New clause:

Hon. A. LOVEKIN: I would ask the Chief Secretary, now that we have given him half an hour's grace over midnight, whether he will report progress. We have tried to expedite and facilitate business as much as we can for him. If we sat to-morrow morning we might get along better. There is no violent hurry.

The CHIEF SECRETARY: In accordance with the hon. member's suggestion, I move—

That progress be reported.

Motion passed.

Progress reported.

House adjourned at 12.33 a.m. (Thursday).

Legislative Council.

Thursday, 12th July, 1928.

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

BILL—FINANCIAL AGREEMENT.

In Committee.

Resumed from the previous day. Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

The CHAIRMAN: Progress was reported when Mr. Holmes indicated that he proposed to move a new clause.

Hon. J. J. HOLMES: I shall ask leave to amend the wording of the new clause, which will be slightly different from the form in which it appears on the Notice Paper. As it appears there it contains some unnecessary words, but, in my opinion, what I shall move can easily be understood. The object of the amendment is not the scrapping of the Bill, but it will make the acceptance of the agreement subject to the proviso. The Bill contains in the schedule an interim agreement for two years, which will expire in 1929. There is plenty of time to finalise the matter before that date. Under my amendment it is intended that the first distribution of the £7,500,000 on the basis proposed in the amendment shall be at the 30th June, 1930 or three years subsequent to 1927. I am not wedded to the period of three years, but I have inserted 1930 as a basis for discussion. If hon. members think it would be better to make the period five years, well and good. The sooner we secure a distribution on the basis suggested, the sooner shall we get any increase due to us as the result of increased population. The amendment also provides for adjustments every three years thereafter. There again that provision can be dealt with as the Committee think fit. The only point to be remembered is that if we agree to the amendment, it will also have to be agreed to by all parties concerned before the Bill can become an Act and be proclaimed. If the amendment be adopted by this Chamber and also by the Legislative Assembly, it will not mean that we shall have to hold a special session later on to deal with the matter, because it will already be in our Act. The amendment can be justified as a result of the remarks of some of the principal men who have spoken on this important subject. The Chief Secretary told us that so far as he could understand, a proposal of this description had been brought before the Premiers' Conference and had been turned down. Then we had the astounding statement by the Prime Minister that his Government had provided the sum of £7,500,000 and had left it to the Premiers of the States to decide upon the distribution as they thought best. That was the exact opposite of what the Chief Secretary told us last night. So far as the Prime Minister is concerned, he is not interested as to how the distribution of the £7,500,000 should be made, beyond seeing that no injustice is done to any particular State. We have to remember, however, that the Prime Minister told us that he did not approve of the distribution and would not have made it in the same way. In my opinion, we have reached a stage when these gentlemen, who have dodged the ques-

tion should be brought face to face with the problem and made to accept the responsibility for the distribution. If the matter were taken back to another Premiers' Conference, will any hon. member say that New South Wales will have any right to object to Western Australia or any other State receiving its quota as I propose shall be allocated under the terms of my amendment? Has the Chief Secretary any right to object to it? Strange to say, the Chief Secretary told us last night that he did not think there was to be the increase in population here that some people thought would take place. If our population diminishes, I am prepared to take a lesser amount, but if the population increases, and we have to pay £6 per head through the Customs, we shall be entitled to a greater share of the money. During the course of my second reading speech I made reference to £7,500,000 and 7,500,000 people in Australia. I used those figures to simplify the illustration. If we have 7,500,000 people in Australia and there is £7,500,000 to be distributed, that would mean a distribution of 20s. per head. When we reach a total of 7,500,000 people in Australia, if we have not a population of 600,000 in this State we shall be very disappointed. If 1,500,000 people come to Australia, surely one-third of Australia wil be able to absorb 200,000 of them. If that is not possible, the great development we expect will not materialise. When we reach a population of 600,000, then on the basis of 20s. per head, we will be entitled to £600,000 per annum and not £475,000. If we consider the position when we have 10,000,000 people in Australia, will it be too much to expect that if 9,000,000 of them are absorbed in two-thirds of Australia that we shall have less than 1,000,000 of them in Western Australia? The distribution would then be on a basis of 15s., and we would get £750,000 instead of £475,000. I do not want to wreck the Bill. I merely wish to see that we secure a fair division of the £7,500,000 on the basis I suggest. What has New South Wales got as a result of the conference on the financial question? Yesterday I made a few calculations and came to the conclusion that New South Wales would receive a gift of £10,000,000. When I mentioned that point, Dr. Saw and the Chief Secretary both looked up in astonishment. The position is that New South Wales owes £240,000,000 and, on the 5s. basis, she has to put up £600,000 per annum. But because New South Wales is in financial difficulties, the Premiers' Conference allowed that State to pay the first £600,000 not at the end of the first year, but at the end of the 59th year. Anyone who knows anything about finance, knows that money invested at 5 per cent. will double itself in 14 years. Thus, if New South Wales, instead of paying that money into the pool, hands it over to a trustee company or to some other concern for investment at 5 per cent., then at the end of 14 years the £600,000 will represent £1,200,000; at the end of 28 years, £2,400,000; at the end of 42 years' time, £4,800,000, and at the end of 56 years, £9,600,000. With three years yet to run, we may put the final figure at not less than £11,000,000.

Hon. A. J. H. Saw: Do you seriously argue that?

Hon. J. J. HOLMES: Of course I do.

Hon. A. J. H. Saw: The argument is absolutely fallacious.

Hon. A. Lovekin: It is perfectly sound.

Hon. J. J. HOLMES: Instead of paying the first £600,000 at the end of the first year, New South Wales is to pay £600,000 at the end of the 59th year.

Hon. A. Lovekin: And has the benefit of that money in the meantime.

Hon. A. J. H. Saw: Where would the £600,000 have gone if New South Wales paid it now?

Hon. J. J. HOLMES: It would have gone into the pool.

Hon. A. Lovekin: To pay off the State's debts.

Hon. A. J. H. Saw: Are you arguing seriously? Who would have held the money?

Hon. J. J. HOLMES: It would go into the pool.

Hon. A. J. H. Saw: And who would have got the interest? Of course, the argument is absolutely fallacious.

Hon. A. Lovekin: It is absolutely sound.

Hon. J. J. HOLMES: The £600,000 has not gone into the pool and will not go in until the 59th year. If the hon. member disputes that, let him reckon whether he would not reasonably expect to receive £12 in return if he lent someone £6 for 14 years at 5 per cent.

Hon. A. Lovekin: If it is invested in redeeming stocks it comes to just the same thing.

Hon. A. J. H. Saw: It is fallacious argument and will not hold water.

Hon. J. J. HOLMES: If the hon. member disputes my argument, I hope to hear from him later on. Mr. Bruce said he did not

approve of the proposed distribution of the £7,500,000; it was not the basis that he would have adopted. I propose to give Mr. Bruce an opportunity to meet the Premiers in conference and determine how the distribution should be made. The amendment will give all parties a fair opportunity to distribute the money on a basis that every member of this Chamber who has spoken considers to be fair. Yet the parties to whom the point has been put up have dodged the issue. On the one hand, the Prime Minister has put the responsibility on to the State Premiers, and on the other hand the Chief Secretary puts it on to the Prime Minister. Surely it is a matter of sufficient importance at this stage that the parties who are shoving the responsibility from one to the other should have an opportunity to consider it from the standpoint of this State! My amendment aims first of all at getting this Bill back to the Federal Parliament. I am perfectly satisfied that we have had a better deal from the Federal Parliament than we got from the Premiers' Conference. That conference let this State down. We have ample evidence of that. We did not get the disabilities grant of £300,000 a year for five years from the Premiers' Conference; we got it from the Federal Parliament. If we get the measure back to the Federal Parliament we shall have the best wishes and help of Mr. Bruce, who will be able to lend a hand to get the distribution placed on a better basis than is proposed in the agreement. It may be argued that the amendment will perpetuate the per capita system. The objection to the per capita system was that it was an ever-increasing liability to the Commonwealth. To my mind, it is a liability that the Federal Government should shoulder because the greater the number of people, the greater the amount of Customs duties they collect. The amendment will make no increased demand upon the Federal Treasurer. All it asks is that the money be distributed on an equitable basis as between the States. I gather from the remarks of members that they desire an equitable adjustment. In my opinion this is the last opportunity we shall ever have to get any adjustment of the basis. We are told that the States cannot get more than the £7,500,000, so let us endeavour to get a fair distribution of it. The amount that Western Australia is to receive under the agreement towards the payment of interest for the development of one-third of the territory of the Commonwealth is £475,000. It is a smaller amount than the interest charges on the capital city. The Federal Government have a political city to develop, and that will absorb more interest than the sum allocated to Western Australia. The amendment would give the Federal Government an opportunity to declare what they propose to do towards carrying out the recommendations of their Royal Commission that dealt with the disabilities suffered by this State. There should be a declaration on that point before Western Australia is asked to abandon her last trench. It is idle to tell us; "If you pass the Bill, we can then sit down and reason together." I have not too much confidence in what may transpire after the Bill is passed. If we accept this settlement, we shall have no right to ask for anything further, because the Parliament of the State will have accepted it as a fair agreement. If the Federal Government made an equitable offer of assistance, as recommended by the Disabilities Commission, I would have no objection to the Bill, but the Bill without such a declaration will impose an injustice on this State. New South Wales comes under the agreement with a liability, in round figures, of £240,000,000 and has a sinking fund of less than £1,000,000. That means New South Wales's net debt is £239,000,000, and the Commonwealth will pay half of that. Western Australia has a gross debt of £70,000,000 and a sinking fund of £9,000,000, but the Commonwealth deducts the £9,000,000 and pays us half of the £61,000,000. In the absence of any evidence as to what the other States have funded I suggest the commonwealth might well set off the £6,000,000 deficit which we have funded against our £9,000,000 sinking fund.

