SOUTH-EASTERN DRAINAGE BILL 1931

**House of Assembly, 11 August 1931, page 1251**

Second reading

**The COMMISSIONER OF CROWN LANDS (Hon. R. S. Richards—Wallaroo)—**The South-Eastern Drainage Bill now before members is similar to the consolidating and amending Bill which last year was introduced, but not passed. Last year’s Bill contained comprehensive provisions for changing over the administration of the South-Eastern drainage system from the Irrigation and Drainage Commission to a new board and also for revising the system of assessing the land for rates and instalments of the cost of the scheme drains. Parliament, however, did not find time to deal with the whole of the Bill introduced last year, and towards the end of the session the measure was amended by leaving out almost the whole of the provisions except those providing for the transfer of the administration. The Bill in its amended form was finally passed early this year. There remains, therefore, to be dealt with by Parliament the greater part of last year’s Bill. The present measure contains, in addition to the consolidation of the existing law, all the provisions for establishing the new administration, changing the system of assessment for rates and instalments of the cost of the scheme drains, conferring a right of appeal against such assessments, and apportioning the liability for the cost of the scheme drains. I do not propose at this stage to explain all the clauses in detail, since a great many of them are substantially the same as the existing law, with only such changes as are rendered necessary by the change of administration. The establishment of a board in lieu of the Irrigation and Drainage Commission has necessitated verbal alterations in almost every clause. Part I. contains the usual formal and preliminary matters. Part II. merely incorporates the provisions for the new South-Eastern Drainage Board as agreed to earlier this year. Part III. deals with petition drains, and its provisions are substantially the same as those in the existing Act with the exceptions that the new board is given the powers of the Irrigation and Drainage Commission, and is further empowered to remit part of the capital cost of the Symon petition drain and interest thereon. This latter provision is necessary because the Symon petition drains do not afford adequate protection to the lands served by them, and in consequence the present charges are out of proportion to the benefit conferred. The Land Board has already adjusted the amounts due for this land, and in order to put the landholders on a satisfactory basis the drainage charges also should be reduced. Division II. of Part III. deals with the maintenance rate. The proposal is to raise money for the maintenance of the drains by means of a rate on the value of the benefit (if any) received by the land of each landholder from the drains and drainage works. Under the existing law, to put the matter shortly, although the land is classified into divisions according to the benefit received from the drains, the rates are not based on the assessment of benefit but on the unimproved value of the land. Rates so assessed do not, owing to the inequalities of land values in the South-East, bear any necessary relation to the value of the benefit received from the drains. To remedy this the Bill institutes a new system under which the board will assess the benefit accruing from the drains to the land of each landholder. The landholder will have a right of objection to the assessment. Every objection must be considered by the board, and the landholder will be given an opportunity to adduce his evidence. When the assessment list has been settled the drainage rate will be declared annually at so much in the pound of the assessed value of the benefit. There is one point on which the amount required to be raised annually by means of the drainage rate under the Bill differs from the amount so required under present law, in that the Bill requires the amount raised to include a sinking fund contribution of 3s. per cent. on the loan moneys spent on the drains, other than moneys which are recoverable from landholders such as the cost of petition drains or the landholders’ part of the cost of the scheme drains. The State has to pay this contribution annually to the Public Debt Commission under the Sinking Fund Act of 1924, and it is not unreasonable to charge it against the land benefited by the drains. Since July 1, 1927, the drainage rate has been declared and levied on the basis of an old assessment of the benefit accruing to the lands from the drainage