registration Board, in conjunction with the Western Australian State Committee of the College of Nursing, Australia, is at present investigating the future of postgraduate nursing training in Western Australia.

I expect in due course to be advised on the subject matter, following which it will have my consideration.

BREATHALYSER AND BLOOD TESTS

Correlation of Findings

5. Mr. EVANS asked the Minister for Police:

(1) Is he aware of any authoritative tests that have been conducted to correlate the findings of a "breathalyser" test and a blood test of the same subject under controlled circumstances?

(2) If so, would he please inform the House of same?

Mr. CRAIG replied:

(1) Yes.

(2) Information on the correlation is contained in a report of the proceedings of the Third International Conference on Alcohol and Road Traffic, held in London in September, 1962, under the auspices of the British Medical Association. The report is available to the honourable member if he so desires.

IRON ORE: KOOLAN, COCKATOO, AND IRVINE ISLANDS

Analyses, Estimated Tonnages, and Average Iron Content

6. Mr. GRAYDEN asked the Minister representing the Minister for Mines:

(1) Will he supply details of analyses considered to be representative of iron ore on Koolan Island, Cockatoo Island, and Irvine Island respectively?

(2) What is the estimated tonnage of iron ore—

(a) above high water level;

(b) below high water level

on each of the above islands?

(3) What is the average iron (Fe) content of the iron ore on each island?

Mr. BOVELL replied:

(1) Representative analyses of ore from Koolan Island, Cockatoo Island, and Irvine Island:

Koolan Island—

	Main Ore Body		Canga Ore	
Iron	Fe	67·0%	Fe	58·0%
Silica	SiO_2	1·5%	SiO_2	4·6%
Alumina	Al_2O_3	1·2%	Al_2O_3	5·5%
Titania	TiO_2	0·2%	TiO_2	0·7%
Phosphorus	P	0·02%	P	0·14%
Sulphur	S	0·002%	S	0·05%
Water	H_2O	0·0%	H_2O	5·9%

Cockatoo Island—

	High Grade Zone		Low Grade Zone	
	Fe	69·0%	Fe	57·0%
	SiO_2	0·4%	SiO_2	6·0%
	Al_2O_3	0·2%	Al_2O_3	6·0%
	TiO_2	Tr.	TiO_2	0·4%
	P	0·02%	P	0·05%
	S	Tr.	S	Tr.
	H_2O	0·4%	H_2O	6·0%

The high-grade and low-grade zones are blended to produce a shipping grade of approximately 62% Fe.

Irvine Island

Ore body is too small to be of economic consequence. Highly siliceous ore containing between 40 and 55 per cent. iron and up to 20 per cent. silica. Reserves have not been estimated.

(2) (a) The ore reserves of Cockatoo Island were estimated originally at 21 million tons down to 40 feet above high water level at an average grade of 64 per cent. iron (Fe) and including both the low and high-grade zones (about 8 million tons of these reserves have been mined).

The main ore body at Koolan Island is estimated to contain 45 million tons of hematite ore down to 40 feet above sea level at an average grade of 66 per cent. iron (Fe) and 5 million tons of canga ore at an average grade of 58 per cent. iron (Fe).

The Acacia ore body at Koolan Island is estimated to contain 12 million tons of ore averaging 60 per cent. iron (Fe).

(b) no accurate estimations of the ore reserves below sea level have been made. Drilling has proven the extension of both the Koolan and Cockatoo ore bodies below sea level but it is doubtful whether the deeper ore could be economically mined because of the high overburden ratio.

(3) See answer to (2).

WELSHPOOL PRIMARY SCHOOL

Future

7. Mr. JAMIESON asked the Minister for Education:

In view of the fall in student numbers and the proposed development in the Welshpool area, what is the future of the Welshpool Primary School?

Mr. LEWIS replied:

The present enrolment is 75.

The estimate for 1966 is 68.

Even if this slow rate of decline persists the school will still remain open for some years to come. For this reason no action is contemplated in the near future.

IRON ORE AT WHYALLA AND CAPE PRESTON

Handling, Transporting, and Pelletising Costs

8. Mr. GRAYDEN asked the Minister representing the Minister for Mines:

What is the anticipated cost of mining, handling, transporting, and pelletising the iron ore to be processed in—

(a) the plant being constructed for B.H.P. at Whyalla, South Australia;

(b) the plant to be jointly constructed by B.H.P. and Cleveland-Cliffs at Cape Preston?

Mr. BOVELL replied:

(a) No information is available. Western Australian iron ore is not used nor is it intended to be used at Whyalla.

(b) The honourable member asked a similar question on the 18th August, 1965 and the answer given on that occasion still applies. It must be appreciated that it is not possible at this stage to give any reliable estimates.

DRUNKEN DRIVING: BLOOD TESTS

Acquittals: Circumstances

9. Mr. JAMIESON asked the Minister for Police:

What were the circumstances associated with the three acquittals referred to in answer to question 19, Wednesday, the 10th November, 1965, dealing with blood tests associated with drunken driving charges?

Mr. GRAIG replied:

Two persons were acquitted in 1959 with a blood alcohol content of 0.16 per cent. and one person was acquitted in 1960 with a blood alcohol content of 0.15 per cent.

In the early stages there appeared to be some doubt as to the weight that should be given to certificates of analysts produced as evidence.

Following a decision in the Court of Appeal in 1962 an analyst's certificate that the percentage of alcohol in the blood was 0.15 per cent. or more has been accepted as *prima facie* evidence.

DECIMAL CURRENCY BILL

Second Reading

MR. NALDER (Katanning—Deputy Premier) [2.23 p.m.]: I move—

That the Bill be now read a second time.

I would like to outline the contents of this Bill on behalf of the Treasurer. Two years ago, the Commonwealth Parliament passed the Currency Act 1963, which provided for the introduction in Australia of a system of decimal currency comprising dollars and cents. As members are aware, the 14th February, 1966, (commonly referred to as C-day), has been fixed as the date of changeover to the new currency.

The Currency Act 1963 is to be replaced by a new Act entitled the Currency Act 1965, and in the Bill now before the Chamber reference has been made to the latter Act, although it has not yet been passed by the Commonwealth Parliament. This Act, however, will be the basis of the Commonwealth currency law and will be the Act relevant to the changeover.

The Commonwealth has power to effect all changes which the adoption of decimal currency will render necessary with the exception of the actual amendment or alteration of the construction of the text of State Acts, laws, and statutory instruments. It is necessary therefore, for all States to introduce legislation to complement the Commonwealth Act for the purpose of making provision in relation to the amendment and construction of State laws, whether statutory or subordinate, consequent upon the changeover to decimal currency. It is for this reason that the Bill before us has been drafted. It provides that all references to money appearing in a law of the State shall, unless specifically excepted, be converted to references in decimal currency on the basis of the following equivalents—

One pound or sovereign	=	two dollars
One shilling	=	ten cents
One penny	=	five-sixths of a cent

The term "law of the State" is defined to include—

an Act;

any regulation, rule, or by-law made under or having effect by virtue of an Act;

and statutory instruments of various kinds.

Suitable provisions have also been made in the Bill for the conversion into decimal currency of percentages or other proportions expressed in terms of money in an existing "law of the State," and for references to the nearest pound, nearest shilling, and nearest penny to be construed as references to the nearest dollar, nearest 10c, or nearest cent as the case may require.

Examples have been given in a schedule to the Bill of percentages and proportions to make the method of conversion from the old to the new currency perfectly clear. It is not possible in every instance of a reference to an amount of money to convert to the exact equivalent in decimal currency as there are some cases where it would not be physically possible to pay the exact equivalent in decimal currency. For example, an amount of 3d. converts to 2½c, but as there is to be no one-half cent coin it is clearly impossible to make a single payment of this sum. Therefore, although the general rule will be to convert amounts of the existing currency to the exact equivalents in decimal currency, it is necessary in some instances to depart from this rule and fix an appropriate new rate for operation from C-day.

Mr. Graham: And I will bet it is stepped up in such cases.

Mr. NALDER: Well, we will see.

Mr. Graham: It will be 3c rather than 2c.

Mr. NALDER: A survey of existing legislation discloses that a number of Acts contain money references which, if converted exactly to decimal currency, would not appear as whole amounts in such currency. In certain instances—for example a levy of 3d. per ton—this is of no great consequence as the amounts are calculating rates, and although unwieldy-looking fractions may result from exact conversion to decimal currency, it is not too difficult to use these fractions in calculating amounts. In these cases, therefore, it is not proposed to depart from the general rule of exact conversion; i.e., for the example quoted, the rate from C-day would become 2½c per ton.

The general provisions of the Bill provide for a rate in the pound to be converted to an equivalent rate in the dollar which, although of similar effect, does represent a change in the units of calculation. It was therefore thought desirable to set out the Acts affected by this change together with proposed amendments. This has been done in the first schedule to the Bill, and in order to assist a study of the measure I have had an explanatory statement prepared which has been distributed to members with copies of the Bill.

Where it is necessary to depart from the general rule of exact conversion, a reference to the Act concerned and the proposed amendment has also been inserted in the first shedule.

It will be noted by members when they have had an opportunity to study the first schedule that the only change of any moment is in the rate of stamp duty on receipts.

The present duty is 3d. on receipts for amounts of £5 up to £100. It is also 3d. for every £100 and part thereof for receipts exceeding £100. As it is not physically possible to pay the exact equivalent of 2½c it is proposed to increase the rate to 3c.

The Bill provides that each of the Acts specified in the first schedule is to be amended in the manner expressed in that schedule, and also by substituting for any other amounts of money referred to in those Acts, the corresponding amounts in decimal currency.

The Acts specified are those requiring amendment as indicated by a survey conducted by departments, with the exception of the Superannuation and Family Benefits Act, the Death Duties (Taxing) Act, and the Land Tax Act which are to be dealt with separately, because of their numerous monetary references.

It has been deemed prudent, in case this list is not exhaustive, to allow the Governor by Order-in-Council to add other Acts to the first schedule should such a course prove necessary, and the Bill provides accordingly.

Acts not listed in the first schedule will not be directly amended by the passing of the Bill but under its provisions any references to the old currency in those Acts are to be construed as references to corresponding amounts in the new currency.

However, the Bill does allow, on any reprint of these Acts, for all necessary changes to be made of monetary references therein to corresponding references expressed in decimal currency.

The situation with respect to references in terms of the old currency to amounts of money in regulations, rules, and by-laws is the same as for Acts, in that the Bill provides for all such references to be construed as references to corresponding amounts in the new currency.

Similarly, on the reprinting of regulations including rules and by-laws, provision is made for all necessary changes to be made in references to the old currency so as to make them correspond with the new currency.

There is a mass of statutory instruments such as proclamations, orders, awards, determinations, and the like, containing references to amounts of money in the old currency. Under the provisions of the Bill these references will be converted automatically to references to corresponding amounts in the new currency. Here again, difficulties could arise in those instances where it is not practicable to apply the exact decimal equivalent of an amount of existing currency.

It will be obvious that these multitudinous statutory instruments cannot be the subject of direct amendment by Act of Parliament, and, furthermore, in a large number of cases no provision exists for their amendment.

Consequently, it has been considered advisable to include in the Bill an authority for the Government to amend any statutory instrument concerned by Order-in-Council where he considers such action is necessary in relation to the change to decimal currency.

This provision will become operative as soon as the Bill is passed and assented to and will enable relevant departments to arrange, wherever possible, for any appropriate amendments to statutory instruments before C-day, so that they may take effect from that date.

It should be noted that this provision does not preclude amendment in the ordinary way where one exists, and indeed in a number of cases the ordinary method would no doubt be no more difficult than that provided by the Order-in-Council provision.

The provision for amendment by Order-in-Council is extended also by the Bill for regulations, rules, and by-laws, for the reason that the authorised method of amendment could in some cases cause inconvenient delays—for instance, in the case of municipal by-laws, making or amending a by-law is a matter of some difficulty, requiring resolutions and certain notices and procedure in order to comply with the requirements of the Local Government Act.

It is also proposed to give the Governor power to resolve any doubts or difficulties which may crop up in the conversion to decimal currency. Such a power is essential, because it is quite impossible at this stage, notwithstanding a careful survey of the position, to cover every aspect of conversion, and there are bound to be instances where an Order-in-Council will be required to authorise appropriate action.

It has been agreed that it will be necessary for all banks to close for several days in the week preceding C-day in order to facilitate transition from the old to the new currency and the Bill allows for such closure in the case of the Rural and Industries Bank. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Jamieson.

SUPERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Second Reading

MR. NALDER (Katanning—Deputy Premier) [2.37 p.m.] I move—

That the Bill be now read a second time.

When introducing the Decimal Currency Bill I made mention of three Acts which required specific amendment in order to prepare for the introduction of decimal

currency, and which had not been included in the schedule to that Bill, because of their numerous monetary references.

One of these is the Superannuation and Family Benefits Act, and the Bill with which I am now dealing seeks to amend this Act. It is a fairly lengthy measure; but with one exception, all the proposed amendments do no more than convert money references in existing currency to their exact equivalents in decimal currency.

The one exception concerns the four schedules to the Act and in this case it has been necessary to propose four new schedules in substitution for the present ones. These prescribe the rates of contribution payable fortnightly, determined according to age next birthday, for units of superannuation in the case of males and females based on elected retiring ages of 60 and 65.

It is not practical to convert all existing £. s. d. rates of contribution to their exact equivalent in decimal currency for the reason that in the majority of instances, sums would result which it would be impossible to pay in terms of the new currency.

Another complication is that existing schedules set out the contribution required for each two units of pension notwithstanding the fact that contributors may and do take out one additional unit at a time. The cost of one additional unit under the existing scale is ascertained by halving the appropriate charge for two units, and although this sometimes produces rates with halfpennies, these are manageable in terms of the existing currency. In the new currency, however, the smallest unit is one cent and it was therefore necessary to arrive at a new basis for charging for single units.

These problems were referred to the Government's consulting actuary and in order to solve them he has designed new schedules which although in the large majority of cases do not express the exact decimal equivalents of the existing £. s. d. rates, do conform as closely as possible to them. The consulting actuary has also drawn up the proposed new schedules so as to fix the appropriate rate of contribution for single units.

I should mention, too, that the Superannuation Board recommends the adoption of the new schedules to the Bill, which I now commend to members.

Debate adjourned, on motion by Mr. Hawke (Leader of the Opposition).

DEATH DUTIES (TAXING) ACT AMENDMENT BILL

Second Reading

MR. NALDER (Katanning—Deputy Premier) [2.43 p.m.]: I move—

That the Bill be now read a second time.

Because of the numerous monetary references in the Death Duties (Taxing) Act, it was thought desirable to submit a separate Bill for its amendment to provide for the changeover to decimal currency on the 14th February next year. It is for this reason that the Decimal Currency Bill makes no specific mention of the Death Duties (Taxing) Act.

The amendments set out in the Bill now under consideration simply substitute exact decimal equivalents for amounts now expressed in the Act in £ s. d. and change rates in the pound to equivalent rates in the dollar.

Some of the new rates are a little unwieldy and perhaps could have been rounded off here and there in order to facilitate administrative procedures, but it was considered desirable at this stage to make exact equivalent conversions from the old to the new currency rather than change the structure of the several scales. It may be necessary later on to redesign these scales in the light of experience with them, but in the meantime it will be feasible to apply them.

The changes proposed in the Bill will not result in any variation in the level of duty imposed on deceased estates.

Debate adjourned, on motion by Mr. Hawke (Leader of the Opposition).

LAND TAX ACT AMENDMENT BILL

Second Reading

MR. NALDER (Katanning—Deputy Premier) [2.46 p.m.]: I move—

That the Bill be now read a second time.

This is another measure which is concerned with the changeover to decimal currency. It proposes the addition to the Land Tax Act of a new section to prescribe rates of tax in amounts of decimal currency which are to operate for the year of assessment ending the 30th June, 1967, and for each year of assessment thereafter. A schedule in the Bill details the new rates which have been expressed as rates in the dollar.

This change from the current practice of applying the tax on the basis of a rate in the pound is consistent with the principle adopted in the Decimal Currency Bill which, incidentally, includes a proposed amendment to the Land Tax Assessment Act to provide for land tax to be levied for every dollar of the unimproved value of land in lieu of every pound. All that is involved here is a change in the unit of calculation.

Members will observe from the study of the Bill now before them, that the proposed new rates of tax are the exact equivalents in the dollar of the existing

rates in the pound. These changes will neither increase nor reduce the amount of tax payable by an owner of land.

Mr. W. Hegney: Marvellous!

Mr. NALDER: He will, of course, pay in dollars and cents, but only the equivalent in the new currency of what he would have paid in the old. I therefore commend this measure to the House.

Debate adjourned, on motion by Mr. Hawke (Leader of the Opposition).

TRAFFIC ACT AMENDMENT BILL (No. 4)

Second Reading

MR. CRAIG (Toodyay—Minister for Traffic) [2.49 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Traffic Act in the following manner: firstly, to increase vehicle license fees; secondly, to increase drivers' license fees; thirdly, to alter the formula for assessing vehicle license fees; and, fourthly, to revise vehicle concession licenses.

Last year, 1964-65, was the first under the new arrangements arising from the Commonwealth Aid Roads Act, 1964. In this year—that is, 1964-65—the maximum amount available to the State as additional assistance from the Commonwealth was £530,931. In order to attract this sum we were required to increase our allocations to roads from our own resources in 1964-65 by an equivalent sum.

Our net increase in allocations to roadworks in 1964-65 from vehicle and drivers' license fees was only £128,135. To this sum we added £400,000 from the General Loan Fund and were thus able to attract £528,135 from the Commonwealth. We failed by £2,796 to attract the maximum grant from the Commonwealth.

Although £400,000 of loan funds were used for road purposes in 1964-65, £150,000 of this amount was recouped to the Loan Fund from the Commonwealth aid road funds. The net cost to the Loan Fund for roads in 1964-65 was therefore £250,000.

Because of the favourable treatment of Western Australia in the distribution of Commonwealth road grants—due to the allowance made for area in the formula—the additional assistance available to us increases at the very high rate of £530,000 in each of the next four years. This includes 1965-66. The present term is four years. However, in order to obtain this benefit our commitment from license fees, etc., must increase by a corresponding sum per annum.

The normal growth in collections from vehicle and drivers' license fees at present rates will fall far short of the amount necessary to attract the maximum Commonwealth grant. The following is an estimate of the situation if the present rate of license fees continued:—

	Maximum Grant Available	Estimated net increase in fees	Shortfall
	£	£	£
1965-66	1,060,000	390,000	670,000
1966-67	1,590,000	719,000	871,000
1967-68	2,120,000	1,075,000	1,045,000
1968-69	2,650,000	1,460,000	1,190,000
			£3,776,000

We, therefore, stand to lose £3,776,000 in Commonwealth grants for roads over the four-year period unless we—

(a) Use loan funds to make good the shortfall; or

(b) raise additional moneys for expenditure on roads.

It is not feasible to contemplate any further use of loan funds as we did in 1964-65 for road works. There are already insufficient of these funds for other capital works. The alternatives facing the Government are—

(a) Forgo the grants or a proportion of them. If we do, then there is nothing more certain than a revision in 1969 to our detriment of the formula including the basis for determining the basic grants for roads.

(b) An increase in taxes and charges for the dual purpose of financing additional expenditure on roads and attracting the maximum Commonwealth assistance.

It is proposed, therefore, to raise additional revenue in this measure by—

(a) An increase in vehicle license fees.

(b) A lift in drivers' license fees.

(c) A reduction in primary producers' vehicle license concessions.

Dealing with the vehicle license fees, in 1964-65 our vehicle license fees were reasonably comparable with the "standard"; that is, the average of New South Wales and Victoria. However, Victoria raised its fees substantially from the 1st July this year. The increases were private vehicles, 22 per cent; business cars, 44 per cent.; and commercial vehicles, 50 per cent.

In order to keep our level of fees somewhere near "standard", it is necessary to increase equal to about 50 per cent. of the rises in Victoria. This means increases of 10 per cent. for private vehicles and 25 per cent. for commercial vehicles. While pursuing this as a general objective, because of the change in the assessment formula from power weight to tare weight, individual vehicles will vary somewhat.

The new basis of licensing on a tare weight formula in lieu of the present power weight basis would remove anomalies particularly in respect of prime movers and semitrailers. At the same time, it would

achieve the desirable objective of greatly simplifying licensing procedures and the calculation of fees.

If I quote a few examples of the effect of this change of formula, it might assist members. In the case of motor cars, a Holden 149 manual has a present license fee of £12 5s. That is on the present system of licensing using the formula power weight ratio. Under the tare weight basis, which is the proposed new formula, the license fee would be £13 10s. In other words, the license fee will increase from £12 5s. to £13 10s.

The present license fee of a Holden automatic is £14 and this will be increased to £15. A Falcon automatic at present is £13 10s., and in this case there will be no change. The present fee for a Volkswagen is £7 5s., and this will be increased to £7 10s. I think it will be appreciated that the increases are not substantial.

In the case of utilities, the present fee for a Holden is £14 14s. and this will be reduced to £14 10s. A five-ton Bedford, with a carrying capacity of 6 tons 11 cwt., will increase from £33 to £51. But a seven-ton International with a payload of 8 tons 4 cwt., would increase from £55 7s. to £76. However, in the case of this vehicle, because it has a load capacity in excess of 8 tons it would enjoy the 50 per cent. concession by virtue of the fact that it will be liable for road tax. In effect, this license fee will be reduced and instead of £55 7s. the fee will be £38.

Another type of commercial vehicle which is enjoying a certain advantage under the existing formula, because of its type of engine, is the Commer. If I recall, this vehicle has been referred to on many occasions in this House. Under the present formula the Commer, which has a horsepower of 12.6 with a tare of 118 cwt., is only paying £36 7s. 6d. This will be increased to £76, but here again it will be subject to the benefit of the 50 per cent. reduction because it is paying the road maintenance tax.

There are many types of motor-cycles, and the scooter seems to be the most popular. Motor-cycles vary according to horsepower. They range from 15s. to £2 10s., and it is proposed that they will all be charged £2 10s.

Caravans also vary in tare. The fee for a 13-cwt. caravan at present is £1 19s., and it will be raised to £2 5s. The fee for a caravan of 15 cwt. at present is £2 5s. and it will stay at that figure. For an 18-cwt. caravan the fee is £2 14s., and it will rise to £3.

Mr. J. Hegney: What about prams?

Mr. CRAIG: We will come to them in a moment. For a home-made trailer of 5 cwt. the fee at present is £1 10s., and it will remain the same. For a home-made trailer of 17 cwt. the fee is £5, and it will remain the same. So members can see we are being rather generous.

I now come to the heavier units of motor wagons including the tractor type prime movers, and semitrailers. Previously they were treated as two separate units. Over the years we have had representations from the operators of these vehicles to bring their license fees into line with those in the Eastern States. The opportunity has been taken to do that on the introduction of this Bill. Take an "E"-class combination—single drive axle prime mover and single axle semi. We find that the Ford Thames Trader with a semitrailer has a license fee of £152 17s. at present, and this will be reduced to £117. Here again the owner of such a vehicle will enjoy the privilege of a 50 per cent. reduction on the existing license fee. This is one of the types of vehicles that will be contributing mostly to the road maintenance fund.

I come now to the "J"-class combination, single drive axle prime mover and tandem axle semi. The International with semitrailer is quoted. At present the fee is £178 13s., and it will be reduced to £137. The next is the "M"-class combination—tandem axle drive prime mover and tandem axle semi. The Leyland Hippo with a semitrailer pays £213 12s., and for a change that amount will be increased to £275. The next is the "MA"-class combination-twin steering axle, tandem drive axle and tandem axle semi. The Foden and semitrailer—this is a really large type—pays an annual fee of £209 17s., and it will be increased to £291.

I have taken the liberty of reading out this information in order that members might have an appreciation of what is intended by way of increases and, might I say, reductions, in license fees.

I come now to the matter of drivers' license fees. The fee in Victoria is £1 and in New South Wales it is £2. The "standard" is 30s. compared with 20s. in Western Australia. A rise in the Western Australian fee from £1 to £1 10s. per annum brings our charge to "standard."