Hon. G. W. Miles: Why should they do that? The other States have funded their deficits.

Hon. J. J. HOLMES: We have created a £3,000,000 sinking fund on a 5s. basis, and the only fair thing on the 2s. 6d. basis is for the Commonwealth to put up £1,500,000 to meet our sinking fund quota. Instead of that they are deducting first the £6,000,000, and then the other £3,000,000, and then paying sinking fund on the lesser amount. Do members claim that that is fair?

Hon. A. Lovekin: Our Treasurer would not get hold of the money in that way.

Hon. J. J. HOLMES: I am not considering that; I am looking at it from the standpoint of equity. I hope Mr. Glasheen

will be found supporting the amendment because he said that the agreement would break down of its own rottenness in ten or 15 years. If there is one thing that will assist to make the agreement durable, it is a distribution on an equitable basis. An analysis of the figures discloses that of the £7,500,000, New South Wales, Victoria and Queensland will get £6,140,805, while South Australia and Western Australia will get only £1,177,248. Can anyone contend that that is a reasonable distribution? I do not suggest a distribution on an area basis because it would not be considered at present. Still, there is a lot to justify it because in countries of long distances it is ever so much more difficult to develop the territory and provide schools, education and other essential services. On an area basis, 46 per cent. of the area—South Australia and Western Australia—would get only 15 per cent. of the cash, and the other States, representing 36 per cent. of the area, would get 80 per cent. of the cash. Can anyone read equity into the Bill at all? However, I am not arguing on the basis of area. It is population that provides Customs and Excise revenue. The people in the State at a given time are the people paying that revenue, and as the State has to provide the essential services I have mentioned, it will be robbed of its equitable proportion of the £7,500,000 unless the distribution is based on the population at the time of payment as provided by my amendment. I move—

That a new clause be inserted to stand as Clause 10 as follows:—(1) This Act shall expire and cease to be operative on the thirtieth day of June, 1930, unless the Governor shall, before that date, have declared by proclamation that the Parliaments of the Commonwealth and of the States of New South Wales, Victoria, Queensland, South Australia, and Tasmania have agreed to the amendment of paragraph (b) of Clause 2 of Part III. of the said agreement by the addition of a proviso as follows:—

"Provided that on the 30th day of June, 1930, and on the 30th day of June of every third year thereafter the said sum of £7,584,912 shall be distributed among the said States on the basis of and in proportion to their respective populations as then existing."

(2.) After the issue of such proclamation this Act shall have effect in respect of the said agreement as so amended.

The CHIEF SECRETARY: This amendment will mean the rejection of the agreement. That has already been admitted by Mr. Holmes.

Hon. J. J. Holmes: I have never admitted anything of the kind.

Hon. J. R. Brown: But you know it.

The CHIEF SECRETARY: Not in the exact words, but he stated he did not want to reject the Bill. In form no doubt the Bill will still exist, but the effect of the amendment would be that the agreement would go to pieces.

Hon. J. J. Holmes: You told us last night it was what the Premiers' conference wanted.

The CHIEF SECRETARY: The Premier will have to ask the other Premiers to meet him in conference, and to invite the Prime Minister also to do so.

Hon. A. Lovekin: And why not?

The CHIEF SECRETARY: Will they come to an agreement?

Hon. A. Lovekin: We do not know until they try.

The CHIEF SECRETARY: If they fail to come to an agreement, where are we? If they do come to an agreement, the Prime Minister must convince the Federal Parliament that this is an amendment which can wisely be accepted by that legislature. Every one of the Premiers will have to call his Parliament together, and submit the question for its decision. When it is submitted to the Federal Parliament the financial position will largely govern the decision of members. Twelve months ago the finances of the Commonwealth were in a splendid position. Up to the 30th June last I understand the deficit was in the region of £3,000,000. If this question comes up for reconsideration in the Federal Parliament, members will not debate it on the situation that existed last year, but on the financial situation this year. The result may be that, if we go into the melting pot, we come out of it worse than before. Mr. Holmes referred to the great profit the New South Wales Government made. He failed to establish his case. I could not follow him, but I can explain what the New South Wales Government lost through not coming into the Pool. They approached the London market for a loan of eight or ten millions. London said, "You cannot get a loan here unless you put up a sinking fund for your old debts to the extent of 5s. per cent., and unless you also establish a sinking fund to the extent of 10s. per cent. on the new loan." Had they failed to meet the situation, they would not have been able to get the money in London. During the last 12 months they have not been in the pool, and have forfeited all the benefits of the pool. They

got the per capita payment not up to June 30, 1928, but on the basis of the population on the 30th June, 1927. Apart from that the State has deprived itself of all the sinking fund contributions from the Federal Treasury on old loans, and the sinking fund contributions on new loans. One who has given the matter a lot of consideration, and is qualified to judge, has informed me that the loss to New South Wales will be more than £5,000,000 as covered by the 53 and 58 years respectively. The amendment will certainly lead to the rejection of the agreement and the reconsideration of the whole position. In order to secure that reconsideration, we must obtain the consent of all the States and of the Federal Parliament.

Hon. J. J. HOLMES: The argument of the Chief Secretary is rather in favour of my amendment. He says New South Wales has lost money. It got into difficulties through a financial jazz. Because of that Western Australia, which has kept its name sweet and clean, is asked to assist in pulling New South Wales out of its difficulty. Our large sinking fund of £9,000,000 is taken off our gross indebtedness, whereas New South Wales, with only £1,000,000 sinking fund, has that amount taken off its indebtedness. That State will receive £3,000,000 a year out of the £7,500,000 and will continue to receive it for the next 58 years if this agreement goes through. Opulent New South Wales has got into difficulties, and poor little Western Australia is asked to carry the baby as heretofore. The Chief Secretary spoke of the difficulty of inducing the Federal Parliament to agree to this distribution. The thing is absurd in the face of Mr. Bruce's statement. He said, "We will find the £7,500,000 and you must agree as to how it shall be cut up." The Chief Secretary told us that we should have some difficulty in inducing the Federal Parliament to agree to this proposal, and that all would be thrown into the melting pot. We are all people of the Commonwealth. If anyone suggested that the Federal Government should take upwards of £40,000,000 in Customs and Excise revenue from the people of this State and retain possession of it, there would be open rebellion. It is well known that both New South Wales and Queensland have come to the end of their financial jazz, and that Mr. Bruce had to go to London to save Australia's credit. London was dictating terms to those States, and the position was such that the credit of Australia would have been ruined and the rate of interest would have been put up. He had to bring about this compulsory pool to save the States. Mr. Bruce has been man enough to say, "I do not like the division." I would rather go back to Mr. Bruce, who is prepared to treat us better than the Premiers' conference did, for that conference let us down. Now is the time for the Federal Government to declare to what extent they are prepared to assist us before we reach the last trench of our resources.

Hon. H. SEDDON: I am inclined to think that the argument with regard to the £600,000 is based on inaccurate reckoning. I think Mr. Holmes remarked that New South Wales would benefit to the extent of £9,600,000 through not being compelled to pay £600,000 into the fund in the first 12 months. In other words, that State started a year later than the other States. This money could be invested with interest at 5 per cent., and on the basis of compound interest it would ultimately reach the sum of £9,600,000. The New South Wales Government would be better off if they paid the £600,000 in this year than if they deferred it to the 59th year. The quarterly summary of the Commonwealth statistics up to March of this year contained a table showing the average rate of interest paid by the various States on their public debts. The average rate of interest paid by New South Wales was 5.014 per cent. By paying £600,000 into the fund, the New South Wales Government would redeem stocks carrying the average rate of 5.014 per cent. interest, and would show a saving in the first year in the way of direct interest. Once the New South Wales Government paid in the money, instead of paying the average rate of 5.014 per cent. on stocks redeemed, they would pay only 4½ per cent. for the future. Then they would save another £3,000 per annum on that. The year of grace was given to the State of New South Wales because its finances were in such a position that it could not come into the pool immediately. This explanation shows the fallacy of Mr. Holmes's argument.

