**SOUTH-EASTERN DRAINAGE ACT FURTHER AMENDMENT BILL 1917**

**Legislative Council, 23 October 1917, pages 871-7**

Second reading

**The COMMISSIONER of PUBLIC WORKS** —I move the second reading of , this Bill, which is for an Act to provide for the abolition of the South-Eastern Drainage Management Board, and for the performance of its functions by the South-Eastern Drainage Assessment Board, to amend the South-Eastern Drainage Act Amendment Act, 1908, and the South-Eastern Drainage Scheme Acts, 1908 and 1910, and to make adjustments as to the cost of certain drains to which the South-Eastern Drainage Act Amendment Acts, 1908 and 1909, apply, and for other purposes. Shortly, the Bill deals with the problem of the control and management of the extensive drainage works in the South-East. If honorable members give attention to the measure, and to the plan displayed in the Chamber, they will realize the magnitude of the undertaking, and see how much of the original scheme remains to be carried out. Practically the whole of the work has been completed up to a certain point, but to leave it there would mean an absolute loss to the State, and to the landowners, because it would be ineffective. There are also certain financial arrangements and adjustments that must be made. Under the Act of 1908 the management board was constituted under the title of the South-Eastern Drainage Management Board, and all the drainage matters which were previously within the functions of the district councils were transferred to and vested in the board, which consisted of a chairman, who was appointed by the Government, and four representative members, were, elected by the ratepayers of the drainage area. This system of control by the management board has, however, not proved satisfactory, and for some considerable time the board has ceased to hold meetings, and for all practical purposes is defunct, one of the principal difficulties being that it was unable to collect the rates from the persons benefited by the drainage works. The reason it was unable to collect such rates was that upon an appeal to the Local Court, the assessments were not upheld; but that is rectified in the present Bill by the appeal being made to the board only. Provision was made in the South-Eastern Drainage Act Amendment Act, 1908, for the Assessment Board to be appointed, and this board has since made all the assessments for repayments by the persons interested in drains made under this Act. Clause 29 of the Bill now under consideration is an important one, insomuch as it provides for an additional amount of £150,000 over and above the £300,000 authorized for the schemes constructed under the Act of 1908, and in this connection, before going into a general explanation of the Bill, I think it wise to give a short description to honorable members of the drainage work that has already been done in the South-East, and also the work yet to be carried out, and for which the provision of £150,000 is made in the Bill. The following is a description of the scheme drains already carried out:—

Drain A.—From Dismal Swamp, hundred Young, and emptying into Baker’s Range drain, hundred of Riddoch, to relieve the Dismal Swamp and adjoining country of flood- waters. Drain B.—Commencing near Penola, in the hundred of Penola, running through Monbulla and Killanoola, and emptying into Bakers Range drain, to relieve the country in the hundreds of Penola and Monbulla. Drains C and D.—To relieve the country in the hundreds of Penola, Comaum, and Killanoola. Drain E.—Commencing at Lake Omerod, in the hundred of Naracoorte, passing through the north-eastern corner in the hundred of Spence, and through the hundred of Lochaber, and emptying on to the poor country in the hundred of Marcollat. This drain relieves the Garey’s Swamp and Lochaber Valley country. Drain “e.”-—Commencing at the north-east corner of the hundred of Spence, and adjoining the drain E near the southern portion near the hundred of Lochaber. Relieves the country northward previously flooded by the over­flow from Garey’s Swamp. Drain L (which is nearly completed).—From the sea near Robe, passing through the hundreds of Waterhouse and Ross to the Reedy Creek, in the hundred of Conmurra. Relieves the country between the sea and Reedy Creek of flood waters and prevents a large quantity of water from passing northward. Drain M (which is completed to within about 2 miles of Reedy Creek)—From the sea near Beachport, passing through the hundreds of Lake George and Symon to Reedy Creek, near Gillap. This relieves the hundred of Symon of floodwaters, and prevents the water passing northward. Stop Banks and cutting.—A bank has been constructed in the hundred of Woolumbool, and a cutting has been made in the hundred of Peacock. Also a stop bank has been made in the county of Cardwell, near the northern portion of the hundred of Landseer, to divert the Baker’s Range drain, which previously flowed into Reedy Creek, on to the poor country in the county of Cardwell.