In Western Australia the Traffic Act provides for a free license to be issued in respect of primary producers' vehicles used solely on a farm or pastoral holding and not used on a road otherwise than in passing from one portion of the property to another portion thereof. A concession license at 50 per cent. of the normal fee is also available for one vehicle owned by a primary producer and, at the discretion of the local authority, this concession may be extended to additional vehicles if the authority is satisfied that the vehicles are used solely or mainly for the carriage of the products of a farming or grazing business.

Mr. Bickerton: That was a handout to the Country Party.

Mr. CRAIG: If it were not for the Country Party this State would be in a much worse position than it is in today.

Mr. Graham: Impossible.

Mr. CRAIG: With the help of our colleagues of the Liberal Party, of course.

Mr. Hawke: The tail seems to be wagging the elephant.

Mr. Lewis: The tail is a very essential part; it keeps the animal on its course.

Mr. Hawke: It does more than that.

Mr. CRAIG: There appears to be a complete lack of uniformity in the interpretation of the provisions of issue of concession licenses by local authorities. Some permit one concession license only per farmer or farm or holding; others refuse concessions to station wagons and utilities; others allow concessions to motorcycles, private cars, and other vehicles as well as utilities and trucks without limit to the number of concession licenses which may be held by any one person.

Thus, might I say, it is an accident whether a concession license is, or is not, issued to one type of vehicle or another. Generally speaking, however, it appears that most authorities allow concessions for commercial type vehicles, motor wagons, and utilities, and relatively few allow them to private cars and other small vehicles.

Mr. Hall: What about pensioners?

Mr. CRAIG: We are not dealing with them in this Bill. It is anomalous for a farmer in one part of the country to be treated differently from another at a different location, and a uniform concession appears highly desirable on the ground of equity alone. It is therefore proposed that the Traffic Act be amended to remove the discretion now given to local authorities under section 11 (5) (a) to charge a half-license fee for additional vehicles. In other words, it is proposed to limit the concession to one vehicle only and this to be confined to commercial vehicles of 30 cwt. tare and above. For the information of members, a Holden utility 23-25 cwt. tare, for instance, would be excluded.

In considering this proposal it is necessary to bear in mind that a farmer is also given a free license for vehicles (including tractors) used solely on his property, and he is charged a reduced fee for tractors used for the carriage or hauling of the products or requisites of his business. It is not proposed to vary these concessions.

Vehicles subject to road maintenance charge will be licensed under the Traffic Act at 50 per cent. of the normal rate. It has been estimated that the value of farmers' concessions, excluding free licenses, is £250,000 per annum. It is difficult to determine the effect on collections of limiting the concession to one commercial vehicle of 30 cwt. tare and above, but it could result in additional revenue of £140,000 in a full year.

The following yields are the estimated additional collections from the measures referred to in this Bill:—

	£
1965-66	495,000
1966-67	697,000
1967-68	747,000
1968-69	804,000
Total	2,743,000

Since 1959 the contribution to the Police Department in respect of the cost of collecting metropolitan motor vehicle license fees has stood at £120,000 per annum. With the growth in vehicle numbers and steep rises in salaries and wages since 1959, this contribution falls well short of actual costs of collection now estimated at £225,000 on 1964-65 levels.

As costs in excess of £120,000 become part of the State's outlay on social services, it is highly desirable to keep the excess to a minimum, and it is for this reason that this Bill proposes an amendment to section 14(2) of the Traffic Act so as to empower the Minister, as from the 1st July, 1966, to deduct the full cost of collection from metropolitan license fee collections before the balance is distributed.

Summarising, the measures in this Bill and the Road Maintenance Bill would achieve the following main objectives, which have been listed in what is believed the correct order of priority:—

(a) Avoid any reduction in the State's special grant because of a relatively low level of motor taxation. (This reduction could be in excess of £1,000,000 per annum.)

(b) Attract additional Commmonwealth road grants amounting to £3,776,000 over the next four years (includes 1965-66).

(c) Provide additional funds for road works of approximately £8,000,000 over the next four years (includes £3,776,000 from the Commonwealth subparagraph (b)).

It has to be borne in mind that the imposition of the revenue-raising measures referred to in this report do no more than call on the motorist and road hauliers in this State to make a contribution similar to that being made in other States for the construction and maintenance of roads.

Two other small amendments to the Act in this Bill provide for—

1. Moneys collected by the Main Roads Department for overload permits to be paid into the Main Roads Trust Account. This is for the purpose of meeting administration costs and for charges incurred in providing enforcement. Revenue from this source is approximately £35,000 per annum

at present and the cost of operating the heavy haulage squad is about £18,000 per annum and it is still rising.

2. Permit local authorities to spend revenue from license fees on repaying capital moneys borrowed for road construction and road-making plant and also time payment for the purchase of road plant.

Debate adjourned, on motion by Mr. Hawke (Leader of the Opposition).

ROAD MAINTENANCE (CONTRIBUTION) BILL

Returned

Bill returned from the Council without amendment.

MARRIED PERSONS AND CHILDREN (SUMMARY RELIEF) BILL

Second Reading

MR. BOVELL (Vasse—Minister for Lands) [3.12 p.m.]: I move—

That the Bill be now read a second time.

This Bill has been passed in another place and its main purpose is to consolidate in one Act the maintenance provisions of the Child Welfare Act, 1947, the Married Persons (Summary Relief) Act, 1960, the Interstate Maintenance Recovery Act, 1959, and the Reciprocal Enforcement of Maintenance Orders Act, 1921. It is proposed to effect this by reposing the jurisdiction with regard to the matters covered by those Acts in one court of summary jurisdiction.

It is now possible to make maintenance applications under any one of the four Acts consecutively and, in some cases, concurrently, as a refusal under one of them of the order sought is not a bar to an application under another of them.

Further, it appears ideal that the Children's Court should exercise a jurisdiction of a corrective nature only, both as regards children and adults. Members will appreciate that affiliation proceedings—those brought to establish the paternity of, and to make provisions for, the maintenance of illegitimate children—involve adults only and there is no argument for their being brought in a children's court. Again, in any situation where two or more courts are able to make maintenance orders, the systems of accounting have to be multiplied, leading to wasteful and, in some cases, unwieldy procedures. There are cases in existence under which a person is making periodical payments to both the Children's Court and the Married Person's Court. Without making any change of consequence in the existing law, this one measure will eliminate all those undesirable features.

Succeeding Governments since 1963 have contemplated bringing down such a measure, but circumstances militated against and even prevented this. I pause here at this stage of reading my notes on this Bill to query the year 1963 which has been mentioned, because there has only been one Government in office since 1963.

Mr. Evans: That refers only to succeeding Governments in other States.

Mr. BOVELL: I thank the member for Kalgoorlie, and I think his interpretation is correct. I did not want to convey any wrong information to the House.

Mr. Graham: We will call you the reverend Minister in a moment.

Mr. BOVELL: I do not know why the Deputy Leader of the Opposition is smiling.

Mr. Tonkin: It is a very welcome change of attitude.

Mr. BOVELL: The next part of my notes explains the position because it states that the several States and the A.C.T. have, since 1961, been working on a measure to bring uniformity for maintenance legislation in Australia. Whilst this State has never been wedded to uniformity and certainly never committed itself to uniformity in every aspect of this subject, it was clear that in one field we would have to conform. That is the field of reciprocal enforcement of maintenance orders, interstate and overseas, because, without uniformity, these provisions become—as, indeed, they have in the past—unworkable or, at best, difficult to apply.

Deliberations on these uniform provisions, unfortunately, were protracted and it was not until late last year that they were finally settled, with the result that the A.C.T., Queensland, South Australia, and Tasmania have introduced their measures this year only. N.S.W. and Victoria managed to secure the passage of their Bills at the end of last year.

In this State, we were faced with a more difficult task than that of repealing one Statute and re-enacting another. Owing to the intricate overlapping of our current Statutes, we found ourselves placed in the position of having to amend both the Child Welfare Act and the Guardianship of Infants Act, 1926. The latter presented little difficulty but the former contained provisions which, although the same in their ultimate effect, were based on different legal concepts and needed to be adapted before they could be transposed to another Statute. Added to this, the Child Welfare Act was the subject of an inquiry relating to the punishment of, and the publication of proceedings with regard to, juveniles. The committee appointed for that task has

only recently been able to submit its recommendations, with the result that work on the Child Welfare Act Amendment Bill was delayed and, as a consequence, the completion of the subject Bill was also delayed. I mention this only by way of explanation to members of the lateness in presenting a Bill of this magnitude, at this stage of the sitting.

Fortunately, the Bill contains very few new legal concepts. The greatest change that the Bill makes is that of incorporating the provisions of 129 sections existing in the four Acts I have mentioned in a new measure of 111 clauses and such few changes as there are, need not, in my view, engage the House as long as might first appear. I shall now proceed to examine these changes in general terms.

Members will find an interpretation that originally appeared in section 74 of the Child Welfare Act as "confinement expenses" and now appears in the Bill as "preliminary expenses." The relief given by this interpretation has been extended beyond that now applying as it makes provision for the maintenance of the mother of an illegitimate child two months prior to, and three months after, her confinement. The existing provision in the Child Welfare Act provided for maintenance two months after confinement only. This is, in any event, merely an enlargement of the discretion of the court.

As the law now exists, parties to a polygamous marriage cannot obtain relief. This means that the State may be faced with the necessity of giving assistance to the wife of a Muslim marriage, say, without any recourse against her husband. This, of course, gives him an advantage not enjoyed by the husband of a Christian marriage. All States have now adopted a provision to be found in this Bill whereby such persons do not escape their obligations.

The Bill then proceeds to take in all the existing provisions of parts II, III, and IV of the Married Persons (Summary Relief) Act, with some necessary additions.

As the provisions of the Guardianship of Infants Act will not be included in this measure, it has been found necessary to include a provision allowing persons, other than parents, to apply for the custody of a child or children. However, this provision is restricted by requiring those persons to obtain the leave of the court to institute proceedings so as to eliminate the interfering busybody. This is a necessary and, at the same time, a workable provision.

Following this, members will find that three clauses—17, 18, and 19—take over sections 68, 69, 73, and 74 of the Child Welfare Act. These relate only to illegitimate children, because children of the family are already covered by the preceding clauses taken from part III of the Married Persons (Summary Relief) Act.

Next we find new provisions relating to the enforcement of orders by attachment of earnings. These are to be found in part V of the existing Act, but have now been amended in conformity with those to be found in the Matrimonial Causes Act, 1959, of the Commonwealth. As the State courts are already enforcing the latter provisions, it would be an anomaly to have different provisions in our own Act on the same subject matter. All States have subscribed to this view. The big change, of course, is that whereas our existing attachment-of-earnings provisions can only be imposed with the consent of the person whose earnings are to be attached, in the new provisions that person will have no say in the matter if he is a persistent defaulter. This is regarded as a much more realistic approach.

The power of the court to require a defaulter to enter into a recognisance with sureties, if necessary, for the payment of maintenance, has been widened. This is necessary in a large State such as this, and also to cover cases of persons leaving the State perhaps for overseas, without making adequate provision for the payment of maintenance.

One of the biggest changes is to be found in part V of the Bill. This replaces the Interstate Maintenance Recovery Act, 1959, and the Reciprocal Enforcement of Maintenance Orders Act, 1921. As stated earlier, we took a big part in the framing of these provisions which will virtually be identical in every State and territory. They are designed to streamline what were very tedious and ill-functioning provisions in the various States. I am hopeful that the House will see fit to adopt this part *in toto* as it is intended that it will operate throughout the Commonwealth next January.

Parts VI, VII, and VIII of the Bill require little comment as they provide a re-enactment of those parts in the Married Persons (Summary Relief) Act, 1960. I must mention the inclusion in part VII of the provisions of section 73 of the Child Welfare Act which prohibit the adjudgment of a person as the father of an illegitimate child on the uncorroborated evidence of the mother, or where the mother is a common prostitute.

Another effect of the Bill would be to make the putative father of an illegitimate child a compellable witness, at the instance of the complainant. This is the position in the United Kingdom, but there is some doubt as to whether this is the case here. It is not a provision that would be abused, as a complainant would not generally be well advised to call the defendant as her witness. On the other hand, the strict rule as to the requirement of corroboration makes this an equitable provision.

Finally, the Bill contains a provision that does not now exist, whereby the wife of a deceased husband can recover arrears

of maintenance, in respect of any period up to six months prior to his death, by action against his estate. The only provision at all similar to this is to be found in the Testator's Family Maintenance Act, 1939, and this is not applicable in all cases.

Other than the matters that I have detailed, the Bill can be taken as making no revolutionary changes, and I commend it to the House.

Mr. Evans: As there are 111 clauses in the Bill will you agree to an adjournment of the debate for one week?

Mr. BOVELL: Yes.

Debate adjourned for one week, on motion by Mr. Evans.

TRAFFIC ACT AMENDMENT BILL (No. 3)

Second Reading

Debate resumed, from the 9th November, on the following motion by Mr. Craig (Minister for Traffic):—

> That the Bill be now read a second time.

MR. GRAHAM (Balcatta) [3.26 p.m.]: So as to leave the Government in no doubts as to where I stand, I say emphatically that I am wholeheartedly opposed to the principle and to the provisions of the Bill. In addition, even if I had some doubts in my mind, or if I were disposed to support it, I would still ask for the legislation to be rejected. I do not think any complaint can be levelled at the latter observation.

I have before me the *Parliamentary Debates* of 1957, which contains a debate on a similar matter. Several distinguished members of this Chamber, one being no less than yourself, Mr. Speaker, complained, when a proposition for voluntary blood testing for alcoholic content was introduced, that insufficient time was given to enable the necessary inquiries to be made, as only a period of one week was available between the introduction of the Bill and the resumption of the debate.

In the present case this legislation was introduced on Tuesday last, and the Government arranged the notice paper so that the item would come forward virtually as the first item on the following day. There was to be only a period of 24 hours. The remarks made by Mr. Watts, who was the Leader of the Country Party at that time, are worth quoting.

Mr. Nalder: What did he say when an approach was made?

Mr. GRAHAM: We shall hear the Deputy Premier later.

Mr. Nalder: You are referring to what he said at the time.

Mr. GRAHAM: I shall deal with that in a moment. I would ask the Deputy Premier to pay respect to the words of Mr. Watts. On page 3591 he is recorded as having said—

> Whilst I am not saying that this proposition is not proper and practicable, if one knew the whole of the facts and factors that surround and govern it, I am of the opinion that this legislature should not be asked—at this stage at this time of the session—to pass such a fundamental change in our law as this one predicates.

In respect of the Bill before us the Government proposed that the debate be resumed within 24 hours of its introduction. I asked the Leader of the Opposition to approach the Deputy Premier to seek a longer adjournment of the debate. He did that, and the Deputy Premier agreed to a delay of another 24 hours.

This Bill, which I claim to be ill-considered and panic legislation, is to be passed through this Chamber without giving the members an opportunity to study its full implications or to make inquiries beyond the confines of Western Australia; and without giving an opportunity for the Royal Automobile Club, as spokesman for the motorists, to be consulted, to assimilate the provisions of the Bill, to convene a meeting, and to arrive at a conclusion.

The Law Society is very concerned about this and no opportunity is given to that society. The medical profession, of course, is going to be placed in a most invidious position. Again the matter has not been referred to those people; and certainly there has been no opportunity for a meeting of that organisation or the others to be held and for members of the Opposition—indeed, all members—to approach them with a view to ascertaining their views and discussing the proposition.

Mr. Craig: The intention of the Bill has been public knowledge for months past.

Mr. Bickerton: But not the implications of it.

Mr. Craig: The implications apply the same as the intentions.

Mr. GRAHAM: The Bill is now available to us and we know for certain what is involved. Before, we did not.

Mr. Craig: The Bill only puts into words the intention made public months ago.

Mr. GRAHAM: The Minister's attitude does him no credit. We would expect, then—as we were aware of the fact that the Government was going to meddle—there would be no need for an adjournment at all. We could just carry on the debate.

Mr. Craig: We are not meddling at all.

Mr. GRAHAM: We could go straight on with the Bill because we were told the Government was going to do something about it. This Bill—there is no question

about it—hits at the fundamental rights of the individual citizen. It hits at his body—his person—because he is to be compelled, under the threat of a fine—a minimum fine of £50 to anything ranging to £150—to agree under certain circumstances to his body being punctured and blood taken from him.

Mr. Craig: What about the body he might have impaired for the rest of his life; that is immaterial?

Mr. GRAHAM: That interjection shows the Minister does not know very much about his Bill.

Mr. Craig: I know more than you do.

The SPEAKER (Mr. Hearman): Order!

Mr. GRAHAM: He does not know very much about the Bill apparently. But if he will restrain himself a little, I will explain his Bill to him. We have had experience before of a Minister knowing nothing of the Bill he is introducing. He merely reads a piece of paper departmental officers have prepared for him.

Mr. Craig: Not in this case.

Mr. GRAHAM: Because the Minister has the satisfaction of the numbers—the automatic majority vote—it does not matter whether he understands the Bill or not. He reads from a piece of paper and then expects Parliament to follow him.

Mr. Craig: In this case the Minister was reading from a piece of paper prepared by the Minister himself.

Mr. GRAHAM: If the Minister were familiar with it, it would not be necessary for him to read it word for word.

Mr. Craig interjected.

Mr. GRAHAM: I have done my best in the last 48 hours, having regard for the numerous other obligations I have.

Mr. Craig: Go on. Carry on.

Mr. GRAHAM: I think it is generous of the Minister to give me an opportunity of continuing, considering I have the floor, having been called by you, Mr. Speaker.

Mr. Lewis: You have put him off now.

Mr. Craig: I am sorry.

Mr. GRAHAM: I am endeavouring to be as brief as I possibly can in regard to this matter. The Ministry obviously regards this Bill as being one for a relaxed state of mind to find a certain amount of humour in the introduction of the legislation which, I say to the Minister, has been introduced in no other Parliament in the British Commonwealth except the Victorian. I suggest to him that Victoria is a very poor example. You are aware, Sir—particularly you on account of your interest in traffic—that Western Australia became a shambles in the matter of the give-way-to-the-right rule of the road because a Country Party Minister in charge of traffic followed what Victoria had done. Victoria was out of step with every other part of the Commonwealth, and so we had chaos and confusion for a period of some 18 months here in Western Australia; and the effects of it have not yet worn off—far from it. I say there have been many deaths and serious accidents because the late Mr. Perkins blindly followed the course laid down by the State of Victoria.

Surely as this legislation has not been undertaken by any other Parliament than the State of Victoria, we are entitled to a little more seriousness in respect of its consideration than has been displayed by the Minister and, unfortunately, by some of his supporters this afternoon. This legislation is to compel a person to blow into a certain mechanical device or, as stated previously, submit himself to the letting of blood.

I am interested in the wording of the Bill. Perhaps the Minister could give a little thought to it. It states that a member of the Police Force, when he has reasonable grounds for believing that a person has committed an offence, and so on, may require that person to submit himself. What is meant by that term "require"? Does he ask the person to submit? Does he arrest the person? Does he forcibly put him in a vehicle and transport him to a place where a test can be undertaken? Surely the implications of this are exceedingly serious.

It is all right for the Minister to shrug his shoulders as if to say, "What the heck, anyway?" If the person resists in any way there is a penalty of £50 to £150. Three cheers for the Treasury! This is tampering with an individual's person and compelling him to go somewhere under the threat of a fine. This is something introduced by a Government that prates loud and long about its concern for individual freedoms. This Bill, I repeat, is transgressing what ought to be the inviolable rights of citizens of the community.

It is obvious that the Government is becoming desperate because of the increasing road toll. In other debates we have suggested many steps the Government could take and should take; but no! This Government virtually does nothing in the way of preventing the accidents, as they are called, from occurring. Rather does it prefer to use the big stick; that is to say, step up the fines and increase the penalties generally; and now there is this process. These are steps which are taken after the crashes have occurred, and I think the Government would be well advised to pay attention to endeavouring to prevent some of the accidents that take place.

I risk the accusation of tedious repetition, but I emphasise that the Minister could devote some of his energies to the

give-way-to-the-right rule. The Chief Justice of Western Australia in the last few days in his interpretation of the law as it stands at present, has adjudged a person, whose vheicle was hit on the left side, as being two-thirds responsible; and the vehicle driver who failed to give way to the right, as being only one-third responsible for the accident. That is the position that has been reached; and I implore the Minister and the Government to do something to clarify our laws, and to make them simple of assimilation so that in the basic laws, all motorists worthy of the name might go through the various processes automatically instead of having to bring out a rule book or slide rule or something of that nature in order to ascertain whether he is in the right or the wrong by proceeding under certain circumstances.

As I have said on other occasions, the behaviour of a motorist at the wheel should be as automatic as the changing of gears and other movements through which the driver goes and which are done more or less unconsciously without any deliberate thought being given to them; and so it should be in connection with the motions of the vehicle at intersections and at other places. I know it is fashionable to give great emphasis to alcohol in respect of road accidents, and I am not here to condone the actions of anyone who has over-imbibed to the extent that he is incapable of properly handling a vehicle.

Mr. Craig: You would not be trying to protect him though, would you?

Mr. GRAHAM: No; but there is a way of going about things, and I have already indicated I strongly disapprove of what the Government proposes here. I asked some questions of the Minister only recently and it is amazing the information that is contained in the replies. For the 12 months, the 1st July, 1964, to the 30th June this year, there were, in this State, 15,668 accidents. Of that number 224 were directly attributable to the intoxication of drivers and pedestrians, and 15,444 were attributable to other causes—less than one in 70 attributable to alcohol.

Mr. Craig: But it could have been 100 lives.

Mr. GRAHAM: If two vehicles crash into one another surely they crash with an impact that is no greater or no less because a person happens to have been drinking alcohol. I repeat: Less than one in 70 was attributable to alcohol, yet we find this Government rushes forward with this piece of legislation giving nobody an opportunity of properly considering its implications.

The Government, of course, excuses itself in respect of the extreme steps it is taking on the basis that this will serve as a deterrent. The Government hangs people in this State on the grounds that such action is a deterrent; whereas it knows perfectly well that it has not proved to be a deterrent in any part of the world, at any time; and the same with regard to this. The positive approach is to do something to prevent accidents from happening and collisions from occurring.

The Government is tackling the problem from the wrong end. In very many respects the measure is half and half, because it does not matter how severe an accident is, as long as nobody is injured to the extent that he requires immediate medical attention. So there could be two drivers, as full as the proverbial boot, whose vehicles collided with one another but, provided neither of them were injured to the point of requiring immediate medical attention, the breathalyser does not come into use—the compulsory provisions of the measure do not apply.

Mr. Craig: Yes they do. Read your Bill!

Mr. GRAHAM: I have read the Bill.

Mr. Craig: Well, read it again!

Mr. GRAHAM: It states—

> Where, arising out of the use of a vehicle or an animal on a road, a person suffers a fatal injury or suffers a bodily injury of such a nature as to require immediate medical attention, then, a member of the Police Force may, if he has reasonable grounds for believing ...

this, that, and the other, go ahead with the job of using the breathalyser and the taking of blood samples. But the proposition is, of course, that if a person requires immediate medical attention—

Mr. Craig: That is in the case of applying a blood test where no breathalyser is available.

Mr. GRAHAM: Strangely enough it is not, because it continues by saying, "Subject to subsections (3) and (4) of this section, require that person to submit himself for an analysis of his breath for alcohol." So I leave it to members to make up their own minds as to who has been reading the Bill and who has not. We can have the situation where there is a minor crash but some injury has been sustained and then the procedure comes into operation.

Sitting suspended from 3.45 to 4.6 p.m.

Mr. GRAHAM: It surely is anomalous when one considers that there could be two accidents of an exact pattern, but in one case, miraculously, nobody is injured; whereas, in the other, unfortunately a person is, or several persons are, killed, or at least seriously injured, and it would only be in the latter case that any of the provisions of this Bill become operative.

Mr. Craig: That is not so.

Mr. GRAHAM: The Minister will have to do something better than merely deny the fact.

Mr. Craig: The breathalyser can be employed in any case of suspected drunken driving whether there is an accident or not, and the blood test would be applied only in the case of an accident or bodily injury requiring immediate medical attention, and when no breathalyser is available.

