10 acres. If this clause is passed every gold-mining lease in the State will be 25 acres.

Mr. VINCENT: No, it will not!

Mr. HORSINGTON: Yes; generally three men take up a lease of 10 acres. There are always two men.

Mr. VINCENT: There is power under the Act to take up 2 yards!

Mr. HORSINGTON: Yes, there is power under the Act to do that, but what miner would take up 2 yards when he could get 2 acres? This will mean that too much ground will be allotted. Twenty-five acres is too much ground for three men. The only gold mine in New South Wales that is paying dividends to-day is the Bismarck Mine, at Lucknow, and its area is 3 acres. What would there be under this bill to stop the Bismarck people from taking out 25 acres? Only the other day I met four men who had taken up 5 or 6 acres each. These men informed me that they wished the area was 25 acres, in which case they could keep other men off. As the hon. member for Cobar has pointed out, the big lease is for the speculator only—for the "Pitt-street miner," if you like. There are hundreds of gold mines throughout the State, but according to the last report of the Department of Mines we increased our gold production by only 1,311 ounces during the year. Although we have many gold mines in various parts of the country, very little gold is being obtained from them. The Government should do everything possible to prevent "wild cat" shows, in connection with which leases are taken up solely for speculative purposes. It should help the genuine prospector. I have met many prospectors during my travels in this and other States, and I have never yet heard one complain that the area allowed him was too small. Twenty-five acres is a large area, and the Minister would be well advised to accept the amendment. The Government should allow the Act to remain as it stands.

Progress reported.

House adjourned at 6.6 p.m.

Legislative Council.

Tuesday, 12 February, 1935.

Printed Question and Answer—Reconstruction of Ministry (Ministerial Statement) — Third Readings — First Readings — Crown Lands, Closer Settlement and Returned Soldiers Settlement (Amendment) Bill (second reading)—Business Agents Bill (second reading).

The PRESIDENT took the chair.

The opening Prayer was read.

PRINTED QUESTION AND ANSWER.

GOVERNMENT CEMENT CONTRACT.

The Hon. L. W. RYAN asked the VICE-PRESIDENT OF THE EXECUTIVE COUNCIL,—(1) Has the Government entered into a contract for a supply of cement of 35,000 tons for the ensuing twelve months? (2) Who was the successful tenderer and what was the price accepted? (3) What other companies tendered and what were the prices submitted and full particulars?

Answer,—(1) Yes. (2) The Kandos Cement Company Ltd., at £2 17s. 6d. per ton, in jute bags at the Kandos Private Siding; and £2 14s. 4d. per ton, in paper bags, at the Kandos Private Siding. A rebate of 2d. per bag is allowed on the jute bags. The total supply is not to exceed 35,000 tons for the twelve months. A small contract was also given to Gibbs, Bright & Company, as agents for The Sulphide Corporation Limited, for the supply of up to 5,000 tons, the prices in this case being at £3 13s. 6d. per ton, in jute bags at Cockle Creek Siding, at £3 11s. per ton, in paper bags at Cockle Creek Siding. A rebate of 2d. per bag is allowed on the jute bags. (3) The names of the other tenderers, together with prices, are as follow:—Standard Portland Cement Co. Ltd., £3 8s. 8d per ton, in jute bags, at Private Siding; Commonwealth Portland Cement Co. Ltd., £3 13s. per ton, in jute bags, at Private Siding; Southern Portland Cement Ltd., £3 14s. 9d. per ton, in jute bags, at Private Siding; subject in each case to a rebate of 2d.

per bag on the jute bags; Standard Portland Cement Co. Ltd., £3 7s. 2d. per ton, in paper bags, at Private Siding; Commonwealth Portland Cement Co. Ltd., £3 10s. per ton, in paper bags, at Private Siding; Southern Portland Cement Ltd., £3 12s. per ton, in paper bags, at Private Siding.

RECONSTRUCTION OF MINISTRY.

MINISTERIAL STATEMENT.

The Hon. H. E. MANNING (Attorney-General) [4.31]: I have to inform hon. members that yesterday the Premier tendered to his Excellency the Lieutenant-Governor the resignation of the Government, with a view to the reconstruction of the Ministry, and that thereupon Mr. Stevens was immediately recommissioned to form a new Ministry. A new Ministry was then formed, the only alterations in personnel being those involved in the passing of the portfolios previously held by Mr. Weaver to the Premier and Colonial Treasurer, and to Mr. Fitzsimons. The Premier, who is also Colonial Treasurer, took the portfolio of Public Works, and Mr. Fitzsimons took the portfolio of Public Health.

THIRD READINGS.

The following bills were read a third time and returned to the Legislative Assembly without amendment:—

Financial Agreement (Returned Soldiers' Settlement) Ratification Bill.

State Coal Mines (Amendment) Bill.

The following bills were read a third time and returned to the Legislative Assembly with an amendment:—

Metropolitan Water, Sewerage and Drainage (Amendment) Bill.

Industrial Arbitration (Theatrical Agencies and Employers Licensing) Bill.