Hon. A. J. H. SAW: I saw at once last night when Mr. Lovekin was speaking and this afternoon when Mr. Holmes was speaking, that there was a fallacy underlying their contention. If the New South Wales Government, instead of paying the £600,000 into the pool, invested it and derived interest

from it, then both the money paid in and the interest which that money would earn would eventually go towards the redemption of the debt. Consequently exactly the same position arises as Mr. Lovekin recognised when in his second reading speech he was dealing with the question of the financial relief of £293,000 to Western Australia through no longer paying interest on the sinking fund of £9,000,000, and interest amounting to £132,000, a total of £426,000. The hon. member claimed that that was only a temporary relief, and no permanent advantage to Western Australia. The position is exactly similar to the position of New South Wales when she postpones paying the £600,000 into the pool. Mr. Lovekin said, "In other words, posterity pays the piper while we call the tune." I interjected, "We really postpone the evil day," and Mr. Lovekin said, "That is so." The only gain to New South Wales is the advantage, if it is an advantage, of not having to pay money immediately when one is financially embarrassed. To contend that there is any gain of £10,000,000 is ridiculous. To claim that money which someone is to get at the end of 58 years is worth the same amount to-day, is to claim something beside the question.

Hon. A. LOVEKIN: The Chief Secretary said that if we passed the amendment Mr. Collier would have to ask the other Premiers to meet in conference and discuss it. That would not be a very difficult thing to do, in the light of the telegrams which I have laid on the Table. Four out of five of these practically say that the matter should be put up by our Premier. The Chief Secretary further said that when this agreement was entered into the Federal finances were in a good position, showing a surplus, whereas to-day they show a deficit. But that is only like talking to children, because everybody knows how finances can be juggled; and it is necessary in this case to juggle the finances in order to help the agreement through. But what are the facts? Take the last Federal returns, and see how much has been paid out of revenue in redemption of loans. There is £1,000,000 paid in one case, and £4,500,000 in another, out of revenue. If those amounts were put on the other side of the ledger, there would be no Federal deficit at all. Further, anyone watching the Federal figures must see the amounts that are going to trust accounts. One can show a deficit if one likes, or a surplus if one wants to, as we know in this State. That kind of argument cuts no ice at all. We know there has been a tremendous drought in the Eastern States, and this has limited the purchasing power of the people, which in turn has reacted upon the Customs, and so there has been a shortage of £2,000,000. But that is not permanent or recurring. Again, the Commonwealth recently floated a loan of £26,000,000 on the Australian market. The result was that the underwriting banks were left with £10,000,000 on their hands and had to curtail their advances, and a reaction on the Customs followed. However, those things are only temporary. Moreover, the Commonwealth has unlimited powers of direct taxation, and unlimited methods of raising revenue by all sorts of means. For anyone to tell us that because of a shortage of £2,000,000 in a revenue of £75,000,000 we must swallow the Financial Agreement in view of the rotten state of the Federal finances, is like talking to children.

Hon. W. T. Glasheen: How would a fall in the price of wool or wheat affect the Federal Government?

Hon. A. LOVEKIN: It would decrease the purchasing power of the people and react on the Customs, but we have not come to that yet. Let us wait till we come to that fence before we attempt to jump it. What has happened is that there has not been a decrease of price but a shortage of supply. We are talking about an agreement for 58 years, but are we to estimate a fall in the prices of wool and wheat during the 58 years or for how many years? A shortage of £2,000,000 in the Federal revenue is a bagatelle. It has been suggested that the other States would give us nothing, but if the other States adopt the same Australian and Federal attitude as we adopt, they will do justice; if the amendment is just, they will accept it. The point is, shall we try? We as a Parliament have found a defect in the Agreement, and we want to get that defect remedied, so that the agreement may really become an agreement, which it is not now, as we are not in accord. Turning now to the question of the £10,000,000 to New South Wales, I always bow to Dr. Saw when it is a matter of surgery or of giving me a dose of physic.

Hon. A. J. H. Saw: You have never given me a chance to do either one or the other.

Hon. A. LOVEKIN: I am doubtful, however, whether Dr. Saw knows much about finance, and in that matter I prefer to follow my own views. Suppose New South Wales has £600,000 to-day and need not pay that £600,000 for 59 years, which is the effect of the agreement; then New South Wales has that £600,000 for 59 years.

Hon. J. Nicholson: It is lying there, and she can invest it.

Hon. A. LOVEKIN: Yes.

Hon. A. J. H. Saw: If she puts it into the pool, does not she invest it to her own interest?

Hon. A. LOVEKIN: She invests this £600,000, and she can obtain a higher rate than 5 per cent., which would cover Mr. Seddon's point. But suppose she invests it at 5 per cent compound interest, it is quite correct, as claimed by Mr. Holmes, that in every 14 years and two months the amount would double itself. Suppose, on the other hand, New South Wales puts the money into the pool; it comes to exactly the same thing. And suppose that instead of putting it to fixed deposit she invests it in the stock which is in the pool; then it comes back to the same thing. The people of New South Wales appreciate that, too. During the debates on the agreement in the New South Wales Parliament the Assistant Treasurer was asked. "What do you gain during the first 10 or 15 years?" I forget the amount stated in reply, but it was a large sum. Thereupon a member interjected, "But what is your loss over the whole period?" to which came the reply, £10,000,000."

Hon. A. J. H. Saw: If the £600,000 were put into a pool, would it not be earning interest, and would it not be to their advantage?

Hon. A. LOVEKIN: It does not matter whether it is invested in the pool or outside, it comes back just the same.

Hon. A. J. H. Saw: Where is the gain of ten millions.

Hon. A. LOVEKIN: Well, we are not particular to a few thousand; we are talking in round figures. Thus it will be seen that New South Wales will really lose nothing under the agreement.

Hon. A. J. H. Saw: Just now you said she was gaining ten millions and immediately afterwards you say she will lose nothing.

Hon. A. LOVEKIN: New South Wales gains ten millions by postponing the payment of £600,000 during the 59 years, but in the operation of the agreement that State loses, according to Mr. Stevens, on the whole 59 years. Therefore, by the postponement of the payment of the £600,000, New South Wales will balance its loss. There can be no objection to our making an effort in the direction suggested. Mr. Holmes's amendment purposes to make that effort and therefore I will support it.

New clause put and a division taken with the following result:

Ayes	9
Noes	11
Majority against	2

AYES.

Hon. J. Ewing	Hon. W. J. Mann
Hon. V. Hamersley	Hon. G. W. Miles
Hon. E. H. Harris	Hon. H. J. Yelland
Hon. J. J. Holmes	Hon. G. A. Kempton
Hon. A. Lovekin	(*Teller.*)

NOES.

Hon. C. F. Baxter	Hon. W. H. Kitson
Hon. J. R. Brown	Hon. Sir W. Lathlain
Hon. J. M. Drew	Hon. A. J. H. Saw
Hon. J. T. Franklin	Hon. H. Seddon
Hon. G. Fraser	Hon. W. T. Glasheen
Hon. E. H. Gray	(*Teller.*)

PAIRS.

AYES.	NOES.
Hon. J. Nicholson	Hon. Sir E. Wittenoom
Hon. E. H. H. Hall	Hon. C. B. Williams

Hon. A. Lovekin: Mr. Brown has voted with the noes. I understand that he paired with Mr. Hall. I do not know whether that is so, but I draw attention to the fact.

The CHAIRMAN: As the President stated from the Chair last evening, neither the House nor the Committee takes notice of pairs. It is an arrangement that is made outside.

New clause thus negatived.

Schedule, Title—agreed to.

Hon. A. LOVEKIN: I understand it is correct that Mr. Brown did pair with another hon. member in this Chamber, but he was apparently marooned here and by the rules of the House was compelled to vote. Such being the case, the correct division on the new clause that has just been negatived is not shown. It is important that the correct division should be shown, and when you, Mr.

Chairman, put the question, "That the Bill be reported," I intend to divide the Committee again.

Hon. J. R. BROWN: It is correct that I paired with Mr. Hall; Mr. Williams was within the precincts of the Chamber when the division bells rang, but apparently was out of the hearing of the bells, and as it was evident that he would not take part in the division, I decided to alter the pair by substituting Mr. Williams' name for mine. I could not see the force of losing two votes by my pairing and by Mr. Williams' absence. I have informed "Hansard" of the change in the pair.

Hon. A. Lovekin: I shall not ask the Committee to divide again.

Bill reported with amendments

Standing Orders Suspension.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [5.43]: I move—

That so much of the Standing Orders be suspended as is necessary to enable the Financial Agreement Bill to be passed through its remaining stages at this sitting.

Question put.

The PRESIDENT: There is an absolute majority present and there being no dissentient voice I declare the motion carried.

Report Stage.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [5.44]: I move—

That the report of the Committee be adopted.