Mr. GRAHAM: We can deal more with this matter at a later stage. I am very interested at the introduction of proposed new section 32B, because after using the words just uttered by the Minister it goes on to say that where a person suffers a fatal injury, or suffers bodily injury of such a nature as to require immediate medical attention, certain things will happen. Who is going to decide whether I, who may be involved in an accident, require immediate medical attention?

A nervy, hysterical type of person might decide I needed medical attention urgently, if there was a little cut on my finger, whereas somebody else, who is tough in every sense of the word, would probably feel there was nothing to worry about in the case of the person who was injured.

Mr. O'Connor: If he did not bleed.

Mr. GRAHAM: Even if he did bleed, somebody must decide whether the person requires immediate medical attention. Who is the person qualified to do that? Is that to be left to the police officer? Is his department to assume a new role?

Mr. Craig: The police must have reasonable grounds to suspect that a person's driving ability had been affected by alcohol.

Mr. GRAHAM: I know. But before any of this procedure comes into operation there are certain requirements set out at the top of page 3. Amongst them is the requirement that there must be bodily injury of such a nature as to require immediate medical attention. I again pose the question: Who is to decide whether immediate medical attention is necessary?

Mr. Craig: I should imagine it would be obvious in most cases.

Mr. GRAHAM: Who then would decide? Would it be the police officer?

Mr. Craig: I should imagine so.

Mr. GRAHAM: It strikes me he would be usurping some of the functions of a medical practitioner. For that reason I feel there is some very slipshod wording in the Bill as currently before us.

Mr. Craig: You can delete the words "medical attention" if you like when we get into Committee.

Mr. GRAHAM: We will have a look at that. I hope the majority of members will agree to reject the Bill *in toto*.

Mr. Craig: I do not think so.

Mr. GRAHAM: I am expressing my hope.

Mr. Craig: It is a pious hope.

Mr. GRAHAM: I wonder how many members of the medical profession would be prepared to take blood from a person who objected to its being taken. Indeed, in all seriousness, I would like to hear from the member of this Chamber who is himself a medical practitioner. All Parliaments, and Governments of all political shades, have been rather sensitive, I am sure, of operations or of any action being taken in respect of a person contrary to his will. As is known, it is in those places where it is permitted that it has taken a great deal of persuasion and agitation before Parliaments would agree—and I do not think there are many of them which have agreed—to allow a medical practitioner to give, compulsorily, a blood transfusion; and we must remember that the reason for a blood transfusion is to save a life.

Yet we and medical practitioners demur at the law saying that somebody other than the patient should have a voice and be permitted to make the decision. This Bill does not necessarily involve the saving of a life or the preventing of a death. Yet we find that a doctor is expected to play his part when a person is taken to him to have blood taken as a prelude to an analysis, even though that doctor is violently opposed to such action. I wonder what would happen if he refused.

Contrary to what we read in the newspaper this morning attributed, I think, to the Secretary of the Law Society, that the Government in 1957 proposed compulsory blood tests for alcoholism—and I think that society is a little uncertain about this—I want to say here and now that the Government did not propose compulsory blood tests; it introduced legislation which left the matter optional. Any person could please himself whether he allowed those tests to be taken, and he had a perfect right of refusal without any prejudice to himself whatever. That, of course, is still the law.

Naturally enough, if I am either taken to a medical practitioner, or go to one of my own volition and make a request, the medical practitioner will take the required specimens of blood. But, frankly, I cannot visualise members of an honoured profession tampering with a person's body in this respect against the will or wish of the person concerned.

I wonder whether the Minister has been in consultation with the Western Australian Branch of the Australian Medical Association, and whether he has received an assurance from that association that all, or practically all, of the medical practitioners of this State would be prepared to undertake this blood letting, contrary to the wish of the subject concerned.

After all, if 50 per cent. of them refused—and we must have regard for the country centres where this will be the practice, and because the distance of 25 miles is mentioned, and because there may be a doctor in one centre and not another for perhaps 100 miles, or several hundred miles—and the medical practitioner regards it as anathema to take blood from a person contrary to his wish then, of course, this legislation would be meaningless in the far-flung parts of Western Australia, and would have no effect whatsoever. We know that unfortunately the majority of accidents occurring in this State take place in country areas.

I have already mentioned how Parliaments have hesitated in the matter of surgical or other work being undertaken on a patient contrary to his wishes, even if it involves a matter of saving his life, yet it is proposed a person should be fined somewhere between £50 and £150 because he refuses to permit this violation of his rights to his own body that the State, through the medium of a medical practitioner, wants to invade—that is, invade his privacy. Unfortunately, I did not have an opportunity of seeing the measuring device or breathalyser—as it is called—in operation the other evening, but I am informed that there is quite an amount of regulating and adjusting necessary before a proper test can be taken.

Mr. Craig: Balancing.

Mr. GRAHAM: Yes. It is not unknown, of course, for a mechanical device to fail in some respect and there is such a thing as human error as well.

Mr. Craig: But the suspect can still have a blood test if he desires.

Mr. GRAHAM: He can if he desires, but he has no alternative but to accept one of these or else; and the "or else" is a pretty costly business.

Mr. Bickerton: How could he have a blood test if a doctor were not available? How much trouble will the police go to to obtain a doctor for him?

Mr. GRAHAM: That is the point.

Mr. Craig: He only has to go four hours. Under the Act at the present time the police have to offer every co-operation to try to meet the wishes of a suspect towards getting a blood test.

Mr. GRAHAM: There is a place known as Gnowangerup where, members will recall, there is quite a considerable distance to the nearest medical practitioner.

Mr. Craig: There is no need to have a blood test if they cannot have it within the four-hour period.

Mr. GRAHAM: That means if a person is as drunk as Clohe in the out-blocks where it takes more than four hours to reach a medical practitioner, he does not have to undergo anything.

Mr. Craig: That is so; it says so in the Bill.

Mr. GRAHAM: So you see, Mr. Speaker, this Bill more and more, as I indicated earlier, is a hit-and-miss affair.

Mr. Craig: It is not a hit-and-miss affair; it is quite clear.

Mr. GRAHAM: It is so clear that the first operative clause has not been read, or understood, or appreciated, by the Minister.

Mr. Craig: Don't blame the Bill; blame your interpretation of it.

Mr. GRAHAM: I have read from the Bill itself. Let us have a look at the lighter side of this Bill, if one can have such moments in respect of proposed legislation that has a serious impact. It will be found—and I will give the proper reference to the Minister in a moment—that if a person is walking behind a flock of sheep—driving them along the road—and he has had a few beers and happens to stub his toe on a log, or something of that nature, he can be compelled to go through the processes set out in this Bill.

Mr. Craig: This is so. He can lose his license even though he has not got one.

Mr. GRAHAM: Yes, because he happened to kick his toe on a roadway.

Mr. Durack: That is not right. It is in relation to a vehicle or animal which was the cause of the injury.

Mr. GRAHAM: Let us look at it. It is on page nine of the Bill and is as follows:—

> to such an extent as to be incapable of having proper control of a vehicle, horse, other animal or drove of animals.

Is the member for Perth satisfied?

Mr. Durack: No.

Mr. GRAHAM: Either words do not mean what they should mean, or something is awry.

Mr. Durack: You are talking about 32B.

Mr. GRAHAM: I am discussing the whole of the measure. I want the Minister to be emphatic on the point. When a member of the Police Force requires a person to submit himself for an analysis of his breath for alcohol, what is involved in that word "required"? He merely makes a request?

Mr. Craig: Yes; and if he refuses to comply he leaves himself open to a conviction.

Mr. GRAHAM: At what stage, if I am a long way from a medical practitioner; and does the policeman take me to the medical practitioner in his car or in my car?

Mr. Craig: Now you are going into technicalities.

Mr. GRAHAM: What if I am suspected of alcoholism?

Mr. Craig: If a policeman suspects that a person is affected by alcohol and he is going to prefer a charge against him, naturally he wants something to substantiate it other than his own interpretation. Under this Bill he will take him for a blood test if a breathalyser is not available.

Mr. GRAHAM: He will arrest me and take me to the medical practitioner or operator of the breathalyser.

Mr. Craig: A traffic inspector can arrest you and take you to the police.

Mr. GRAHAM: Having taken me and I refuse to undergo this test, I am subject to a penalty.

Mr. Craig: Yes; and when you go before the court you can prove the police officer did not have reasonable grounds to suspect you.

Mr. GRAHAM: If I have not had a drink, but because of my behaviour a member of the Police Force thinks I am under the influence of liquor, is my car to be left 20 miles in the country on the side of the road?

Mr. Craig: The same applies to any arrest in any circumstances. The police are able to cope with the situation.

Mr. GRAHAM: I do not think it is very satisfactory. Whilst we can deal with particular aspects in the Committee stage, if it be the pleasure of this House that the Bill goes as far as that, the objection is, as I stated earlier, the manner in which the Bill is introduced—a measure that has a serious impact, and I do not think anybody will deny that—and the lack of opportunity given to all of the very many parties interested to examine its provisions in order to give a firm opinion. After all, the Bill was available only as from yesterday morning—

Mr. Craig: That is so.

Mr. GRAHAM: —as far as the general public is concerned. Secondly, surely we require far more time; and we should, with the greatest reluctance, contemplate agreeing to a measure which is largely a moral issue; namely, of a person being compulsorily operated on, even if it be a minor operation, contrary to the wish of the person concerned. If we reach the stage of gradually whittling away that right of a person to his own body and what happens to it—excepting, of course, the matter of taking his own life—then there will be a whole lot of our concepts that will have to undergo some radical thought and change.

There has been no case made out to show why, although liquor is admittedly a factor and an important factor, those who are under its influence to even a minute degree should be singled out for this indignity. I have indicated already, so far as can be established by the police, that less than one case—where there are casualties—in 70 is directly attributable to the consumption of liquor.

Mr. Craig: The other day the figures I gave you showed that 44 per cent. of the fatalities revealed traces of alcohol, and so much per cent. of excessive alcohol.

Mr. GRAHAM: That could be so, and no doubt it is so, but I am quoting from figures the Minister himself gave me.

Mr. Craig: Quote the casualty figures.

Mr. GRAHAM: On the 28th October—

Mr. Bickerton: Do these figures only include drivers?

Mr. GRAHAM: Pedestrians, drivers, and everyone else. That was quite a pertinent interjection. The driver could be perfectly sober and have three or four companions in the car who were palpably under the influence of liquor; and if there is an accident and all are injured, then there are four more to go on to the Minister's tally, but their alcoholic condition had nothing whatever to do with the accident. Then, of course, there are so many cases—indeed I am aware of one—where a motorist had had a little more than was good for him under the circumstances, but he had followed the book of rules—that is to say, the traffic regulations, to the *nth* degree. He had not departed in any way whatsoever, but the driver of another vehicle backed out of a driveway immediately into him. This happened to be a lady driver, but that is only incidental to the story. It was obvious to everybody, and indeed to the police, that the woman was completely responsible for that accident, but this person of whom I spoke was returning from his club, and because of his appearance, etc., he was charged with having driven a vehicle whilst under the influence of liquor which, of course, was perfectly true, but it was the stone cold sober person who was responsible for that accident.

Notwithstanding that situation and the nature of the figures the Minister has quoted, he apparently considers we should persevere with the Bill. It is quite an easy matter to get worked up and hysterical over a certain issue. That is why I am not in the least bit influenced by polls amongst the public. There is a small one in the Press this afternoon where interviews were given to a certain number of citizens and they have expressed themselves.

When deaths are occurring on the road, as unfortunately they are at the present moment, nearly everybody with a conscience and sense of responsibility is worried about it, and naturally enough is prone to support any move that is designed to reduce the road toll. But, as I have already indicated, this does nothing

to prevent anything; all it does is to impose certain obligations after the accidents have occurred.

I submit to the Minister that there are many people leaving places such as clubs, hotels, ballrooms, banqueting rooms, and the rest of it—particularly with the onset of the festive period, which is now the situation—and after leaving them perhaps 50 per cent. or more of the drivers of vehicles, if hit by another vehicle—albeit the driver of the second vehicle had had no liquor whatsoever—would, if a breathalyser test were given them, be found to be under the influence of liquor for the purposes of this law.

I am also wondering about the efficacy of the particular machine. I do not intend to mention the name, but there is one man who, if the breathalyser machine was operated correctly the other night, would require somewhere in the vicinity of 30 glasses of beer and six glasses of sherry before he reached that .05 per cent.

So I would suggest that in respect to that particular test there was something wrong with the machine. That particular member is not likely to admit his capacity for drink to anyone. I would suggest that it would be something far less than the amount I have mentioned which would be required to make him incapable of properly driving his motorcar.

As the efficacy of the device depends upon the adjustments made to it, we can readily appreciate that a person will be accused and found guilty because of the reading of this machine.

Mr. Craig: The machine is calibrated, of course.

Mr. GRAHAM: Yes; but the reading on the machine is dependent on the adjustments which are made to certain devices on it.

Mr. Craig: The adjustments are made in front of witnesses. It is a pity you did not see the machine when it was demonstrated; I feel sure you would have been satisfied.

Mr. GRAHAM: I am speaking entirely from observations made by those who witnessed the machine.

Mr. Craig: It is unfortunate that you did not see the machine in operation. I feel that you would have no fears.

Mr. GRAHAM: I missed the demonstration because of serious family illness.

Mr. Craig: You should reserve your judgment until you have seen the machine in operation.

Mr. GRAHAM: Surely if the Minister is being as considerate as that he should have given us an opportunity to make some inquiries from Victoria and other places where the breathalyser is used. It is used in a number of places, but its use is not compulsory.

Mr. Craig: Its use is compulsory in Victoria.

Mr. GRAHAM: Yes; but in many places it is used on a voluntary or optional basis, as were blood tests in this State up to date.

Mr. Craig: In the cases where the test is not compulsory, if the test is refused the person's license is automatically suspended.

Mr. GRAHAM: The Minister expressed regret that I did not have an opportunity to study the machine. The point I am making is that there is more to be studied than the breathalyser, and appropriate opportunity should be given to the citizens of Western Australia for such study. This differs from the attitude of the Commonwealth Government in the matter of big trading concerns being allowed a period of some two years in which to study the implications of restrictive trade practices legislation.

Mr. J. Hegney: They were given four or five years.

Mr. GRAHAM: I am talking about the terms in the principal Act. With respect to this legislation we are given a period of two days only. It is morally wrong. The Commonwealth allowed the business institutions several years, as against the lack of concern shown to the citizens of this State.

Mr. Craig: What will the business concerns get out of this?

Mr. GRAHAM: That is my point.

Mr. Craig: I cannot see your point.

Mr. GRAHAM: For the slow learners I will repeat what I said. Where the interests of large trading concerns and monopolies are involved, the Liberal-Country Party Government allows several years for legislation to be studied and for discussions to be entered into. But with respect to a matter which potentially and directly affects every citizen in the community, and one which in my view violates the sacred rights of the citizens, the Government allows two short days in which we can pursue our inquiries.

What a contrast in outlook and approach that is! So I hope that those on the other side who have joined with the spokesmen for their parties in talking so freely about the rights of the subject and the freedom of the people and the necessity to shun anything which suggested interfering with those basic rights, will allow their consciences and beliefs to prevail rather than slavishly follow the Government in respect of this proposal. In other words, I hope that Parliament, in its wisdom, will reject this Bill which we are now considering.

MR. BICKERTON (Pilbara) [4.37 p.m.]: I will say at the outset that I do not condone drunken driving. I have no doubt that drunken drivers constitute a menace as far as the road is concerned. Apparently the incidence of road accidents is the cause of this measure which is before us now. However, I have been unable to convince myself, in the short time the Bill has been available to us, that it will, in effect, do what the Minister hopes it will achieve.

I do not think the figures which are given to us, judging by those alone, have proved that alcohol is the cause of as many accidents as people would like us to believe. I do not know if it has ever been proved to us, but some people may be better drivers with a proportion of alcohol in their blood, than without it.

Mr. Jamieson: That has been shown to be the case.

A member: It could not be worse.

Mr. BICKERTON: I think the accident rate probably proves that. The Minister gave us some figures and said that one in 70 accidents was attributable to alcohol, but there must be many other reasons for accidents. I have noticed, over the last few years, that the other reasons have not been concentrated on very much at all. However, great play has been made on the accidents—the minority of accidents—which have been caused by alcohol, or considered by some people to have been caused by alcohol. If we can reduce the incidence of alcohol, then it would certainly lessen the accident rate, but we are doing very little, if anything, about preventing the other 69 accidents.

I was also surprised when the Minister said, in answer to an interjection whilst the member for Balcatta was speaking, the percentage of fatalities on the road attributable to alcohol was somewhere in the vicinity of 43 per cent. By way of his reply to the interjection he said that the percentage did not include only the drivers of the vehicles. Is not that giving a false figure? I suppose that people hearing those figures would think that 43 per cent. of the drivers were found to have alcohol in their bloodstreams, which could have been responsible for causing the accident. That is not the case at all. It appears that the passengers were included.

Mr. Graham: Pedestrians were included too.

Mr. BICKERTON: As the member for Balcatta has just said, pedestrians were included in the total figure to bring it up to 43 per cent. So I think in all fairness the Minister should now acquaint us with the percentage of drivers who he considers had accidents which were attributable to alcohol in the blood. We would then be able to tackle this problem in a sensible way.

I think the road toll is a shocking thing and I am not trying in any way to decry this effort to reduce it. We must do everything we can in an endeavour to reduce it. From time to time we are given figures, and I think the member for Darling Range read out figures covering the years from 1960 to 1965, and mentioned the road accidents and deaths. Of course, there was no mention of the population increase or of the increase in road traffic. I think those figures are not worth the paper they are written on unless they are expressed as a factor and a percentage is given showing the proportion of accidents; whether, in fact, they are being reduced, or whether they are increasing. One cannot get the answer by simply using total figures. The car population and the human population must be taken into consideration.

Mr. Jamieson: The accident rate is reducing per 10,000 vehicles.

Mr. BICKERTON: I understand that if we were to check the number of road deaths which occurred in the days of the horse and cart, and considered them in proportion to the population, the number of deaths would be higher. This could be so; I have not had a chance to check the figures which were given to me. It is possible because we have better types of transport in motor-cars which have better braking and are more easily controlled, and we have better roads. Those factors could have reduced the accident rate in comparison with the population and the road traffic.

When we look at this problem we must take a broad view of it. We are always going to have a certain number of road accidents; that will be extremely hard to avoid.

To mention the member for Darling Range again, I agree with him when he mentioned the education of children at school. I have always felt that education in driving and road laws should be part of the school curriculum.

Mr. Lewis: So it is. The children have been getting it for years.

Mr. BICKERTON: Yes, in a small way from what I understand from my own children. They get an occasional lecture from a policeman who drops in for half an hour.

Mr. Lewis: Some youngsters have more road sense than the parents.

Mr. BICKERTON: Who is going to argue with that?

Mr. Lewis: That is the result of the education received in the schools.

Mr. BICKERTON: Do you not think that is necessary?

Mr. Lewis: Of course it is necessary!

Mr. BICKERTON: That is what I am saying. First of all, let us continue to educate the children, by all means, because it is probably the 13 and 14-year-olds who will be the ones to have the greatest chance of reducing the road accident rate, because they will be properly taught.

Mr. Lewis: The road accident toll is not a matter of lack of knowledge, but of attitude.

Mr. BICKERTON: If the Minister means the causes of road accidents, I point out that if we asked a dozen people about the causes, we would receive a dozen different reasons.

I do not oppose the measure on religious grounds or because of the human rights argument. But the Bill again deals with a method of detection of crime rather than of prevention of it. Police forces—not only the Police Force in this State but in other States and in other countries—to my way of thinking always seem to concentrate far too much on the detection of crime and not enough on the prevention of it; and this Bill intends to reduce the number of road accidents by fining people heavily, or gaoling them, after accidents have happened. That is my main opposition to the measure: and the member for Balcatta emphasised this point.

To give an example of how we always seem to be concentrating on detection rather than prevention, I wish to cite something—this does not concern the local police as what I am about to relate concerned another State—that applied in New South Wales.

I lived in the town of Lithgow, and just outside the town there was a nice strip of five or six miles of very straight road. and it passed the school. The straight strip commenced after the road had wandered through the Blue Mountains in an area that was always referred to as the 40 bends. So a person having travelled most of the road in second gear would arrive at the top where the road flattened out and presented a nice straight strip. Admittedly at the start of this section there was a 30-mile per hour sign, but it was rather cunningly concealed behind a sapling or something. But the fact was that when a motorist hit the straight stretch he immediately took off. The local paper even ran a special column pointing out the revenue that was brought in from this piece of road. Because of the revenue it produced, it was referred to as the golden mile.

The local police always knew where to hide so that any motorist on the road would not see them. That strip of road must have lent itself to speed, and the object of the policeman was to catch the motorist after he had broken the law, or after he had in fact knocked down a child crossing the road at the school, or something like that. All this could have been avoided had there been a notice in large type to say, "You are approaching the golden mile. It has produced so much in revenue over the last 12 months from speeding fines." But then people would have said, "The policeman does not catch anyone." I suppose if a policeman does not catch anyone, someone is going to query whether he is doing his job. Therefore, if we can do more in the way of prevention rather than detection, we will get somewhere in regard to preventing not only accidents, but crime.

In this case the Minister has brought down legislation and he has given us a couple of days in which to have a look at it. Members must have noticed in the paper this morning that the Royal Automobile Club is going to hold a meeting next month to discuss it. That is how well informed that club is; because the Bill will be well on its way by then.

It would help if a simple method of prevention could be introduced—something as simple as this sheet which we have and which is rather informative. I refer to the table that the Minister presented us with. It shows the number of glasses of liquor that have to be consumed to produce a certain percentage of alcohol in the blood. Surely one way of going about this matter is not to amend the Traffic Act. Would it not be wise to amend the Liquor Act to require that charts of this sort be displayed in licensed premises? Surely that would be doing something towards the prevention of accidents.

Do people know how many glasses of liquor it requires in order for them to have the amount of alcohol which will mean their being convicted? People when drinking may not feel intoxicated, but at least the publicising of this information would give them some idea of the amount of liquor they could consume before it would become dangerous for them as far as a conviction is concerned.

A few members of Parliament, the Minister for Police, and the officials dealing with the breathalyser have seen that instrument. Surely it could have been on display for 12 months! I cannot see anything wrong with a public clinic being established in Perth so that people could see the breathalyser in operation; and if, in fact, they consume some drink containing alcohol they could go along and test themselves on the machine. By this means we would be getting the co-operation of the public and we would also be carrying out a certain amount of prevention.

Mr. J. Hegney: Educating the people.

Mr. BICKERTON: Yes; so that they would not be in the position of being forced to come within the ambit of this type of legislation. I wish to deal with

the actual use of the breathalyser which was displayed the other night. What the member for Balcatta said is a fact; or I gather the impression, anyway, that this is a rather intricate piece of machinery. I would say it requires a trained operator.

Mr. Craig: They will be trained operators.

Mr. BICKERTON: It is not as simple as people would have us believe. Without knowing the technical reasons, I gathered that the balance of the machine is one of the most important aspects. On at least three occasions during the tests the other night the machine had to be balanced. One must assume, therefore, that the correct reading of the machine is dependent on the machine being correctly balanced. If it is not properly balanced, I take it the reading could be inaccurate.

Mr. Craig: That is so.

Mr. BICKERTON: Whether it would be inaccurate in favour of the driver, or the other fellow, I am not sure.

Mr. Craig: It is the same as any scales; it has to be balanced.

Mr. BICKERTON: There is also the needle which indicates the alcoholic content of the blood stream. A card is punched, and according to how it is marked the person concerned will or will not be up for drunken driving; because I believe that once this machine comes into operation, and the card shows more than .15 per cent., the person concerned can pretty well save himself the trouble of going to court; it will be an automatic conviction.

I noticed on a couple of occasions that the needle had to be manually pushed back to the starting point prior to tests being taken. I do not know whether this was normal practice, or not. Perhaps something happened while the testing was going on. I mention these things to show that this machine is not something that one can just sit in front of and operate. I would say a person would have to be alert to see that all stages of the operation are carried out.

I refer now to the table supplied by the Minister which says that a reading of .05 per cent. does not show intoxication. A reading of .1 per cent. means that a person could be intoxicated, and a reading of 1.5 per cent—I mean .15 per cent. shows that he is intoxicated.