FIRST READINGS.

The following bills were received from the Legislative Assembly and read a first time:—

Liquor (Anzac Day) Amendment Bill.

Legal Practitioners (Amendment) Bill.

CROWN LANDS, CLOSER SETTLEMENT AND RETURNED SOLDIERS SETTLEMENT (AMENDMENT) BILL.

SECOND READING.

The Hon. H. E. MANNING (Attorney-General [4.42], moved:

That this bill be now read a second time.

He said: I wish to explain, briefly, the contents of this rather voluminous-looking measure It is somewhat voluminous looking because it is necessary, when submitting an amending measure of this nature, to amend a considerable portion of the legislation relating to Crown lands. The bill contains six clauses, only four of which should require detailed attention by hon. members. In order to facilitate consideration of this bill, which is somewhat complicated owing to the necessary perplexities of its drafting, I have had prepared for the convenience of hon. members a statement containing the legislation that is amended, and indicating, by the use of red print, the respects in which that legislation is sought to be amended. I hope hon. members will find the statement adds to their convenience in following the clauses of the measure.

This bill is the result of a careful consideration of all the matters with which it deals, and was drafted after conferences between representatives of the Department of Lands, the Attorney-General's Department, and the Department of the Treasury. I mention that because hon. members may desire to be assured at the outset that the bill, which goes so much into the details of existing legislation, has been carefully thought out, and the manner of handling its subject-matter has received the careful consideration of responsible officers. Hon. members may rest assured that the measure, as now presented to them, is the result of the most careful collaboration on the part of those gentlemen, and represents the best of which they are capable in preparing legislation for acceptance by this House.

When one comes to deal with legislation on this subject, one feels it important to remember that there are certain stages which should be borne in mind. The first is from the year 1913 up to 1932. The 1913 Act was of a comprehensive nature and dealt with most matters concerned with land settlement in New South Wales. The 1932 Act then came into operation, and created a new point of time from which the legislation had to be considered. The new period really dates from then to the present time. If hon. members will bear with me for a moment I shall indicate the general nature of the provisions proposed by the amending measure, so that it will be quite apparent to them that the great bulk of the printing of the bill is more of a consequential machinery nature, and requires careful consideration only in so far as to insure that its draftsmanship is such as can be approved by this House.

The object of the bill is to provide a measure of further relief for necessitous settlers on the land, in the light of experience gained by the Government since it assumed office, and since the 1932 Act was passed. The amount of experience acquired by the Government concerning the needs of necessitous settlers has been great. I may inform the House that this is one of the matters that has recieved the most careful, serious and anxious consideration of the Government. Nobody can imagine a matter that is more bound up with the successful handling of public affairs and of the successful administration of the State, than a measure that deals with the ultimate source of our revenue and the ultimate wealth of the people of New South Wales. The matters of grave importance which require attention by the Government concern the distress of an afflicted community in the period I have mentioned, distress that occurred despite the heroic efforts made by the settlers of New South Wales to overcome the enormous difficulties with which they have been confronted. All hon. members must feel that any measure of relief that can be legitimately engaged in for the purpose of encouraging the splendid efforts of those men should be approved by those actuated by a public spirit. Therefore, I feel that I start off with a generous response to the bill; a recognition, at any rate, of the worthiness of the object that has actuated its preparation, and that hon. members will realise that in dealing with it they are dealing with legislation that will prove of enormous benefit to the settlers themselves, and over and above all, will provide a considerable measure of improvement to the whole of the affairs of New South Wales. In 1932 a measure was passed for the purpose of relieving necessitous settlers on the land from the burden that oppressed them, and the chief measure of relief was the postponement of payment of debts due to the Crown. That legislation was thought at the time to be sufficient relief, but in the light of intervening circumstances it has appeared that the unfortunate settler is in many instances in dire need of further relief. Accordingly this measure has been prepared to give the additional relief which has been rendered necessary in the light of our experience during the intervening period.

The measure, for the purpose of consideration, may be divided into four parts. The first part deals with the postponement of payment of debts due to the Crown on account of land purchases, and it comprises a series of provisions relating to the funding of debts due by lessees to the Crown. The second part of the bill relates to the extension of the period within which applications may be made for reappraisement of holdings. The third part deals with the creation of a board for the purpose of setting apart areas of Crown lands to be used in connection with the problem of soil erosion. The fourth part consists of certain miscellaneous provisions which are rendered necessary by the uncertain effects of the existing legislation, and which deal with such matters as transfers from soldier settlers, in respect of which there is at present no statutory authority. The House will be asked to deal with those matters as if in the circumstances a validating measure were justified.