HON. A. LOVEKIN (Metropolitan) [5.45]: I think this is a convenient stage at which to ask your ruling, Mr. President, on the points I wish to bring forward. I shall not take up much time in stressing them, nor shall I take up any time, whatever your ruling may be, because, as Mr. Baxter said, if members are not competent to handle a Bill such as that before us, they are much less competent to deal with the legal points bearing upon the whole question. The legal aspect will have to be discussed elsewhere. I ask your ruling on the question whether it is within the competence of the House to pass the Bill. I submit the question to you at this stage because we have before us now, what amounts to the Bill in its final stage as completed by this Chamber. In asking for your ruling as to whether it is competent for the House to pass the Bill, I advance the four grounds upon which I say it is incompetent for us to do so: (1) that the Bill is inconsistent with the Commonwealth Constitution, (2) that it is opposed to the Constitution of Western Australia, (3) that it conflicts with the instructions to Governors, and (4) that it precludes the operations of Section 44 of the Interpretation Act. I have already furnished you, Mr. President, and members with the arguments that I raise on these points, in the printed documents I have circulated. In the circumstances, it is not necessary for me to speak at length, and I will content myself by merely stating the points.

The Chief Secretary: It is impossible for me to reply to Mr. Lovekin's points. He has merely stated the points, but the hon. member has not explained them!

Hon. A. LOVEKIN: I shall do so if you wish. I merely desire to save time as I included the whole of my arguments in the printed documents I have circulated.

The Chief Secretary: But probably that document has not been circulated very extensively.

Hon. A. LOVEKIN: Very well, I will deal with the points briefly. Section 109 of the Commonwealth Constitution provides that any Bill inconsistent with that Constitution is invalid. The Bill before us is inconsistent with the Commonwealth Constitution, and that is borne out by the Bill itself, seeing that in the preamble to the schedule, which contains the Financial Agreement itself, it says—

And whereas permanent effect cannot be given to the proposals contained in the said scheme unless the Constitution of the Commonwealth is altered so as to confer on the Parliament of the Commonwealth power to make laws for carrying out or giving permanent effect to such proposals.

That is the declaration of the Bill itself. The Commonwealth has no power to make this law, because it is inconsistent with the Commonwealth Constitution, and such a law, if effect is to be given to it, must be consistent with that Constitution. The next point is that the Bill is opposed to the provisions of the Constitution of this State. The agreement contemplates handing over to the Loan Council and to the National Debt Commission certain plenary powers that the State possesses under its own Constitution. I submit we cannot delegate those powers to another authority. I did not think I would be called upon to discuss these

points at length, or I would have been prepared to quote cases in support of my statement. In the memorandum I had printed for the information of hon. members, with regard to my contention that the temporary provisions of the Financial Agreement were invalid because they involved the delegation of power by the State Parliament, which was contrary to the maxim "delegatus non potest delegare," Mr. Latham, the Federal Attorney General, said that I could rest assured that no lawyer could have the slightest doubt that the maxim had no application whatever to the case. He contended that my point did not apply, and that no lawyer would dream of suggesting any such thing. I submit that Mr. Latham based his assertion on the dicta contained in several judgments given by the Privy Council. The leading case on the point is the Indian case of Regina v. Burat. The case will be found in No. 3 Appeal Cases of the English Law Reports. That was an instance in which the Privy Council held that as there was no question of delegation of the plenary power, there had been no delegation at all. The Legislative Council of India passed an Act limiting certain powers of the High Court of India, and declared in that Act that those powers might be exercised by provincial Governors by proclamation. Objection was taken to the provincial Governors exercising those powers, and the question was raised before the Privy Council that the Legislative Council of India, which was a plenary body, could not delegate its powers. The Privy Council held that there had been no delegation of powers because the Legislative Council of India had itself already exercised those powers, and that was the distinction. Had the Legislative Council of India divested itself of those powers, it could not constitutionally have taken the action it did. As the Legislative Council there had not divested itself of the powers the objection taken could not be sustained. In other words, its action was practically on all fours with the position that could be created here if this Chamber passed an Act delegating certain powers to municipal councils. If this Chamber had already exercised those powers, such a measure would not be a delegation at all. There were several other cases that could be quoted on this point, such as Powell v. Apollo Candle Company and Hodge v. The Queen They followed the same line of reasoning that a body could not delegate its plenary powers to other bodies without having first obtained authority to delegate those powers. That means to say, the Constitution must be amended.

Hon. J. Nicholson: Put it more simply and say that in a power of attorney, if you wish to delegate, authority must be given by the deed.

Hon. A. LOVEKIN: The hon. member has put in a nutshell, whereas I was somewhat laboured, because I had not come prepared to argue the point. We are asked in the Bill to agree to divest ourselves of some of the powers vested in us by our own Constitution, but we cannot divest ourselves of them without amending the Constitution first. We have been given the power to amend the Constitution, but not having done so, we cannot delegate to any other body. Before we can pass the Bill and delegate the powers suggested to the Loan Council and to other bodies, we must first amend our own Constitution to provide ourselves with the power which we have not done.

Hon. J. Nicholson: That raises quite an interesting argument.

Hon. A. LOVEKIN: The same argument was applied in the Cooper case in Queensland some time ago. In that State the law provided that the salaries of judges should not be altered during the period of their office. The Taxation Commissioners stepped in and taxed the salaries of the judges. The Chief Justice, Sir Pope Cooper, disputed their right to tax him, on the ground that when he took office, the law was that his salary could not be altered during his term of office and that the action of the Taxation Commissioners involved an alteration in his salary. There are a number of other cases based upon the same contention, such as Deakin v. The Commonwealth, and Lyne v. The Commonwealth. Each one took the Cooper case as an authority. Finally, however, the High Court held that the salaries of judges could not be altered without the Constitution being first amended in order to provide the necessary power. At the same time, the Court held that there had been no contravention of the Queensland Act in that particular instance because the Government had paid the Chief Justice his salary in full and there had been no diminution of it. The fact that an Act was passed subsequently, and took some of the Chief Justice's salary away in

the shape of taxation, did not affect the question, as the salary had been paid in full. In consequence, the Chief Justice of Queensland lost his case. If hon. members have read the extracts from judgments that I included in the pamphlets I circulated, they will find references to the decision on this particular point. It comes back to this, that we as a Parliament have had certain rights given to us by the Imperial Parliament, but we are not a sovereign body, because we are limited to our Constitutional rights. Great Britain is a sovereign body because no Act of its Parliament can be declared invalid, whereas it is possible for an Act of either the State or the Commonwealth Parliaments to be declared invalid. It is possible to declare an Act of the American Congress invalid, and that has been done from time to time, because that body can act only within the four corners of the Constitution. We have not the power to delegate our authority to another body to pay interest or borrow money unless we first clothe ourselves with that power, and we only do that by amending the Constitution.

Hon. J. Nicholson: And, as you point out, that power is not within the Constitution.

The PRESIDENT: Before the hon. member proceeds further, I should like to be quite clear on one point. I have heard him on the second point that the Bill is inconsistent with the Constitution of Western Australia, just as it is contrary to the legal maxim, "delegatus non potest delegare," but the first point he raised was that the Bill was inconsistent with Section 109 of the Commonwealth Constitution, and I should like to to hear what justification he has for that contention.

Hon. A. Lovekin: The last paragraph on page 4 of the Bill is my justification. It reads—

> And whereas permanent effect cannot be given to the proposals contained in the said scheme unless the Constitution of the Commonwealth is altered so as to confer on the Parliament of the Commonwealth power to make laws for carrying out or giving permanent effect to such proposals.

The Bill is thus inconsistent with the Federal Constitution inasmuch as it cannot be passed by that Parliament unless the Federal Constitution be altered. If it is inconsistent with the Federal Constitution, how much more so is it inconsistent for us to pass such legislation in face of Section 109? If it is inconsistent with the Federal Constitution *a fortiori* it is inconsistent with our Constitution. Therefore it is not within the ambit of our powers to pass such a measure.

The PRESIDENT: In the opinion of the hon. member the proposal to take a referendum to alter the Commonwealth Constitution does not affect the point he has raised?

Hon. A. LOVEKIN: I am not raising any point about the referendum at all. The point I am making is that this agreement provides for the control of finance by the Loan Council. Under this Bill we are handing over the debts of the State to the Commonwealth, and this Parliament is limiting its own authority by declaring that in future it will not raise any further moneys except with the consent of the Loan Council.

Hon. J. Nicholson: That comes under the second point.

Hon. A. LOVEKIN: Yes.

Hon. J. Nicholson: I think the President was dealing with your first point.

Hon. A. LOVEKIN: If the Federal Parliament may not pass such a Bill as this because it is inconsistent with the Commonwealth Constitution, the State cannot pass such a Bill because Section 109 declares that any such Act shall be invalid.

The PRESIDENT: Section 109 of the Federal Constitution declares that when a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail and the former shall, to the extent of the inconsistency, be invalid.

Hon. A. LOVEKIN: That is the same thing. This measure as it stands would prevail because the Commonwealth has not such a law that is valid. Therefore I submit that it is a sound objection to the Bill. Now I raise another point that the measure is in conflict with the instructions to the Governor inasmuch as the Governor may not assent to any Bill of any certain classes, No. 5 of which reads:—

> Any Bill of an extraordinary nature and importance, whereby Our prerogative or the rights and property of Our subjects not residing in the State . . . . may be prejudiced.

