drivers of engines, cranes and locomotives"? Will there be reasonable provision for drivers of winding engines who may suffer from failing eyesight?

The MINISTER FOR MINES: The parent Act provides for examination of certain classes of engine-drivers, particularly drivers of winding engines. Locomotive drivers are examined every two years. Men driving big cranes on the Fremantle wharf or on top of high buildings should be examined every two years at least. The member for North-East Fremantle in conversation, not in the Chamber, gave good reason for that. His father was a winding engine driver. He knocked off work at 4 o'clock. One day, having been relieved by his mate he got on his bike and rode away, but was called back almost immediately because his mate had dropped dead from heart failure. It was not known that the mate suffered from weakness of heart. A driver such as mentioned by the member for Mt. Magnet could leave the winding engine to drive some other kind of engine.

Clause put and passed.

Clauses 18 to 20, Title—agreed to.

Bill reported with an amendment.

House adjourned at 9.35 p.m.

Legislative Council,

Tuesday, 19th September, 1939.

The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

ADDRESS-IN-REPLY.

Presentation.

The PRESIDENT: I desire to announce that I waited on His Excellency the Lieut.-Governor last week, and presented to him the Address-in-reply passed by the House. His Excellency has been pleased to make the following reply:—

Mr. President and hon. members of the Legislative Council—I thank you for your expressions of loyalty to His Most Gracious Majesty the King, and for your Address-in-reply to the Speech with which I opened Parliament. (Sgn.) James Mitchell, Lieut.-Governor.

QUESTION—RELIEF WORKERS, GERALDTON.

Hon. A. THOMSON (for Hon. E. H. H. Hall) asked the Chief Secretary: 1, What are the reasons for the standing down of large numbers of relief workers in the Geraldton district and the instructions for them to submit fresh applications? 2, How long is it expected before these men will be restarted in employment?

The CHIEF SECRETARY replied: 1, Authority for expenditure on the work in question had cut out and the men concerned were paid off pending the approval of the expenditure of further money, and instructed to apply in the usual way for further relief work. Fresh applications were taken for purposes of review. 2, Some of the men have already been re-engaged. The remainder will be absorbed as soon as possible.

MOTION—WORKERS' COMPENSATION ACT.

To Disallow Regulation.

HON. C. F. BAXTER (East) [4.36]: I move—

That Regulation 19 made under the Workers' Compensation Act, 1912-1938, as published in the "Government Gazette" on the 12th May, 1939, and laid on the Table of the House on the 8th August, 1939, be and is hereby disallowed.

In submitting this motion I deem it advisable to draw the attention of members to a similar regulation, but dressed in a different style, which was before the House last November and was disallowed. Though the wording of the regulation under discussion is different from that of the one disallowed, in some respects it is even more drastic. Hon. members will find the previous regulation in the "Government Gazette" of the 30th November, 1938, and the one that is the subject of my motion in the "Government Gazette" of the 12th May,

1939. If this regulation is allowed to stand, another hardship will be inflicted on the employers. I do not know why, but the tendency seems to be to heap all the troubles possible on the employers and make it difficult for them to carry on. At the same time, many people are preaching that there should be an extension of local industries. To continue encroaching upon the rights of employers and placing disabilities in their path is not the way to achieve that extension.

One distasteful feature of this regulation is that it makes failure to pay a civil debt an offence punishable by a fine or imprisonment. In these days to make a person liable to imprisonment for failure to pay a civil debt is unusual, and will inflict unnecessary hardship. Under paragraph (a) of the regulation the employer is guilty of an offence. The position is this: Under the Workers' Compensation Act the employer is obliged to cover his employees, and he does so. If one of his workmen is injured the employer naturally depends upon the insurance company to pay the compensation claimed. The effect of the regulation is that upon an employee making a demand, the employer is given 24 hours to pay compensation, and irrespective of any delay caused by the insurance company, over which the employer has no control, the employer will be liable—and not the company—for the payment of the money, thus placing the whole of the responsibility on the shoulders of the employer. Why should an employer be held responsible for the failure of an insurance company to meet a claim for compensation within 24 hours? As I have said, this regulation is worded differently from that which we dealt with last session. It is even worse in its effect than is the other. Under regulation No. 19 (a) the worker was entitled only to demand and receive payment subject to due compliance by him with his obligations under the first schedule. For some reason those words have been omitted from the new regulation, and the result will be serious in many ways. Bad as was the regulation we rejected last year, this is even worse. A worker may fail to present himself for examination to the employer's doctor. That would prevent the employer from meeting the obligation to take action within the requisite time. The employer will thus be placed in an unfortunate position. It will be no defence for him to claim that he relied upon the insurance company to pay the amount due. He himself will be held responsible. Let me take the reference to the 24 hours notice. Upon an employee receiving a certificate from his own doctor he can within 24 hours serve upon his employer notice for compensation. How would it be possible for the employer to get the injured person and that person's doctor together within 24 hours? In ordinary circumstances that would be difficult, but the position would be aggravated in the case of people who were living, say, in the North-West or in the farming areas? How would it be possible to get the injured employee and his doctor together at such short notice? Probably members will still have fresh in their minds the effect of the regulation that was disallowed last session. As I have pointed out, the regulation before us is even more stringent in character than was the other. The regulation of last year was disallowed by a very substantial majority of members. I cannot believe that those who were so strongly opposed to it last year are likely to alter their minds this year. The regulation, of course, will have a far-reaching effect and should be disallowed.

On motion by the Chief Secretary, debate adjourned.

MOTION—METROPOLITAN MILK ACT

To Disallow Regulations.