It may be interesting to note that under the old system the drainage scheme followed the natural trend of the waters, and conveyed the waters in their natural flow north to the Coorong. The present scheme alters that scheme altogether by making a cutting from east to west, hence the water all flows .to the sea at the nearest points.

The Hon. J. Cooke—Is that system satisfactory?

The COMMISSIONER of PUBLIC WORKS —I think it is. It must be remembered that this year, although the total rainfall has not been very much heavier than in other seasons, the fall during May, June, and July was exceptionally heavy. The result was that the level of the spring water was raised to such an extent that the country actually became waterlogged. Consequently any argument that endeavors to prove that because of the drains starting from Dismal Swamp the country at Baker’s Range has been flooded is fallacious. The drains I referred to form an outlet for further drainage, and have already caused the floodwaters to flow away much more rapidly than hitherto, and when supplemented by subsidiary drains will affect great improvement to the country. The cost of the drains already carried out including the completion of drains L and M to Reedy Creek near Gillap, is £331,500, or £31,500 in excess of the provision in the Act, which amount, however, has been authorized by the Government. The cost of the complete scheme is estimated to be £450,000. The work yet to be carried out, and for which the provision of £150,000 is made in the Bill, includes continuing drain M from Reedy Creek near Gillap to near Callendale Head Station, in the hundred of Coles; drain K (which is an extension of drain L) from Reedy Creek to a point about four miles south of the township of Lucindale; and drain J, in the hundred of Minecrow and Murrabinna, an improvement to the Avenue Creek drain; also such other minor works as may be found necessary. It also includes the £31,500 already spent in excess of the original provision of £300,000. The whole of the work, with the exception of drain B and stop banks and cuttings to divert Baker ’s Range drain has been carried out on departmental tender, and judging from the lowest outside tender received, has resulted in a saving of 50 per cent. The additional cost over and above the estimated cost of £300,000 is due to the fact that the estimate was made when there had been practically no experience in Australia of the use of excavating machinery, and catalogue prices were taken for excavation, which in every case were too low. In addition the cost of wages and material has been on the increase ever since the work was started.

The Hon. E. Lucas—Are the people who are getting the benefit of the works paying the interest on the total cost?