Mr. Jamieson: If it is 1.5 per cent., he is embalmed!

Mr. BICKERTON: Yes. I suppose these readings are based on medical opinion, and one can only assume that an intoxicated person would be incapable, in the minds of medical men, anyway, of driving a motorcar. I would also say that if, in fact, the person concerned was intoxicated, he would be incapable of performing many other actions. The Minister might agree with me that such a person would be incapable of carrying out in a competent way the duties he would normally perform. He would possibly be incapable of composing a letter or doing anything else of that nature which he could normally do when not intoxicated.

I want to ask the Minister for Police: What guarantee has the person who is tested got that the operator of the machine has not, in fact, got a content of alcohol in his blood which could impair his ability as an operator? If we are to have this machine, it is essential that the operator should have a breathalyser test before he tests the other person. After all, this is a pretty important matter.

Mr. Craig: Oh!

Mr. BICKERTON: It is all right for the Minister to shrug it off, but the person being tested could be charged with manslaughter.

Mr. Craig: You are implying that the police officer would be inebriated before he made the test.

Mr. BICKERTON: I am not implying anything; I am just saying that the operator of the machine must, in order to operate the machine, be his usual competent self; and it is reasonable to say that he at least should be made to prove that he is, in fact, not in a state of intoxication. It is simply a matter of the operator having a breathalyser test before testing the other person.

This could happen with blood tests. Take a small country town where there is only one doctor. Doctors have relaxation; we all know that. They go to the bowling club or some other place, the same as we all do. What is the position if a blood test is ordered and we find that the local doctor, who is off duty at the time, is having a few beers with his friends? Surely if we agree that alcohol can impair one's competency, it is reasonable that the person conducting a test should himself be required to be tested for alcohol prior to testing the person concerned. I think this is a very important point, and I do not put it forward lightly at all.

As far as I am concerned, if I could be shown by a test to be guilty or innocent of a certain charge, I would want to know that I was being tested by one who was not only a competent operator, but who also had all his faculties about him at the time he was conducting the test.

The Minister said the person being tested could have a witness present. What does the witness do? The person being tested does not know anything about the machine, and I do not think the witness would know any more about it. This, I think, is a very important point, because if we are deciding whether someone was

drunk in charge of a car, the decision should be given without doubt. This brings me to the matter of the machine itself. Here we have to rely on the manufacturer who manufactured it and who maintains it is foolproof. It is with the operator that the human element enters. If, unintentionally, he forgot to adjust the small vernier that brings the machine into balance, it could give an entirely different reading to that which it was intended to give. For that reason I put that point forward.

As I said before, I am not convinced the Bill will immediately overcome all the problems that confront us in our effort to reduce the road toll, and reduce that percentage of accidents which is normally attributed to the consumption of alcohol. Also, I do not believe the measure will remain in its present form. Once it becomes law I feel certain it will not be long before the .15 percentage provided in the Bill to convict a person is reduced probably to half. We know that in Victoria, from which State the Minister obtained his information, the percentage figure is .08.

If this legislation is to be put into operation and we do not see an immediate marked improvement in the accident rate, that percentage figure will be reduced by amendment. If we find that some people prefer to risk paying £150, or even £50, rather than take the breathalyser test—and I am sure there will be a number of such people—it would not surprise me if the penalty were increased to £300. At present the Bill provides that a breathalyser will be installed in various police stations. I understand that in Victoria and in certain States of America they are mobile, so I can foresee a day fast approaching, if there is no reduction in the accident rate, when police patrol cars will be equipped with them. If this is done we will be reaching the stage when the individual will have less and less say as to where that little purple arrow finishes up on his card.

If the result of the test, having proved to be positive, were not so serious, perhaps I would not be so strong in my opposition to the Bill, but it seems that once having been presented with one of these little cards the individual has no appeal. As I said before, I think I am fairly right in my view that one might waste one's time even appearing before a court because the judgment has already been given. Whatever case one might put forward, naturally, if it were not ignored completely, would be greatly nullified by the introduction of this legislation, because one would automatically be declared guilty, despite the fact that a mistake might have been made by the operator.

I am not overkeen on that type of legislation, although, by the same token, I am not overkeen about people driving vehicles while under the influence of liquor. If only the Minister could convince the House that the Bill would reduce the number of accidents which occur on our roads; if he could prove that in other parts the use of the breathalyser has assisted in reducing the accident rate, we would have something to go on; but we cannot get that undertaking. Until such time as that undertaking can be given we should have more time to consider the measure.

The sensible thing to do would be to postpone the consideration of the Bill until the next session of Parliament. I do not think it will reduce the accident rate to any great extent. Since the foundation of Western Australia we have managed without this measure, and surely we can still manage without it for another eight months.

If the Bill were dropped between now and the next session of Parliament, we could study the provisions contained in measures that have been introduced in other countries. We would have the opportunity to study the Victorian set-up more closely with the assistance of medical and legal experts on the subject. Would not the postponement of the Bill until the next session be worth while when it is considered that, by rushing the legislation through to the satisfaction of the Minister we put into operation something which perhaps should never go into operation?

Mr. Rushton: They are introducing similar legislation in the United Kingdom now on this matter, are they not?

Mr. BICKERTON: I do not know; but if they are I am sure the members of Parliament in the United Kingdom have had more time to study it than we have had. I think it was the Minister who said, "Everyone knows this has been coming for a long time." If we had to investigate all the rumours we hear about legislation to be brought before the House we would have no time for anything else. Surely one cannot investigate anything until it has been submitted in a concrete form. If the Minister is serious in what he has said, one would have thought he would circularise members of Parliament to let them know the details of the Bill and give them some idea of what a breathalyser looked like; and not only members of Parliament, but also members of the public.

I do not think it is fair, in the dying hours of the session, to expect members to say, "Yes, we will give a decision on this Bill" when, in fact, if a decision were given in favour of it, 75 per cent. of the members who voted for the Bill would not know—with all due respect—what they were voting for, because they do not know the element of error with the machine. I do not think any member knows any more than those who saw the machine in the Speaker's room. In my opinion no

one can vote on a Bill of this nature when the extent of his knowledge is merely that, plus what he has read in the Press about the Victorian system.

I will not delay the House further, except to repeat that I think the Bill should be postponed until the next session of Parliament.

MR. DURACK (Perth) [5.8 p.m.]: I rise to support the Bill. In doing so, I would refer firstly to some of the remarks made by the member for Balcatta. During the course of his lengthy speech there was only one statement with which I agreed; namely, that this is a most important Bill. In my view this is the most important Bill I have had to address myself to since I have been in this House.

Undoubtedly the measure does affect the liberty of the subject and, in my view of politics, that is the most important matter we have to consider in this House. However, I do not agree with the member for Balcatta when he states that the effects of this Bill will strike at the inviolate and fundamental rights of the individual. I do not accept that description of its seriousness. Nevertheless, as it is a Bill which affects the liberty of the subject, I regard it as a serious measure; as one which should be carefully considered, and its consequences fully appreciated.

Whilst recognising this, I do not see why those consequences cannot be readily appreciated by the study of the Bill in the time that has been available to us and which will still be available before the measure passes through this House, apart from its consideration in another place. Actually, the Bill is very short. Its main effects are clearly set out in new section 32B on page 3 which is to be inserted in the Traffic Act. Subsections (1) and (2) of that proposed new section set out the circumstances in which a compulsory sobriety test can be required.

Subsection (1) requires such a test to be taken in the case of fatal injury or bodily injury requiring immediate medical attention if a member of the Police Force has reasonable grounds to believe that the person to be tested was the driver of the vehicle or animal that occasioned, or of which the use was the immediate or proximate cause of the injury.

Mr. Graham: You agree with my statement, then, that this breathalyser operation only comes into being when a person has been killed or injured?

Mr. DURACK: No, I do not, and I will tell the honourable member why in a minute.

Mr. Graham: I will be pleased to listen.

Mr. DURACK: Secondly, that the police officer has reasonable grounds for believing that the person to be tested was affected by alcohol to the extent that his ability to control the vehicle may have been impaired. The other circumstances in which a compulsory breath analysis may be required are those contained in subsection (2) of proposed new section 32B, which immediately follows. From line 20, on page 3, that subsection reads as follows:—

> Where a member of the Police Force has reasonable grounds for believing that a person has committed an offence against section thirty-two of this Act—

Section 32 is the one which, in common parlance, makes it an offence to drive whilst drunk.

If a member of the Police Force has reasonable grounds for believing that that offence has been committed, he may require the person concerned to submit himself for a breath analysis. So it is quite clear from the reading of subsection (2) of proposed new section 32B, that if a police officer has the suspicion that an offence of drunken driving has been committed even though no accident has occurred, or if an accident has occurred which has not caused any bodily injury, he may, under subsection (2), require such person to take a breath analysis by the breathalyser.

It is true that if, under subsections (3) and (4) of proposed new section 32B it is not possible to give that person a breath analysis, he can be required to have a compulsory blood test only if there has been a fatal injury or a bodily injury requiring medical attention. That is the only distinction between the two situations.

Mr. Tonkin: If this is so important, why not make it obligatory and not discretionary?

Mr. DURACK: I do not necessarily agree that this is a valid distinction, but I would be quite prepared to go along with the requirement for a compulsory blood test if a person was suspected only of drunken driving. This Bill is giving even greater consideration to the liberty of the subject in regard to the compulsory blood test.

Mr. Tonkin: This leaves it to the discretion of the policeman.

Mr. DURACK: It does not. His rights in the matter are clearly defined in section 32B(1) and (2).

Mr. Tonkin: This says a member of the Police Force may, and not shall, require that person to submit himself for an analysis.

Mr. DURACK: He has a discretion only in favour of the liberty of the subject.

Mr. Tonkin: Which subject?

Mr. DURACK: The discretion is all in favour of the rights of the individual. The police officer may not require a person to undergo a breath analysis or blood test, unless certain circumstances exist, and must exist objectively—and not exist in

his own mind. The provision states a member of the Police Force may require a person to submit himself for analysis of his breath for alcohol if—

(a) he was the driver of a vehicle or animal that occasioned, or of which the use was an immediate or proximate cause of, the injury; and

(b) he was, at the time of the occurrence of the injury affected by alcohol to the extent that his ability to control the vehicle or animal may have been impaired,

The police officer has to be satisfied that those two requirements existed before he can require a person to undergo the test. That is how the provision protects the liberty of the individual.

The meaning of reasonable and probable cause is well known to the law. The meaning of reasonable and probable cause on the part of police officers has been the subject of numerous decisions by the courts. I quote from *Halsbury's Laws of England*, Third Edition, Volume 25, page 358, in which the following is stated:—

> Meaning of reasonable and probable cause. Reasonable and probable cause has been said to be an honest belief in the guilt of the accused based on a full conviction, founded upon reasonable grounds, of the existence of a state of circumstances, which, assuming them to be true, would reasonably lead any ordinary prudent and cautious man, placed in the position of an accuser, to the conclusion that the person charged was probably guilty.

That shows how careful a police officer has to be in applying the provisions of this legislation.

I said at the commencement of my speech that I approached this subject with concern and caution, because it affected the liberty of the subject. On studying the Bill I have firmly come to the conclusion that the liberty of the subject is preserved within the terms of this Bill. We have to address ourselves to the question as to whether it is justifiable to infringe on the liberty of the subject to the extent which this Bill does. It is undoubtedly true that in certain circumstances, carefully circumscribed by the Bill, a person is obliged to undergo some restriction of his liberty.

What restriction does that amount to? It simply amounts to, in the case of breath analysis, the person having to go along with the police officer. He is not at that stage under arrest, but he has to accompany the police officer to be tested with the equipment, or to permit a doctor to take a sample of his blood by one of the simplest operations which the medical profession performs. I am sure my colleague, the member for Wembley, would agree. That is the only restriction on the liberty of the subject required under this legislation.

We should ask whether this is justified for the purposes of the Bill. This legislation is not designed to provide the Police Force and the community with interesting statistics on the causes of road accidents, but it no doubt will have that beneficial effect. After the legislation has been in operation for some time, I am sure the Minister for Police will be able to answer with a great deal of accuracy the sort of questions to which he has been subjected during this session, and to which the member for Balcatta referred.

Mr. Graham: Do you know what effect this legislation has had in Victoria?

Mr. DURACK: If the honourable member is referring to the effect on the statistics, it obviously must have improved the statistics available in connection with the causes of road accidents.

Mr. Graham: Do you know what effect the introduction of breath analysis in Victoria has had on the number of road accidents attributable to the drinking of liquor?

Mr. DURACK: Personally I do not know what has been the deterrent effect with the introduction of compulsory breath analysis. I do not know how one can definitely come to such a conclusion if there has been a continuous increase in the number of accidents. One would not know whether there would have been more accidents if such legislation had not been in force.

Mr. Jamieson: You have not read the Victorian Act.

Mr. DURACK: I am perfectly convinced that the evidence which is available, and which has been quoted by the Minister, does indicate there is a real connection between the consumption of alcohol and the road accident rate.

Mr. Fletcher: We all know that.

Mr. DURACK: I am glad to hear that remark. By providing for the type of evidence to be made available in the courts, this Bill should, in my view, have a deterrent effect on people who are disposed to drive motorcars after they have consumed quantities of liquor. I am not a prophet in these matters; I may be proved to be wrong in that regard; but I do consider this matter to be sufficiently serious as to cause us to experiment with legislation such as this, in the hope that it may—as I think it will—have a deterrent effect.

We have been supplied by the Minister with a table showing the relationship between the consumption of alcohol and the level of alcohol in the blood. That table shows the quantities in pints of alcohol.

Perhaps it would be more impressive to convert the quantities into the consumption of middies of beer, which I understand are 7-oz. glasses. If one does that one finds that before the average person comes within the *prima facie* range of guilt under this legislation—as indeed it does under the old Act—he has to consume at least 14 middies of beer.

Mr. Jamieson: You need to be corrected. That person must consume 14 middies within a certain time.

Mr. DURACK: That is so. It would surprise me to learn that any member of this House extended sympathy of any kind as far as the application of the law was concerned, to a person who drove his vehicle on the road after he had consumed 14 middies of beer, or the equivalent in some other type of liquor. I think the only real concern members would have was for a person who had consumed some quantity of liquor, which might have brought him into the impairment range set out by these figures. Although we have heard considerable discussion from some members who have spoken so far on the sad effect this legislation will have on the drunken driver, I draw attention to the fact that such a person has to consume 14 middies or more of beer within a fairly short space of time, and very shortly before he drove his car.

Referring to the deterrent effect, not only have we had figures from the Minister on this subject, but for some years I have been aware of other figures. As long ago as 1957 the Police Surgeon (Dr. Pearson) wrote an article in the medical journal of Australia, setting out a table to show the connection between fatal accidents and the presence of alcohol in the blood of the persons who were killed. This table deals with motor vehicle drivers, and shows results of blood tests performed on 51 drivers. Of those, 22 or 43.1 per cent. showed a positive result under the blood alcohol test. Of the 51 drivers tested, 39 per cent. showed a blood alcohol content of more than .1 per cent., which is getting into the range of drunken driving.

The report also revealed that of 70 motor cycle riders tested, 35 per cent. showed a positive alcohol result; and of 80 pedestrians tested, 47 showed a positive result. I repeat that of the 51 motor vehicle drivers tested by Dr. Pearson, 22 or 43 per cent. had a positive alcohol result, and 39 per cent. had a .1 per cent. alcohol content.

Mr. Bickerton: How can you prove that caused the accidents?

Mr. DURACK: I do not know what experience the honourable member has had with questions of proof. When one is concerned with litigation between two drivers involved in a collision, and there is proof of the lack of sobriety of one of the drivers, it is not difficult to find elements in his driving which support fully the conclusion of the test.

Mr. Jamieson: You are not taking any notice of the instances given by the member for Balcatta.

Mr. DURACK: I have had some professional experience on what are known as running-down cases. In fact, for many years, I have spent a good deal of my professional life on these cases. It is very clear indeed that a great number of accidents are caused by people who have been drinking to some extent, and by others who have been drinking to a great extent.

Mr. Graham: The figures which you have quoted show that more of those who were killed had not been under the influence of liquor.

Mr. DURACK: There might be more, but not a great many more. The result was that 43 per cent. were affected by alcohol.

Mr. Graham: As against 57 per cent. of the drivers who were not. You do not seem to worry about this 57 per cent.

Mr. DURACK: I am just as worried about others.

Mr. Graham: All the emphasis seems to be against the minority.

Mr. DURACK: Unlike the member for Balcatta, I am worried about the 100 per cent.

Mr. Bovell: Hear, hear!

Mr. DURACK: This Bill deals with nearly 50 per cent. of the 100.

Mr. Graham: Forty-three per cent.

Mr. Bovell: If you can save 1 per cent. by this means, it will be an achievement.

Mr. Graham: It never did in Victoria, according to tonight's paper.

Mr. Bovell: Don't be such a pessimist!

Mr. DURACK: Apparently the member for Balcatta is going to make another second reading speech.

Mr. Graham: I wish he could!

Mr. Bickerton: Hear, hear! It would be more interesting.

Mr. DURACK: This Bill provides a deterrent against the cause of up to 50 per cent. of accidents in this community, according to the statistics we have.

Mr. Graham: You cannot prove that.

Mr. DURACK: Naturally the statistics we have are not at all adequate today because, in the nature of things, these statistics have not been available. It is only since 1957 or 1958 that we have had even the provision of voluntary blood testing. The availability of voluntary blood tests has, undoubtedly, facilitated the proof of drunken driving and the cause of accidents by the effect of drink. There is no

doubt about that in my mind at all. I think the member for Pilbara has recognised very clearly that if anyone goes into court showing a result in the blood alcohol test of .15 or more, then he has very little chance of succeeding in his defence.

However, as I have said, I am not very concerned, and I am sure very few people are, with what happens to a man who drives on the road after having consumed 14 middies of beer or more. The trouble, of course, with the voluntary test is that the test is only taken by someone, as a rule, if he thinks he is going to gain some benefit in his defence by having had the test; and it does not work fairly to both sides.

There is really nothing more unsatisfactory, either to prosecution or defence, than the sort of evidence normally available on an issue of drunken driving. The legal profession has been complaining for years about the sobriety tests given by the police. I have had a lot to say about them privately from time to time and I think anyone who has experienced them realises what a hit-and-miss horse-and-buggy-age method it is of proving a person is drunk or otherwise.

Here we have a scientific method of establishing a fact, and this is highly acceptable not only in legal proceedings, but in the community at large. Here we have a simple, scientific, and fairly positive way of proving it and I feel that its introduction will have the most highly beneficial effects not only on the question of proof of guilt or innocence, but also as a deterrent to people who know that if they have been drinking and they drive a car, the question of how much they have consumed may well be available against them in a court of law. The very fact that a person knows that, must, in my submission, have a beneficial effect on him in regard to the consumption of liquor before he drives.

There has been some reference by both the member for Balcatta and the member for Pilbara to the device itself—the breathalyser. They query whether it is going to work; and, of course, this is something with which we would naturally be concerned. Here again, though, we are not introducing something that has not been tested in other places. The breathalyser has been working in some States of America and in Victoria, and it is a well-known scientific instrument. It is no good the member for Pilbara, or any of us in this House, adjourning this debate so we can make a technical investigation of the breathalyser. That is something we have to rely on the scientists and the manufacturers to do. It is an instrument which has been developed and tested and applied for many years in other places. I feel quite satisfied it will be able to be applied here.

On this matter I find there is adequate provision for the protection of the individual who has had to undergo such a test. Dealing with the proof of the test, on page 8 of the Bill is the following:—

> (3) In any proceeding such as is mentioned in subsection (1) of this section, evidence by an authorised person that—
>
> (a) . . .
>
> (b) the breath analysing equipment was, on the occasion of its use, in proper working order and was operated by him, in the prescribed manner; or
>
> (c) at the material time, all regulations relating to analysis by breath analysing equipment were complied with,
>
> is *prima facie* evidence of that fact.

It is *prima facie* evidence, but the fact is that the evidence must be given by an authorised person; in other words, he could be subjected to cross-examination. If there is any reason to believe that the machine was not working, or was not being operated properly, he could be subjected to cross-examination in the proceedings. Furthermore, subsection (4) of proposed new section 32B provides that a person can ask for a blood test if an analysis of his breath has been made.

Mr. Graham: That is not a concession; that is the frying pan or the fire.

Mr. DURACK: I am not myself very happy with the phrase in that provision, "effect shall be given to the requirement" and I propose in Committee to move the insertion of words to ensure that effect shall be given to the requirement by the member of the Police Force who is concerned. That will impose upon the police officer a statutory duty to carry out the wishes of the person being tested, and if the police officer does not carry out such request, he will be committing a misdemeanour under section 177 of the Criminal Code, because he would be breaching a statutory duty imposed upon him.

Therefore, in support of this Bill, I have set out some considerations which I think are relevant. I agree it is a matter of great importance. It is a Bill which affects the liberty of the subject, but the liberty of the subject, although it is fundamental to our way of thought and life, and although it is precious to me, and I certainly do not yield to the member for Balcatta in regard for the liberty of the subject, or anyone else for that matter—

Mr. Graham: You had better do something about it then.

Mr. DURACK: —I believe the Bill has many safeguards for the protection of the individual's liberty. There are many laws in

our community which affect the liberty of the subject and which do so in the overriding interests of the community itself. The power of arrest is a very much greater power of a police officer than anything given to him under this Bill. The police officers have been able to arrest under British law for centuries. There is not only the power of arrest one can think of. There has recently been a power given for compulsory medical attention to be given to infants whose parents or guardians have some religious quirk which prevents it; that is another precedent that clearly comes to mind.

There are countless precedents for some restriction being placed on the liberty of the subject. We could not operate a system of law and we could not live as an ordered society unless there were some restrictions on individual liberty. The restrictions imposed by this Bill are of the most minor character, as I have already indicated. There is no question really here of legalising assault and I would, in my concluding remarks, like to refer to something which appeared in *The West Australian* this morning emanating from the Law Society in opposition to this Bill.

I do not know how fair it is to attribute anything that appears in *The West Australian* to the Law Society as such. Apparently the secretary of the society was asked to make some comment on the Bill. He could only make a personal comment. There was no suggestion that what appeared in this report was the official opinion of the Law Society or anything else than a guess by the secretary as to what lawyers may think.

Mr. Graham: Shame on the Government for rushing it then!

Mr. DURACK: I have spoken to a number of lawyers concerning the basic principles of this legislation; and although opinions may differ—naturally opinions on this sort of legislation would differ in any section of the community—it is not true to say by any means that the Law Society or the legal profession as such—or any significant proportion of it—would be opposed to this legislation. It was merely some guesswork by the secretary based on what some lawyers thought of legislation in 1957. That was years ago, long before we were faced with the crisis we now have before us on the road accident rate.

What lawyers may have thought in 1957 is not necessarily what they would think now in relation to the problem we face today. I do not think any serious attention should be given to what appeared in the paper this morning as being the opinion of the Law Society.

Mr. Graham: Don't you think they should have time?

Mr. DURACK: For what it is worth, as members will have gathered, I do not believe there is anything wrong in principle with this legislation.

Mr. Graham: That is only party loyalty, of course.

Mr. DURACK: There may be some features of it which, as I have indicated already, could be amended; but in principle I am entirely in support of compulsion for breath analysis and for blood analysis in the circumstances as set out in this Bill.

Mr. Tonkin: Has the honourable member any views on whether the evidence should be excluded from civil cases?

Mr. DURACK: Yes. I entirely agree with its exclusion in civil cases.

Mr. Tonkin: Why?

Mr. DURACK: Because this Bill is concerned with providing a deterrent to an offence. It is concerned with criminal jurisdiction, and that is all.

MR. EVANS (Kalgoorlie) [5.43 p.m.]: The honourable member who has just resumed his seat spoke at some length about the liberty of the subject, and this would seem to be a good starting point for me. I would add that I have come to a diametrically opposite conclusion to that of the honourable member.

It is a well-known and highly-respected principle of law that the liberty of the subject and the convenience of the police should never be weighed in the balance one against the other.