I submit that this measure will prejudice the rights of His Majesty's subjects outside the State, inasmuch as it will pass over to the Commonwealth debts that are due and payable, say, 10 or 20 years hence, and postpones payment for 58 years. If that is so, the measure will affect the rights of sub-

jects outside the State, seeing that we have agreed by our loan prospectus to pay 1 per cent. or 1½ per cent. sinking fund on those debts, and by this Bill we prescribe that notwithstanding what we have agreed to and notwithstanding the condition under which the lenders advanced the money, we are now going to repudiate the 1 per cent. or 1½ per cent. and make it 10s. per cent. It may make no difference to the bondholders; it is said that the security of the Commonwealth is better than that of the State. That is not the point. The point is there is a contractual obligation with the lender of the money to pay 1 per cent. sinking fund. We may consider that the security of the Commonwealth is better than that of the State, but the lender may not. Therefore, the Governor ought not to assent to such a Bill. If the Governor cannot assent to it, it is a good reason why this House should not pass the measure. It is all very well for the Chief Secretary to say that no one has objected. I can show him lots of objections in the papers to this proposal. There is a case I know of personally where bonds are held. The prospectus shows that we undertook to provide a sinking fund of one per cent.

Hon. J. Nicholson: Is it specified on the bond?

Hon. A. LOVEKIN: I cannot say whether it is on the bond, but there was a prospectus on which the bonds were taken up, and it was part of the contract and an inducement to lenders to take up the bonds. If the 1 per cent. is converted into 10s. per cent. sinking fund, it is repudiation, and I do not think it is a course that we should adopt without the consent of the bondholders. In any case, however, I do not think the Governor can consent to this measure. We, and not someone else, must pay the 1 per cent. sinking fund and must provide for the redemption of the loan within the period agreed to on the bonds.

Hon. J. Nicholson: You mean to say that that was a condition on which that bondholder subscribed?

Hon. A. LOVEKIN: Yes. It may be argued by the Chief Secretary that the Commonwealth, under the provisions of this agreement, will continue the 1 per cent. sinking fund and pay the loan at maturity. That, however, does not touch the point. My point is that an obligation has been created and it must be honoured to the end. The other is a small point. Section 44 of the Interpretation Act provides—

> Any Act may be altered, amended or repealed in the session of Parliament in which it was passed.

We cannot do that, and therefore I ask whether the Interpretation Act is to be of any value at all. There are lots of things to be done before we can legally pass this Bill. I submit these points for your consideration, although not that I expect to get any satisfaction out of it here.

The PRESIDENT: I would like to ask what the hon. member means by the remark that he does not expect to get any satisfaction here. To what is he referring?

Hon. A. LOVEKIN: I did not mean any offence to you, Mr. President. Far from it. What I meant was that I anticipate you will rule——

Hon. J. Nicholson: Why anticipate? Do not anticipate anything.

The PRESIDENT: Kindly allow Mr. Lovekin to proceed.

Hon. A. LOVEKIN: Whether the measure is valid in invalid is not a matter for us to decide. It is a matter to be decided in the courts.

Hon. J. Nicholson: You mean that you will not get any satisfaction from the Commonwealth?

Hon. A. LOVEKIN: If I challenge the President's ruling, I have the authority of Mr. Baxter for saying that members here do not understand anything about it, so that I cannot expect to convince members on the floor of the House that they are wrong.

The PRESIDENT: I am rather surprised to hear the hon. member proposing to challenge my ruling before he has heard me at all on the question.

Sitting suspended from 6.15 to 7.30 p.m.

The PRESIDENT: I hope Mr. Lovekin will excuse me if I ask him to do me the favour of not traversing any ground he has already covered. I have written down his points, and if necessary I will check them to see that they are correct. I have followed very carefully the arguments advanced by him. Any new points he has to bring forward I shall be glad to hear.

Hon. A. Lovekin: I am prepared to leave the matter where it is.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [7.32]: The first point raised by Mr. Lovekin is that the Bill is inconsistent with the Commonwealth Constitution, and he quotes Section 109 in support of the stand he takes. That section of the Commonwealth Constitution reads—

> When a law of a State is inconsistent with a law of the Commonwealth the latter shall prevail, and the former shall to the extent of the inconsistency be invalid.

He relies on that section in his efforts to prove that the Commonwealth Parliament had no authority to approve of this agreement. After carefully studying the question, I cannot conceive by any process of reasoning, even the most distorted process of reasoning, how anyone could discover that this particular section, or any other section of the Constitution, renders invalid the action of the Commonwealth Parliament in signifying their approval of this agreement. I have submitted the points to the Solicitor General. I knew that the hon. member would raise the point that the Commonwealth Parliament had no authority to pass this Bill. I submitted the question to the Solicitor General, who wrote as follows:—

> Mr. Lovekin's second proposition is that the Financial Agreement Act of the Commonwealth is inconsistent with the Constitution Act, Section 105, as amended in 1910 after a referendum, enables the Parliament of the Commonwealth to take over the State debts. So far as the agreement goes beyond this, it is subject to the amendment of the Constitution by the proposed new Section 105a referred to in Part IV. of the agreement, which will be referred to the Parliament and to the electors.

The second point raised by Mr. Lovekin was that this was opposed to the Constitution of Western Australia. The same point was raised in one of Mr. Lovekin's publications. Touching that point the Solicitor General wrote—

> Mr. Lovekin does not refer to any provisions of the State Constitution Act in support of this assertion, nor does he suggest what amendment of the Constitution Act is necessary. There is nothing so far as I am aware in the Constitution Act of this or any other State to indicate that the agreement cannot be entered into.

The third point is "Conflict with instructions given to the Governor."

Hon. A. Lovekin: I am not pressing the other points.

The CHIEF SECRETARY: That point cannot arise until after the Bill has passed this House. When the time comes for the question to be determined as to whether it should be assented to by the Governor or by the King, I can assure the House that the Government intend to take the proper constitutional course. The fourth point is, "precludes the operation of Section 44 of the Interpretation Act." This says, "Any Act may be altered, amended or repealed in the session of Parliament in which it is passed." I have been studying that for the last half hour, and cannot see how it can possibly affect the question in any way. Another point is, "The delegation of powers of borrowing to the Commonwealth Government." On this point the Solicitor General says—

> Mr. Lovekin refers to the maxim "delegatus non potest delegare," "a delegate cannot delegate." The maxim as stated in Wharton's Law Lexicon means "that the person to whom an office or duty is delegated cannot lawfully devolve the duty upon another unless he is expressly authorised to do so." But under the Financial Agreement the Commonwealth in raising loans to advance money to the States, or in raising loans for the States, will do so under its inherent power to borrow on the public credit of the Commonwealth.

Section 51, Subsection 4 of the Constitution Act reads—

> The Parliament shall, subject to this Constitution have power to make laws for and the peace, order and good government of the Commonwealth with respect to (4) borrowing money on the public credit of the Commonwealth.

Another point raised was with regard to the delegation of powers to the Loan Council. There is no delegation of power to the Loan Council. That body represents the different Governments of the various States. The delegates meet together for the purpose of considering the raising of loans, just as men with similar objects in view meet and decide on the best course to follow in order to achieve their end. The Loan Council possesses the same powers in regard to borrowing and carrying on the work of administration as are possessed under the Crown. I fail to see that there is any delegation of authority. If there is, it is a delegation from the Commonwealth to the States as well as from the States to the Commonwealth.

Hon. J. Nicholson: Is not the Loan Council really a form of agents or brokers?

The CHIEF SECRETARY: It is an assemblage of Premiers and the Prime Minister or Treasurer of the Commonwealth.

Hon. J. Nicholson: Loans are arranged through them.

The CHIEF SECRETARY: In the matter of borrowing they are all on the same level.

Hon. A. LOVEKIN: I should like to put up this further point.

The PRESIDENT: I had no desire to stop the hon. member when I made my remarks earlier in the evening. I merely made a suggestion to him to indicate that I had taken a note of his points.

Hon. A. LOVEKIN: I am trying to save time, and am merely putting up the points. The point I put in regard to the Federal Constitution is this: Under the Federal Constitution as it now stands Sections 94 and 105 show that the surplus revenues shall be returned to the States. This agreement provides for a fixed sum to be returned to the States, and not the surplus revenue. A fixed sum cannot be substituted for surplus revenue unless we first get the provisions of the Constitution altered. This agreement is inconsistent with the Constitution as it now stands. The Federal Parliament admits that it cannot legally so legislate, according to the preamble of the agreement which I have read. I should like to mention the case of Baxter v. Ah Way, decided before the Chief Justice Sir Samuel Griffith, Mr. Justice O'Connor, Mr. Justice Isaacs, and Mr. Justice Higgins, reported in No. 8 *Commonwealth Law Reports*. This says:—

> The power of the Legislature must depend on the terms of the Constitution as it exists at the given moment. It is not a sound argument that because a change might be deliberately made by Parliament in a Constitution, therefore any ordinary Act whatever may be passed in contravention of Constitutional provisions as they stand. The case of Cooper v. the Commissioner of Taxes is a clear authority against such a contention.