Debate resumed from the 12th September on the following motion by Hon. C. F. Baxter (East):—

That Regulations 102, 103, 104, and 105, and new Sixth Schedule made under the Metropolitan Milk Act, 1932-1936, as published in the "Government Gazette" on the 9th June, 1939, and laid on the Table of the House on the 8th August, 1939, be and are hereby disallowed.

HON. J. J. HOLMES (North) [4.45]: I intend to oppose these regulations for two reasons. In the first place I look upon them as an interference with the functions of the Arbitration Court. Secondly I believe they are ultra vires in that they conflict with existing legislation. When the Act first came down it was deemed to be a dangerous piece of legislation. After it had run the gauntlet in this House, with the assistance of Mr. Drew who said it was one of the most serious pieces of legislation we

had to deal with that session, we put a time limit upon it until the 31st December, 1935. When the Act came up for review in 1935 it was extended by one year, and when it came before us in 1936 it was extended for three years, to 1939. It is to come before us again this session.

Hon. G. B. Wood: We ought to make it permanent.

Hon. J. J. HOLMES: I would agree to that if it contained adequate provisions, and if an outside board were not left to impose conditions which the House might agree to by regulation, but which no attempt was ever made to put into the Act. The time for dealing with any deficiencies in the Act will be when the legislation comes before us for reconsideration, and this should not be done by regulation as is the case now. Regulations 103 and 104 state that no person shall distribute milk between 9.30 a.m. on one day and 1 a.m. on the following day to any person outside a defined area; or between 12 noon on one day and 1 a.m. on the following day in the summer to any person in a defined area. We have been to a lot of trouble to turn out a satisfactory Factories and Shops Act. That legislation was consolidated in 1920. In 1937 it was referred to a select committee which inquired deeply into the whole question, and I think framed many very good amendments. The principal Act contained a definition of "shop", which means any building or place, portion of any building or place, or any store or any vehicle. Provision was made in the Act that a milk cart was a shop, and, further, that milk could be sold from 7 a.m. to 11 p.m. from a shop or vehicle. The Milk Board which stepped in with its regulations, does not alter the time when milk may be sold, but deals with the matter from the standpoint of the "delivery" of milk. I have been advised that parties approached the Arbitration Court with a view to securing the fixation of hours and the court, with evidence before it, refused to make an award. Notwithstanding that fact, the board, by way of regulations, asks this House to stultify itself and to adopt one that provides for exactly the opposite of that which we specified in the Act. That is about the funniest procedure with which I have ever been confronted. As I said before, my first objection is that if we endorse a regulation which provides for the delivery of milk only during the hours stated, that must be taken as an instruction to the court regarding the conditions to operate in the industry. It cannot amount to anything less, no matter what the evidence may be. Parliament, if it accords approval to these regulations, will declare that the times specified shall be those during which milk may be delivered, and the court will have to make provision accordingly for those hours in any award it may issue.

From time to time we have heard a good deal about "Hands off the Arbitration Court." One prominent member of the Labour Party, who is not with us to-day, said, in season and out of season, "Hands off the Arbitration Court." In my opinion, he was quite right; this House has repeatedly given expression to a similar view. Members were wise in adopting that policy. They were determined to allow the Arbitration Court to decide the hours during which those associated with industry should be permitted to work. This is not a matter for Parliament to decide; the Arbitration Court, with the evidence before it, should determine what hours are to operate. My second point is this: Will a regulation, even if adopted by this House, over-ride an Act of Parliament that governs the conditions operating in an industry? I do not think it will.

Hon. C. F. Baxter: Who is game enough to risk his money in order to test the point?

Hon. J. J. HOLMES: I do not desire to put anyone to that expense; I do not wish any individual to risk his money with that end in view. The issue is one for the common sense of this House to determine.

Hon. C. F. Baxter: I agree with you.

Hon. J. J. HOLMES: The issue is whether this House is to endorse a regulation framed by a board when that regulation, in my opinion, may override an Act of Parliament that governs the industry. I shall not labour the point. I propose to vote for the disallowance of the regulations. Before concluding my remarks, however, I wish to refer to a circular that I, presumably in common with other members, have received. Certain statements are included that require some explanation from those who favour the regulations. The circular emanates from the Metropolitan Retail Dairymen's Industrial Union of

Employers, and contains the following statements:—

Since its inception, the board has taken nearly £65,000 out of the industry, spending about £8,000 per annum in administration costs. It has accumulated a surplus of £4,615 . . . . Under the Act the board has not the power to accumulate funds, and its action is therefore outside the scope of its powers under the Act.

Then again it is stated, after referring to the board having fixed the price of milk—

Since then, it has granted two increases to the producer at the expense of the retailer. The retailer has also had to bear four increases in the basic wage. Producers are not controlled by any Arbitration Court award.

These seem to be important points, and someone should answer them. Then, again, the circular contains the following:—

The actions of the board will definitely ruin the small man and put him out of business. The producer is protected under the Act for payment of his accounts, but the retailer has no protection and suffers from bad debts. . . . . There is a very real danger of the board creating a serious monopoly. It has been declared that centralised depots are its object. The existing Act is a fearful undemocratic piece of legislation, and the retailers' life's earnings and business can be completely wiped out by a decision of the board.

The Retail Dairymen's Union of Employers further points to the annually increased imports of powdered milk and in the circular asks—

Can the Milk Board explain why the importation of powdered milk into this State has increased so enormously? . . . . The increase alone in one year, 1938-39, was 427,952 lbs., valued at £45,495.