This measure before us contains provisions enabling the police under certain circumstances to compulsorily require persons to undergo breath analysis or blood testing. I am fortified in my conclusion that this Bill presents a very serious affront to the dignity of man or the liberty of the subject by certain remarks which are reported in the *Parliamentary Debates* of Victoria, the 1961-1962 session, volume 261, at page 1280, during the debate which preceded the introduction of similar and originating legislation in the State of Victoria. These extracts are given in a speech made by The Hon. J. W. Galbally. He quoted from a report of evidence given by the Solicitor-General of the State of Victoria to a Select Committee of the Commonwealth Senate on Road Safety in 1959, the Solicitor-General being Sir Henry Winneke. Sir Henry Winneke appeared before this Select Committee of the Senate of the Commonwealth of Australia by direction of the Victorian Government and the extract quoted by Mr. Galbally reads as follows:—

> Extracts of evidence of Sir Henry Winneke, L.L.M., Q.C., Solicitor-General of the State of Victoria, before the Senate Select Committee on Road Safety, 1959.

Sir Henry appeared before the committee by direction of the Victorian Government to put forward legal and policy aspects of the problem, on which latter he was, in fact, the spokesman of the Government.

The extracts, which deal with chemical tests for unfitness to drive through excessive consumption of alcoholic beverages . . .

Sir Henry is quoted as saying—

The system would violate the basic common law principle that an accused person cannot be compelled to incriminate himself. There is a strong body of thought that says, "Why insist on that? It does not matter much." Perhaps it does not matter much in this class of case but it is necessary to think of this matter on broad lines. It is necessary to think of the precedent that would be set Having infringed this principle, it may be possible for the traffic law to work fairly well; but, later on, people may say, "What is wrong with applying it to something else? If it is good for this class of case, why is it not good for a man charged with murder to be compelled to make a statement?" It is the same common law principle behind both things, and I suppose that committing a murder is more serious than causing a motor car accident. Where do you stop once you start?

I need not say that I view this Bill with a great deal of distaste and I object most strongly to the principle contained in the measure. Compulsion, whether to acquire a breath analysis or a blood test of a vehicle driver, is something to which I object and a law such as this, as I have endeavoured to show from the remarks of the Solicitor-General of Victoria, would compel a citizen to give evidence against his own best interests. It would compel him to incriminate himself and, in doing so, would be a violation of a principle of English law that in the past has been highly respected. My cardinal objection to the Bill is that it ravages this principle —no person should be compelled to incriminate himself.

I should also like to quote a significant remark made by the Minister in charge of the legislation in the Legislative Council of Victoria. At the time he was the Minister for Housing and his name was The Hon. L. A. S. Thompson. This statement was made in November, 1961, and is to be found on page 1133 of the *Parliamentary Debates* of Victoria for the session 1961-62. That Minister said, or admitted, that breathalyser tests are approximately as accurate as blood tests.

That brings me to the point about which I asked the Minister a question this afternoon. Under certain circumstances, where a breathalyser instrument is not available, a driver is required, under this proposed law, to undergo a blood test as the alternative. As a result of that one would expect a very high correlation between the results, under controlled circumstances and in respect of the same subject, obtained by a breathalyser and a blood test. The matter became the subject of the question I addressed to the Minister this afternoon, which was as follows:—

(1) Is he aware of any authoritative tests that have been conducted to correlate the findings of a "Breathalyser" test and a blood test of the same subject under controlled circumstances?

(2) If so, would he please inform the House of same?

The Minister replied that he was aware that apparently there were authoritative tests, but in actual fact he did not give the House much information at all; because he said the information on the correlation was contained in a report on proceedings of the Third International Conference on Alcohol and Road Traffic held in London in September, 1962. The Minister concluded by saying that the report was available to me if I wished to see it. However, of course, that is a little late for the purposes of this debate.

Mr. Craig: There is only one member in the House who would be able to interpret it and that would be the member for Wembley because of the medical terms.

Mr. EVANS: Apparently the Minister for Housing in the Victorian Parliament was not able to interpret it either because he said the breathalyser tests were approximately as accurate as blood tests. When we have a measure which provides that under given circumstances a person shall undergo a blood test, when the facilities for the other test are not available, one would expect—and it would be reasonable to do so—that the results from one test, on the same subject and under controlled circumstances, when compared with the result from the other test would not be almost the same—they should be identical. The Minister has not convinced me by referring me to a report. Had the Minister given me one instance in his reply I could have been satisfied on the point, but I am not satisfied because if one test is not available, and the other test has to be taken, the results from both tests should be identical and not merely almost the same. I am far from convinced.

Mr. Craig: The courts have satisfied themselves.

Mr. EVANS: The courts? Where?

Mr. Craig: On the accuracy of the breathalyser.

Mr. EVANS: What courts?

Mr. Craig: In Victoria.

Mr. Bickerton: They should satisfy us not themselves.

Mr. EVANS: The courts have satisfied themselves?

Mr. Craig: Yes.

Mr. Graham: No; they have just accepted it.

Mr. EVANS: If the courts in Victoria are satisfied why does not the Minister quote the information obtained from that State instead of referring me to a report of the proceedings of the Third International Conference on Alcohol and Road Traffic held in London in September, 1962? Presumably evidence is obtainable from Victoria, and it would have been better to quote that instead of referring me to the report of a conference which was held in London. Victoria is only a few thousand miles away and results in cases as recent as 1965 could be quoted.

Mr. Craig: That was because it was felt that the International Conference would cover more views than if we quoted Victoria alone. I thought that would give you more satisfaction.

Mr. EVANS: But it was not in time for me to use it in this debate. I now pose this question: If the measure has not been conceived in haste—and the Minister denied that it had been—and it is of such momentous importance—we all agree on that point—why did not the Government announce this as a matter of high policy at the last State elections? This has been introduced in its first year of office and I boldly say the Government has no mandate from the people to introduce legislation of this nature.

Mr. Craig: The Premier said in his policy speech that he was going to get tougher with drunken drivers.

Mr. Jamieson: You have already done that.

Mr. EVANS: I repeat: It is my firm opinion that this legislation has been conceived in haste.

Mr. Bickerton: It should be stillborn.

Mr. EVANS: The first inkling I had that such legislation was contemplated, and would be introduced, was in June following a meeting of State Ministers for Traffic held in Perth. Am I right?

Mr. Craig: There was a meeting here.

Mr. EVANS: On the night of the first day the meeting was held it was announced that the Minister for Traffic had given information to the A.B.C. that Western Australia was going to introduce such legislation, which had been discussed at that particular meeting.

Mr. Craig: I do not think it was, but I cannot remember exactly.

Mr. EVANS: No other States have rushed in and introduced it, and presumably they were all represented at that meeting.

Mr. Craig: From memory I do not think we even discussed it at the conference.

Mr. EVANS: From memory, an announcement was made to that effect, and that is where I heard it.

Mr. Craig: I am sure we were not guided by the conference on this matter.

Mr. EVANS: Apparently no other State has worried about it because none of them, with the exception of Victoria, has rushed in and introduced such legislation.

Mr. Craig: They are not as intelligent as we in this State.

Mr. Graham: The Minister has a sense of humour.

Mr. EVANS: Presumably a breathalyser test and a blood test measure the standards of alcohol content in a given volume of blood; they do not purport to measure the standards of driving ability. It is common knowledge that a given quantity of alcoholic beverage will have far more effect on one individual than possibly it will have on some other individual. Many of us would have personally encountered the type who is known as a two-pot screamer, and I think it is well and truly established that alcohol can have varying effects on different persons, depending on their temperament and possibly upon their metabolism.

Yet we find legislation introduced which will impose an absolute standard, completely unrelated to one's driving ability. The offence is not performing badly while driving a vehicle, but it is having an excess of alcohol in one's blood, determined by two tests which are completely unrelated to standards of driving ability.

Finally, I would like to object to one particular provision because I think it is far worse than any other provision in the Bill —I refer to proposed new section 32C. It has been claimed in defence of this Bill that here at last we will have a foundation of scientific evidence upon which litigation can be determined. Yet new section 32C reads—

> 32C. (1) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which he was, under the

influence of alcohol at the time of the alleged offence is relevant, evidence may be given of—

I should now like to pass on to paragraph (g) of the first section of that proposed new section which reads—

> (g) the finding of a properly qualified analyst, based on his analysis, the interval of time that has elapsed and the other relevant circumstances, as to the percentage of alcohol that was present in the blood of the person . . .

And I emphasise—not at the time the analysis was made by the analysist, but at a time prior to the taking of the sample. How unscientific can one get? Here we are asking an analyst to give evidence after having analysed a sample of blood and arrived at a determination on how much alcohol was present. He is not being asked to give evidence as to the determination of the alcohol present in the bloodstream at the time he analysed the blood, but as to how much alcohol was present at a time prior to the sample being taken. How scientific is that? It is about as scientific and as dubious as a meat pie. That provision should be expunged from the Bill, if the measure ever sees the light of day, which I hope it will not.

I notice the Victorian legislation which, I suppose, is the putative father of this piece of illegitimate legislation, is in the form of an amendment to the Crimes Act. It is termed the Crimes Breath Test Evidence Act. From a study of the provisions of that Act, however, I notice there is nothing which compares with the provision I have read, which is contained in proposed new section 32C(1)(g). The Victorian legislation does not contain any such provision at all.

Having castigated and criticised the proposed legislation, I claim that possibly the worst feature of it is the fact that it casts an onus of proof on a person who is accused, not by a human accuser, but by a machine. It is a basic principle of British law that a person is innocent until he is proven guilty. But in this case we do not have a human accuser; we have a mechanical one in the shape of a breathalyser machine.

In the case of blood tests, evidence may be given by a person who has analysed a sample of blood that it contains a given amount of alcohol, not at the time when it was analysed, but at a time before the sample was taken.

I find no further words strong enough to express my great disapproval of this measure and therefore my vote will have to suffice to indicate my strong objection to this measure.

DR. HENN (Wembley) [6.3 p.m.]: Before I begin what I have to say, I would like to congratulate my colleague, the member for Perth, on the excellent speech he made on this debate.

Mr. Bovell: Hear, hear!

Dr. HENN: I have rarely heard a more lucid explanatory speech in this House. I have only been here a matter of seven years, but I would say that the honourable member's speech was an excellent one. I am most grateful to him for clearing up a number of the points that were worrying the member for Balcatta with regard to the clauses of the Bill. Fortunately, I need say nothing on that aspect, because it has been very well dealt with.

Mr. Graham: Would you like a description of your speech after it is finished?

Dr. HENN: It may be true that the member for Balcatta did not know of the possibility of this legislation being introduced into the House until some very recent time. But I think I remember seeing mention of it in the Press more than two or three months ago. So it has been more or less public knowledge for some time.

When I heard about the matter I was very interested, and I wrote to the Professor of Forensic Medicine at St. Thomas's Hospital in London. I did that for two reasons: The first reason is that I studied medicine there a number of years ago, and the second reason is that St. Thomas's Hospital has always dealt with the Metropolitan Police Force. In fact, it has looked after the members of that force, and has had close liaison with them. Apart from this, the senior members of the staff have an equally close liaison with Scotland Yard.

So, as I have said, I wrote to the Professor of Forensic Medicine there, and received the following reply, which I think members might be interested to hear. It is not a very long letter, and is in reply to an inquiry of mine as to whether the professor had any information on the breathalyser. The letter reads as follows:—

> Dear Dr. Henn,
>
> Your letter of 2nd September has been passed on to me by Professor Curran, the Professor of Pathology, as I am responsible for Forensic Medicine at St. Thomas's.
>
> I have little personal experience of the use of breath analysis for alcohol but I have made enquiries both among my forensic colleagues and also of friends at Scotland Yard.
>
> I gather there are five or six types of machine for breath analysis all using different methods and of varying complexity in use. (The term "Breathalyser" actually refers to a particular machine and is, I believe, a trade name). The general consensus

of opinion at the moment is that the machine tends to read lower than the blood. If this is so then it works in the Defendant's favour. A properly maintained and calibrated machine in the hands of a trained and experienced operator produces reliable and reproducible analysis figures, but both the machine and the operator must fulfil the above conditions. Also the results may be unreliable with an uncooperative subject as many drivers are when their faculties are impaired by alcohol.

There is also the problem of whether the test is to be carried out as a spot check by the road side or in a police station. In any event there should be some form of check available for the Defendant, either in the form of a blood sample or a second sample of breath. I believe it has been recommended that the collection of breath might be done at the time into bags and analysis carried out in an approved laboratory, but this raises a number of technical scientific problems.

If it is to be operated at the road side then I agree it would be better to have an independent operator rather than a police officer. The machine could act as a screening test and blood samples could be taken from drivers at the police station by a doctor or trained technician as I understand is the procedure in certain parts of the United States.

At the present moment we are awaiting the results of further investigations into the accuracy of these machines, for as you know legislation concerning alcohol and the Road Traffic Act is being prepared in the United Kingdom and it is intended to introduce into the Bill an actual figure of the concentration of alcohol in the body either in blood, urine or breath above which it will be an offence to drive a motor vehicle. This is very topical just at the moment and I may be able to let you have some further information at the end of the month.

I must make it clear that the opinions expressed above, although coming from entirely reputable and reliable authorities, are in no way an expression of official policy.

I hope that they may be of help to you. If there are any further developments relevant to your queries I will write to you again.

Yours sincerely,

H. R. M. Johnson,

M.A. M.B. B. Chir., M.C. Path., D.M.J., Lecturer in Forensic Medicine, St. Thomas's Hospital Medical School, London, S.E.1.

I thought that was interesting at the time, and I wrote back to Dr. Johnson and asked him if he could give me the names of the other instruments which he knew of in the United Kingdom. I got a letter back saying that the four machines in current use are the Breathalyser, the Alcoholometer, the Kittigawa-Wright, and the Drunkometer.

I hope the Minister and his advisers will look into every one of these machines, and if there are any others, I hope they will also have a look at them. It is not difficult in this age to get big business houses to fly over a machine whether it is from the United States, from Timbucktoo, or from the United Kingdom. I would like to make sure that we have the best machines available in Western Australia. As it is, this legislation is going to cost a bit of money, and I do not think we should spoil the ship for a haporth of tar. As I have said, we must make sure we get the best machine possible.

I thought I would confine my remarks to some of the objections that have been made by a few of the members, and by some of the citizens outside this House. I must confess I have only had one phone call from my electorate voicing disapproval of this legislation. I realise, of course, that that is no guide as to whether the legislation is unpopular, or whether it is popular.

Mr. Hall: Did he have a slur in his speech?

Dr. HENN: No; he sounded a very nice gentleman, and enunciated his words very well. One of the objections that have been raised by some people is that the breathalyser test should only be done if a third party is present. I thought of this myself, but I felt that it would be a very clumsy set-up if we were to have a third party present. I can only speak from other people's experiences, but I think we all know how difficult it is, when one is unfortunate enough to arrive at a police station, to get anybody to accompany one. I have been asked to go to the police station to act as bail occasionally for one of my patients, or for a friend of mine, and I do know that other people were also asked before I was approached, but nobody was prepared to go there. It would appear that nobody is prepared to do his duty as a citizen by going to the police station to assist a fellow citizen. If there is to be a third party present it will have to be a friend of the person in trouble; it might be his lawyer, his doctor, or his uncle, or his aunt. My experience is that it takes too long to get hold of anybody and it would be far too clumsy to have a third party present.

It is equally difficult to get a justice of the peace on a Saturday night. So I feel it is quite satisfactory that the breathalyser test should be done by a police officer.

It would be carried out, I should imagine, by at least a sergeant or an inspector. I do not deny that there are one or two bullies in the Police Force who would not do their job properly. I say one or two, and I do not want this to be misinterpreted or enlarged. There are people in every profession—maybe one or two—who would possibly abuse such authority if they had to carry out this duty. But I think those in charge would make certain that the police officer responsible for the machine would be one of the best officers in the Police Force.

Mr. Craig: He will be specially trained.

Dr. HENN: Not only should he be specially trained, but his character should be such that it cannot be impugned. There are good and bad people in every profession or calling, and it would be nice to think that one of the very best officers—perhaps one who is due for promotion—would be entrusted with this most scientific, important, and responsible job.

The SPEAKER (Mr. Hearman): Before leaving the Chair, I would like to remind members that there will be a meeting of managers of both Houses immediately after tea. The other point to which I would draw the attention of members is that there will be a meeting of members of both Houses to discuss the proposal in connection with the Parliament House Reserve.

Members may recall that at our annual general meeting a motion was carried which compelled us to call a second meeting of members to discuss the matter further, after we had listened to the officers of the Public Works Department, and others, at the meeting which was arranged last Wednesday. I would like as many members as possible to attend as quickly as possible after tea.

Mr. Graham: Where will it be held?

The SPEAKER (Mr. Hearman): In the Legislative Assembly Chamber. I will leave the Chair until the ringing of the bells.

Sitting suspended from 6.15 to 8.20 p.m.

Dr. HENN: Before the tea suspension I was about to conclude my remarks on the subject of breathalysers and I said I hoped the Minister would appoint or have appointed a very experienced and reliable police officer to be in control of the machines. I also pointed out that the breathalyser machines should be regularly checked. I think most machines have to be checked at times and I do not know who will be responsible for checking them but, without mentioning names, there is an instrument firm in Perth which would be quite qualified to do this regular check.

Finally, on the breathalysers, it has been said by some members opposite that the machines might not work properly, or possibly the operator might not work them properly. One must not forget that the accused person can always demand a blood test. As far as I am concerned, I feel that the difficulty which is envisaged by some members opposite, should they be real—and I do not think they are—can be resolved in favour of the accused or the person in difficulties by his demanding a blood test.

Another matter on which I wish to make a few comments is the question of compulsory blood tests. Provision is made in the Bill that where a person is suspected of drunken driving and is not within 25 miles of the equipment, and a breathalyser test cannot be taken within four hours of the event, or the person has sustained bodily injury so that he is unable to cooperate, he must submit himself to a medical practitioner and allow a sample of blood to be taken.

Mr. Evans: Would you place more confidence in one method as against the other?

Dr. HENN: From what I have been able to find out since receiving the letter which I quoted, the breathalyser is a satisfactory method of achieving a result which can be taken to a court of law and listened to and understood. Perhaps I have not used the words the member for Kalgoorlie might have liked me to use, but I understand from the letter that the specialist said that evidence obtained from this instrument was very good. By that I think he meant that it could be used in a court and people could listen to the evidence with safety.

Mr. Evans: But have you yourself more confidence in one method as against the other?

Dr. HENN: I would like to have the two methods. I could not say one was better than the other because I have not done any of this type of work. I think the proper person to answer your question is the analyst or the person taking the test.

Mr. Bickerton: Don't you think that is all the more reason for us to further consider this method?

Dr. HENN: I have had plenty of time; I have been making inquiries for over a month.

Mr. Bickerton: You have a start on everyone else; you have already had experience in one method.

Dr. HENN: I believe the member for Pilbara could have made more inquiries if he had wanted to.

Mr. Bickerton: But not in the limited time available. You would have known about this probably a fortnight ago. You are on the right side.

Dr. HENN: To get back to the subject on which I was speaking—the matter of blood tests, and the question of a person submitting himself to a medical practitioner—I would like provision for the person to be able to nominate the medical practitioner. Then the accused could ask

for his own doctor if he was within the time and distance limitations. During the Committee stage I hope to move an amendment to insert that provision. If a person has his own doctor it might be of great advantage to him. I do not think it matters which doctor takes the blood, because most people can do that, although it is much easier for a person with a lot of experience. The reason I mention this point is that the doctor examining the accused might not know of a certain disease which he might have. The accused may have a kidney disease or diabetes which, in the hustle and excitement of the arrest, and the inquiries going on, he might have forgotten about.

Mr. Craig: The person might not be aware of the fact that he has such a disease and the taking of the blood might be beneficial to him.

Dr. HENN: That is so. The doctor might not have kown about the disease but only discovered it on taking a test. Furthermore, if the patient's doctor took the blood test, the doctor would know of the patient's nervous condition. It is well known that when a person is involved with the police—the average person—he gets pretty excited. It only requires a few words at the police station and most people's pulse increases and the blood pressure rises, and the fingers begin to tremble. So I always think the accused is at a great disadvantage. I have not had the experience myself, but I have seen other people in that situation, and I think they should be given every opportunity—if this blood test gives them that. The blood test could show that a person was shaking from nervous reaction, and was not trembling because of alcohol. I think it would work both ways.

Mr. Graham: What is your reaction, as a professional man, to the taking of blood from a person who does not want you to take it?

Dr. HENN: I am glad you asked me that question; I will be coming to that point very soon. I always leave the nicest piece until last.

Mr. Bickerton: I do not like that very much, coming from a doctor.

Dr. HENN: There is another disease called Parkinson's disease where symptoms of such disease are shown quite early in life. About 15 years ago a friend of mine found himself in the unfortunate situation where he was supposed to be drunk. I happened to know that his father suffered from Parkinson's disease, and I noticed that my friend was shaking. I passed him on to a specialist to confirm what I thought was the diagnosis and, fortunately, it proved to be correct. So in that case the fellow was shaking simply because he suffered from that disease. The effect of being arrested completely upset him. He admitted that he had had a few drinks, but in my opinion the drinks were not the cause of his behaviour. That example will show that this blood test is going to work both ways.

The member for Balcatta asked me what my personal opinion was with regard to the taking of blood tests or being required to take a blood test from an unconscious patient.

Mr. Graham: No; a conscious one, but a protesting one.

Dr. HENN: The doctor does not have to take a test.

Mr. Craig: There is no compulsion to do so; it says so in the Bill.

Mr. Graham: No; I realise that, I may be a person who does not want to take the test, but the police officer insists that I have to take it, so I reluctantly do so because I do not want to pay a fine of £100 or so.

Dr. HENN: Not necessarily.

Mr. Graham: It would square with your conscience if you did not take the test?

Dr. HENN: Nor am I compelled to conduct a test on any person. If the honourable member were the one who had to undergo the test I might consider that he was too ill to have the test taken.

Mr. Craig: You are right there!

Dr. HENN: I said, "too ill," Mr. Speaker.

Mr. Graham: It is obvious to me that I should not have you as my medical adviser.

Dr. HENN: The honourable member might be missing out on something.

Mr. Graham: I am sure I am; I am still alive.

Dr. HENN: The patient who is unconscious presents an aspect that gives me food for thought. Such a patient, of course, would be promptly taken to a hospital for the obvious reason, and placed under observation for two or three days. He would be subjected to X-rays and various tests and after two or three days had elapsed it could be shown that he was suffering from some disease apart from having too much alcohol in his blood.

I do not relish the thought of being asked to take a blood test of a man who is unconscious, because I know that if the test shows he has .15 per cent. of alcohol in his blood he will be found guilty of being drunk whilst in charge of a motorcar. But, like everyone else, doctors have responsibilities to the community; it is not all honour and glory for them. Medical practitioners have to perform many tasks that are not pleasant, and this could well be one of them. However, we have a responsibility to the community and, in certain circumstances, I would be quite prepared to conduct a blood test. On the

other hand, each case being taken on its merits, I might refuse to conduct the test. I have not been posed with that question as yet, but there are certain conditions under which one might have to do it as a responsible physician.

The question of assault on the person has been the subject of some concern to some members opposite and, I have no doubt, to a few members of the public; but here we should bear in mind that when one intends to travel abroad one has to undergo vaccination and have injections for cholera, and so on. They are not compulsory in any shape or form, but if the intending traveller does not have them he may find after embarking on his trip that he cannot land in some foreign country. There are, of course, many persons who travel abroad, but I have not heard of anyone who has refused to take the vaccination. The position is that they are not thinking of the results of the needles, but the enjoyment of the trip ahead of them and they submit themselves to vaccination because they know that otherwise they would not be allowed to land on some country overseas.

Also, any person entering Australia who has not been vaccinated against smallpox will be refused entry unless he submits himself for vaccination on the spot. Again, that is not compulsory, and if such a person refused to be vaccinated he would have to remain on board ship or aircraft and go on to Timbuktu. All those operations are fairly compulsory on people who become involved with them. Finally, in this State people undergo compulsory chest X-rays. There has been some opposition to it, but most people submit themselves to the test; and the fact it has been in operation for the last 20 years indicates that it has been well received by members of the public, and it can be said with truth that pulmonary tuberculosis has been eradicated almost to minor proportions because of the tests made.