The first part of the bill relates to the postponement of payments. That provision is necessary because the provision of the existing law, which dates back to 1913, and relates to the postponement of payments by purchasers of land from the Crown, is confined to holders of conditionally-purchased land. From our experience during past years it has been found that not only in regard to those purchases, but also in regard to all purchases of land from the Crown, the load of debt is likely to become destructive of national enterprise. The load of debt may reach a point where its acceptance by the individual will become destructive, not only of the land, but also of the national enterprise, and it should be relieved as far as the possibilities of public finance will permit. At the time the land was purchased, it was thought that the Crown would be able to handle the project. But as time went on it was found that the position was going from bad to worse, and in some instances the Crown had to step in and give a measure of relief to the settlers. The gist of the first part of the measure is the postponement of debt due to the Crown in respect of instalments of purchase money, by allowing the debt to remain over until the expiration of the term of the purchase, and the funding of debts due by Crown lessees who have from time to time been unable to pay their rents and the interest accruing thereon.

In effect, lessees in necessitous circumstances are to be allowed a period not exceeding twenty years, during which their debt to the Crown may be funded, so that from now on, or ten years hence, they can start with the knowledge that their debt is not being increased by further debt accruing in respect of interest, but rather that the debt may be postponed until some later period to be defined by the Minister. In the case of purchases from the Crown, and the payment of instalments due the Crown, relief is to be given until the expiration of the term of purchase, but in the case of rentals due to the Crown, the period of relief is left to the discretion of the Minister. The latter provision is necessary, because some of the leases may expire in, say, ten years' time. In some cases it may be necessary that the funding shall commence as from five, ten or fifteen years' hence, the exigencies varying according to the financial position of the individual concerned. That is the reason for the difference between the arrangements made for the postponement of instalments due by purchasers to the Crown, and the arrangement made for the funding of the rent and interest thereon due by lessees to the Crown. Those provisions are included in the bill for the purpose of enabling the Crown to say to the struggling settlers, "You can start from now on with a clean slate, and you need not bother about the existing debt and its accumulation until the termination of the period of purchase or tenancy, as the case may be." This measure of relief, which is being given to necessitous farmers, is a matter for immediate attention, and will, I think, receive the approval of hon. members.

The next matter is that of reappraisements. Under the existing legislation, settlers who wished to take advantage of the reappraisement provisions had to make application for reappraisement within a period of two years from the date of passing of that legislation. There were 19,000 applications for reappraisement, and I understand that about 2,000 of them were made out of date. It seemed very hard that those settlers whose applications were made out of date should be deprived of the benefit of the reappraisal, and doubly hard that they should, for that reason, be placed in the position of not being able, because of the circumstances surrounding them, to make a recovery. It was found also that it was not only in their interest, but in the interest of the whole State, they should be given an extended period within which to make application for reinstatement, and if they were not given an added period for making it they might be lost as settlers to this country. The significance of that will be well within the imagination

of hon. members. The simple provision is that they shall be given a further period which, according to the bill, terminates in April of this year, which on reconsideration since the bill was passed by the Legislative Assembly has been thought to be quite inadequate. The total change is from two to four years. That is the substance of the legislation, with the amendment I propose to move in Committee. That is the whole matter with regard to reappraisement.

The next part of the bill deals with soil erosion, a problem which has been growing very much during recent years. Those of us who have had the benefit of travelling round the country and know something of the history of some portions of the State where soil erosion is taking place, have been enormously impressed by the views of settlers in the district and also the views of scientists who have dealt with the matter, on the consequent destruction, the ruthless destruction, of timber in various parts of the country whereby the percolation of the rain water is accelerated and much of it runs away, whereas otherwise it would be of benefit by saturation. The matter has become a problem of a very serious character. It is noticeable, particularly in the northern part of New South Wales, that at some period there may be an enormous rainfall, but within a short period the particular area is afflicted by drought. It is in order to take advantage of the scientific knowledge of the subject and the experience of those people who are familiar with these particular districts that the Government has undertaken to deal with the problem of soil erosion. It does it in this way. It creates a board for dealing with the matter, the Catchment Area Board, and that board consists of the Minister for Agriculture and various other representatives. Their object is to deal with those areas in which their intervention would be a matter of some use to the settlers, and the country generally, and to function as a board for the purpose of preserving timber and taking such measures as would be calculated in their opinion to prevent the erosion which might otherwise prove disastrous to any particular area. That is really the whole of the provision, and it does not present any enormous difficulty. I venture to suggest that this provision is one which will commend itself to the favourable judgment of hon. members of the House.

With regard to the miscellaneous provisions, I do not think it is necessary at this stage to enumerate them, but they can be dealt with if any hon. member so desires. These provisions make more effective the legislation at present in existence, and validate certain Acts which were performed by the Government out of consideration for people who were afflicted by hardship in the management of their holdings. Accordingly, in the interests of the people I have mentioned, and in the interest of the State generally, I beg to commend the second reading of this bill to the favourable consideration of the House.

The Hon. H. M. WRAGGE [5.5]: I think this bill will provide a welcome addition to the Crown Lands Statutes of this State, and it was very clearly and very lucidly set out by the Attorney-General. I would like to say that I think the manner in which this amending bill has been presented to this House is admirable. As the Attorney-General pointed out, it is extremely difficult to follow amendments in a complex measure such as the Crown Lands Act, but on this occasion it has been done in most excellent form. I trust that the method adopted with respect to this bill will be followed in others of a like nature.

