

the whole of any of these roads as compared with the use of the same by Waimate is not more than three-fifths. This being so, if the tonnage of 1,340 tons above mentioned is taken as a basis, and it is reduced by three-fifths, it equals 804 tons. The proportion would therefore be Levels 804 and Waimate 1,184—say as eight-nineteenths is to eleven-nineteenths. This, of course, is not conclusive, but it goes to show that the heavy traffic from Waimate over the Main South and Otipua Roads from Waimate is at least as great as that from Levels, considering that one uses the whole roads and the other only parts.

AS REGARDS EACH ROAD SPECIALLY.

1. *Cave-to-Cannington Road.*

This road is a boundary-road between Mackenzie and Levels Counties, and is wholly in Mackenzie County. It is under the control of that county, and both counties contribute half the cost of maintenance in pursuance of section 250 of "The Counties Act, 1896." Levels County sought to compel Waimate to contribute one-fourth cost of maintenance, and thus relieve itself of part of its share.

I am of opinion that section 8 of "The Public Works Acts Amendment Act, 1900," does not cover this case, as it is specially provided for in "The Counties Act, 1896," as above. Even if it does come under section 8 of the Act of 1900, I am of opinion that it is not equitable that Levels County should get its own contribution altered without the Mackenzie County having opportunity to be present at the inquiry, for if Mackenzie County finds that Waimate County ought to contribute it may not be willing to continue to pay the proportion now contributed. I think the Levels County has mistaken its remedy in this case.

2. *Main Otipua Road.*

This road extends from the Upper Pareora Bridge to its junction with the Main South Road near the Otipua Creek, just outside Timaru. Along it comes practically the bulk of the traffic from the Upper Pareora Riding and part of the Lower Pareora Riding in Waimate County, as well as from lands lying near it in Levels County, and as it lies some distance from the railway the heavy traffic, which the parties both admitted came from Waimate County, comes for the most part along this road. Most of the sheep from the Upper Pareora Riding, after coming on to this road near the Upper Pareora Bridge, go to Timaru by a different road, and therefore hardly use it. A very large quantity of light traffic from Waimate County uses this road. The proportion claimed from Waimate County is one-half the cost of maintenance, based, I assume, on the fact that the road is used as much by Waimate as by Levels County ratepayers.

I consider this proportion is much too high. The onus of the upkeep of a road is placed by law on the local body in whose district it is situated, and it must in any case keep it in order for its own ratepayers. The fact that the Waimate people use this road as much as do the Levels people is not in itself sufficient justification that Waimate should pay half—first, because every district must expect its roads to be used by others to some extent, and it is only when that user attains large dimensions that it can claim assistance, and any use therefore below "large" use must first be taken into account in fixing the proportion; second, it is not the traffic so much as natural causes that damage a formed road and cause expense, and Levels County would have to bear that expense whether Waimate used the road or not. Under the circumstances, therefore, and considering the large use made of this road by Waimate ratepayers on the one hand, and of the equities of the case, as fully set forth in the previous case, on the other hand, I am of opinion that if Waimate County contributed one-fourth of the cost of maintaining this road it would be just.

*Main South Road.*

This road extends from the Lower Pareora Bridge to the southern boundary of the Borough of Timaru. The proportion claimed from Waimate is one-third. The road is used very largely indeed by Waimate County people for light traffic to Timaru. There is no evidence of any considerable quantity of heavy traffic passing along it from that county, as is the case on the Otipua Road, although some comes. Large quantities of sheep come along this road. In the case of this road there is evidence that more Levels ratepayers use it to get to Waimate County than in the case of the Otipua Road.

Taking these and all other relevant facts and the equities into consideration, as in the previous case, I am of opinion that if Waimate contributed one-sixth of the cost of maintaining this road from the Lower Pareora Bridge to the junction of the road with the Otipua Road it would be fair. The portion of the road beyond the junction is practically in the suburbs of Timaru, and I think that Levels County should maintain it.

*Brassell's Road.*

This is a short road from the Pareora River to the Otipua Road, and, together with another road called Jeffcoat's Road, is the main avenue through which the Waimate settlers who use the Otipua Road reach that road. It is probably used by about nine Levels settlers, and must in any case be maintained by Levels County for these persons.

My remarks on the subject of the Otipua Road apply to this case, and I am of opinion that one-fourth of the cost of maintenance as claimed is fair, provided that no claim is made on Waimate County for the use of Jeffcoat's Road.

*Upper Pareora Bridge.*

Levels County claims from Waimate County two-thirds of the cost of maintaining this bridge, and apparently bases its claim on the much larger use of it by Waimate than by Levels ratepayers. There is no doubt that this bridge is more used by Waimate than by Levels ratepayers, but not so