That would indicate that the whole milk industry in this State is being disadvantaged by the importation of powdered milk from the Eastern States. There is one other point dealt with in the circular, which sets out—

In June, 1934, procuration orders were obtained by the Primary Producers' Association (Dairying Section) from milk producers, requesting the retailers to deduct one-twentieth of a penny per gallon of whole milk from the producers' accounts and pay this amount to the Primary Producers' Association.

Hon. G. B. Wood: What has that to do with the regulations?

Hon. J. J. HOLMES: It has to do with the board.

Hon. G. B. Wood: But not with the regulations.

Hon. J. J. HOLMES: That does not matter. If I am out of order, the President will correct me; the junior member for the East Province should not attempt to do so. Whether this phase has to do with the motion or not, it serves to draw attention to something done at the instigation of the board. I am directing the attention of members to the type of action taken by the board, which will continue acting along those lines if this House permits the board to do so.

The Chief Secretary: Are you sure of the accuracy of your statement? You say that was done "at the instigation of the board."

Hon. J. J. HOLMES: It would appear to have been so.

The Chief Secretary: You said it was so.

Hon. J. J. HOLMES: Then I will correct my statement and say that it would appear to have been done at the instigation of the board. I shall leave the matter at that point.

HON. G. B. WOOD (East) [4.59]: My remarks will be brief. I shall not cover the whole of the ground traversed by other members but will content myself by giving a few reasons why I intend to vote as I shall. A lot has been said as to how the producers have been let down by their representatives, that is, by the Country Party.

The Honorary Minister: Not by all of them.

Hon. G. B. WOOD: The statement has been made very definitely that the Country Party let the producers down.

Hon. A. Thomson: The Honorary Minister said that.

Hon. G. B. WOOD: The statement has whatever to do with the Country Party. No one ever consulted me before the motion was launched; it is entirely a private member's affair. Mr. Williams, in the course of his remarks on the subject, said that the regulation would benefit the producers, or the people who milk the cows. I wish to point out that this has nothing to do with the producers; the cows will have to be milked just the same twice each day. Because there is to be one delivery we must not imply that the cows will be milked only once daily. It may, however, make a difference in the time at which the cows are to be milked. I hope it will. Reference has been made to the Metropolitan

Milk Act. In my opinion that measure is one of the best that was ever passed by Parliament, in spite of what has been said to the contrary. I was not in Parliament at the time, but I can tell the House that we made use of the Act's existence for electioneering purposes, and contended that it was a definite step forward in respect of the milk industry. I would not like to see anything done to prevent that measure being re-enacted. Again, I would not like to be one of the persons to vote against the regulations put up by the Milk Board. Parliament, in its wisdom, set up that board to impose conditions not only for the producers but for the distributors of milk, and I refuse to believe that the board has not been successful in carrying out its functions. I have weighed the pros and cons of the arguments that have been advanced in this House on the subject of the regulations, and I am convinced that most people are quite satisfied that the conditions now imposed will not hurt anyone. The retailers appear to want the regulations and the producers also require them. In fact, it seems to me that everyone wants them, and we have not heard anything in the nature of a squeal from the consumers. I have made a few inquiries as to the method of delivery elsewhere—in Melbourne as well as from the people in the State—and the replies I have received have been that the people prefer to take two pints in the morning rather than one pint in the morning and one pint in the afternoon. One objection that has been raised to the regulations is that they conflict with the Arbitration Court award, but on that question there is a diversity of opinion. The Crown Solicitor says one thing, Mr. Nicholson expresses a different view, and Mr. Parker holds still another opinion. As a matter of fact, Mr. Parker does not agree with anyone, because he spoke against the motion and then stated that he did not know which way he would vote. So we have three eminent lawyers giving three different views.

Hon. H. V. Piesse: Leave things as they are.

Hon. G. B. WOOD: The Milk Board, set up under a statute passed by Parliament, should say when milk is to be delivered. I am very sorry to have to vote against Mr. Baxter, because I look upon him as a watchdog with regard to regulations. In this case I agree with the regulations, and I shall oppose the motion.

HON. H. V. PIESSE (South-East) [5.5.]: I was astounded at a remark made by the Honorary Minister when speaking on the motion, but I was pleased to learn that the primary producers of the State had a representative in this Chamber to stand up for them. It was a surprise to me to hear a representative of the Trades Hall come out in the open and accuse Mr. Baxter of putting up the motion for political purposes—"a kick against the Government," I think was what the Honorary Minister said. I assure the Minister that his remarks do not go down at all, because we, as representatives in this House of the primary producers, watch the interests of those people to the best of our ability. Like Mr. Wood, I admire Mr. Baxter for the splendid manner in which he examines regulations that are laid on the Table of the House. Mr. Baxter has had great experience, both as a private member and as a Minister, in this Chamber, and he goes to no end of trouble at all times when in his opinion regulations are not in the public interest. On this occasion, however, I cannot support Mr. Baxter. I am a supporter of the board which studies the interests of the primary producer. The board is carrying out its duties under the Metropolitan Milk Act in a very successful manner, and incidentally it may be said that no measure has been of greater benefit to a section of the primary producers than has this Act. It would be a serious matter indeed if the measure were in any way ruled out, that is to say, if the Government did not continue its operation. I should like to inform Mr. Holmes that in my private capacity I once controlled a dairy for a number of years, and as controller it was my great desire to cut out the second daily delivery. Of course that desire was purely personal. But generally speaking, in these days of refrigerators there is no need for a second delivery. Moreover, the method of handling milk permits it to be delivered in a perfectly good condition. All this is entirely different from what happened in the old days. Milk goes through a treatment process, and really it is 50 per cent. better to-day than it was in earlier times. I intend to oppose the motion for the reasons that I have given. I realise that the sale of powdered milk must increase if we cancel the afternoon delivery, but we cannot help that. The primary producers unanimously support the regulations that have been framed, and as

one of their representatives I shall vote for the retention of the new order of things. I trust that when again we are in difficulties we may have the services of the Honorary Minister to assist us.