The COMMISSIONER of PUBLIC WORKS —I am safe in saying they are not, because there are certain works which are deemed to be national works, and other works in regard to which the people benefited pay interest, and a certain sum to repay the principal. The report of the Parliamentary Draftsman goes to show that this Bill proposes to abolish the South- Eastern Drainage Management Board, and the transfer to and the vesting in the South- Eastern Drainage Assessment Board of all the powers and functions which were given to the Management Board in the previous Acts, as pro­vided for in clauses 4 and 5 of this Bill. Clause 6 provides that the money required by the Assessment Board to enable it to exercise the powers and functions transferred to it under clauses 4 and 5, i.e., to carry out the management of the South-Eastern drainage scheme, is to be voted by Parliament, but all money so voted is to be repaid by the board from time to time out of moneys derived from drainage rates. Clauses 7 to 12 contain certain special provisions relating to the Assessment Board. Clause 7 proposes to constitute the Assessment Board a body corporate, with power to sue and be sued, and with all the other usual powers of a body corporate, except power to hold and dispose of land. All land required for drainage purposes will be held by the Commissioner of Public Works in his corporate capacity (clause 30). Clauses 8 to 12 re-enact certain provisions contained in the amending South-Eastern Drainage Act of 1908, relating to the Management Board, and make them applicable to the Assessment Board. These provisions are of a formal character, and are necessary on account of the Assessment Board taking over the functions of the Management Board. Clause 13 makes provision for the adjustment of the cost of constructing certain drains, namely the Ross drain and Lochaber Valley drain. These two drains were constructed pursuant to petitions under the South-Eastern Drainage Amendment Act, 1900, and under the Act of 1908 the cost of constituting these drains must be repaid by the owners of the land benefited by the drains. These two drains, however, will form part of the “scheme” drains constructed under the South- Eastern Drainage Scheme Acts, 1908 and 1910, and under this Act only half the cost of construction must be repaid. Thus, if clause 8 is not passed the persons benefited by the Ross and Lochaber Valley drains will have to pay the cost of construction twice over; firstly for the “petition” drain, and secondly for the “scheme” drain, though really the drains are practically one and the same. This clause, therefore, proposes to discharge all liabilities in respect of the two drains mentioned to the extent that they are incorporated in the scheme drain, and provides for the repayment of the cost of the scheme drain alone. Clause 14 makes an adjustment consequential on the adjustment made by clause 13. In the petition, pursuant to which the Ross drain already referred to, was constructed, another drain, known as the Bray drain, was included, and the cost of these two drains has been arrived at as a whole. The cost of constructing the Ross drain having been merged in the cost of constructing the scheme drains, it is necessary to ascertain what proportion of the total cost of the two drains is attributable to the Bray drain in order that provision may be made for requiring the repayment of the cost of constructing the latter drain. This the clause makes provision for by providing that the certificate of the Engineer-in-Chief is to be conclusive as to the cost of the construction of the Bray drain. Clause 15 to 29 makes provision for various amendments in the amending South-Eastern Drainage Act of 1908. These amendments are mainly directed to giving the Government greater power to provide for the proper upkeep of the drains, to make certain ad­justments consequential on the alteration in the system of management of the drains, and to correct certain minor anomalies. Clause 15 provides for various amendments of the Drainage Act of 1908, with the object of altering the constitution of the Assessment Board. At present the Act provides that the following shall be members of the Assessment Board, namely:— The Engineer-in-Chief, the Deputy Surveyor- General, a member of the Land Board appointed by His Excellency the Governor, and two representatives from the South-East. The office of Deputy Surveyor-General has, however, lately been abolished, and it is, besides, desirable to give the Government as wide a choice as possible in the matter of the selection of a successor to the member of the Land Board who is at present Government representative on the Assessment Board. Clause 15 therefore proposes that the members of the Assessment Board shall be the Engineer-in-Chief, the Surveyor- General, an officer of the public service appointed by His Excellency the Governor, and two representative members as heretofore. The result of the amendment proposed by clause 15 will be that the Government will have a majority of representatives on the Assessment Board, and thus will be in a position to ensure that the Board shall not make default in carrying out its obligations under the Act. Clause 16 proposes to repeal Division I. of Part III. of the same Act, which relates to the constitution and the internal procedure, &c., of the Management Board. These provisions are unnecessary in view of the abolition of the Management Board already provided for. Clause 17 amends section 33 of the same Act with the object of giving the Board power to cleanse or repair drains situated on private land. Lack of this power has been found in practice to be highly inconvenient. The clause also proposes to repeal the latter portion of section 33, which gives the Commissioner power to cleanse or repair a drain on default by the Drainage Board. As the Assessment Board which will, for the future, be charged with the duty of cleansing, repairing, and maintaining the drains is much more under Government control than the old Board, it may be taken for granted that the power referred to will never be required. Clause 18 re-enacts section 34 of the same Act, giving power to the Commissioner to construct district drains and drainage works which are of national importance on the recommendation of the Board, and at the cost of the State. It is considered to be more equitable that the cost of such drains and works should be borne by the taxpayers as a whole, instead of, as the Act at present provides, falling exclusively upon the local landowners. Clause 19 proposes to repeal section 35. This is consequential on the altered terms of section 34 just explained.