Although I do not like anything that is compulsory, I believe there are certain situations in which compulsion has to be exercised. This Bill is endeavouring to cut down road accidents and particularly those which have been caused by drivers who have consumed too much alcohol. The Minister has given figures to the House to show that in past years a large number of accidents have been due to the consumption of too much alcohol.

Mr. Graham: I do not think they prove that.

Dr. HENN: I know the honourable member did not like it because he said so when the Minister was speaking.

Mr. Graham: The figures did not prove that the consumption of alcohol was the cause of the large number of accidents. They merely showed that some persons had consumed liquor.

Dr. HENN: I know the honourable member does not like what has been said.

Mr. Graham: Those drivers did not have accidents merely because they were sober. It was a fact that they had them whilst they were sober; that is all.

Dr. HENN: I commend the Minister for introducing the Bill. The Minister is a nonchalant sort of person, and does not get excited about anything as a rule.

Mr. Graham: He does with the Deputy Leader of the Opposition.

Dr. HENN: When he was making his second reading speech I think I detected from his attitude a feeling of satisfaction and hope that this Bill would do something to cut down the appalling road toll in this State.

I want to mention another group of people; that is, the pilots of aircraft. From the time aircraft were first flown, the pilots and those directly concerned in the operation of an aeroplane have observed —so I have been informed—the unwritten law that they do not drink for some hours prior to the aircraft taking to the air. There must be some reason for their observing such a law.

Mr. Jamieson: It is not only an unwritten law; it is a condition imposed by the Civil Aviation Department.

Dr. HENN: I have now been informed that such a condition is compulsory. Apparently, if a pilot smells of drink when about to enter an aeroplane he is not permitted to board that plane to operate it. I feel we could have taken a lesson from aircraft pilots. We could say that a motorcar is more dangerous than an aeroplane, so why not cut down our consumption of intoxicating liquor prior to driving a motorcar?

Mr. Bickerton: I would agree with you in regard to taking a test for a driver's license. The driver's license that is issued is just a piece of paper to drive almost anything.

Dr. HENN: I was merely saying that the drivers of motor vehicles should follow the example of aircraft pilots and cut down their consumption of liquor before taking charge of a motor vehicle, but in the nature of things as they are one consumes many drinks and still continues to drive a motorcar.

Mr. Bickerton: I have no doubt that a pilot could still pilot an aeroplane after having consumed a few drinks.

Dr. HENN: So I think it is not unreasonable to introduce legislation of this kind. It is a pity we do not think a little more of the old pensioner who, on a winter's night, leaves his lodgings with his coat buttoned up against the elements, crosses the road with his head down to buy a bottle of milk at the shop opposite, and, because his hearing is impaired and

his eyesight is dim, he does not hear the vehicle bearing down on him, and it knocks him to the ground. It is then found that the driver of that vehicle has had too much to drink. In my opinion we give too much consideration to the motorist and not sufficient to the person who gets hit. We might think about our children who, in the course of rushing across the road, are knocked down by vehicles driven by drunken drivers and within a few minutes are patients in the Children's Hospital.

Mr. Bickerton: I sincerely hope that those who speak on this Bill will practise what they preach.

Dr. HENN: We might also think about the young person who has just got a job, who is paying off a home and living decently, and who drives out in his motor car. Through no fault of his he becomes involved in an accident with a drunken driver; and, as a result of his injuries, becomes a paraplegic for the rest of his life. Therefore I think we should give a great deal more thought to those people.

Mr. Bickerton: I agree with you.

Dr. HENN: The member for Pilbara talked for about 20 minutes on the inadequacies of the breathalyser. What he omitted to say was that the accused person could have called for a blood test, so his arguments seem to be without any foundation.

I think I have said enough to indicate I support the Bill. I congratulate the Minister for introducing it, because I know he has done so only in an attempt to reduce road accidents in general, and those in particular which have been caused by drivers who have consumed too much alcohol.

MR. FLETCHER (Fremantle) [8.41 p.m.]: I will support any measure introduced into this House which I believe will reduce road accidents, whether they be fatal or those that cause bodily injury; but I cannot support this Bill with enthusiasm, because I do not think it will reduce the road toll. I regret to have to say that. The measure will have only limited application and, in view of the fact that new drivers are coming on to the road continuously, this apparatus to be used to analyse a person's breath will be used on only a limited number of drivers. A few days ago I cited an incident when speaking to another Bill. A constable on road patrol had parked his motor cycle in front of a vehicle and was discussing with the driver of that vehicle his poor driving ability. Unfortunately the handbrake was released, the vehicle rolled forward and pushed the constable's motorbike over.

Naturally, this put the constable in a bad frame of mind and, to use common parlance, he "hit the driver of the car with the book."

In subsection (3) of proposed new section 32B, it is provided—

> A person shall not be required, under subsection (1) or (2) of this section, to submit himself for analysis of his breath if—
>
> (a) breath analysing equipment, in proper working order, and an authorised person are not available within a distance of twenty-five miles ...

Under this Bill, if the constable wished to be vindictive he could transport this fellow away from the spot where he had interviewed him for a distance of over 24 miles, during which time there could be a multiplicity of other traffic accidents occurring whilst this constable was busy conducting his reluctant passenger on a journey of 24 miles or more. For that reason I believe the Bill lacks something in regard to what the Minister genuinely intends to achieve.

I point out to the House that the breathalyser which was exhibited in this building the other evening can only be used by a limited number of people when they are required to breathe down the pipe on the machine. Certainly not more than one could breathe into it simultaneously. I believe if two persons were needed to breathe into it shortly one after the other, there could be confusion.

Mr. Craig: They cannot do that; each has to be separate.

Mr. FLETCHER: Let me elaborate on that point. Later on I will go into it further, but this was the attitude I adopted when I first rose. I said I did not believe this apparatus would achieve the desired purpose of reducing the road toll. Assuming that the instrument had declared a person to be drunk, after he was proven drunk it would pose this situation: that the accident had already occurred and evidence was taken of the fact that the driver was drunk. It is a bit late to arrive at that conclusion after an accident. I think others have made the point.

We are already able to fine people; and we already have radar and other equipment to catch a transgressor; but what salutary effect has that had? The member for Perth said that this would be a deterrent. I ask the House whether it will be any more a deterrent than the existing fines.

Mr. Durack: I said I hoped it would.

Mr. FLETCHER: I ask the honourable member whether this instrument would have any deterrent effect if it were in the back room of, say, a local police station where it would recline and not be obvious to the public, and certainly not the driving public. Furthermore, it is compulsory that a person should breathe into this apparatus. It is said the general public is quite

apathetic as to whether or not compulsion is applied. The editorial in this evening's paper took a very different line, while it quoted the opinions of other individuals who, in the main, supported it. However, by and large, I suggest to this House that the average person is concerned regarding an intrusion into his basic and fundamental rights.

In support of my contention, I will read one paragraph from an article which appeared in *The West Australian* on the 24th March, 1964. The heading is "Report Says Voters Lack Knowledge". The heading is not related to the paragraph I wish to read, which is as follows:—

> Many Australian electors believe a Government is an oppressive symbol of organised incompetence and Parliament is an amusing but expensive means of ventilating nonsense.

A paragraph further down in support of my contention says—

> The individual voter believed he was an over-governed, inaudible human being whose only political privilege was the endorsed right to vote for a politician whom he despised, in order that a policy which he distrusted could be ignored by a Government which he disliked.

This is a finding in a report by a Sydney Liberal Party special committee. It was not by a special Labor Party committee, but a special Liberal Party committee. The Government which is introducing this legislation causes this sort of printed thought. Had we, on this side of the House, done it, it would have been declared to be all sorts of isms—socialism, and so on.

I said earlier I did not believe the fear of this instrument would be any more of a deterrent than the existing blood test. The attitude of the average person is that "an accident cannot happen to me" and he believes that right up to the point of impact. Whether he has been drinking, or whether he is sober, he still believes "it can't happen to me". The blood test or breathalyser test is consequent upon an accident if drinking is suspected. So here we have a situation where we are doing nothing more than trying to prove that the fellow involved in the accident was drunk.

I ask the House: How will this prevent illegal or legal drinkers from driving? By illegal, I mean under-age drinkers. I regret to say that these people will continue to drive. The fact that there is the likelihood of a blood test or a breath test does not enter the heads of drivers when they get into a motorcar. As I have said, the tests are not taken until after the accident. Therefore they will not prevent accidents. I cannot see what benefit will accrue from this.

The member for Perth gave a very good legal address to this House, as did the member for Kalgoorlie on the same subject. But in his remarks the member for Perth mentioned, by implication as it were, the infallibility of the machine. We know that no machine is infallible. We also know that no individual is infallible. But to revert to the machine, I think we all know that anything mechanical can break down. I think the Minister would admit that, even in regard to his own car. We know that radar can be defective, and this can be the cause of argument in court. I think legal members in this House will admit that radar decisions have been the subject of challenge in court. I would suggest to the House that the instrument is just as fallible as the individual.

There is another aspect that occurs to me; and the Minister might clarify my mind on this. I refer to the volume of breath that is breathed into the machine. Would that make a difference? How are we going to make a person expel air from a lung filled with air into this instrument? Perhaps the member for Perth could tell me. A person could expel a big breath or a small breath. Would the proportion be the same if he merely breathed the quota of air in his mouth as distinct from the air in his lungs into the machine? There are a lot of questions that could be asked regarding the efficiency of this particular apparatus.

I have mentioned the public attitude; and I have questioned whether the person who operates the breathalyser is more or less competent at all times to give a definite answer as to the result. To support that contention I will show that mistakes in samples of blood can occur. I will refer the House briefly to a question of mine which appears in *Votes and Proceedings* of the 27th October, 1965, under the heading "Blood Transfusions, Stricter Supervision". The question is as follows:—

> Mr. FLETCHER asked the Minister representing the Minister for Health:
> (1) Is he aware—
> (a) of *Daily News*, 6/4/65, reference to a coroner's inquiry which revealed that a patient died as a consequence of a transfusion with incompatible blood;
> (b) that this incompatible blood had as its origin a private as distinct from a Government or Red Cross supervised source;
> (c) that the coroner recommended that all laboratories should study the strict methods used at the Sir Charles Gairdner Hospital to prevent a mix-up of blood samples?
> (2) As the coroner stated that at the Sir Charles Gairdner Hospital only one test was done at a time, will

he, in co-operation with the Director of the Blood Transfusion Service, seek means of ensuring by way of legislation, if necessary, that the safe practices applying at the Sir Charles Gairdner Hospital are practised by all laboratories where such tests are carried out?

The reply, which was given on behalf of the Minister for Health, was as follows:—

(1) I am aware of the circumstances of the death in question and understand that it was due to an accidental interchange of blood slides in a private laboratory.

(2) Accidents such as this are not readily preventable by legislation, but I shall have further inquiries made to ascertain whether this is practicable.

The Minister admitted that there was a mistake in the blood transfusion. If this can happen in relation to a death of a person, then I suggest it could also happen in consequence of a blood test. Where more than one blood test is taken in any one laboratory, there is the prospect of confusion of the blood samples in relation to the persons from whom the samples are taken. I suggest that this would apply particularly in a police station or other such place. If that sort of mistake can occur in an ostensibly properly supervised place where blood samples are taken, then it can conceivably happen at a police station where there is not the same supervision.

I also suggest that if more than one breath sample has been taken and the result is given on a slip of paper, there could be confusion as to whom the slip of paper belongs to. The officer in charge could be speaking on the phone and he could reach out and pick up the wrong slip of paper and hand it to the wrong person. This mistake could also occur in regard to blood samples. An open door could result in the slips of paper being blown on to the floor, and subsequently the slips could be given to the wrong people.

A coroner's inquiry was held in relation to the case I mentioned, in the question and answer which I have quoted, and a similar mistake could cause a wrong decision to be reached at a subsequent court inquiry into the death of the person resulting from a traffic accident. This could occur as a consequence of a mistake not only in blood samples but also in breath samples, in the manner I have outlined.

I conscientiously believe, I regret to say, that this Bill will not stop the road hog or drink hog. The member for Swan the other evening made what I believe to be a suggestion of far greater worth than this Bill. On that occasion, this House was not listening any more to what was being said than on this occasion. The member for Swan said how at certain intersections had been placed what he termed silent cops—painted figures of traffic policemen.

The SPEAKER (Mr. Hearman): I think you have been getting away from the Bill for some time. You had better get back on to it.

Mr. FLETCHER: I believe in other methods as outlined by the member for Swan, rather than in seeking to achieve a reduction in the road toll through the medium of this Bill. I do not believe that this Bill will reduce the road toll, and I have submitted arguments to support my thought that there could be a mistake in relation to samples taken of both blood and breath. I do not think that, simply because there is a breathalyser in the back room of a police station, it will be any deterrent to the average driver; and, as a consequence, I cannot see anything in the Bill which requires supporting.

MR. TONKIN (Melville—Deputy Leader of the Opposition) [9 p.m.]: I say at the outset that I am no wowser but I hold no brief whatever for the man who drinks to excess, and to such excess that he is incapable of controlling his motorcar. But I am not convinced that this legislation is desirable. Rightly or wrongly, I have always held the view that no steps should be taken unless there is a reason. I do not think this step should be taken without a very good and substantial reason.

The Minister said that this breathalyser scheme is now being used in Victoria with some success. From what angle? Only from the point of view that it is enabling the police to make more charges and get more verdicts. That is the only aspect from which it can be said it is a success.

Mr. Craig: Wouldn't that be a deterrent against drunken driving?

Mr. TONKIN: No.

Mr. Craig: Not much!

Mr. TONKIN: Not necessarily; any more than the number of hangings has proved to be a deterrent to murder. The Minister quoted some figures for Victoria for 1964 in support of the contention that it is a success in Victoria. To substantiate that view, he said that 970 persons had been tested and 827 charged. All that proves is that it has enabled the Police Department to successfully take more cases to the courts.

Mr. Craig: Don't you think the drunken drivers should be taken to the court?

Mr. TONKIN: I am not dealing with that aspect; I am dealing with the Minister's statement that it has proved a success in Victoria. It depends on what you mean by success. I thought the aim of this legislation was to cut down the road toll.

Mr. Craig: So it is.

Mr. TONKIN: I have not heard a single word from anybody which indicates that more prosecutions mean less road toll. It might do. But I have not heard a single word from anybody to give some evidence that this is so, and I dispute it. The Minister said—and I think he is quite wrong in this, and again he gave no evidence—that they have proved their effectiveness as a deterrent against drunken driving.

I challenge the Minister to advance one single tittle of evidence to prove the truth of that assertion: To prove the effectiveness as a deterrent against drunken driving. I say that is a straightout unadulterated assertion; it is nothing else. It was not backed up in evidence at all to prove that it was true. So his statement is purely a statement of opinion and not worth any more than that.

The member for Perth made a good speech according to his view; so did the member for Kalgoorlie according to his view. But I thought the member for Perth completely destroyed the value of his speech in his final remarks to me. I quote from the *Hansard* report what was said at the time. I said—

> Has the honourable member any views on whether the evidence should be excluded from civil cases?

His reply was—

> Yes. I entirely agree to the exclusion in civil cases.

I said—

> Why?

He said—

> Because this Bill is concerned with providing a deterrent to an offence.

But he did not advance any evidence to show it would be a deterrent.

Mr. Jamieson: He said "criminal offence" too.

Dr. Henn: Don't you think it was decent of him to answer the question at all? He had almost sat down.

Mr. TONKIN: That has nothing to do with it. I appreciate the fact that he need not have answered it, and I would not have objected if he had not; but I am entitled to use what he told this House in reply to the question and that was that this Bill is concerned with providing a deterrent. I say it is up to someone to prove that it will provide a deterrent.

Mr. Elliott: It is not an encouragement, is it?

Mr. TONKIN: That is not an argument. Surely we are not out to encourage!

Mr. Craig: Don't you think it will act as a deterrent?

Mr. TONKIN: I say it is up to someone who argues that this will be a deterrent to bring some evidence that it is a deterrent; and up to date I have not heard any. The member for Wembley also appeared to base his support of this Bill on the fact that it is a deterrent; and he has not the slightest idea of any evidence to prove that it is a deterrent. It is wishful thinking on the part of those who say it is.

Mr. Graham: That is all.

Mr. TONKIN: That is not good enough.

Mr. Durack: A reasonable hypothesis!

Mr. Graham: Playing with words!

Mr. TONKIN: That is not good enough. The member for Perth ought to know better than most of us that opinions are not worth much unless they are backed up by evidence.

Dr. Henn: Why do you think they are going to bring it in in the United Kingdom?

Mr. TONKIN: Possibly for the same reason it has been introduced here. If it has been such a great success in Great Britain or the United States, surely there must be some evidence somewhere that it has been a deterrent! One would think so after all the years it has been in operation in some places. Surely something has emerged to indicate that it is a deterrent!

There is something lacking somewhere if those who believe in this principle cannot produce one piece of evidence to prove that it is a deterrent, and without it it must be rated as a pure assumption only that that is so. In the absence of evidence I refuse to accept the view. I say without hesitation that if I could have some evidence that this is a deterrent I would support the Bill without the slightest doubt; but in the absence of it, I do not accept the view that it is a deterrent.

The *Daily News* in its leading article this evening says straightout that so far as Victoria is concerned it has not proved that it is a deterrent. It makes the positive assertion that it has done nothing to stop the road toll rising. The introduction of the breathalyser, according to the *Daily News*, has done nothing to stop the road toll rising in Victoria. So how much of a deterrent is it? According to the columns of the *Daily News* this evening a number of people have been interrogated, and the consensus of opinion was that this ought to be tried; but they all based their opinion on the belief that it is a deterrent, and I quote the consensus of opinion—

> If compulsory breathalyser tests could halt the road toll and make roads and highways safer places to drive on, they want them introduced.

That is my view, too. But it is a straightout assumption at the moment in the complete absence of any evidence that that is so. Surely there is an obligation on those who strongly support this type of legislation, which ordinarily would be abhorrent to most of us because of the compulsion involved in it, to give some evidence or proof that it is a step in the right direction, otherwise it is just a straightout case of a hope that some good will

result. I know what I would have done had I been in the Minister's place. I would have asked for some evidence that this is effective. If no-one else had tried it, we might be excused for pioneering in this field in the hope that it would do something to reduce the road toll, but we are not in that position. Others have tried it and are still trying it. It has been in operation for a considerable time in some places. Surely there must be some evidence somewhere if it is effective that it reduces the road toll! But the Minister is not able to produce any evidence. All he did was to say it would, and in a way that he was not entitled to say it in the absence of evidence. Let me repeat again his very forthright statement—

> They have proved their effectiveness as a deterrent against drunken driving.

How have they proved it? Where is his proof? If they have proved it, the proof must be in existence. Where is it? Let's have it. If the Minister can produce it, he can secure my vote.

In my view it is a straightout assertion completely unsupported by evidence, and I am surprised that the member for Perth should accept it—a man whose training would require him to want evidence. If a client went to him to take his case he would ask for evidence—and pretty strong evidence too—and then he would put it forward to the best of his ability in the court. He would not get up before a judge and make a statement that "Its effectiveness has been proved" without quoting a number of cases and saying "It is proved here by these figures, and proved there by those figures." He might get somewhere then; but to stand up in the court and make straightout assertions that the effectiveness had been proved and not be in a position to produce some evidence would only be to show the weakness in his case; and that is the weakness in the Minister's case.

So boil it all down and it comes to this: Because it is in operation elsewhere it has enabled the police to take more charges successfully, and because it is in operation in Victoria and it has enabled the police successfully to launch more prosecutions, it ought to be tried here because it may result in reducing the road toll. I do not think that is a good enough argument in legislation of this kind. We want something more than that before we take this step.

The Minister has to be in a position to say that this has been tried for so many years in the United States and it has been tried for so many years in Great Britain and the result is that out of so many drivers the road deaths have fallen by so and so and it is attributed to the use of the breathalyser and the fact that the police are able to take more prosecutions. If he could prove something like that he would have a case; but it seems that he cannot, and all he can do is make assertions that it is effective as a deterrent. I venture to say there is not one person in this Assembly who is in a position to produce any evidence whatever, and it is just an example of wishful thinking.

I do not complain about that. We are all appalled by the mounting road toll, and we feel that some measures are required to check it. But I think we have a right to feel that we are not just stabbing in the dark; that we are not just imposing these restraints and giving the police more power to prosecute if we are not going to get any substantial results from what is to take place. And I am afraid, in the absence of evidence to the contrary, that this legislation will not result in any reduction of the road toll. It will result in increased revenue to the exchequer. It will enable the police to obtain more successes with the cases they take to the court, but I cannot see any result beyond that.

There is one aspect of the machinery of this which worries me a bit. I had a look at the breathalyser for a short time the other evening and I saw a couple of members go through the test. I noticed it took a trained constable some time to adjust the machine. If this were a purely automatic device I would have no objection, but it is not; it has to be manually adjusted in the first place before it starts to operate. I do not care who the trained man is, or how brilliant he is; he is human and he is prone to error.

I have seen champions in various branches of sport who have their lapses and who are prone to err. Who is to say that now and again this trained man will not fail to adjust the vernier on his machine correctly before he starts to take the test? I think there ought to be some provision in the Bill for a check on the adjustment of the machine before it is used, and therefore I believe there should be two trained men. I do not think one man ought to have the responsibility of setting the machine and operating it, and using its results as conclusive evidence of its efficiency without his work being checked.

I have seen this happen so often. I have seen it happen with accountants, with auditors, with lawyers, with members of Parliament, and with doctors, who occasionally have lapses and make mistakes. They forget something and, being human, are prone to error. It would be just too bad if one had a test on this breathalyser and this was the time when the officer who was taking the test failed properly to adjust the machine before he took the test and as a result he got a reading which was incorrect.

As this is a very serious matter I think some attempt ought to be made to reduce the possibility of error—it could never be completely eliminated, but I think the possibility of error could be reduced. In that connection I think two officers should be present before the machine is used—one to check the adjustment—and they should both be trained men. If the machine could adjust itself, with no possibility of error, and it could do all the operations, as it does the majority of them, I would not have the objection I have now. But before it starts it has to be adjusted manually by the man operating it, and as the percentage is such a low one even a small error could make all the difference between a man being successfully charged or not.

So I feel that in those circumstances the work ought to be checked. Why, even in a retail departmental store, the proprietor will not rely upon the salesman who is making the sale. The stores have a provision that when a docket is made out it has to be checked by some other salesman in the department.

Mr. Jamieson: They do the same thing with the changing of a note.

Mr. TONKIN: How often have we seen tellers in a bank count notes twice before they hand them out in exchange for a cheque. They count them once and then they turn them over and count them again because of the possibility of human error. That cannot be brushed aside. It has to be acknowledged; and this is far too important a matter to take a risk with it.

Mr. Dunn: Do you say that they should not use X-rays or dentists' drills?

Mr. TONKIN: That is an entirely different matter.

Mr. Dunn: Why is it?

Mr. TONKIN: The use of an X-ray is a different matter entirely.

Mr. Dunn: What about a dentist's drill?

Mr. Bickerton: There have been plenty of mistakes made with them.

Mr. TONKIN: The type of question I am getting indicates the honourable member does not appreciate the point I am trying to make.

Mr. Dunn: You are quite right.

Mr. TONKIN: I do not think there is any body in this Assembly who would attempt successfully to argue that a human being is not prone to err, and I do not care how bright he may think he is, or how bright he may really be. I have seen the most brilliant people fall into errors and make mistakes. They may not be frequent, but they make them, and that is all right when it does not affect anybody. You Mr. Speaker, will recall cases involving doctors, and the use of blood serum, where a life has been lost and the verdict in the court has been death by misadventure. And what is misadventure? Human error.

Mr. Dunn: Stop everything, then!

Mr. TONKIN: Admitting the possibility of human error surely there is nothing wrong with doing something to try to minimise the number of errors and so provide for a check reading. Let there be some other trained man who can come along and make sure the set is properly adjusted before a test is taken. That is not asking for something unreasonable but it is a protection for the fellow who has to stand the racket when the result is obtained. I suggest that some thought be given to that aspect.