HON. H. TUCKEY (South-West) [5.9]: In the course of the debate two points seem to have been emphasised. The first is that the regulations interfere with the work of the Arbitration Court, and that they will bring about an unnecessary restriction in the whole milk industry. I am not in a position to say that the board has exceeded its authority in making an alteration in the hours of delivery. At the same time it would appear that the union concerned should have approached the court for the purpose of bringing about the change. The producers are not very much concerned with the regulations, and they did not object to the suggested disallowance until something was said in the nature of a threat that if the regulations were rejected there would be a possibility of the Act being allowed to lapse at the end of the year. From remarks that have been made in this House and from rumours circulated through the districts where the producers are, I gather that that is the inference, and I think it has had something to do with the producers decision recently arrived at. They are at present anxious that the regulations should be permitted to remain and continue. In my opinion it would have been a wiser plan to have dealt with this question later in the session when the measure for the continuance of the Act was being discussed. Regarding the question of deliveries, I consider that if milk is fresh one delivery a day should be sufficient. We know, however, that some milk is 12 hours old when it arrives in Perth and the hour of arrival is too late for the morning delivery. It must be difficult to keep milk fresh until the next day, and I believe that if the train that conveys the milk to Perth were to run two or three hours earlier, not so much difficulty would be experienced. The producers are in favour of the regulations practically to the extent of 100 per cent. I have made inquiries in one part of the province that I represent, and have found that to be the position. I have also had numerous letters from various bodies asking me to support the regulations and to vote against the motion. It is my intention to vote against the motion.

HON. C. H. WITTENOOM (South-East) [5.12]: Before the debate closes I should like to offer a few remarks on the subject of the regulations. The matter is of considerable importance and requires careful consideration before we make any change from the position as it exists at present. We are aware that milk is an essential article of food, not only for children, but for adults as well. Its distribution in schools is also more or less necessary. The debate has hinged on three points. The first is whether there should be one or two deliveries daily, the second is whether any interference with the existing position will result in an increase in the price of milk or otherwise, and the third is whether the regulations are an interference with the duty of the Arbitration Court. Members of the community have been asked whether they want two deliveries daily, and from what we can gather from the Minister's remarks and from what has been said by certain members, I should say that two deliveries are not necessary, because the public do not want them. We have been told of instances where there are no afternoon deliveries, and where those deliveries do take place they amount to about 5 per cent., or certainly not more than 10 per cent. of the total delivery. So we know that the quantity of milk delivered in the afternoon is very small indeed. Therefore a single daily delivery is really all that the public needs. Wherever an afternoon supply is needed the people are told that they can get it. Careful housewives look after food properly, and all are in accord about the time of the day at which milk should be delivered. They know that it is better to get the milk in the early hours of the morning rather than that it should be delivered in the heat of the afternoon when it is more likely to become affected by the climatic conditions and dust. Therein lies the reason for such a small quantity of milk being delivered in the afternoon. The question has been raised whether curtailment to one delivery a day will affect the price of milk. I should say that there is a possibility of the price being reduced. When milk carts have to traverse long distances to supply only a small quantity of milk, the cost of delivery must be increased. Still, the hours in which milk shall be delivered is surely a matter for the Arbitration Court to decide. I agree with the remarks of Mr. Baxter regarding

the multitude of regulations. Boards are constantly being appointed to govern various industries, and we have too many boards. These are matters that should be dealt with by Parliament instead of by boards operating under regulations. The present system will certainly lead to infringements of Arbitration Court awards and therefore I must oppose the motion.

HON. V. HAMERSLEY (East) [5.16]: I wish to make my position clear in the event of the motion going to a division. Many producers of milk realise that they have benefited considerably from the passing of the Act, but it is an imposition that such regulations should be thrust upon the people. The regulations affect the retailers and distributors of milk, and after having made inquiries I am satisfied that those parties are well paid for the service they render. Milk is being distributed at about 30d. a gallon. Of that the producer is receiving 10d. and the other parties 20d. The public is paying a fairly high price for milk, but the producer is receiving only one-third of the amount paid by the public.

Hon. H. V. Piesse: What did the producer receive before the passing of the Act?

Hon. V. HAMERSLEY: Seemingly there is something more behind the regulations than a mere attempt to conserve the position of the retailers. The reason why so many producers favour the regulations is that some suggestion or threat has been made that if they object, they are likely to lose the benefits of the Act. Personally I do not think that Parliament would dream of dropping the Act. Even if the regulations were disallowed, there would be nothing to prevent the continuance of the Act, but because this threat has been held over the heads of producers, they have been persuaded into believing that they must support the regulations. The motion involves a serious matter and, if it is not passed, there may be an unpleasant recoil. This House has always jealously safeguarded the powers and functions of the Arbitration Court.

Hon. G. Fraser: That tale is worn threadbare.

Hon. V. HAMERSLEY: We have at all times refused to countenance any action that was likely to interfere with the powers conferred by Parliament upon the Arbitration Court. If the motion is negatived, I am afraid it will prove to be the first of a series of attacks upon the powers of the court, and this must have a boomerang effect. I support the motion, but as I have arranged to pair with Mr. Moore, I shall not be able, in the event of a division being taken, to record my vote.