The PRESIDENT: Does the hon. member contend that a Bill cannot be passed in anticipation of something taking place?

Hon. A. LOVEKIN: That is the point. That is what they lay down. In the case of *Cooper v. the Commissioner of Taxes* the matter was made clear. I will read from that case. The Chief Justice, Sir Samuel Griffiths, said—

> If the Legislature desires to pass a law inconsistent with the existing Constitution, it must first amend the Constitution.

The PRESIDENT: I take it that refers to the Commonwealth Parliament?

Hon. A. LOVEKIN: No, it refers to any Parliament, and in this case it is the Parliament of Queensland. Sir Edmund Barton said——

> The legislation of a body created by, and acting under, a written charter or Constitution, is valid only so far as it conforms to the authority conferred by that instrument of government. Therefore attempted legislation, merely at variance with the charter or Constitution, cannot be held an effective law on the ground that the authority conferred by that instrument includes a power to alter or repeal any part of it, if the legislation questioned has not been preceded by a good exercise of such power; that is, if the charter or Constitution has not antecedently been so altered within the authority given by that document itself. Hence an implied repeal is not within the power to alter or repeal, and is not valid, because it is not an exercise of legislative power . . . . Legislation which could not be undertaken at all without the antecedent authority of the fundamental law, cannot overstep the bounds set for it by that law, and yet stand good. Before it can avail, the bounds must have been lawfully extended. That is a condition precedent even if the makers of the disputed law had power to make the extension themselves. They cannot omit to make it and at the same time proceed as though it had been made.

That is, they cannot proceed with this Bill as if they had already made the necessary amendment of the Constitution. Mr. Justice O'Connor said—

> The position generally may be stated thus: the Queensland Parliament may repeal or alter any portion of its Constitution and when the repeal or alteration has taken effect, that portion is as if it never had been; but so long as it exists, no Act conflicting with it can be passed. In other words, before an Act can be passed taking away any right given by the Constitution, the Parliament must first repeal the portion of the Constitution which gives the right.

And Mr. Justice Higgins said—

> The Legislature of Queensland has no power to pass a law forbidden by the Constitution as it stands, unless and until the Constitution has been definitely so altered as to give the Legislature power to pass such a law.

My point is that under both the State and Federal Constitutions as they now stand, it is not competent to pass a law which is in conflict with those Constitutions: the Constitutions must be altered first. In reference to the point which the Chief Secretary has just raised, I will try again to make myself clear. One of the powers delegated by the

Imperial Parliament to this State, under its Constitution, was the power to borrow; and this Parliament might, if it were not in conflict with the Constitution, give conditional powers to another body. We often do it in the case of municipalities. For instance, we delegate to municipalities authority to borrow money. But in this particular case it may be said that we are also giving power to the Commonwealth to borrow money, and that therefore it is on the same footing. But it is not so. We are delegating to the Commonwealth, say, power to borrow money on our behalf, but I suggest there is a distinction between this Parliament delegating its authority to a municipality to borrow and giving its authority to the Commonwealth to borrow, and for this reason: in the case of the municipality we have not delegated our power, because we still hold it, and at any moment this same Parliament can repeal the Municipal Corporations Act and stop municipal borrowing. Therefore we have not parted with our powers, but have only created an agency, as it were. Under the Financial Agreement, however, we part with our powers absolutely, and cannot retrieve the position. We could not repeal the measure if enacted and say, "No longer shall the Commonwealth borrow." That is the difference between delegation and the assignment of powers generally. Under this Bill it is a delegation, and I submit that we have no authority to delegate, and cannot assign unless we can first vest ourselves with the necessary power, which we can do only by amending the Constitution. That makes clear the two points, I think. I will not trouble about the others.

The PRESIDENT: Mr. Lovekin kindly gave me notice of his intention to raise various points regarding the validity of this Bill. As a result, I felt I was in a position to give my ruling straightaway. I thought I would thus promote what I am certain are the hon. member's wishes as well as the wishes of the Chamber generally, to proceed with business without unnecessary delay. However, some of the points on which I prepared answers were not raised, and of the four points introduced two were new. Still, the new points cause me no embarrassment. Some of the points have, to my mind been satisfactorily dealt with in the opinion of the Solicitor General which was quoted by the Chief Secretary. The first point raised by Mr. Lovekin is that the Bill is inconsistent with Section 109 of the Commonwealth Constitution. That section reads:—

> When law of the States is inconsistent with the law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

The Bill and the agreement itself show that the agreement is not operative until the Commonwealth Constitution is amended. To me it certainly seems that it would be most extraordinary if a State Parliament cannot pass a Bill in anticipation of the alteration of the Commonwealth Constitution. There might be objection to a State Parliament passing a Bill in anticipation of the alteration of the Constitution of its own State; but it is a different matter to pass a law in anticipation of the alteration of the Constitution of another State, an alteration of a Constitution other than the Constitution of the Parliament that passes the law. The second point raised by Mr. Lovekin was that the State Parliament is not a sovereign Parliament, and that it has been called into existence by the Imperial Parliament, which bestowed upon it certain powers in connection with the raising of loans, etc. For the last-mentioned point Mr. Lovekin relies on a well-known legal maxim—"Delegatus non potest delegare"—and consequently, as the Imperial Parliament bestowed these powers on the State Parliament, he contends that the State Parliament cannot delegate such authority to anyone. In my opinion the hon. member's interpretation of that legal maxim is not correct, and the Bill does not delegate any of its powers in the sense in which delegation is meant in the maxim on which he relies. Such an interpretation would seriously limit the operations of the State Parliament, and considerably lessen its powers. What is proposed is merely to co-operate with certain other parties as to the raising, flotation, conversion and payment of loans, in the desire to promote mutual advantages. The third point that has been raised by Mr. Lovekin is that the Bill conflicts with the instructions issued to the State Governor. He has quoted those instructions, and one paragraph that he has read, referring to the description of Bills not to be assented to, is as follows:—

> The Governor shall not, except in cases hereunder mentioned, assent in Our name to any Bill of any of the following classes.

One of the classes referred to by Mr. Lovekin, and under which he states this Bill comes, is—

> Any Bill of an extraordinary nature and importance, whereby Our prerogative, or the rights and property of Our subjects not residing in the State, or the trade and shipping of the United Kingdom and its Dependencies, may be prejudiced.

Mr. Lovekin claims that this Bill prejudices the rights and property of British subjects not residing in the State. It is quite clear that neither this House nor the Legislative Assembly believes that the rights and property of British subjects not residing in the State are prejudiced by this Bill. If they believed that, I am certain they would not pass it. Why, then, should I say they are and declare the Bill ultra vires, thus setting my personal opinion against that of the majority of hon. members? The fourth point which has been raised by the hon. member is that the Bill is contrary to Section 44 of the Interpretation Act, which section reads—

> Any Act may be altered, amended, or repealed in the session of Parliament in which it was passed.

I have not heard that this Bill may not be altered, amended, or repealed in the session of Parliament in which it was passed. I have heard representatives of the Government say that they will not accept certain amendments; but it is competent for Mr. Lovekin or any other member to get the Bill altered, amended, or repealed during this session if he can get the necessary majority to support him. I rule that on none of the points raised by Mr. Lovekin is the Bill ultra vires. I venture to point out that if the Bill be passed, there will be ample opportunity for any State of the Commonwealth, or for any individual, to raise the question before a court of law. I understand the hon. member wishes to object to my ruling.

Hon. A. Lovekin: I think I will allow it to stand at that, Sir, after your reasoning. I think that gives me all I want.

Question put and passed, report of the Committee adopted.

Third Reading.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [7.58]: I move—

> That the Bill be now read a third time.

HON. A. LOVEKIN (Metropolitan) [7.59]: Before this Bill finally passes the Chamber, I think I am bound to say a few words on it, because I have not had an opportunity of replying to some of the statements which have been advanced against the contentions that I put up. I begin with the last first, namely, the Chief Secretary. I do not intend to detain the House long, but I feel that I ought to traverse what the Chief Secretary has said. He stated that I always contend that those who pay the piper must call the tune. The Chief Secretary said that the Eastern States are entitled to call the tune because they contribute most of the Commonwealth taxation, and he gave certain figures to prove his contention to demonstrate how much more largely they contributed towards direct taxation than Western Australia, which contributed an almost infinitesimal sum. That statement is altogether misleading, although it may be true according to the official figures. Nevertheless, it is misleading to make such a statement, for an utterance of that description is calculated to do a serious wrong to this State whenever we begin to negotiate with the Federal Parliament. The facts are, of course, that the taxation figures of the Eastern States bulk large, mainly because the business houses here are mere agencies of the firms in Victoria and New South Wales. The profits of the agencies in Western Australia are sent to the head offices in Melbourne or Sydney, and the returns pass through the central office of the Federal Taxation Department in Melbourne. The profits made here go to swell the figures for Victoria. The same applies to any person who has property or land in any two of the States. Taxation in respect of that property or land is not dealt with locally in any particular State, but the returns go to the central taxing authority in Melbourne, in consequence of which the central taxation returns are inflated and the local taxation returns diminished. In such circumstances, the figures make it appear that we in Western Australia are not paying our share. Of course, that is quite contrary to the very valuable evidence that Sir William Lathlain gave, and to which I referred last night. As he said during the course of his evidence, when we boarded the good ship "Commonwealth" we all paid the same fares. Although the Chief Secretary tried

to make a point against me, I do not think he realised the effect of his statement, which may be quoted hereafter. There is also another point that Sir William Lathlain will concede. The goods we in this State have been consuming have largely been imported into other States, and the profits from the sale of those goods have gone to swell the returns of business houses in the Eastern States. Sir William Lathlain will appreciate that that is so in connection with the softgoods houses. The big firms in Flinders Lane or in Sydney have had their profits increased accordingly, and such tells against the local taxation. All this demonstrates that the figures quoted by the Chief Secretary were really fictitious. The Chief Secretary also stated that I had some motive that was unseen, to warrant my opposition to the Bill.