I hope that when the Minister replies he will make some attempt to produce substantiation of the assertion that this is effective as a deterrent, and if he cannot produce any evidence I expect him to say so.

Mr. Craig: And if he can, you will vote for the Bill?

Mr. TONKIN: I will.

Mr. Craig: Thank you.

Mr. TONKIN: But it has to be evidence. I do not want any of that tripe that is given to me from time to time by the Totalisator Agency Board. It has to be evidence in support of the contention; not some more assertions and opinions which will not stand up to scrutiny. That is the stand I take on this Bill. As everybody seems to believe, its purpose is that it will act as a deterrent. If it will, let us have it, but let us have some proof it will act as a deterrent so that our votes will not be obtained on false pretences.

MR. JAMIESON (Beeloo) [9.26 p.m.]: I was rather amazed at the attitude adopted by the member for Perth when speaking to this Bill. In past years I have heard many legal gentlemen in this House discuss various measures that have been brought before Parliament and they have always indicated they were interested in what may happen to a client they may have to defend. On this occasion I did not detect one semblance of that line of thinking by the member for Perth. One of the problems associated with the present proposals is probably not the degree of compulsion, but the likelihood that British justice is not being done. The defending motorist will have to prove his innocence against an assumption of guilt built up by the workings of the machine.

Indeed, the Minister and others, including the member for Perth, have said that this is only *prima facie* evidence. But it is not; it is conclusive evidence. In the first place we were told that when the blood tests were to be taken they were to be *prima facie* evidence; but information made available by the Minister proves

otherwise. If this were not a fact of all those who have been tested at various times since this legislation was enacted at least some of them would have gained an acquittal, but such is not the case.

Since the introduction of the Act some 864 people have been convicted of having .15 per cent. or more of alcohol content in their blood. That period covers from the 1st July, 1959, to the 31st October, 1965. In that time there were three who were acquitted, but to ascertain the reason for their acquittal I went a little further and asked for the circumstances. The circumstances were that two persons were acquitted in 1959—that is early in the history of the legislation—with a blood alcoholic content of .16 per cent. and, in 1961, one person was acquitted with a blood alcoholic content of .15. In the early stages of the legislation there appeared to be some doubt on the results of the analyses produced as evidence.

Following the decision of the court on appeal, an analysis certificate showing the percentage of alcohol in the blood to be .15 or more, has been accepted as *prima facie* evidence—again the words *"prima facie"* are used. Many of these cases were defended by counsel. This naturally followed because the person who admits he is drunk and who is handicapped by taking the test would, of course, have pleaded guilty in any case.

It is obvious that many of the 800-odd people convicted would have the thought in their minds that they were not sufficiently inebriated to be required to be taken to the police station and, as a consequence, to have demanded a test and no doubt, following that, would have sought the best lawyers possible to put their cases before the court. However, it is more than passing strange that only one of those 800-odd persons was acquitted. In all the other cases, after it had been proven that the person was drunk it became conclusive evidence before the court that he was incapable of controlling a vehicle at the time he was apprehended, despite any other evidence that may have been brought to the notice of the court. It is obvious that the only evidence that the magistrate would take into consideration would be the evidence presented by the police following the taking of a blood test, otherwise the police would have appealed and he would have been in the position of having been made look quite silly in view of the attitude of the High Court on this particular subject.

Mr. Durack: What evidence do you think might be available in the defence of a person who had 14 middies?

Mr. JAMIESON: That would depend on how and where he had the 14 middies. I pulled the member for Perth up on this point earlier in view of the broad statement he made along similar lines. Some consideration would have to be taken of the fact of how quickly the person concerned had consumed the 14 middies. There are many factors that could be taken into account. A man may enter a hotel and may consume 14 middies over a period of five hours and he would still be all right, but if he consumed 14 middies within one hour he may not be all right; it is all a question of circumstances. It would be the responsibility of his legal representative to take those circumstances into consideration.

Unfortunately, it would appear that the legal gentleman in this Chamber would not be one of those who would be particularly interested in what would happen to his client in a case such as this, and I would hope that many of those he has unfortunately defended will, at some stage, catch up with him.

Although I have a limited knowledge of electronics I would be inclined to the opinion that the breathalyser is not a machine that is infallible in its present state and I would prefer the blood test system. That would be a more positive system and less liable to any problems or errors.

Undoubtedly the breathalyser is activated by some form of galvanometer and initially it is activated and balanced by the reaction of the circuits which pass through the photo electric cells which, in turn, are activated by a concentrated light through the substance that is being used for the purpose of straining the alcohol from the breath on one side of the circuit and, on the other side of the circuit there is a balancing tube containing a similar substance without the content of alcohol.

We had an example of what occurred when, initially, the operator put an unopened ampule in each of the receptacles so that the light could pass through them, and the degree of light filtration obviously causes a variation in the circuits. The operator inserted similar tubes to balance the machine. Incidentally, the circuit would have some form of amplification in the make-up of the machine; otherwise it would take so long to warm up. The circuit travels through the electronic valves used to amplify the small micro-currents which are created, in the photo electric cells, thus providing the current for the operation of the machine.

Once the operator proceeds he takes two of these phials and places one in each receptacle. After he has balanced his machine he removes one phial—and we must bear in mind that it is a glass phial—and cuts the top off. He then puts it back without having regard for any smudge, smear, or anything else. He could even have cut his finger on the rough edge of the phial when he took the top off.

The operator may then inadvertently put a smear on the glass container of that phial, and even though the machine has been balanced previously it may now be unbalanced; and unless he goes through the procedure again—which is most unlikely—there would be a different light potential between the two circuits. As a consequence one would have to be absolutely certain that it had been cleaned like a pair of spectacles every time one of the phials was touched or altered. If it is to be left to a man to adjust the machine to the degree necessary, does any member think we will get the same degree of accuracy on each occasion?

It leaves too much to chance. The member for Pilbara indicated the number of balancing devices involved. Not only must the machine be balanced from an electronic point of view, but it must also be balanced from the point of view of its position on a particular table, or wherever it is situated. So there are a considerable number of aspects to be considered. If a policeman is handling a drunken person and trying to get him to breathe into a breathalyser and endeavouring to get that person to concentrate, how far do you think he will get, Mr. Speaker? It would be hard enough to keep that drunken person still to enable a blood sample to be taken. Once a blood sample is taken, however, there is something positive on which to work.

In the case of the machine, however, it all depends on its setting up, and the many functions involved. Anybody with any degree of knowledge in relation to the balancing of electronic machines will know that they are apt to go on the blink as the result of the variation in voltages and that sort of thing. I have no doubt filtration circuits would be installed to eliminate that aspect; but there are not always the answer to the problem.

Filtration circuits are installed in television sets, but when an aeroplane flies overhead quite often a wriggle appears on the set. It is possible that when the test is being taken we will also get a wriggle on the machine which will mean that one will have to wriggle off to the court, because one will be faced with conclusive evidence as a result of the breathalyser test. A person might just as well write out his cheque for £100 right away and send it in with the summons.

I think we have a long way to go before this sort of thing is perfected. I understand this was the brain child of an American police commissioner. He experimented with it and obtained a certain degree of success. I daresay where electronics are involved it is possible that 99 times out of 100 we will get a proper reading, in accord with what is desired by law, but there will always be the odd case which will cause a lot of trouble.

In the case of blood samples, however, it would affect everybody in the same way. If a person did not like the manner in which the official test was analysed, he could get this done somewhere else. But this cannot be done with the machine. The dot appears on the line and that is conclusive evidence—once this Bill becomes law it will be conclusive evidence—and no matter how well one might be able to walk a tightrope without falling over or acting strangely, a lawyer would be hard-pressed to prove that the person concerned had not been over-indulging to the extent that would make him culpable under the law.

The member for Perth said in his speech that if this Bill did nothing else it would provide statistics for us to work on for the future. I like statistics; they are the best things we can have. If we cannot get statistics one way we can always get them another. There is only one brewing company in most States of the Commonwealth, and it is not possible to get the consumption of alcoholic liquor per capita in each State and compare that figure with the accident ratio. No doubt this would be available on an official basis and could be worked out by the Statistician's Department. The manufacturers, however, are very loth to disclose their output each year. Why they want to hide it I do not know.

I am a little indebted to the member for Bunbury who recently asked questions about the alcoholic content of beer. Those of us who have made a study of this subject over the years will know that the alcoholic content does not vary very much. The alcoholic content is derived from the recipe and the method of manufacture rather than something put in, as is the case with wines; so it is very even not only in Australia, but throughout the world.

In Australia it has not a great deal of tolerance at all; it varies between 4 per cent. of alcohol in quantity and 4.5 per cent. It is interesting to note that the 4 per cent. relates to South Australia. If we look at the accident report per 10,000 vehicles in South Australia for each of the three years, 1961-62, 1962-63, and 1963-64, we find the number of accidents there is fantastically high. It has easily the highest number of accidents. Yet that State has the lowest alcoholic content in its normal drinking beverage.

The accident rate could be attributable to many things. It could be attributed to 6 o'clock closing; but Victoria also has 6 o'clock closing, and it would no doubt interest members to know that the alcoholic content in that State is 4.2 per cent., which is a little higher than that in South Australia. Yet we find that of the mainland States it has the lowest accident rate.

I agree that the carnage on our roads is appalling, but when certain elements exist in regard to certain situations there

will always be accidents, whether they be on the Victorian roadways, on farms, or anywhere else. Despite the introduction of legislation there were 136.23 accidents in Victoria in 1961-62, and 136.17 accidents in 1962-63 per 10,000 vehicle registrations. In 1963-64 the rate was 135.75, and this applied in the most static State in the Commonwealth. The figures have not altered, despite all the nonsense which the Minister has put forward that it is a great deterrent. It is just like hanging as a deterrent for murder!

Finally, I would like to make a comparison between two similar States—Queensland and Western Australia—where the popular beverage is beer and ale. If we were to examine the liquor consumption figures we would find that beer was the most popular drink, because of the torrid climate in these two States. In Queensland the alcoholic content of beer is 4.5 per cent., this being the highest in the Commonwealth, as against 4.2 per cent. in Western Australia. The following figures will give a comparison of the accident rate per 10,000 vehicles:—

Accidents per 10,600 vehicles registered.

	Queensland.	Western Australia.
1961-62	137.45	153.63
1962-63	140.02	154.92
1963-64	146.25	151.64

If we tried to draw conclusions from such statistics to indicate the causes of road accidents we would not arrive at any conclusive results.

Normally the average drinker in one mainland city of Australia consumes as much liquor as one in another mainland city. The consumption would balance out evenly for all States, yet we find a considerable difference in the number of accidents for each 10,000 vehicles. No true indication can be gained from such figures.

If it was the intention of the Minister to produce further statistics by the introduction of this measure to indicate a need for compulsory tests, then he has not submitted anything conclusive. By doing this he would only prove that the previous statistics were just as convincing as those which he has obtained since.

I would like to comment on other aspects of the editorial which appeared in today's *Daily News*. It is quite a good article, and I shall continue to buy this newspaper when I am not supplied with one by the Library Committee. In one of its articles, as the Deputy Leader of the Opposition indicated, it gives the opinions of a number of people who have been interviewed. In many cases when these people are asked what they think about a topic, such as compulsory breathalyser tests, they immediately reply that they think it is a good idea.

Among those who were interviewed were two persons who were closely associated with insurance companies. Of course these people would be very much in favour of compulsory tests, because such tests would be of assistance in making actuarial soundness even more sound. Also among those interviewed were a youth and two housewives, one of whom was not very keen on the compulsory aspect.

I agree with the member for Perth on one point. Democracy is founded on compulsion—compulsion for people to do the things which the majority in the community vote for. It cannot be any other way, otherwise there would be anarchy or chaos. There must be a degree of compulsion in our society, and all our laws compel people to obey them. If the law compels people under certain circumstances to undergo tests to determine whether they are diseased or inebriated, then it should be obeyed; but my opposition to the legislation before us is levelled at the hit-and-miss methods which are proposed.

The second portion of the editorial to which I have referred is worthy of analysis. It is as follows:—

> Driving Standards
>
> The breathalyser does not measure driving standards; it measures how much alcohol a driver has consumed recently.

That is very true. The test does not give any indication whether the person who has become inebriated is a good driver. He might be just as poor a driver when he is sober as when he is inebriated. It has been proved that within limits the consumption of several glasses of alcoholic beverages is inclined to sharpen the senses; but if more alcohol is consumed there is a tapering off in the sharpness, until the stage of inebriation is reached. It has been proved positively that this is the position, and much research has been undertaken overseas to determine how alcohol affects different people.

We can see some advantage in the use of alcohol. It seems to bring out something in a person, who normally is a poor mixer. After a few drinks such a person often begins to converse freely with others, and becomes quite acceptable to the social group. In that respect I remember the remarks made by a prominent person a few weeks ago who had made a study of alcoholism. He said that despite all the bad effects of alcohol on the community, it also does some good in bringing people out of their shells, to a stage where they mix freely with others—a stage which they would not reach without the consumption of liquor. I do not recommend this as a practice, but the observations of that authority on alcoholism have been proven.

The editorial to which I have just referred goes on to say—

> It can take no account of the variation of a driver's reaction to a given amount of alcohol.
>
> The breathalyser can be a useful aid to determining justly whether a driver is so intoxicated as to be a danger. But this test should never in itself be enough to convict.

That is exactly what will happen with the passage of the Bill before us, as has happened in the case of compulsory blood tests. Victoria has been referred to by the Minister as the outstanding State which has used breathalysers. Continuing the quotation—

> It seems that the main effect in Victoria—which has used breathalysers since 1961—has been simply to reduce greatly the prospects of a drinking driver defending himself.

It is a pity the honourable member who is apt to defend this did not have some idea of that before he made his speech. Continuing—

> Convictions are well up; the police are smiling; erring motorists are lamenting.

And they will be here because in Victoria they lament to the extent of only £50, but in this State they will lament to the extent of £100 or more. To continue—

> The trouble is that all this has done nothing to stop the road toll rising in that State—though surely nothing else would justify compulsory testing.

That point has been abundantly made by speakers on this side of the House. While we cannot go along with the carnage on the road, and particularly the association of alcohol with driving, we must be able to justify an alteration to an Act of Parliament, when the severity of the proposed Act will impose a condition against the subjects of the realm. The article finishes up with this—

> And the high rate of conviction on any charge can be as clearly a pointer to injustice as to greater efficiency of detection.

This also must be abundantly true. In all the circumstances, I would say the Minister, in introducing this measure, has left himself open to the advocates of gimmickery as against the advocates of more sound scientific principles.

Even the member for Wembley—he need not shudder, as we are not going to breathalyse him—was rather clear in his examination of the comparison of the blood test as compared with the test of the breathalyser machine, in that he gave some information he received from London which indicated that if anything the breathalyser was inclined to be on the side of the culprit. But that is not good enough. If we are going for something positive, we will have to go for something we know to be scientifically correct.

As far as I can determine, the best way would be to make blood testing compulsory. I do not like compulsory things, because we interfere with the liberty of a person; and sometimes when blood is taken from a person, that person faints. It is difficult; and I do not know how we can get over that. Perhaps the answer will be that ultimately we will have a machine that is perfect. That time will come, because it is like comparing the first type of crystal set to a modern-day transistor radio. Advances in all these things do occur; but surely we are not to be the bunny rabbits to be tested under these circumstances when perfection has not been achieved.

I would say it will be a long while before these various contraptions are perfected. As I indicated by figures which I quoted, we have kept a control of the toll on our roads. I know that is not good enough, but the only thing I can suggest to the Minister—as I have done before—is to do away with motorcars, which is an impracticable proposition. If we did that people would get killed because they fell off a horse or they were kicked by a horse; we would not achieve anything in the long run.

All in all, if the Minister could show figures each year to indicate that the ratio of the number of vehicles registered to the number of accidents had fallen, then the authorities looking after our welfare would be doing a reasonable job. We were advised by the member for Balcatta that there are various ways in which to overcome a lot of the present shortcomings; and even recently I saw the same newspaper—which does not seem to hold the same conservative attitude that it used to—run an editorial against all "Stop" signs and recommend the procedure I suggested to the Minister a long time ago. He should go around with an axe and chop the "Stop" signs down and start again to make sure the rules of the road are correct.

I think somebody said tonight that it should become as automatic to give way to a person on the right as it is to stop and start a car and go through its gears. One does not know one is doing it. It becomes another sense after driving for some time. However, if a person is not sure, with a modern automobile he is inclined to take the risk. We want to take people out of that stage. Even if drunken

drivers are the ones causing accidents, it would help them to give them a clear indication as to where they stand.

I am sure we are not particularly keen to apprehend them if they are doing nobody any harm. What we want to ensure is that they do not harm other people. That is where their offence lies. On that score I would like to say to the Minister that he does not go far enough. He should amend the Licensing Act so that all hotel bars must display to drivers of vehicles the effects of the consumption of liquor and how they are likely to be affected as far as being convicted on a drunken driving charge is concerned. That would be fair and proper.

Mr. Gayfer: You could reduce the alcoholic content.

Mr. JAMIESON: That cannot be done. Apparently the honourable member was not here when I discussed that matter. The alcoholic content is not placed in beer; it develops according to the recipe that is used.

Mr. Gayfer: Change the recipe.

Mr. JAMIESON: That would change the flavour and people would not like it.

Mr. Gayfer: There is flour in beer now.

Mr. JAMIESON: They have been putting in flour for some time. What goes into it is the brewer's prerogative. He mixes a number of ingredients such as sugar, malt, yeast, and hops; and when they are blended together in bulk, the process creates the alcoholic content. If the recipe were altered it would be like going from your own wife's cooking to somebody else's —the taste is different.

Mr. Graham: That is for better or for worse!

Mr. JAMIESON: Our beers are Germanic in origin and are brewed by a Germanic process. As I quoted to the House a while ago, the percentage of alcohol pretty well right throughout the world does not vary greatly. It is about 3.5 per cent., 4.5 per cent., or stronger in some of the thick ales or lagers, such as Coopers in South Australia, which might be up to 5 per cent. That is a very rare type of beer and is not likely to be acceptable to most people under normal drinking circumstances.

There are all these problems to contend with in determining whether this will be good legislation or not; because, in my opinion, at the present time it has not been shown to be good legislation; and before any legislation is put on our Statute book that will make conviction conclusive, it should be cast iron in its entirety. There should be no loopholes in it—no chance of anything going wrong—and in this case there is a chance of things going wrong.

Until we can get past that stage I will be inclined to be opposed to this legislation. I am not opposed to doing something which will deter drivers from driving whilst under the influence of liquor. As I said previously, the Minister could well do a lot more by instructing hotels to indicate to drivers what is involved when they drive their vehicles after having drunk too much liquor.

Then, of course, my legal friend from Perth would know that if a barman continues to ply a person with liquor when he knows that that person is getting under the influence and has to drive a truck later, and then that person drives the truck and kills someone, section 7 of the Criminal Code might take a hand with that barman who was responsible. That is one of the things we should indulge a lot in.

Mr. Brady: Now we are getting somewhere!

Mr. JAMIESON: The Licensing Court itself is to blame for a lot of the problems. The court will now not grant a hotel a license unless it provides acres and acres of parking space. Then what happens? I have mentioned this to the Minister before. He said, "They are not like you" or something to that effect. He adopts that attitude of "holier than thou".

Mr. Craig: That is very nice to know.

Mr. JAMIESON: But we get used to that. I suggested we should do something about the number of vehicles encouraged to go to the various hotels. If a breathalyser were used at these hotels on a Friday or Saturday night, probably half the patrons would have to pay towards Consolidated Revenue.

I do not blame the drinkers so much as those who encourage them. The conditions are nice and are made to attract people. They are made to sell the wares of the breweries and, as a consequence, we could not be in nicer surroundings. Patrons tend to let the time drift by and they can become unnecessarily involved in long sessions of consumption of alcohol.

The Licensing Court must play its part, but it has not been doing so. It has been reticent in its duty to the people of this country by encouraging such a large number of motorists to become so much involved in alcoholic consumption at these hotels. This is a matter which needs looking into and it needs the attention of the Minister.

The Licensing Court should be compelled by regulation to order publicans to place a chart in their hotels. It should be similar

to the one drawn up by the Minister and issued to members, but on a more elaborate scale. In that way patrons would not have the excuse they have now. At present they say, "I did not know. I had 13 pots or middies and I did not know how bad I was." They would not have that excuse if they could look at a chart at the bar. Before long it would be common knowledge the same as a score on a dart board. If this were done, then—and only then—would we be moving along the road to clearing up the problem—if it is a problem; and Victoria has not proved that it is.

MR. CRAIG (Toodyay—Minister for Traffic) [10.8 p.m.]: Firstly, might I thank those who took part in the debate on this Bill which, quite frankly, I expected to be controversial. At the same time I did not expect it to receive the opposition in the manner it was expressed by some members this evening.

The Government is, and I in particular am, criticised from time to time for not taking proper action to halt the rising road toll. The Government over the past few years, to my knowledge anyhow since I have been Minister, has done a lot towards trying to counter certain aspects that have been the cause of accidents on our roads. There is no need for me to refer to them in detail at this time, but I would be happy to supply the information to anyone who desired it.

Here is another instance where the Government wants to take some strong action against the menace of the drunken driver. It has been said that we cannot produce facts and figures to show that such a measure as is proposed in this Bill will act towards reducing the accidents from this cause. It has also been said that it will not act as a deterrent against drivers who commit this particular type of offence.

I have produced figures from time to time, and they have also been referred to this evening by some members on this side, to prove that we do have facts and figures as to the fatalities involving drivers who have consumed too much alcohol. So far as acting as a deterrent is concerned, surely members must appreciate the point that if the legislation is passed—which I sincerely hope it will be—it will serve as a deterrent! Surely it must influence the driver who has been drinking socially or, particularly, the person who frequently over-indulges in alcohol! Surely he must appreciate the fact that if he is detected driving his vehicle he will be subjected to a test as proposed in this Bill! Surely it must act as a deterrent! The Deputy Leader of the Opposition mentioned this at length, but I will refer to it again later on.

I look upon this as being a matter on which it is the Government's responsibility to take some action, and if the Government did not do so, then the Opposition would have some cause to criticise. I say this is a sincere and genuine attempt to overcome this particular menace on our roads.

Some speakers mentioned the effectiveness of the Victorian legislation, and some seem to have a doubt as to its effectiveness because they construe it rather as an advantage to the police to lay more charges for drunken driving and so increase the revenue. That may be so, but I know that the Victorian measure was not introduced for that purpose. The fundamental purpose was exactly the same as the purpose of the introduction of this Bill here.

I cannot help but feel that the results from this measure will indeed be beneficial in many ways and will contribute in no small manner to a reduction of the road toll and also towards a reduction in the number of cases of drunken driving. But I will make this point: This Bill does give protection to the innocent. In other words, the innocent person has nothing to fear under this measure. It seems that some speakers appear more concerned with protecting the rights of the offender than with protecting the rights of the person who has been offended.

Mr. Jamieson: Here it comes! The usual line!

Mr. Graham: That is totally wrong, of course.

Mr. Jamieson: The usual line!

Several members interjected.

The ACTING SPEAKER (Mr. Mitchell): Order please!

Mr. CRAIG: I can talk over them, if you want me to, Sir.

Mr. Jamieson: Just try to!

Mr. CRAIG: I repeat that the impression I gained from listening to the opinions expressed by some members opposite—and the impression I feel sure is shared by other members of this House, on both sides—is that some of them are more concerned with protecting the rights of the offender rather than the rights of the offended.

Several members interjected.

Mr. Jamieson: I never could understand the mind of the Fascist.

The ACTING SPEAKER (Mr. Mitchell): Order!

Mr. CRAIG: It is not right, according to some members, to compel a driver, suspected of being under the influence,

to undertake a test even though he may have been the cause of someone being killed or maimed.

Mr. Graham: More deaths have been caused by sober people!

Several members interjected.

Mr. CRAIG: The interjections are confirming my opinion.

Several members interjected.

Mr. Jamieson: I never could understand the mind of a Fascist.

Mr. Tonkin: Where is this evidence?

Mr. Graham: Claptrap!

The ACTING SPEAKER (Mr. Mitchell): Order!