HON. C. F. BAXTER (East—in reply) [5.21]: I am astounded at the number of members, including the Honorary Minister, who have spoken so strongly on the merits of the milk Act without giving the slightest consideration to the most important section affected, namely the consumer. Many members have given the consumers no consideration whatever.

Hon. L. Craig: I mentioned them.

Hon. C. F. BAXTER: Yes, the hon. member mentioned this person and that person, and quoted various expressions of opinion, but of what value is an individual's opinion? It is not worth a snap of the fingers. The constitutional aspect should be seriously considered. I have made extensive inquiries from trades people and in fact from all sections interested in the milk industry, and having done so I deem it my duty to warn the producers who are standing behind these regulations against being bluffed into believing that if the regulations are disallowed, the Metropolitan Milk Act will go by the board.

Hon. H. S. W. Parker: Not bluffed?

Hon. C. F. BAXTER: Yes, I repeat the word "bluffed." The producers have been bluffed into supporting these regulations. All such restrictions can lead to only one result, namely, a restriction of the quantity of milk sold in the metropolitan area, and this in turn must seriously affect the industry. Some members have spoken of the producers being advantaged by the passing of these regulations. Let me tell the House where the gain will come in. A prominent union official told a retailer that as far as the Legislative Assembly was concerned, there was no doubt about the regulations being approved, but if opposition was raised in the Legislative Council, the regulations would be disallowed.

Hon. H. S. W. Parker: Why do the retailers want the regulations?

Hon. C. F. BAXTER: Only a small section wants them because there is an unholy alliance between those retailers and the union. The Honorary Minister shakes his

head at that statement, but I know the facts. I have received direct information on the point. Is it not sufficient to know that the court is being approached to the same end?

Hon. J. J. Holmes: In spite of the regulations?

Hon. C. F. BAXTER: Yes. I ask members whether they are prepared to favour expediency and sacrifice a principle for which this House has always stood. Those who oppose the motion will be doing so. For the sake of expediency and for no other reason, they will create a precedent that will be quoted against them whenever a question of interfering with the powers of the Arbitration Court is raised.

Hon. H. S. W. Parker interjected.

Hon. C. F. BAXTER: I shall deal with all the points in due course.

The PRESIDENT: Order!

Hon. C. F. BAXTER: The hon. member has already had an opportunity to speak to the motion. Some members have said that we might well allow the regulations to stand and deal with the matter when the amending Bill is brought down. Let me inform those members that after these regulations have lain on the Table for a certain number of days without being disallowed, they become part and parcel of the Act and cannot then be altered. The Metropolitan Milk Bill is a continuance measure and is restricted to section 48 only. Therefore no opportunity will be afforded to make any amendment to the Metropolitan Milk Act, unless it be to Section 48. There will be sad disillusionment awaiting those members who think they will be able to deal with the subject matter of these regulations when the amending Bill is considered. There is no doubt in my mind that although the attempt to alter the hours of delivery has been made in a wrong way, even if the regulations are disallowed, the present hours of delivery will still be observed. That aspect is not worrying me at all. The point about which I am concerned is the unconstitutional manner in which the hours of delivery are being altered. The Metropolitan Milk Act empowers the board to make regulations. Let me again refer to the way in which regulations are tabled by the dozen so that when anybody seeks to interpret an Act of Parliament or to administer it, he cannot trace all the regulations. Greater care must be exercised in the matter of making regulations and stipulating how far they shall go, unless we are prepared to run the risk of their being misinterpreted. The regulations under discussion are being misinterpreted by legal men. We have had the opinion of the Crown Law Department that it is competent for the board to frame regulations under the power given in the Act. The point I wish to emphasise is that whenever Parliament gives power to frame regulations dealing with hours of labour, that power is definitely expressed in the Act.

Hon. G. Fraser: You have a wonderful imagination.

Hon. C. F. BAXTER: If it were as vivid as is the hon. member's, I should expect difficulty in finding my way home at times. To give an instance: Section 12 of the Bread Act defines the hours for baking, and Section 13 stipulates the hours for the delivery and sale of bread. That illustrates the attitude adopted by this House when legislating on the subject of hours of labour. If an amendment of the Metropolitan Milk Act were submitted specifying the hours of delivery, I am safe in saying it would be rejected. Section 14 of the Bread Act sets forth the hours for baking in country areas. But there is no express provision in the Metropolitan Milk Act relating to hours, and no such provision by regulation was envisaged when the measure was being discussed by this House. The highest legal authority in the State, His Honour the Chief Justice, in construing the Metropolitan Milk Act, would ask himself, "What was the intention of Parliament?" I observe that Mr. Parker smiles. That is how the point was approached by a judge only this morning.

Hon. H. S. W. Parker: A judge is concerned with what the Act says.

Hon. C. F. BAXTER: Surely the hon. member, who has filled the office of Crown Solicitor, is more conversant with what the judges do! Now consider the Factories and Shops Act. There again we find definite hours laid down. The House intended that that course should be adopted.

Hon. G. B. Wood: But there is no board in that instance.

Hon. C. F. BAXTER: I am not dealing with the board, but with the intention of this Chamber in legislating.

Hon. L. Craig: Parliament intended the board to control the industry.

Hon. C. F. BAXTER: But not to set up working conditions for it. How any member who has respect for the Arbitration Court and its awards can vote against the motion puzzles me.

Hon. G. B. Wood: That is not altogether fair.