The Chief Secretary: No.

Hon. A. LOVEKIN: I can assure the Minister that there is nothing of the kind animating me. My opposition to the Bill is perfectly bona fide. I have spent a lot of time upon this question, in an endeavour to see whether there was anything good that I could support in the Financial Agreement. I have put all my cards on the table, and have circulated printed documents among members, and sent them to the Chief Secretary as well. I did that so that all might be in a position to check the contentions I was putting forward, and be better able to answer them. I did that so that we could secure the best result possible from the Financial Agreement. I hope it will not be thought that my opposition to the Bill is out of sheer wantoness, for I am opposing it purely from what I think is the best interests of the State.

Hon. J. Nicholson: I am sure every hon. member realises that you have adopted such a course with the best of intentions in view.

Hon. A. LOVEKIN: During the course of my second reading speech on the Bill I endeavoured to base my opposition on facts and arguments. I am sorry to say that those facts and arguments have not been answered in this Chamber. Members have put up various reasons why they should support the Bill, and I am very disappointed, because no one apparently took the trouble to attempt to answer the case I put up. It is no answer for Sir Edward Wittenoom to say that six Premiers and six Parliaments had passed the Bill, and therefore we should do so too. It is useless for him to say that if it is good enough for them, it is good enough for us. That is not a sound argument. If six of us went into a shop to buy hats and the storekeeper was able to meet the requirements of five of us but not of the sixth, would anyone say that the sixth should take a hat because the other five were suited? Such a contention would be of no value. Then Mr. Stewart told us that he agreed with all we had said against the Bill, and I thought he intended to support us in the attitude we had taken up. On the other hand, he turned round and said because the Legislative Assembly had passed the Bill by a majority of ten, that so handicapped us that he had to vote for the measure. That type of argument does not appeal to me.

Hon. G. W. Miles: That was one of the arguments Dr. Saw advanced.

Hon. A. LOVEKIN: And other members, too.

Hon. A. J. H. Saw: And a very sound argument it is, too.

Hon. A. LOVEKIN: I cannot agree that it is a sound argument. Mr. Baxter dissented from us on the ground that we had put up something destructive, but nothing constructive. I do not know that we ever had an opportunity to put up anything constructive. The whole matter was cut and dried before it came here. The Prime Minister said, "If you do not take this, what do you revert to? You revert to nothing." During the Committee stage, when we attempted to put up something constructive so that we should assure the continuation of the disabilities grant we have been receiving, that we should assure the people of the State the right of having a say on the question, that we should assure a review of the agreement in 15 years' time, and that we should protect our rights to the surplus revenue, hon. members voted against the amendments. One hon. member stayed away from the House and arranged for a pair against any amendment. He did not know what amendments might be moved; it did not matter to him what they were, for he paired to oppose every amendment. I cannot follow that sort of attitude.

Hon. G. W. Miles: What do you think of Mr. Hamersley's reasons for supporting the Bill?

Hon. A. LOVEKIN: I do not want to traverse every member's speech, because I realise that I have taken up so much time that I may possibly bore the House. I do not

wish to make myself a nuisance to any greater extent than I have done. Last session, before he had seen the Bill at all, Sir William Lathlain, told us he was in favour of the Bill, and began to refer to its provisions. I interjected, "You cannot have seen the Bill." He replied that the Prime Minister, Mr. Bruce, had told them what the Bill contained, and that he was satisfied accordingly.

Hon. Sir William Lathlain: I referred to the point that it was the first time any definite attempt had been made to meet our liabilities.

Hon. A. LOVEKIN: The hon. member referred to quite a number of things.

Hon. Sir William Lathlain: Mr. Holmes said the same thing.

Hon. A. LOVEKIN: What the hon. member did say was that at that time he had not seen the agreement. The hon. member proceeded to explain the Bill and said he was satisfied with it, although he had not seen the Bill at all.

Hon. Sir William Lathlain: We had a copy of the agreement here when the discussion was in progress.

Hon. A. LOVEKIN: At that time I had the only copy of the agreement available, and that is why I brought it under the notice of hon. members immediately, so that they would not get a wrong idea of the position. Sir William Lathlain will probably remember that his speech was interrupted by the tea adjournment, and when we returned, he said that he did not intend to proceed any further until he had seen the agreement. That statement appears in "Hansard." On the other hand, he told us he was quite satisfied with what the Prime Minister had said. It reminds me of the gentleman who was immortalised by Gilbert. That gentleman took up the same attitude as Sir William Lathlain. Perhaps that hon. member remembers Sir Joseph Porter in "H.M.S. Pinafore," who said—

> I grew so rich that I was sent
> By a pocket borough into Parliament;
> I always voted at my party's call,
> And I never thought of thinking for myself at all.

Hon. Sir William Lathlain: That would sound more effective if you were to sing it.

Hon. A. LOVEKIN: I do not think I could strike the right key! However, those lines indicate what I mean. We have had members quoting what Mr. Bruce said, and what the Chief Secretary said.

Hon. Sir William Lathlain: Many members made reference to what Mr. Lovekin had said.

Hon. A. LOVEKIN: I dare say, but I do not want them to repeat what I say; I want them to think for themselves.

Hon. A. J. H. Saw: I heard several echoes of Mr. Lovekin over here.

Hon. J. R. Brown: Not cuckoos?

Hon. A. LOVEKIN: While Sir William Lathlain may follow the Prime Minister—I applaud him for doing so because he has displayed his loyalty to Mr. Bruce and is obviously desirous of rendering him all the help he possibly can—I cannot help remembering the evidence that he gave on behalf of Western Australia. When the War Memorial is finished—I think the hon. member is to be highly commended for the great struggle and enthusiasm he has shown in connection with that undertaking—we should consider the advisability of erecting a monument in Sir William's honour.

The PRESIDENT: Order! I would ask the hon. member to connect his remarks with the third reading of the Bill.

Hon. A. LOVEKIN: I intend to do so, because Sir William Lathlain has spoken with two voices. He told us that when he appeared before the Disabilities Commission he tendered evidence as a citizen and as a representative of the Town and Country Tariff League. It was then that he gave his evidence about the good ship "Commonwealth." On the other hand, in this Chamber he is in quite a different position. He told us that he was speaking here as a member of the legislature and as a representative of one of the provinces. He spoke with two voices and as he is capable of doing that upon such an important subject, he has faced both ways, east and west.

Hon. G. W. Miles: And he is not the only one.

Hon. A. LOVEKIN: We should erect to his honour a monument similar to the one at the temple of Janus in Rome. Sir William Lathlain quoted figures to show that the other States were getting less than we were towards their indebtedness. The figures quoted by him were not quite right.

Hon. Sir William Lathlain: They were the same as those quoted by the Chief Secretary.

Hon. A. LOVEKIN: If members look at the returns, they will find the figures are not borne out by those submitted when the original agreement was introduced. Accord-

ing to the figures on which the original agreement was based, New South Wales is to get 1.35 per cent. of her indebtedness, Victoria 1.04 per cent., Queensland 1.17 per cent., South Australia 0.97 per cent., Western Australia 0.87 per cent. and Tasmania 1.3 per cent. Those figures show that Western Australia does not fare as well as any of the other States, and the Prime Minister confirmed that fact the other day with later figures by showing that Victoria was getting 1.35 per cent. as against Western Australia 0.78. Whatever our views on the Bill may be, we should try to present exact figures because we shall be quoted hereafter. When Sir William Lathlain, for instance, goes to another Disabilities Commission he will not be able to make out so strong a case as if he had not committed himself to figures which are not quite in accordance with those on the official records. I shall not refer to Mr. Franklin, beyond saying that I thought he would have tried, on the first occasion on which he addressed the House, to master the facts and the Bill, but he had not proceeded far before it was quite manifest that he did not appreciate the subject to any great extent. As he is a new member, I shall say no more about him. Now I wish to deal with some remarks by the Prime Minister. He said we have to accept this agreement or we revert to nothing. He also stated, "The surplus revenue you never had, and never will have. If you ask for the continuation of the disabilities grant in the form of the amendment you desire to have incorporated in the Bill, I shall refuse to discuss it. It is an attempt to blackmail the Commonwealth." As a former member, Mr. Sanderson, used to say, there are two classes of people, those who like to be flogged and those who, regardless of circumstances, will bow to power. Parliament should be careful and should not be amenable either to flogging or to sycophancy. What is the position in regard to the Bill? We are pledging posterity for 58 years on a minimum return. Mr. Holmes has tried to remedy that, and has failed to get sufficient support. We are perpetuating to-day's per capita payments, much of our share of which has heretofore been paid to the Eastern States. The Eastern States' amounts have been very largely increased through the persons who reside there manufacturing and producing goods that we pay for and consume. If the time comes, as I hope it will in a few years, when we may be able to bring those people here to make the goods in this State for us, the other States will still hold that per capita amount, while we, with the people here, will have to provide for their needs without having any financial assistance to do so. We are giving up our borrowing rights——

Hon. J. R. Brown: We have discussed all that. Why go over it again?