system. It may turn out when the new assessment of benefit is made that some landholders have been paying more under the old assessment than they would have had to pay if the new assessment had been in force since July 1, 1927. In such a case the Bill provides that the landholder will be credited with the excess which he has paid. Division IV. of Part III., which contains general provisions relating to the construction and maintenance of drains, gives the board similar powers to those possessed by the Commission under the old Act. In addition, by clause 83 the board is given a power which did not previously exist, namely, a power to construct accommodation bridges over drains on private property. When the Government take land for a drain from a private owner all claims for accommodation bridges are usually settled at the time of the acquisition of the land. Some drains, however, have been constructed through private property, but the Government have not acquired the land on which the drains actually exist, the reason being that the Government had the right under a lease or agreement to construct the drain without compensation to the owner. In these cases the occasion for dealing with accommodation bridges never arose, and a number of landholders have for years been agitating for the construction of bridges over the drains on their land. The Government realise the justice of the claim, and therefore seek the necessary authority from Parliament. Part IV. enacts the new provisions as to payment of the cost of the scheme drains. As in the case of the provisions for maintenance rates, the existing provisions for apportioning the cost of the scheme drains are unsatisfactory because, in the ultimate analysis, the amount payable by landholders depends on the unimproved value of their respective holdings and not on the value of the benefit received. The new provisions provide for apportioning between the landholders in the “drainage area,” (that is, the area in which the vote on the scheme drains was originally taken) the sum of £180,000 as their share of the cost of these drains, subject to the provision, however, that if the assessed value of the benefits received by all these lands is less than £180,000, then only the lesser amount will be due. The value of the benefit accruing to each holding will be assessed, and the amount due by all the landholders will be apportioned between them according to the amount assessed. The landholders will have the right to lodge objections with the board against the assessment of benefit, as in the case of assessments for rates. The amount apportioned to each landholder will be payable by him with interest at 4 per cent. on the balance unpaid from time to time in 42 equal yearly instalments. Interest will run from July 1922, as under present law, but the interest accruing between that date and the date when the first instalment becomes due will be payable over the period of 42 years in equal instalments. No interest on the balance of unpaid interest will be charged. There is only one other alteration in the law to which I need direct attention. This relates to the rate of interest on overdue payments of rates and instalments of cost. At present 5 per cent. interest is charged on overdue rates and instalments of the cost of petition drains; and 4 per cent. is chargeable on overdue instalments of the cost of the scheme drains. The Bill alters these rates to the “current rate” in all cases—that is to say, the rate at which money can for the time being be borrowed on behalf of the Government. The fairness of this amendment will be obvious. I now come to the matter of appeals (or objections, as they are termed in the Bill) against assessments of benefit. In the Act of 1926, the landholder was given the right of appeal to the Local Court against the classification of his land for maintenance rates, but in accordance with the recommendation of the Royal Commission on South-Eastern Drainage no appeal was granted against the assessments for costs of the scheme drains. Since 1926 both the Southern Drainage League and the South-Eastern Drainage League have asked to have the Act amended to give the right of appeal. This has been approved by Cabinet, and provision has been made in the Bill to give effect to this decision. The appeal will be to the Board. It is important to note that in cases where the benefit to any land is due solely to the scheme drains the assessment of benefit will be the same for maintenance rates and scheme drain costs and it is essential, therefore, that the appeal should be to the same body in both instances.