Hon. C. F. BAXTER: It is true, and truth is always fair. Some hon. members seem overjoyed when they can trespass on the functions of the Arbitration Court. Milk carters work under the carters and drivers' award. The Chief Secretary and the Honorary Minister will agree with me that the Carters and Drivers' Union is one of the smartest unions in the State. One must respect it for the way it is doing its job. It does that job very fairly. Personally I have every respect for the union. Employers on the one side and union representatives on the other met in conference, and arrived at an agreement. The agreement was to the effect that no definite hours in the 24 should be stated as hours in which milk could be delivered. That agreement went before the Arbitration Court, and was registered as a consent award. It is just as important as any other award made by the court. The responsible body does not fix hours for the delivery of milk. Then an outside body, the Milk Board, comes along after the award has been operating for many years and declares that delivery of milk must take place within certain hours. Who gave an outside body the right to interfere with regard to hours of labour? By what power can an outside body interfere with an award of the Arbitration Court? This House cannot give it that power without reflecting gravely on those who made the award. The Legislative Council has always stood up for the Arbitration Act in its entirety. What will be the position if the motion is not carried? The Council will no longer be able to claim that it insists on recourse to the Arbitration Court. Unless the motion is carried, the Council will have agreed to the functions of the Arbitration Court being trespassed upon by an outside body.

Hon. H. S. W. Parker: Milk can be delivered in the afternoon.

Hon. C. F. BAXTER: The hon. member, being a legal practitioner, ought to know that it is not competent for any outside body to fix hours of labour.

Several members interjected.

The PRESIDENT: Order! I must ask hon. members to allow the hon. member to make his speech. If the hon. member did not reply to interjections, they would cease.

Hon. C. F. BAXTER: Here we have the result of interference by an outside body. The consent award provides (a) that 46 hours shall constitute the working week, and (b) that milk carters shall be excluded from starting and finishing times. Does Mr. Parker want more than that?

Hon. H. S. W. Parker: Yes. Who is going to deliver milk in the afternoon?

Hon. C. F. BAXTER: I am not dealing with that phase at all. I do not know whither the hon. member is wandering. His trained legal mind ought to be able to seize the point. An outside body says, "These men must start at a certain time, and finish at a certain time."

Hon. H. S. W. Parker: It does not say that at all.

Hon. C. F. BAXTER: Of course it does. What other interpretation can be placed on the words? Further, the consent award provides that all carters shall work a continuous shift, except milk carters. Then the milk carters, through their union, approached the Arbitration Court—and I commend them for this—with an application for leave to amend the award. In place of the 46-hour week they want a 44-hour week, and that they shall work a straight shift instead of being excluded from starting and finishing times. What led up to that application? The unholy alliance of which I have spoken. Are members of this Chamber content to vote against my motion for disallowance of these regulations? Is this House to give authority to an outside body to interfere with an Arbitration Court award? In view of the long period I have served in the Legislative Council I am astounded at some of the speeches made on the motion, at the material contained in those speeches. If expediency is to creep into our legislative efforts, God help this country! The House should stand hard by principle.

Hon. H. S. W. Parker: What do you mean by that?

Hon. C. F. BAXTER: Exactly what I say. Mr. Parker's legal mind should be able to interpret the remark. I have here many letters from people who appear to be quite sure of the position, and therefore I shall not weary the House by reading

them. In connection with the recent conference I heard that the council representing the large producers of milk who supply the metropolitan area would annihilate me. But what was the result of the meeting of that conference? A severe vote of censure was to be passed on me, and a strong vote in favour of the regulations. What was the final result? The passing of a motion that the conference did not object to the regulations. The people concerned were very strongly in favour of the regulations until they discovered that disallowance of the regulations would not mean that the Act would be lost.

Hon. L. Craig: That is a guess on your part.

Hon. C. F. BAXTER: Nothing of the kind. All the people concerned with whom I spoke during my last trip to the South-West said, "Unless the regulations go through, we shall lose the Milk Act." I have heard the same thing said in this Chamber. I told everyone who approached me on the subject that no self-respecting Government would drop the Milk Act, that the measure would come before Parliament and would be renewed as usual. A Bill for that purpose is now before another place. I have done my utmost to guard this House from creating a bad precedent. If members nevertheless decide to do so, I regret it very much indeed. I deeply regret that the Legislative Council should agree to interference by an outside body with an award of the Arbitration Court.

Question put, and a division taken with the following result:—

Ayes	.. .. ..	7
Noes	.. .. ..	16
Majority against	..	9

AYES.

Hon. C. F. Baxter	Hon. J. Nicholson
Hon. L. B. Bolton	Hon. A. Thomson
Hon. J. J. Holmes	Hon. J. A. Dimmitt
Hon. J. M. Macfarlane	*(Teller.)*

NOES.

Hon. E. H. Angelo	Hon. W. J. Mann
Hon. L. Craig	Hon. G. W. Miles
Hon. J. M. Drew	Hon. H. S. W. Parker
Hon. J. T. Franklin	Hon. H. V. Piesse
Hon. E. H. Gray	Hon. H. Tuckey
Hon. W. R. Hall	Hon. C. H. Wittenoom
Hon. E. M. Heenan	Hon. G. B. Wood
Hon. W. H. Kitson	Hon. G. Fraser
	(Teller.)

PAIRS.

AYES.	NOES.
Hon. V. Hamersley	Hon. T. Moore
Hon. J. Cornell	Hon. C. B. Williams

Motion thus negatived.

BILLS (4)—FIRST READING.

1, Contraceptives.

2, Plant Diseases Act Amendment.

3, Life Assurance Companies Act Amendment.

4, Reserves (No. 1).

Received from the Assembly and read a first time.