The Hon. G. NESBITT: It used to be the practice, but they dropped it!

The Hon. H. M. WRAGGE: Oh, did they? The privileges already given to settlers which this bill now extends, and in many cases amplifies, have been very much appreciated by them. They have been given in deserving cases, and it is a fact, as the Attorney-General has stated, that the measure will help to keep many men on the land who would otherwise have to go off. With regard to the right of reappraisement, that

has been availed of by settlers throughout this State, and I am glad that the time has been extended to enable those who were technically out of time to have their cases dealt with. Incidentally, I doubt whether the tremendous amount of work that has been thrust on the officers of the Lands Department by these ameliorative measures is realised. These measures are exceedingly difficult, and the officers of the Lands Department have had a tremendous amount of work thrust upon them. I can say from my own experience that while they uphold the Crown in every way they have dealt fairly and generously with the settler. We sometimes hear much about the civil servants and the work they do not do. I think sometimes it is right we should acknowledge the work they do do. Generally speaking, the officers of the Lands Department are a body of men of whom this State may well be proud. They are efficient and courteous to the last degree, eager in every way to carry out their duties as generously as possible, so far as the settlers are concerned, yet as stubborn as they can possibly be in upholding the rights of the Crown where they think those rights are being assailed.

I do not desire to speak at any length except to endorse very heartily the words of the Attorney-General in introducing this very important measure. I would like to say I think in some ways some of the rights of the parties which are to be altered, due to the alteration of the tenures affected, could be preserved by less expense to them than is provided by some of these sections. I may be wrong, but I think they could. I shall take the liberty of suggesting to the Attorney-General several amendments of a machinery character, and if he considers them to be proper I will move them in Committee.

Question so resolved in the affirmative.

Bill read a second time.

IN COMMITTEE.

Clause 4.

. . . . . .

(2) The Crown Lands Consolidation Act, 1913, is further amended:—

(a) (i) by omitting from subsection (1) of section 167 . . . .

(ii) by omitting from subsection three of the same section the words "two years" and by inserting in lieu thereof the words "three years and six months";

. . . . . .

The Hon. H. E. MANNING (Attorney-General) [5.12]: I move:

That in subparagraph (a) (ii) of subclause (2) the words "three years and six months" be struck out and there be inserted in lieu thereof the words "four years."

This amendment is made with the object of giving a period of four years from the date of the original Act within which application may be made for appraisement.

Amendment agreed to.

Clause further amended consequentially, and agreed to.

Clause 6. The Crown Lands Consolidation Act, 1913, is further amended:—

. . . . . .

(b) by inserting next after section thirteen the following short heading and new section:

. . . . . .

13A.

. . . . . .

(c) (i) by inserting in paragraph six of subsection one of section one hundred and one . . . .

(iii) by inserting at the end of paragraph (a) of subsection four of the same section the words "and where any person has an interest as mortgagee or otherwise in the settlement lease so surrendered the document evidencing or agreement creating such interest shall be deemed to include an undertaking to execute further documents or to make further agreements as the case may be, conferring on such person an equivalent interest in the new leases."

. . . . . .

The Hon. H. M. WRAGGE [5.20]: I move:

That in subparagraph (e) (iii) of proposed new section 13A all the words after the words "shall be" be struck out, and there be inserted in lieu thereof the

words "read and construed as if such document or agreement referred to such separate leases in lieu of such settlement lease as so surrendered."

The insertion of the amendment to subsection 4 of section 101 of the Principal Act as proposed in the bill would mean that, in the first instance, instead of having a charge over the original lease before it is subdivided, the mortgagee would simply have an undertaking by the mortgagor to execute a similar document or charge as he executed in regard to the original holding. Consequently, it would mean that if the mortgagee then required him to comply with the statutory undertaking, he would be put to further expense with regard to the mortgage or charge of the security. Expense should be avoided wherever possible, particularly when dealing with the man on the land, and even though it be legal expense. I add that remark because I happen to be a member of the legal profession. In my opinion the words I seek to have inserted would meet with the requirements of all parties, including the Crown.

The Hon. H. E. MANNING [5.26]: While I am obliged to the hon. member for his suggestion I should like to give it consideration; unless, of course, I can convince the hon. member that the present language is sufficient to ensure his purpose. It is desirable that the language should be as perfect as possible. At the moment I cannot see that the present language would impose hardship. It would certainly have the same ultimate result as that proposed by the hon. member. The important question is as to how to bring about the result which he desires without causing confusion in other interests that may exist in the property, and without adopting cumbersome methods, or methods that would jeopardise the rights acquired by a mortgagee.

This legislation is an intricate piece of work, and has been drafted with great care, after consultation by the draftsmen with representatives of the Lands and other departments. I realise that the suggestion of the hon. member may be a valuable one, and have the effect of saving expense to a man on the land, but before accepting it I should like the benefit of a consultation with him, as we could then interchange views more readily than in the Chamber. If the hon. member approves of such a course I suggest that you, Mr. Chairman, should leave the chair for ten minutes or so. That would also give me an opportunity of consulting the draftsman.