Mr. CRAIG: I can carry on, Sir. I have here an extract from *The Medical Journal* of the 6th November, 1965, and here I am grateful for the contribution of the member for Wembley, with his medical knowledge. I will quote from the *Medical Journal* of the 6th November, 1965. The article does not confine itself necessarily to this particular issue of breathalysers or blood tests. I quote as follows:—

> Death and debility from traffic accidents have reached such alarming proportions that they have now become one of our greatest medical problems. Already the death rate from road accidents is surpassed only by those two greatest killers, heart disease and cancer. The tragedy of this problem is even greater when it is considered that young and otherwise healthy members of the community are predominantly affected, and that in the vast majority of instances the so-called accidents are entirely avoidable. Since the matter concerns the whole community, the tendency with most of us has been to leave the problems for some other fellow to attend to. However, as it is now a major medical problem, it should concern our profession more intimately than any other, and we as a profession must assume our share of responsibility by tackling this disease like any other killing disease. We must individually and collectively give a lead to ensure the introduction of effective prophylactic measures aimed at eradicating this scourge from the community.
>
> Although there is much that can and must be done, it is plain that the task will not be easy. Opposition can come from the unexpected as well as from the expected place—for example, from vested interests, from irresponsible motorists who are reluctant to mend their ways, from certain idealists who object to police being given any effective authority, from politicians who believe that any action will result in loss of votes and from John Citizen himself, who believes that accidents happen only to other people and do not directly concern him. Many of the obvious measures are necessarily unpopular; otherwise they would already have been introduced. There will be cries of "the cost is too great," but who can put a price on one human life, let alone 1,000 lives and many thousands of debilitated people each year? In any case, the initial outlay would be repaid many times in savings of time, petrol and other economics, to say nothing of the earning capacity of victims. The familiar cries of "loss of freedom" and "police State" will be heard when more rigid road discipline is demanded, but who would deny the need to restrict the freedom to kill so wantonly on our roads, and who but the guilty fear enforcement of the law?

I think that is most appropriate. To continue—

> The alcoholic driver combines increased confidence with decreased ability when in charge of a motor vehicle.

Further on it states—

> The possible solutions to the problem are not primarily medical, but there are such great medical implications in it that our profession should be taking a lead in rousing the community to a mighty effort and standing behind such bodies as the Australian Road Safety Council when it makes sound but unpopular recommendations and behind Governments that are prepared to act firmly.

The suggestion for this particular measure emanated from the National Safety Council. As pointed out by the member for Perth and the member for Wembley, we are grasping at straws in attempting to try to meet various problems. We have no statistics at all; nothing reliable as to the part alcohol plays in this problem. This is one of the reasons for the introduction of this Bill. It will not only act as a deterrent, but will also provide the research we so vitally need and upon which we can act.

Because of that the Opposition does not agree with it. We are supposed to be taking away the rights of the individual. I do not think the innocent have anything to fear with regard to this legislation; nothing at all. Why the Opposition is so concerned, I do not know. I would like to feel that it was a party decision to oppose the Bill.

Mr. Graham: There has not been a party meeting since the Bill was introduced.

Mr. CRAIG: The conscience of the members of the Opposition is the same as ours; they should want to play a part in reducing the road toll, but apparently that is not so.

Mr. Graham: You have not got a conscience.

Mr. Jamieson: That is nonsense.

Mr. CRAIG: That is all the member for Beeloo can say; nonsense!

The ACTING SPEAKER (Mr. Mitchell): Order, order!

Mr. CRAIG: I will quote some evidence.

Mr. Tonkin: Where is this evidence?

Mr. CRAIG: The member for Melville will have to be patient; I have a dozen matters to deal with before I reach him. He is at the bottom of the list.

I will deal briefly with those who did make some reference to the Bill; but before I do I am reminded of a Bill which was being discussed in another place—the Weights and Measures Act Amendment Bill. It was decided to increase the penalty, by amendment, and one honourable member, Mr. Dolan, whose opinion I value, said "Anything that gives added protection to the public is worth while in any legislation." I thought that was very appropriate as far as this legislation is concerned.

Mr. Davies: We suggested increased penalties in this Chamber. You should brush up your memory.

Mr. CRAIG: The member for Balcatta, I think, was struggling to protest his opposition to the Bill. I thought my interjections helped him, but nevertheless I feel he was really struggling. I appreciate the point that he has had only a couple of days to study the contents of the Bill; but he being a highly intelligent member, I am sure his intelligence was not taxed to any extent to digest the few pages contained in this Bill. The Bill more or less summarises the thoughts or opinions and decisions, virtually, of the Government which had been expressed through the Press over several months. The member for Beeloo must have improved his opinion of the Press. Today it is a wonderful Press!

Mr. Jamieson: I said it is becoming more open-minded.

Mr. CRAIG: I think it was only a few days ago that his opinion was entirely the opposite. It reminded me of what somebody on the back benches said—he changes his opinion like the proverbial shirt. I think that is applicable.

The honorable member said no country in the British Commonwealth has this legislation other than Australia. That may be so, but it is extensively employed in most of the European countries, the United States, and also in Canada. The United Kingdom has stated that it will be introducing legislation on these lines in the near future.

Mr. Graham: To make it compulsory?

Mr. CRAIG: I say this quite sincerely. I feel that the member for Balcatta has, in the past, contributed quite a lot in the interests of road safety. He was associated with the foundation of the Western Australian Road Safety Council and therefore it came to me as a surprise to learn of his opposition to this particular measure.

With reference to the member for Pilbara, I do not know what he was really getting at. He said he thought this Bill would not do what it is hoped it will do. He gave other reasons for accidents, which reasons have not been acted on. I can assure him that quite a lot of action has been taken—illustrative and collective action towards meeting this problem. We have introduced the probationary driving license scheme; the licensing of driving instructors—

Mr. Davies: That is not going too well, either.

Mr. CRAIG: —education through the Safety Council and through schools; and a dozen and one other measures. I think, from his words, he is not necessarily opposed to the Bill.

Mr. Bickerton: You may be sure that I am. I can tell you at the third reading stage.

Mr. CRAIG: The honourable member expressed the need for road safety education and I agree with him on that point.

Mr. Bickerton: The Minister should be against it!

Mr. CRAIG: The honourable member missed my point. I agree that there is need for increased education.

Mr. Bickerton: I thank the Minister.

Mr. CRAIG: He was also critical of the breathalyser unit and critical of the operator, and so on, and so forth.

Mr. Bickerton: What about letting the operator be tested?

Mr. CRAIG: The question of breathalysers was referred to by other speakers, but I inform the House that the unit shown was only a demonstration unit which was brought here for the benefit of members. It was to show the type of instrument and how it functions. It is to

be operated by a trained staff of more than one, who have to be qualified to do so. The Bill itself even refers to this. The paragraph reads as follows:—

> (3) The Director of the Government Chemical Laboratories may, from time to time,—
>
> (a) certify a person as having the qualifications necessary for determining the percentage of alcohol present in bodily substances;
>
> (b) certify a person as being competent to operate breath analysing equipment;

The sergeant of police who operated the unit for the information of members was not a trained operator. His knowledge was only obtained from the pamphlet that he read, or the instructions that came with the unit. It was purely a demonstration unit and so I would hope that clears up some of the points of the member for Beeloo.

I must commend the member for Perth on the speech he made. I think it was excellent.

Mr. Graham: You needed support badly.

Mr. CRAIG: It was received with envy by some members opposite. I think it was a very clear explanation of what the Bill contains.

Mr. Bickerton: Of course it was.

Mr. CRAIG: And I think the House is indebted to him. He assessed the value of this particular measure.

I think it was the member for Kalgoorlie who was concerned with the liberty of the subject and, to quote his words, he considered this distasteful legislation. Again it emphasises my view that he is more concerned with the rights of the offender. He went to some length quoting from a volume of the Victorian *Parliamentary Debates*, but unfortunately he did not complete the story. I am not going to weary the House with the other part; I am concerned only with the hard, cold facts of the drunken driver—

Mr. Moir: You have not given us any yet.

Mr. CRAIG: —when he is in control of a lethal weapon. In such cases action is warranted. I should like to commend the member for Wembley, too, for his contribution.

Mr. Jamieson: You scratch my back.

Mr. CRAIG: His speech, too, was received with envy. The letter from Dr. Thompson that he read was very concise and to the point, but even he expressed some doubts as to the authenticity of certain makes of breathalyser machines. However, I can assure him, and the House generally, that a full investigation and inquiry will be made into all types of units that are available throughout the world to ensure that if and when this legislation becomes law we will have only the most suitable type of equipment available. For the information of members, the machines cost about £300 each. However, the honourable member proposes to move an amendment with which I am in accord.

The member for Fremantle said that he supported any measure that would reduce the road toll. I was pleased to hear this. But he said that he had certain reservations; he considered that the Bill had limited features about it.

Now to proceed to the Deputy Leader of the Opposition. He said no steps should be taken unless we were certain; and there was no proof that this Bill will be a deterrent against drunken driving. He said it was an assumption only. Maybe it is an assumption only.

Mr. Tonkin: Oh, I see!

Mr. CRAIG: All right! Keep your "Ohs" to yourself for a minute!

Mr. Tonkin: Where is this evidence?

Mr. CRAIG: It may be only an assumption that it will act as a deterrent; but how can the Deputy Leader of the Opposition or anybody else accept the fact that it is a deterrent? How can he accept it as a deterrent? I ask him that. I and others think it will act as a deterrent and if there is only a chance of its being a deterrent it is something that should be applied because it will have served its purpose.

Mr. Tonkin: Where is this evidence you were going to produce?

Mr. CRAIG: Be patient for a little while. The member for Kalgoorlie referred to a Victorian *Hansard* and I shall refer to the same one—or I think it is the same one. It is volume 265 of the 1961-62 session and it covers the Legislative Council debates in Victoria. I quote from a speech made by The Hon. L. H. S. Thompson—

> However, a survey of the results obtained gives cause for optimism. For example, of the six countries with the best accident rate, five have compulsory chemical tests in one form or another. With respect to the rate of fatality per 10,000 vehicles, we find that in the United States of America it is 5.4. Of course, compulsory tests are not provided for throughout America; but nine States have passed legislation in this connection. In New Zealand the ratio is 5.5; in Norway, 6.7; in France, 7.1; in Sweden, 7.1; and in Belgium, 7.2. It does not automatically follow that because there are compulsory

chemical tests in five of the six countries that is the reason for the low fatality rate, but it does suggest that it may have made a positive contribution.

Then he goes on further—

In some countries, there has been a form of compulsory blood testing. For example, it has been operating in Norway since 1926 and in Sweden since 1935. I want to correct a common misconception that in those countries drunken driving is no problem because of compulsory blood tests. It is still a problem in those countries, and Dr. Bowden's report illustrates that very clearly. Again, it is found that there has been a striking reduction in the accident rate in some areas where compulsory chemical tests have been introduced. For example, in Paris the vehicle population between 1953 and 1958 rose from 2,400,000 to 3,400,000. In 1954 legislation was enacted introducing compulsory chemical tests for drunken drivers, and it is interesting to note that although the number killed in 1953 was 437 there had been a reduction in 1958 to 301. The number injured dropped from 27,300 to 10,775, and the material damage accidents decreased from 230,000 to 145,000. That is a striking illustration of how the accident rate can be cut. Dr. Bowden, after giving those figures, suggested that there were other factors contributing to that reduction, and I do not doubt that fact.

I cannot go beyond the facts. The National Safety Council cannot go beyond facts and figures, and the council used this information for its figures when it made its submissions to me some months ago.

I feel that what the Government is doing is the correct attitude to adopt. We can see from overseas countries that drunken driving is causing fatalities and the action that has been taken has been the means of reducing fatalities caused by these drivers. In any case, I do not see why we have to wait for action to be taken in other States of the Commonwealth or overseas countries. When things are obvious to us here why should we not take action without waiting for other people to guide us?

Mr. Evans: Why don't you do that with the workers' compensation legislation?

Mr. CRAIG: The member for Beeloo referred to the 800 blood tests that had been taken in the case of suspected drunken drivers over a period between 1959 and 1965, I think it was. They must have been taken voluntarily. Those drivers must have offered to have their blood tested, and it suggests to me that the police officer must have very good grounds before he arrests a person for drunken driving. A point was made by the member for Perth on an interpretation of this particular matter, and if such a person had been arrested as a last resort no doubt he would readily volunteer to have a blood test taken in order to take the opportunity, possibly, of its proving that he was not under the influence of liquor and therefore was not guilty.

The honourable member also said that he preferred the taking of blood tests. Personally, I do too, but it is felt that the breathalyser unit does offer a more convenient form of testing and possibly it would overcome many objections that would be raised by people who were requested to have blood samples taken.

I have been fairly brief in answering the points raised by members, but I sincerely trust Parliament will accept the legislation. We can only learn by experience. I sincerely hope and trust that if and when it is passed it will make some contribution towards reducing our road toll. Even if it saves only one life the Bill will have served some purpose and I commend it to the House.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Craig (Minister for Traffic) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 32A repealed and section substituted—

Dr. HENN: During my second reading speech I indicated I would be much happier if the person suspected of being drunk whilst in charge of a motorcar were allowed to apply to have his own doctor attend to take a sample of his blood. Therefore I move an amendment—

Page 4, line 27—Insert after the word "practitioner" the words "nominated by himself but if no such practitioner is available within the time specified in subsection (6) of this section then such medical practitioner may be nominated by the member of the Police Force."

Mr. CRAIG: The amendment is quite acceptable because it is only in line with section 32 of the Act at present which deals with a person while that person is driving a vehicle under the influence of liquor. As the amendment is in accordance with an existing section of the Act, I have no objection to it.

Amendment put and passed.

Mr. DURACK: I move an amendment—

> Page 4, line 30—Insert after the word "requirement" the words "by the member of the Police Force under whose authority the person then is".

I have already explained the purpose of the amendment in my second reading speech but to recapitulate, as the phrasing is at the moment, it is vague as to who would give effect to it. However, the obligation is clearly imposed on the police officer who is in charge of the testing or the person who is subjected to it. That being so, the police officer, having a statutory duty imposed upon him would be committing a breach of the Criminal Code if he did not give effect to the provision.

Amendment put and passed.

Dr. HENN: As a consequential amendment is required following the amendment I have just moved, I move an amendment—

> Page 4, line 41—Insert after the word "practitioner" the words "nominated by himself, but if no such practitioner is available within the time specified in subsection (6) of this section then such medical practitioner may be nominated by the member of the Police Force."

Amendment put and passed.

Mr. EVANS: On page 6 is set out proposed new section 32C which clause 4 seeks to insert in the Act. I would particularly refer members to paragraph (g). I cannot see how we can justify an analyst giving evidence after determining the amount of alcohol in a blood sample and claiming that that was the amount of alcohol present in the blood before the sample was taken. The provision in paragraph (f) is more logical, but I would like the Minister to justify the retention of paragraph (g).

Mr. CRAIG: This is included because the accident might have occurred some distance away—possibly some three hours' journey from the nearest medical practitioner—and the sample of blood is taken. We all know that the body eliminates a certain percentage of alcohol per hour—I think it is 0.2 per cent. From this calculation a properly-qualified analyst could estimate what would have been the alcohol content at the time of the accident. This point is acceptable by the courts.

Mr. EVANS: The Minister's explanation does not satisfy me. I notice this provision does not appear in the Victorian legislation which blazed the trail for this type of legislation. This would be no more than a calculated guess on the part of the analyst, and we should not impose such a provision on him. I would like your guidance, Mr. Chairman, as to whether I can move to delete paragraph (g).

The CHAIRMAN (Mr. W. A. Manning): The honourable member may move to delete paragraph (g) if he wishes.

Mr. EVANS: I move an amendment—

> Page 7, lines 16 to 23—Delete paragraph (g).

Dr. HENN: I think the honourable member feels the analyst's assessment would not be accurate because of the time that has elapsed between the taking of the sample and its examination. If that is so he has only to consult an analyst to get the answer I hope to give him. It is known exactly how much alcohol is excreted by the lungs in a given time, and supposing some time has elapsed between the time when the person involved drank the alcohol, and the time when the specimen was taken, allowance would be made for that period.

Mr. Evans: The analyst knows the amount of alcohol at the time he examines the blood, but how can he give a determination of the blood before the sample was taken?

Dr. HENN: Does the honourable member mean at the time it was taken and the 3½ hours previously when the accident occurred?

Mr. Evans: Yes.

Dr. HENN: It is known how soon alcohol can be absorbed into the bloodstream, and it is also known how it is excreted through the lungs.

Mr. Evans: What about the well-known method of excretion?

Dr. HENN: Alcohol is converted into carbon dioxide and one other constituent, which I cannot remember at the moment. One does not pass alcohol through the bladder; it is converted into carbon dioxide and this other constituent.

Mr. JAMIESON: This is a bit more hit-and-miss than the honourable member would have us believe.

Dr. Henn: You would make it as hit-and-miss as you possibly could.

Mr. JAMIESON: If the honourable member wishes to deal with reason, let him do so, but if he wishes to use some airy-fairy idea, that is his business. I will use my own hypothesis.

Let us suppose a person has several drinks in a country hotel, gets into his vehicle, and drives several hundred yards down the street. He meets with an accident, and will obviously smell pretty heavily of alcohol. At that stage the test will not be effective, even if he had drunk

half a bottle of whisky straight off. If the sample were taken straightaway, either by blood or by breathalyser, he would not be affected. But in three hours' time the analyst will take a sample and assess the result back to three hours previously. I contend he will not get a true determination of the exact position. The alcohol must take time to work and be absorbed into the system. The member for Wembley knows and admits that.

Dr. Henn: You are talking about the person who has drunk alcohol very quickly.

Mr. JAMIESON: Yes.

Dr. Henn: That is a different kettle of fish. It must be absorbed into the bloodstream.

Mr. JAMIESON: But if the analyst does not analyse till three hours later, his assessment back on the figures he has would indicate the fellow was pickled, and not in a reasonable state of sobriety at the time of the accident. It is not so easy to get over the position as the member for Wembley would have us believe.

The member for Kalgoorlie stated that the Victorian Act does not contain this provision, yet the legislation in that State is administered smoothly. We should not include a provision which would bring forth legal argument.

Mr. CRAIG: There is nothing airy-fairy about this provision in new section 32C. It could be of considerable assistance in coroner's inquiries, and would enable the coroner to form an assessment of the degree of intoxication of the person whose death he is investigating. In other cases the magistrate could form his own opinion as to the value of the evidence produced by a qualified analyst. Although Victoria does not have this provision, there is no reason why the legislation in Western Australia should not have it.

Mr. Evans: Does the Minister not agree that this provision calls upon the analyst to make an estimation, and not to make an analysis?

Amendment put and a division taken with the following result:—

Ayes—13

Mr. Bickerton	Mr. Jamieson
Mr. Brady	Mr. Kelly
Mr. Davies	Mr. Moir
Mr. Evans	Mr. Rhatigan
Mr. Graham	Mr. Tonkin
Mr. Hall	Mr. Norton
Mr. W. Hegney	*(Teller)*

Noes—18

Mr. Bovell	Dr. Henn
Mr. Craig	Mr. Marshall
Mr. Dunn	Mr. Mitchell
Mr. Durack	Mr. Nalder
Mr. Elliott	Mr. Nimmo
Mr. Gayfer	Mr. O'Connor
Mr. Grayden	Mr. O'Neil
Mr. Guthrie	Mr. Williams
Mr. Hart	Mr. Runciman
	(Teller)

(88)

Pairs

Ayes	Noes
Mr. May	Mr. Brand
Mr. Rowberry	Mr. Court
Mr. Hawke	Mr. Hutchinson
Mr. J. Hegney	Mr. Lewis
Mr. Curran	Mr. I. W. Manning
Mr. Sewell	Mr. Burt
Mr. Toms	Mr. Rushton
Mr. Fletcher	Mr. Crommelin

Majority against—5.

Amendment thus negatived.

Clause, as previously amended, put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

STATE FORESTS

Revocation of Dedication: Assembly's Resolution—Council's Message

Message from the Council received and read notifying that it had concurred in the Assembly's resolution.

OFFENDERS PROBATION AND PAROLE ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr. Bovell (Minister for Lands), read a first time.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Conference Managers' Report

MR. NALDER (Katanning—Minister for Agriculture) [11.4 p.m.]: I have to report that the managers appointed by the Assembly met the managers appointed by the Council, and reached the following agreement:—

No. 1.

Amend to read as follows: Clause 2, line 6—Delete "twenty" and insert "fifteen" in lieu.

No. 2.

Amend to read as follows: Clause 5, line 32—Delete "twenty" and insert "fifteen" in lieu.

No. 3.

Amend to read as follows: Clause 15, line 9—Delete "twenty" and insert "fifteen" in lieu.

Nos. 4 and 5.

Clause 18: The managers have agreed not to proceed with amendments Nos. 4 and 5 made by the

Legislative Assembly but to insert the following amendment in the Bill in lieu thereof:—

Page 8—To delete all words after the word "is" in line 9 down to and including the word "forbidden" in line 19 and substitute the following—

less than fifteen per centum of those entitled to vote thereat the raising of the loan is approved, but if the ratepayers who vote at the poll number not less than fifteen per centum of those entitled to vote thereat, and if a majority of the valid votes cast are against the loan, or the valid votes cast against the loan are equal in number to those in favour of the loan, the raising of the loan is forbidden.

I move—

That the report be adopted.

MR. JAMIESON (Beeloo) [11.6 p.m.]: I am against this report being adopted; and I feel we should all be against it as it will place local government in a ridiculous position with regard to some features. It will be in a hopeless postion. One department will experience difficulty as, before a local authority can implement a compulsory fruit-fly baiting scheme in an area, 15 per cent. of the ratepayers will have to vote at the referendum. That is a ridiculous position for any local authority to be put in. It is not a personal affair; and it might be the desire of the great majority of the shire to have such a scheme; and it might be the desire of 90 per cent. of those voting at an election, but because only 14 per cent. vote at that election—which is quite impersonal; they are not being asked to vote for a person—the scheme cannot be implemented in that district. These schemes are desirable; and it will now be harder than ever to implement such a scheme.

The Minister is working against his own department by proposing such a foolish method as this. He would have been better advised had he discarded the whole lot than accept a proposal that will make things hard for the administrators of a district to implement one of these schemes. I am sure he will agree there is a lot of sense in what I am saying in respect of this one particular feature of local government. People simply do not go out and vote at the polls. There was one held the other day which had a fair amount of sponsorship and only 16.1 per cent. voted.

Who is to be responsible for getting the people to vote? Is it to be the responsibility of the councillors to canvass people at their homes to go out and vote for something which is desirable? I do not think that is a job for members of the various wards in local government to have to do. It is a task that should not reasonably be expected of them, but the Minister is now throwing that task on them before they can implement a fruit-fly baiting scheme in their district.

Because people are not interested in voting, a particular scheme cannot be implemented. That is not a fair thing, if most of the people desire the scheme. The people who are interested enough to vote should not be penalised; and the Minister is doing them a great disservice by accepting this proposal.

Question put and a division taken with the following result:—

Ayes—19

Mr. Bovell	Mr. W. A. Manning
Mr. Craig	Mr. Marshall
Mr. Dunn	Mr. Mitchell
Mr. Durack	Mr. Nalder
Mr. Elliott	Mr. Nimmo
Mr. Gayfer	Mr. O'Connor
Mr. Grayden	Mr. O'Neil
Mr. Guthrie	Mr. Williams
Mr. Hart	Mr. Runciman
Dr. Henn	*(Teller)*

Noes—12

Mr. Bickerton	Mr. Jamieson
Mr. Brady	Mr. Kelly
Mr. Davies	Mr Moir
Mr. Graham	Mr. Rhatigan
Mr. Hall	Mr. Tonkin
Mr. W. Hegney	Mr. Norton
	(Teller)

Majority for—7.

Question thus passed and a message accordingly returned to the Council.

ADJOURNMENT OF THE HOUSE

MR. NALDER (Katanning—Deputy Premier) [11.11 p.m.]: I move—

That the House do now adjourn.

In moving this motion I would like to advise members that it is intended to sit on Wednesday next at 2.15 p.m. and on Friday next from 11 a.m. until 6 p.m.

House adjourned at 11.12 p.m.