BILL—SWAN RIVER IMPROVEMENT ACT AMENDMENT.

Second Reading.

THE HONORARY MINISTER (Hon. E H. Gray—West) [5.50] in moving the second reading said: The purpose of this Bill is to enable the provisions of the Swan River Improvement Act, 1925, governing the resumption of foreshore lands, to be applied to the projected reclamation work between Manning Point and Mends-street Jetty at South Perth. Three years ago the foreshore between the Causeway and Manning Point was reclaimed by the Government, with the assistance of the Perth City Council and the South Perth Road Board under the provisions of the principal Act. It is now desired to link those works with the Mill Point-Mends-street reclamation—which is now almost finished—and so complete the whole scheme of reclamation on both sides of Perth Water, from the Causeway to Point Lewis on the north and to Mill Point on the south. The extent of the proposed reclamation is shown coloured green on the plan now lying on the Table. Another plan, showing in greater detail the object of this measure, will be laid on the Table to-morrow.

Hon. L. Craig: You will have to resume the foreshore from the Causeway to Mends street?

The HONORARY MINISTER: Yes. At present, the area in question includes a considerable portion of algae and mosquito-infested foreshore, as well as waterlogged and swampy lands held by private owners. For many years the South Perth Road Board has been anxious to improve the amenities of this part of the foreshore and its adjacent lands. Therefore, after it had completed the reclamation works in Melville Water beyond Mill Point, and discharged its responsibilities in connection

with the Causeway-Manning Point section, it approached the Government with a proposal for the reclamation of all the lands in the remaining unreclaimed section of the foreshore between Manning and Mill Points. The Board guaranteed to obtain the consents of the private landowners who would be affected by the severance of their properties from the river; or, alternatively, to assume the cost of resumption; and undertook, furthermore, to carry out the work of levelling, top-dressing and road construction. The Government's contribution to the works was thus to be confined solely to dredging and the construction of the retaining wall. Having obtained the Government's consent to this project, the Board opened negotiations with the property owners affected by the scheme, offering to reclaim their shore lands up to a 7 foot contour on condition that they surrendered, free of charge, the narrow strip of land above high-water that would be required for the construction of a riverside road and the rounding-off of the foreshore reclamation. Where the lands were under market and commercial flower gardens, the Board's offer included special compensation to the owners or lessees, in addition to the permanent improvement that would accrue through the raising of the land to a level 7 feet above the river.

However, despite these inducements, the Board's offer was, in most cases, rejected, notwithstanding that much of the land in its present state is so water-logged and swampy as to be almost useless. The owners who had refused to accept the Board's terms made a counter offer. They would surrender the strip of land required, if their properties were raised to such a level as to enable them to be utilised for building purposes. As the Town Planning by-laws provide that the floor level of any building shall be not less than 10 feet above river level, the Board was not able to accept the owner's offer, as it meant revising the whole scheme of reclamation to provide for the raising of the contour a further 3 ft. While a 10 ft. contour would undoubtedly increase both the acreage and value of the reclaimed private properties, it would necessarily involve a disproportionately increased expenditure by both the Government and the Board. In addition, the contour level demanded by the owners would not have conformed to the level provided in the rest of the scheme of foreshore reclamation. As it was impossible to come to an agreement with the owners, the Board temporarily abandoned negotiations. The department, which had already commenced reclamation operations in front of private land, thereupon withdrew the suction dredge for overhaul and subsequent use elsewhere.

An alternative scheme was then decided upon by the Board, which now proposes to utilise the whole of the land to be reclaimed, including private properties, as well as any additional land it may acquire, for the purpose of public parks, gardens, and recreation reserves. The Board will still bear the cost of resuming all the private lands included in the new scheme, and shown on the plan lying on the Table.

The Board again approached the owners some little time ago with offers for the private purchase of the land needed for the reclamation. Some of the owners, however, placed an inflated value on their blocks because the original grant from the Crown showed the northern boundary of their property to be the shore of the Swan River. Consequently, the Board was compelled to appeal to the Government to assist it in effecting the resumption on reasonable terms.

This Bill is therefore the outcome of the deadlock reached in the Board's negotiations. It seeks to amend the principal Act so as to permit the resumption of private land included in the projected reclamation on terms similar to those that have obtained in respect of all other lands resumed along the foreshore since the enactment of this legislation. Section 4 of the Act prescribes the procedure for taking land, and also sets forth that in determining the amount of compensation to be awarded for land taken or resumed, no compensation shall be payable for injurious affection or severance caused by the construction of any works under the Act. Section 5 provides that no compensation shall be payable in respect of any existing or prospective enhancement in value caused or anticipated by works carried out under the Act. The Act also provides that land abutting on the shores of the river shall be deemed for all purposes to be bounded on the foreshore by the high-water line at spring tides.

If Parliament grants its approval to this measure, the Surveyor-General will fix the high-water line in accordance with the powers set out in Section 7 of the Act, th is enabling the area of the private lands on the foreshore to be computed for the purposes

of resumption and compensation. The Government considers it perfectly reasonable that provision should be made for the resumption of the private lands included in the extension from Manning Point towards Mends-street Jetty on terms similar to those which obtained in respect of the foreshore reclamation already carried out below the Causeway, and which apply to all works authorised under the principal Act.

The South Perth Road Board is deserving of every encouragement for its enterprise in beautifying its district and providing recreational facilities for its ratepayers. It is rather a pity that other local authorities have not the same progressive ideas as has this board. Through the various projects it has carried out in the past, it has appreciably reduced the burden of the Government in finding work for unemployed men.

Hon. H. S. W. Parker: East Fremantle has done the same, you will remember.