The Hon. H. M. WRAGGE: I should be glad to accept the suggestion of the hon. member!

[*The Chairman left the chair at 5.30 p.m. The Committee resumed at 5.49 p.m.*]

The Hon. H. E. MANNING [5.50]: I have had an opportunty to confer with the Hon. Mr. Wragge on this rather important matter, and while the object of his amendment may be desirable, at the same time if it were inserted in this clause it might result in the bill being returned from another place for reconsideration. I therefore suggest that the clause should be passed without amendment on the understanding that to-morrow I shall confer with the draftsman and ascertain whether the amendment would present any difficulty in respect of departmental administration, and if after further consideration it is decided that the amendment is necessary it can be inserted on recommittal. I think that that is the most satisfactory way of dealing with the matter.

The Hon. H. M. WRAGGE [5.51]: I thank the Attorney-General for his suggestion, and I ask leave of the Committee to withdraw my amendment.

Amendment (by leave) withdrawn.

Bill reported with amendments; report adopted.

BUSINESS AGENTS BILL.

SECOND READING.

The Hon. H. M. HAWKINS (Assistant Colonial Secretary) [5.52], moved:

That this bill be now read a second time.

He said: For a long time it has been realised that public interest demanded some degree of supervision in relation to the sale of businesses, residentials and

the like, and in bringing forward this bill the Government has endeavoured to protect, without undue intereference, the many folk who are not well equipped to protect themselves. With respect to anything that may be said or is contained in the general phraseology of the bill, there is no reflection on business agents; but it must be realised that this type of business does leave the way open for unscrupulous action owing to the presence of such elements as plant and goodwill, which are difficult to assess and value, particularly on the part of those who have no intimate knowledge of those elements. Moreover, in the great number of cases only one transaction takes place between the agent and his client, and that fact, perhaps, leads those who may be unscrupulous to be less careful than they would be in the case of continual business. The experience in the other States has shown that it is very necessary to have legislation on these lines. I have had personal opportunity to discuss the Victorian Act with the Minister and others engaged on this class of work in Victoria, and I know that that Act has proved to be beneficial and easy of administration. This bill will strengthen the standing of legitimate agents, and the business brokers' association has broadly approved of its provisions. That association has made several suggestions, some of which have been embodied in the measure.

The bill provides that business agents and subagents must be licensed broadly on lines similar to those of the Auctioneers Act. The agent has to apply to the clerk of petty sessions in a prescribed manner, and the subagent's application must be accompanied by a certificate from six reputable householders. For some years auctioneers' licences were granted only for the calendar year, but if an auctioneer desired to obtain a licence during the year it was granted for the remaining portion of the year at a proportionate fee, provided, of course, that he presented a certificate on the lines that I have intimated, and in accordance with other considerations and regulations. Subsequently the Act was altered to permit an auctioneer to take out a licence for a year beginning from virtually any date.

The fees for registration have been fixed at a low figure so as to impose no undue strain upon individuals who may be in a small way of business. The agent who desires to obtain a licence for the whole of the State will pay a fee of £2 a year, but for a police district the fee will be £1 a year. The subagent will pay 10s. for a general licence and 5s. for a district licence. Where an applicant is already the holder of an auctioneer's licence no fee will be charged, and if two partners are licensed any further members of the firm may be exempted, subject, of course, to due safeguards.

The bill provides for reciprocity with other States, and there will be an appeal against refusal to grant a licence or against the cancellation of a licence by the Court of Petty Sessions to the District Court. The agent must keep a trust account, and a fidelity bond of £500 in the case of an individual, and £1,000 in the case of a company must be provided. The agent must have a registered office with his name thereon and must keep records of transactions and proper books, which shall be open to inspection at reasonable times. Under the general provisions of the bill contracts must be in writing and only holders of licences may recover fees and commission. The Act will commence in three months. Those particulars cover the main principles of the bill, and so far as details are concerned I shall be pleased to supply any information that is desired when the bill is in Committee.

The Hon. J. F. COATES [6.0]: I desire to commend the Minister for having introduced this measure. I meet it with every sympathy, but I should like to indicate to the Minister one or two amendments that appear to be desirable. In this I am expressing the opinion of the Business Brokers' Association of New South Wales, whose president and secretary have recently seen this bill. In the clause dealing with cancellation of a licence I would suggest to the Minister that he consider the advisability of

altering it. Now any licensed business agent or licensed subagent may, on the information of a member of the police force of the rank of sergeant, be summoned before a court of petty sessions to show cause why his licence should not be cancelled. Business men may find some irritable person bringing charges against them and putting them to considerable trouble, and the powers to be exercised should be exercised either at the discretion of the Minister or someone authorised by him, and somebody at least above the rank of sergeant of police. The charges could be countersigned, and that would mean that the person laying the information would have to be responsible, because if it was thought to be frivolous the magistrate would be able to award costs against the person laying the information. As the bill reads now, any charge may be brought, although it may be absolutely frivolous, but there is no chance of getting any costs from the person who makes the charges.