Hon. A. LOVEKIN: I am aware of that. We are giving up our borrowing rights, whether for good or ill, to combine with other States, one of which has been on a financial jazz. Possibly, it might be a good thing to have a check. I do not know whether we in Western Australia have arrived at that stage or not. We have been borrowing a good deal of money and have been speculating in an attempt to develop the State. If we have lost a little, we cannot help it. We have tried our best and it is no reason why we should be limited in future when we want to borrow money for development. We desired to give the people a say on this Bill. Mr. Baxter contends they are not competent to decide any such question, although, as I pointed out, they were competent to decide to give him a seat in Parliament. We tried, in Committee, to insert in the Bill a declaration, so that it should not be said when our children or grand-children come to grapple with this subject that by this Bill we renounced all our rights to the surplus revenue. This House refused to agree to the amendment. By so doing we have for all time renounced our rights to the surplus revenue, which Sections 94 and 105 of the Constitution say we are entitled to have. Whether the surplus revenue be put into trust accounts so that the States cannot get it is another matter, because the people might not stand that sort of thing too long. Under the Constitution we have always been entitled to it, and in my opinion we should always be entitled to it. When the 58 years have expired, and all the existing debts have been paid off, our children should be able to revert to their right to the surplus revenue. But we have bartered it away to-day by this agreement under the proposed new Section 105 (a). We shall pass this Bill shortly, and I wish to point out before it goes through that we are making straight for unification. Let me give the House my reason for that state-

ment. We know that the Country Party members in this House and in another place, with one or two independent exceptions, have strongly supported this Bill. I do not know what takes place at their party meetings, but I do know that they have presented a good deal of solidarity in the two Chambers. They are following the lead of the Federal Treasurer, Dr. Earle Page. I wish to read an extract from a pamphlet by Dr. Earle Page, portion of which was quoted by Mr. Gregory in the House of Representatives on the 15th March last. It will be found in Federal "Hansard," page 3780.

Hon. Sir William Lathlain: When did he make the statement in the pamphlet?

Hon. A. LOVEKIN: About 1922.

Hon. E. H. Harris: It was 1923.

Hon. A. LOVEKIN: When Mr. Gregory quoted the pamphlet, Dr. Earle Page was in the House, but he did not repudiate a word of it, and when he spoke on the Bill, he did not challenge what had been quoted. I wish particularly to give Dr. Earle Page's views, because he is the Leader of the Country Party which has been so solidly in favour of this Bill.

Hon. E. H. Harris: It is said that he has since seen the light.

Hon. A. LOVEKIN: We must remember that he is now a member of the Bruce-Page Government.

Hon. Sir William Lathlain: He was not the leader when he wrote the pamphlet.

Hon. G. W. Miles: That is why they made him the leader.

Hon. A. LOVEKIN: At any rate he is second in command of the Government, and these are his views, which he did not challenge when they were put up in the Federal House by Mr. Gregory—

> We have seven Parliaments in the Commonwealth, one Federal body and six State bodies, and these latter, for the most part, with all their pomp and paraphernalia, simply waste time in corners of their respective States. They may be considered to do their best so far as in them lies, but they are handicapped politically and geographically and are unable to carry on the work of the States. Owing to the centralising of affairs in out-of-the-way corners of the State, public money is always expended in that corner of the State where the seat of Government is constituted. Politicians are not always to blame for this. Owing to the vicious system of Government, they are often necessarily ignorant, frequently misinformed, and always unconsciously biased.

That is what Dr. Earle Page thinks of State members.

Hon. Sir William Lathlain: Is that what he thinks of you?

Hon G. W. Miles: Yes, and you, too.

Hon. A. LOVEKIN: We are all in the same boat, according to Dr. Earle Page.

The PRESIDENT: I must ask members not to interrupt.

Hon. A. LOVEKIN: Dr. Earle Page went on to say—

> Give the Commonwealth complete control of immigration, federalise the Crown lands, subdivide the States into provinces whose outlines are determined solely by the lines of community of interest, big enough to attack national schemes in a large way, but small enough for every legislator to be thoroughly conversant with every portion of the area, and proper development will naturally follow.

Mr. Gregory added—

> Dr. Earle Page demanded that the railways and Crown lands of the States should be handed over to the Commonwealth Government. Yet he repudiates the charge that he is a unificationist.

If those are the views of the second in command of the Federal Government, we know where we are drifting when, on every division in our two Houses, regardless of how the question affects the State, he can command a solid majority on a Bill of this sort which is making for unification as fast as possible. I considered it only right to make these few remarks at this stage of the Bill so that the people may know exactly the position we are in to-day.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

Sitting suspended from 8.30 to 9.40 p.m.

Assembly's Message.

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

ADJOURNMENT—CLOSE OF SESSION.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [9.41]: I move—

That the House at its rising adjourn until Thursday next, the 19th July.

I wish, Mr. President, with your permission, to take this opportunity to say a few words regarding the discussions which have just been concluded. These discussions have no doubt been as educational to every other member as they have been to me. Never before have I been forced to apply myself to

the acquisition of knowledge concerning the intricacies of State finance as I have been in connection with the Bill that has just been passed. We have had able speeches from every standpoint, and in no Australian Parliament has the measure received such a probing and such thoughtful consideration as that to which it has been subjected in this Chamber. The points raised have rendered it necessary for me to unfold to public view almost the whole of the ramifications of State finance in Western Australia. I think all of us will benefit in consequence. Nor need the opponents of the Bill, though they failed in their object, as Mr. Holmes has just indicated, feel that their labour has been in vain.

Hon. J. J. Holmes: It was a worthy object.

The CHIEF SECRETARY: I do not think it has been, nor will be, labour in vain. The case put up by the opponents is a valuable contribution from the standpoint of the disabilities which the State is suffering and may continue to suffer, through entering the Federation. Their audience has been a widespread one. During the last few weeks the whole of the Commonwealth has been listening intently to the proceedings of this House. Never before has there been opened up such a channel for the communication of our grievances as has been provided by the introduction of this Bill for the ratification of the Financial Agreement. In many ways outside the agreement, and in keeping with the Federal Constitution, the present Commonwealth Government and successive Commonwealth Governments can render material help in stimulating the great resources of this State. By reason of the speeches in this House those Governments will be in a better position than ever to realise the difficulties we have had to encounter, and probably will have to encounter in the future, through having entered the Federation, at a time when we were scarcely equal to the financial strain involved, and before we had commenced to establish secondary industries on a scale which would enable us to become more self-contained than we are to-day. The discussion has been of much value, and should have more than temporary effect. That is an honest expression of my feelings, and I believe that nothing but good will accrue from the intelligent discussion of this measure in the Legislative Council of Western Australia.

Question put and passed.

House adjourned at 9.47 p.m.

Legislative Assembly,

Thursday, 12th July, 1928.

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

QUESTION—(3) RAILWAYS.

Employment of Labour.

Mr. LINDSAY asked the Minister for Railways: 1, Is it a fact that instructions have been issued to the officer in charge of the relaying of the Wyalkatchem-Merredin railway that no men be employed locally unless they have been registered at the Labour Bureau in Perth? 2, Is it a fact that 15 men who were engaged locally have been put off to make room for men sent from the Labour Bureau in Perth? 3, Is he aware that many of these local men are searching for work in the country districts in preference to hanging about Perth and accepting charity? 4, If questions 1 and 2 are correct, will he give instructions to alter the method and allow local men, where suitable, to be given employment?

The MINISTER FOR RAILWAYS replied: 1, No. The policy of the Government is for all workers to be engaged through the various labour bureaux throughout the State, and a proportion of men required are picked up through labour bureaux in proximity to the job. When, however, there is a vacancy on any job and two or three men are available locally to fill vacancies, these may be picked up on the job, if they are suitable. This would not apply if, say, eight or ten men were required; in such circumstances men would be engaged through the various bureaux where men are registered for employment. 2, No. The 15 men referred to were engaged for a specific job, on completion of which they were paid off in the usual way. 3, Yes. 4, Answered by 1 and 2.