The HONORARY MINISTER: The expenditure which will be incurred by the Board on the work between Mill Point and Manning Point, exclusive of the cost of the land resumption, but inclusive of the cost of road construction, has been estimated at £17,000. Not all that money will be spent on the extension dealt with by the measure, since the board has already incurred a certain amount of expenditure on the Mill Point-Mends-street reclamation. This latter section, of course, does not come within the scope of the Bill, which as I have explained, seeks only to apply the powers conferred by the Swan River Improvement Act in respect of resumption to the private lands affected by the board's scheme of reclamation.

The estimated cost of the work to be carried out by the department is £38,500 of which £20,000 has been authorised for the current year. Actual expenditure during 1939-40 will depend on the date the work is commenced. It will amount to approximately £2,000 per month. Of this expenditure 70 per cent. will represent wages. About 80 men will be employed by the Government if the scheme is proceeded with. These will include the men employed quarrying the stone, the crew on the "Stirling," the shore gangs and the wallers. The average cost per week per man will thus work out at approximately £7 5s. I commend the measure to the House and move—

That the Bill be now read a second time.

HON. H. S. W. PARKER (Metropolitan-Suburban) [6.2]: I do not propose to take up too much of the time of the House, but I wish to commend the Bill to hon. members. The South Perth Road Board is to be lauded for endeavouring to clean up the foreshore from Mends-street around almost to the Causeway. The reason for this measure is that old titles sometimes include portions of the river. The principal Act provides that the title shall go to the high-water mark which shall be surveyed by the Surveyor General. There is a further provision that in a resumption of land resulting in people being deprived of the use of the waterfront, they will not receive compensation for that. The land is not very valuable, from the point of building, and the work contemplated is essential. It will improve the surroundings considerably. Mr. Macfarlane, Mr. Dimmitt and I have gone thoroughly into the matter with the road board, which has pointed out the need for and the convenience afforded by the Bill. The measure cannot hurt anyone, but it will help the road board to proceed with the work without litigation. That is a point which will possibly appeal more to other members than it might appeal to me. I strongly commend the measure to the House.

HON. J. NICHOLSON (Metropolitan) [6.4]: Anybody looking at the Bill would certainly not form the impression that it had the importance detailed by the Honorary Minister in his introductory remarks. I certainly did not attribute to it, on a first reading, the degree of importance obviously attached to it. But we are met with a rather curious position. I do not like to see rights that are given in property simply taken from the owner by an Act of Parliament without just compensation being paid. In 1925, as has been pointed out by the Honorary Minister, an Act was passed which this Bill now seeks to amend.

Hon. J. J. Holmes: To extend.

Hon. J. NICHOLSON: Yes. It is quite true that provision is made in the Act that "in determining the amount of compensation to be awarded for land taken or resumed for the purposes of the Act, no compensation shall be awarded for the injurious affection of any land by the construction or execution of any work under this Act or by reason of any right being lost or prejudiced through the operation of

this Act or the exercise of any power therein conferred. 'Injurious affection' includes severance.'' In the case of land title deeds granted many years ago where the boundary of the land is shown to be a river, the owners of the land had an undoubted legal right which is given to every riparian owner. Wherever land is bounded on one side by a river, the owner of that land has the right of property in the land, a right extending practically to the middle of the river. In the case of the Swan River, we realise that that portion abutting on the land in the vicinity of South Perth has very little value unless the owners combine to dredge it and make it suitable for shipping. Consequently to a certain extent the riparian rights are comparatively small. I merely refer to the matter because in some instances riparian rights are of great value in certain places, and if an Act purports to remove them, it deprives the owner of a valuable right.

Hon. J. Cornell: Something he has done nothing for.

Hon. J. NICHOLSON: The hon. member is wrong in saying that, because a man has to acquire the land and may do a great deal with it. But we are confronted with this position: we are not dealing with the Act passed in 1925, except to amend it, and the amendment sought is only for an extension of the powers under the Act in a way that will probably prove beneficial to the owners of land in the vicinity. I have listened to what has been said regarding the work carried out by the road board and other authorities in improving the river in that locality. Had we been considering the matter of compensation, I would undoubtedly have taken a different view, but remembering the good work that has been done by the road board, the improvements effected, and the general advantage derived by the public therefrom, I propose to support the second reading.

On motion by Hon. A. Thomson, debate adjourned.

BILL—GERALDTON HARBOUR WORKS RAILWAY EXTENSION.

Second Reading.

THE HONORARY MINISTER (Hon. E. H. Gray—West) [6.10] in moving the second reading said: This is a small Bill that almost explains itself. It relates to a short spur line at Geraldton, about a quarter of a mile in length, which connects the sidings of the Shell Oil Company and the Geraldton Oil Distributing Company in the industrial area south of the new wharf, through the harbour works' railway, with the main railway system. The line, which is owned and controlled by the Commissioner of Railways on behalf of the Crown, was built to serve the oil depots of the two companies in accordance with the terms of their land leases. A short extension is now proposed for traffic purposes along the roadway between these leases. However, because the spur is not specifically authorised by any Act, the proposed extension, which will not be on railway land, cannot properly be approved as an addition or improvement to the existing line. For the same reason, the Commissioner has not the protection the Railway Act affords him in other sections in regard to the working of traffic to and from the industrial area over the level crossings at Marine Terrace and Augustus street which are crossed by this line. The Bill has been introduced in order to meet the position. It authorises the line and the proposed extension as a Government railway and brings them together under the general provisions of the Government Railways Act, 1904-33. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

House adjourned at 6.15 p.m.