In clause 22, subclause (2), it is provided that the written record of the business agent shall be open to inspection at all reasonable times by an officer of the police force of or above the rank of sergeant, and every business agent or subagent, upon being required to do that, shall produce the written record kept by him for inspection by such officer. There, again, it is thought necessary for some officer above the rank of sergeant to put that clause in operation. I am told that many charges have been brought before the court, and out of twenty of them, there have been only two convictions, the others being dismissed. I would like the Minister to give that matter his consideration.

In subclause (4) of clause 40 it is provided that where two or more persons commit or knowingly authorise or permit the commission of any offence against this Act each of such persons shall be liable for and the liability of each of them shall be independent of the liability of the other or others. It appears to me that that is an amendment of the criminal law, which at the present time lays it down that there must be two accused persons to be found guilty of a charge of conspiracy. As this amendment has been interpreted by the solicitors for the Business Brokers' Association it entirely alters the criminal law, and one person under this bill, and this bill only, could be convicted of conspiracy. I am not a lawyer, but we have the benefit of eminent legal advisers in this Chamber, and I would like the Minister to look into that clause and the other amendments which I have suggested. I have pleasure in supporting the bill.

Question resolved in the affirmative.

Bill read a second time.

IN COMMITTEE.

Clause 2. In this Act, unless the context or subject-matter otherwise indicates or requires—

. . . . . .

"Subagent" means any person in the direct employ of or acting for or by arrangement with a business agent who performs for such business agent any of the functions of a business agent as defined by this Act whether his remuneration be by way of salary, wages, commission or otherwise; and where the business agent is a corporation, includes any member of the corporation who performs for such corporation any of the said functions (and whether or not he is remunerated as aforesaid) other than a member of the corporation who takes out a business agent's licence on behalf of the corporation.

. . . . . .

The Hon. E. M. MITCHELL [6.7]: I do not know whether this subclause is intended to mean that every person in the employ of a business agent, including every clerk and every other employee, has to be licensed as a subagent. I do not express any definite opinion, but it looks at the moment as if that is so.

Clause 31 provides that no person, unless he is the holder of a subagent's licence, shall be or act as a subagent for any licensed business agent. I suggest to the Minister that he might consider whether that really involves this position, that every employee of a business agent, before he can conduct business for his employer, will have to be licensed as a subagent. I noticed that in going through the bill, but did not arrive at

any conclusion regarding it. The Minister might consider it to see how it works in with the ideas of those responsible for the drafting of the bill.

The Hon. G. NESBITT [6.9]: I am glad the Hon. Mr. Mitchell has pointed out these matters. It seems to me that in the bill, as drafted, if an agent employs a staff of clerks and any one of those clerks, male or female, handles any of the business relating to the sale or disposal of a business, he or she will have to hold a subagent's licence. Suppose, for instance, that an agent employs four or five clerks who have a knowledge of the business, and they give certain information to an inquirer; it seems to me that they would become subagents, and render themselves liable to be licensed. If the office boy answers a question he is acting as a subagent, and, according to this definition, should be licensed. I may be wrong in my interpretation, but I think some amendment should be made so that the whole of the staff are not brought in as subagents when they may be simply giving information to inquirers.

The Hon. H. M. HAWKINS (Assistant Colonial Secretary [6.11]: I appreciate the assistance rendered by hon. members. My first reading of the definition would lead me to think that the position is reasonably protected. However, in view of the representations that have been made, I suggest that if it is found necessary to amend the definition the opportunity should be taken of recommitting the bill on the motion for the third reading.

Clause agreed to.

Clauses 14 and 22 postponed.

Clause 31 (Subagents to be licensed).

The Hon. G. NESBITT [6.16]: If this clause is amended it may meet the position that has been mentioned by the Hon. Mr. Mitchell and myself.

The Hon. H. M. HAWKINS [6.17]: As I have said, the matter will be looked into with a view to recommitting the clause, if it is adjudged necessary, and after consultation with the hon. members.

Clause agreed to.

Clause 40.

. . . . . .

(4) Where two or more persons commit or knowingly authorise or permit the commission of any offence against this Act each of such persons shall be liable therefor and the liability of each of them shall be independent of the liability of the other or others.

The Hon. J. F. COATES [6.19]: The legal advisers of the Business Brokers Association assure me that subclause (4) strikes against a legal principle that has been in operation from time immemorial, that a man cannot be charged singly with conspiracy. If it is necessary to alter the criminal law with regard to conspiracy, I take it the Crimes Act would be the proper Act in which to do it. I am advised that the criminal law is being altered in this clause. Therefore, I move:

That subclause (4) be struck out.

This is a matter on which I should appreciate an expression of opinion by the Attorney-General.

The Hon. H. E. MANNING (Attorney-General) [6.21]: As I understand the position, the difficulty foreseen by the Hon. Mr. Coates is that this subclause authorises a conviction on a charge of conspiracy against one or two partners, notwithstanding that the second person is not guilty of any misdemeanour.

The Hon. J. F. COATES: My instruction is that, if passed, this will be the only case in which such a thing can be done!