Mr. Reidy—That is not what the South Eastern Drainage League asked for; they want an appeal to a court.

The COMMISSIONER of CROWN LANDS —I have discussed the matter with members of the Board and with all the officers concerned, and I am quite satisfied it will be to the ultimate benefit of the landholder. If the House decides to alter the provision to permit an appeal to another court neither the Minister nor the Board will be much distressed about it. I ask this House, however; to give careful consideration before adopting an amendment along those lines. That completes the general description; of the Bill; but for the information of honorable members, I wish to give a further explanation of the provisions which alter the system laid down in the 1926 Act in regard to the assessment for rates and instalments of the cost, of scheme drains. Under the provisions of the South-Eastern Drainage Act, 1926, the Commission was required to classify all the lands in the South-East into divisions according to the value received by those lands from drains and drainage works (sections 47 and 89). In order to accomplish this, the Commission appointed Messrs. Dutton and Darwent to make a new assessment of benefits accruing from drains and drainage works to all lands liable for rating both in respect of maintenance and the apportionment of the landholders’ share of the cost of the scheme drains. This was a task of considerable magnitude involving a close examination of 1,344 holdings, and although every effort was made to hasten commencement of the assessment and expedite the work it was not completed until last year. When the application of the figures submitted by the assessors was considered by the Commission, it was found that insuperable difficulties would arise if the system of rating provided for in the 1926 Act were adopted. Under that system the Commission was required to determine and publish in the "Gazette” the ratios, whether uniform or otherwise, which the rates in the various divisions were to bear to each other (sections 59 and 91), and then after all appeals had been finally disposed of, declare a differential rate in conformity with the gazetted ratios, such rate to be levied upon the unimproved value of the rated land then in use for the purpose of the State land tax (sections 55-and 95). This method of rating was recommended by the Royal Commission on South-Eastern Drainage as one which had proved valuable in Victoria. In that State, however, it had been applied, over limited compact areas, practically the whole of which received a measurable amount of direct benefit from the drainage system installed, whereas in the South-East the circumstances are quite dissimilar, inasmuch as the district to be rated comprises over 2,600,000 acres, the drainage system is incomplete and consists of a limited number of main outlet channels long distances apart, and the land, which ranges from loose sandy rifles to rich peat flats, changes in quality to such an extent that several different types occur, within the limits of a comparatively small holding. These inequalities in the land added; greatly to the difficulties of the assessors, who had perforce, to abandon the idea of determining the benefit- accruing to each holding on a flat rate per acre basis; and; adopt instead the practice of estimating the total acreage of each group of scattered areas receiving similar benefit, with the result that on a single holding there might be three or more different divisions or zones represented. It is estimated that from 60 per cent. to 70 per cent. of the holdings assessed contain two or more divisions or zones, and it is difficult, therefore, to see how the board could equitably divide the districts into divisions on the basis of the benefits derived as required under the provisions of the Act. Even if it were possible to separate into divisions the areas differently assessed, a further difficulty in carrying out the 1926 Act would arise as the State land tax assessment for each division would not be available, and, in any event, the apportionment of the total unimproved value of a property over the divisions adopted would necessarily be of so arbitrary a nature as to make it unacceptable to landholders. There was only one other way in which effect could be given to the scheme embodied in the Act, and that was by averaging the total amount of benefit over the full acreage of each holding, but this was found to work out so inequitably that it could not be followed. Illustrations worked out by the Commission indicated that under the scheme varying amounts would be charged for the same estimated benefit. With regard to the rating of lands for constructional costs of scheme drains, the system set out in the 1926 Act was found to be unworkable. The basis of the Royal Commission’s recommendations was the original agreement which required the landholders to repay their share of the cost together with 4 per cent. interest in 42 annual instalments of £4 15s. 4d. per £100 of liability. This portion of the contract should be strictly adhered to and this would not be possible under the zoning system, which could only work out fairly if the unimproved land values varied in the same ratios as the amounts of assessed benefit. This is certainly not the case as the variations in unimproved values bear no relation whatever to the assessment and consequently by adopting such values as the basis of rate, the object of the whole scheme, namely, the apportionment of costs in accordance with the amount of benefit received must be defeated. It was found to be imperative, therefore, that this system be abandoned and that in order to ensure that the instalments actually fixed shall be governed by total amount of benefit determined by the assessors, the latter should be made the basis of scheme drain repayments. Apart from the foregoing disadvantages, the zoning system is objected to on the grounds that lands receiving very nearly the same amount of benefit per acre, owing to one area being at the maximum and the other at the minimum of their respective divisions will be subject to different rates in the pound of unimproved value, and unless the gradations between the divisions were very small, this would cause sufficient difference in the amount charged to constitute a sound reason for dissatisfaction. I have much pleasure in moving the second reading.

Mr. REIDY secured the adjournment of the debate until August 13.