Clause 20 re-enacts section 36 of the same Act to enable the Commissioner, on the recommendation of the Board, to connect district drains with main drains. At present this power is vested in the Drainage Board, to be exercised with the consent of the Commissioner. Clause 21 makes an amendment to section 37 of the same Act. The amendment is merely consequential on the alteration proposed by clause 18. Clause 22 amends section 43 of the same Act with the object of providing that all appeals against assessments for drainage rates shall be made only to the Assessment Board, and that its decision shall be final. At present there is an appeal to the nearest Local Court. Clause 23 re-enacts section 44 of the same Act with the object of making provision for defraying the cost of cleansing, repairing, and maintaining the drains. This cost is to be borne in the first instance by the State, but the State is to be recouped for its outlay out of the drainage rates collected by the Assessment Board. Clause 24 provides for a small amendment of section 45 of the same Act consequential on the new form of section 44. Clause 25 makes various amendments in section 48 (2) of the same Act to enable the Commissioner, instead of the Drainage Board as at present, to construct or repair or cleanse a private drain in the proper manner on default by the person to whom a licence has been issued for the purpose. Clause 26 amends section 57 of the same Act to validate any apportionment of the cost of the construction of any drain which is made after three years from the date of completion of the drain. In some cases it- has been found impossible to make the apportionment within three years from that date, as prescribed by the section. Power is given, however, to the Commissioner to postpone the date on which payment of the instalments of the cost is to commence, in cases of hardship. Clause 27 amends section of the same Act to enable interest at 4 per cent, to be charged on the amount of any instalment which is more than six months overdue; Clause 28 makes provision for the apportionment of the cost of the drain where the land which was originally charged with such cost is subdivided in consequence of a sale or otherwise. Power is given to apportion the amount originally charged against the whole of the land against the several portions into which it has been subdivided. The South-Eastern Drainage Scheme Act of 1908 provided that the cost of the scheme drains authorised by the Act to be constructed should not exceed £300,000. It has been found, however, that this sum is quite inadequate, and that £450,000 will be required to carry out the works authorised by the Act. Clause 29 therefore amends the Act in question so as to authorise the

additional expenditure. Clause 30 provides that all land required for the purposes of the South-Eastern Drainage Acts shall be vested in the Commissioner of Public Works, who has lately been created a body corporate with power to hold land. Clause 31 enables a landowner to connect up his private drains with the Government drain, and for that purpose to cut his drains across the land of an intervening landowner. He must, however pay to the intervening landowner such sum by way of compensation as the Assessment Board thinks reasonable. Clause 32 amends the definition of “landholder” contained in the South-Eastern Drainage Act, 1908, and the South-Eastern Drainage Scheme Aet, 1908, in order to remove an anomaly now existing. At present the holder of a miscellaneous lease from the Crown must pay his proportion of the capital cost of the drains, although his tenure is for a limited period and of an uncertain character. It is felt to be more just for the capital cost in such cases to be paid by the Crown, which is the owner of the freehold, and for the lessee’s liability to be limited to paying only his proper pro­portion, as fixed by the Assessment Board, of each annual instalment of the capital cost. Clause 33 is necessary in view of the fact that the expenditure under the South-Eastern Drainage Scheme Act of 1908 has already exceeded the sum of £300,000 authorised by that Act. Difficult legal questions arise as to the liability of the landholders to pay their one-half of the cost of the construction of the drains under that Act, as the drains have not been constructed for the authorised amount. Clause 33 therefore provides that, notwithstanding that the authorised expenditure has been exceeded, one-half of the actual cost of construction of the drains shall be paid by the landowners within the benefited area. This clause also provides that the Gillap drain already constructed may be continued as far as Callendale, and as so continued shall be included as one of the scheme drains. There has been an endeavor to hold the scale equally between the landholders, the Government, and the taxpayer, and I hope the Bill will receive favorable consideration. I move the second reading.

The Hon. J. COWAN secured the adjourn­ment of the debate until October 24.