The Hon. H. E. MANNING: The important question is, is it done? Actually, it is not. There is no offence of conspiracy under this bill. Conspiracy is defined as a combination between two or more persons to commit a wrongful act. The gist of the offence is the combination. If it is found that two persons take part in it, you have to convict the two. Further, conspiracy is a common law misdemeanour. What is in the minds of the critics in this instance is that there may have been a combination between two persons, agents or subagents, to commit a misdemeanour, and that the wrongful thing consists of a breach of this legislation. It would be impossible to obtain a conviction on a

charge for conspiracy, because there could be no combination to commit that misdemeanour, under this measure.

The Hon. A. M. HEMSLEY [6.24]: Before a person could be found guilty under the provisions of subclause (4), it would be necessary to prove that two or more persons committed or knowingly authorised or permitted the commission of an offence against this legislation. The early part of the subclause seems to be contradictory to the latter part. Should not the word "charged" be inserted in lieu of "commit"?

The Hon. H. E. MANNING: Then, if two persons were charged, they would have to be charged with being liable for committing or authorising the misdemeanour!

The Hon. A. M. HEMSLEY: It may be that the subclause needs reconstructing. On the present verbiage, I take it that a prosecution would fail unless it dealt with two or more persons who committed the offence.

The Hon. H. E. MANNING: It does not exclude proceedings against one!

The Hon. A. M. HEMSLEY: As the subclause is now drafted, one of the first ingredients is that two or more persons commit the offence.

The Hon. H. E. MANNING: That is only adverting to the possibility of two or more persons being guilty of the misdemeanour. It is much the same as a case in which two or three persons are charged with murder, one of whom held a horse while the others entered a house and committed the deed!

The Hon. A. M. HEMSLEY: I take it that, before one person could be found guilty it would have to be proved that two or more persons had committed or knowingly authorised the commission of the offence. I suggest that the Attorney-General should reconsider the wording of the subclause.

The Hon. E. M. MITCHELL [6.26]: The subclause begins with the words "Where two or more persons commit or knowingly authorise or permit the commission of any offence against this Act." It is necessary for the offence to be a joint action. The Hon. Mr. Hemsley has pointed out that where two or more persons commit or authorise an offence they must be charged jointly, and the offence would have to be proved against both. There is no provision that they shall be separately liable. I assume that the draftsman had in mind a position in which two or more persons would be charged, and that he desired to obviate the rule that applies to conspiracy cases. I agree with the Attorney-General that this has nothing to do with conspiracy, because it is dealing with an offence against this legislation, and not with conspiracy; therefore, the offence would be punishable under this measure, and not under common law. The purpose appears to be to have two or three persons charged together, so that if the case fails against one it can be sustained against the other. I suggest that the subclause should be further considered.

The Hon. J. F. COATES [6.29]: I should like the Minister in charge of the bill to accept the suggestion of the Hon. Mr. Mitchell, because no fewer than ten legal opinions have been paid for by the association to which I have referred, and all agree that the subclause, as now drafted, is undesirable.

The Hon. H. E. MANNING: It can stand over!

Amendment (by leave) withdrawn.

Clause agreed to.

Postponed clause 14. (1) Any licensed business agent or licensed subagent may on the information of a member of the police force of or above the rank of sergeant be summoned before a court of petty sessions holden before a stipendiary or police magistrate to show cause why his license should not be cancelled and why he should not be disqualified either permanently or temporarily from holding a business agent's license or a subagent's license (as the case may be) on the ground—

. . . . . .

The Hon. J. F. COATES [6.31]: I move:

That in subclause (1) after the words "police force," the words "of or" be struck out.

I intend to move a further amendment, to insert after the word "sergeant" the words "countersigned by at least one

interested party." That amendment, if carried, will tend to prevent frivolous charges from being made against business men, and where such charges are made the magistrate will have the right later to award costs against the person responsible for them.

The Hon. H. M. HAWKINS [6.32]: The effect of the amendment would be that an officer above the rank of sergeant, ranging up to the superintendent, would have to lay the information. In view of the enormous extent of some of the police districts in New South Wales, particularly in the country areas, it will be readily realised how impracticable the amendment would be. After all, the average sergeant of police in New South Wales is a man of experience, discretion, and judgment, and he would not lay an information without having given proper consideration to the circumstances of the case. It was suggested in another place that any person should have the right to lay an information, but after discussion it was realised by all hon. members in that Chamber that such a provision would be dangerous, and would open the way to the lodging of frivolous complaints. I cannot accept the amendment.

Amendment negatived.

The Hon. J. F. COATES [6.34]: I move:

That in subclause (1) after the word "sergeant" there be inserted the words "countersigned by at least one interested party."

I ask the Minister to agree to this amendment. We quite understand that some persons are liable to make frivolous charges, hoping that the police will take the matter up. In that way an agent can be put to considerable expense, and although the magistrate may offer his sympathy he is not in a position to impose costs against the person responsible for making the charges. I admit that we have a wonderful police force in New South Wales, and that our sergeants are men of great experience, but we must not forget that we have a fine magistracy, composed of men of judgment, and if an agent is accused of a frivolous charge and is put unfairly to expense, surely the magistrate should have the right to order that the agent be reimbursed for his costs.

The Hon. H. E. MANNING: One difficulty would be to ascertain who was the interested party!

The Hon. J. F. COATES: The phraseology of the amendment is not mine, but is that of the legal adviser to the association. I am putting forward the association's views. I should take it that the interested party would be the person who lays the charge against the agent.

The Hon. H. E. MANNING: The words "interested party" have no meaning whatever!

The Hon. J. F. COATES: I ask the Minister to ascertain whether there is a means of overcoming that difficulty. I submit that because of a mere technicality we should not debar an agent from recovering costs from a person who has made a frivolous charge against him.

The Hon. G. NESBITT [6.39]: I hope the Minister will not accept the amendment, which, I think, is rather absurd. It provides that before an officer above the rank of sergeant can lay an information it must be countersigned by an interested party. That is quite a new procedure in criminal prosecution.

The Hon. M. E. MANFRED [6.40]: I commend the remarks of the Attorney-General. It seems to me clear that the prosecuting officer in all these matters is a sergeant. Sergeants of police always have certain duties allotted to them, and it appears to me that so long as a prosecution cannot be initiated by any officer below the rank of sergeant, there is very little danger of a prosecution being started on behalf of some individual who has an axe to grind. The protection the hon. member desires is already there. For these reasons the amendment is one that should not be agreed to by the Committee.

Amendment negatived.

Postponed clause agreed to.

Postponed Clause 22.

(1) Every business agent or sub-agent shall keep in a legible manner a written record containing full particulars of

every business or share or interest in or concerning or the goodwill of or any stocks connected with a business which has been entrusted to him for the exercise or performance in relation thereto of any of the functions of a business agent as defined by this Act.

(2) The written record shall be open to inspection at all reasonable times by an officer of the police force of or above the rank of sergeant, and every business agent or subagent upon being required so to do shall produce the written record kept by him for inspection by such officer.

. . . . . .

The Hon. J. F. COATES [6.43]: I move:

That in subclause (2) the words "an officer of the police force of or above the rank of sergeant," be struck out, and there be inserted in lieu thereof the words "the Minister or any other person authorised in that behalf by him in writing."

The Hon. H. M. HAWKINS [6.44]: I appreciate the courtesy of the Hon. Mr. Coates in suggesting this amendment. The reason I cannot see my way to accept it is that there is a provision in exactly similar terms in the Auctioneers Act. I have had thirty years' experience as an auctioneer, and a sergeant of police can come to my office and ask for certain information. I have never known that power to be used unfairly or unreasonably. The hon. member will appreciate my attitude.

Amendment (by leave) withdrawn.

Postponed clause agreed to.

Bill reported without amendment; report adopted.

House adjourned at 6.45 p.m.

Legislative Assembly.

Tuesday, 12 February, 1935.

Questions without Notice—Reconstruction of Ministry (Ministerial Statement)—Legal Practitioners (Amendment) Bill (third reading)—Factories and Shops (Amendment) Bill (second reading)—Mining (Amendment) Bill—Adjournment (Hospital Boards).

Mr. SPEAKER took the chair.

The opening Prayer was read.

QUESTIONS WITHOUT NOTICE.

MR. JUSTICE WEBB: BROKEN HILL AWARDS.

Mr. DAVIDSON: Has the attention of the Minister for Labour and Industry been directed to a statement that appeared in this morning's press to the effect that, uninvited by either employer or employee, Mr. Justice Webb, Industrial Commissioner, visited Broken Hill last week to vary awards according to the cost of living; that it was pointed out to him that industrial peace reigned in the city as a result of agreements between employers and employees; and that, notwithstanding this warning, Mr. Justice Webb amended the award, with the result that it has disturbed the industrial peace at Broken Hill? If this report is correct, will the Minister use his prerogative, and restrain Mr. Justice Webb from having any altered or varied awards gazetted that would create industrial unrest at Broken Hill?

Mr. DUNNINGHAM: It is not the intention of the Government, either now or at any other time, to interfere in any way with a judicial tribunal.

THE GOVERNMENT AND THE B.M.A.

Dr. WEBB: Has the attention of the Premier been directed to a report which appears in the *Sydney Morning Herald* of to-day's date of an interview with the hon. member for Neutral Bay, wherein it is stated that the B.M.A., he frankly acknowledges, dominates the U.A.P. Cabinet? If this report is correct, will the Premier inform the House whether this condition exists or has existed? If the answer is in the affirmative, will he give the House a chance to discuss the dissolution of the B.M.A., owing to this great abuse and misuse of its memorandum of association?

Mr. STEVENS: I have not seen the statements to which the hon. member for Hurstville has referred. I did see a statement appearing in a section of the press yesterday which bears out what he says. There is no foundation in fact, or in the policy of the Government, for such a sweeping assertion. As the statement has been made, and as it