

1902.
NEW ZEALAND.

LEVELS AND WAIMATE COUNTIES

(REPORT OF COMMISSION ON CONVERGING TRAFFIC IN), WITH MINUTES OF EVIDENCE.

Return to an Order of the House of Representatives dated the 23rd September, 1902.

Ordered, "That there be laid before this House the evidence and proceedings of the Traffic Commission which recently inquired into and adjudicated on the matter of converging traffic in the case of the Levels and Waimate Counties."—(Hon. Major STEWARD.)

REPORT.

To His Excellency the Right Honourable the Earl of Ranfurly, Governor and Commander-in-Chief in and over His Majesty's Colony of New Zealand, &c.

MAY IT PLEASE YOUR EXCELLENCY,—

In pursuance of Your Excellency's Commissions, dated 24th February, 1902, I commenced an inquiry at Sophia Street Hall, in Timaru, on Thursday, the 1st May, 1902, at 10 o'clock a.m., as to the apportionment of the cost of maintaining the following roads, viz.,—

- (1) Cave-to-Cannington Road,
- (2) Brassell's Road,
- (3) Otipua Road,
- (4) Great South Road,—

also as to the control of apportionment of the cost of maintaining the Upper Pareora Bridge, near Rural Section 16029, and the Lower Pareora Bridge, which is part of the Great South Road above referred to.

The roads are the subject of a Commission issued under section 8 of "The Public Works Acts Amendment Act, 1900." The bridges are the subject of a Commission issued under section 114 of "The Public Works Act, 1894," but, as they are connected with some of the roads, they were by consent of parties all included in one inquiry.

The Levels County Council was represented by Messrs. Raymond and Moore, barristers, &c. ; the Waimate County Council was represented by Messrs. Kinnerney and Hamilton, barristers, &c. ; and the case occupied four days continuously.

The same general objections from an equitable point of view were largely raised in this case as in the case of the Levels County *v.* Geraldine and Mackenzie Counties, a report of which I forward at the same time as this one, and which I shall hereafter refer to as "the former case." It is not therefore necessary for me to again state my conclusions as to these objections, but Mr. Kinnerney raised two further objections, which I will refer to later on.

I will deal with the case first of all generally, afterwards I will deal with each road specially, applying to my conclusions the same equitable considerations as guided me in the former case, and it must be understood that my recommendations are made after carefully considering such questions.

AS TO THE CASE GENERALLY.

The roads and bridges which are the subject of this claim form, with the exception of the Cave-to-Cannington Road, the main arteries of one system of roads through which traffic to and from the part of Levels County south of Timaru, and to and from the Upper and Lower Pareora Ridings in Waimate County, converges on Timaru. The Main South Road is, moreover, part of the main road from Invercargill to Christchurch.

Leaving out the Cave-to-Cannington Road these roads pass through some of the most fertile portions of the Levels County, and they drain the traffic from the lower and a large portion of the Upper Pareora Ridings in Waimate County, which lands are, on the whole, as fertile as those on the opposite side of the Pareora River in Levels County.

One very strong argument in support of the claim of the Levels County in respect to these roads lies in the fact that the whole of the Lower Pareora Riding without exception, and the greater part of the Upper Pareora Riding (as represented by areas), have petitioned to be annexed to Levels County, and a Bill to give effect thereto was presented to Parliament last session, but the Bill did not pass, for reasons which do not concern this report. The avowed object of the movement was for closer touch with Levels County, "because all their interests lay that way,"

and it was conclusively proved at the inquiry that this is so, and that practically the whole of their traffic, except what goes by railway, comes over the Levels Roads to Timaru, which they make the centre and to which on market-day they come in large numbers. It is affirmed by Levels County that if this proposed union could have been accomplished it would have been a complete answer to the present claim.

As regards the Cave-to-Cannington Road I do not think the claim can be sustained in its present form, for reasons given later on.

Legal and Equitable Objections.

It will be seen from the notes of evidence, &c., in the appendix hereto that counsel for Waimate maintained:—

- (1.) That the Commission was too wide, and that Your Excellency must first of all be satisfied that the claim of Levels County is equitable before the Commission could be issued.
- (2.) That notice must be given to persons interested to show cause before such equity can be decided.
- (3.) That the whole of Your Excellency's powers under the statute should not be delegated, as is alleged to be the case in the Commission.
- (4.) That the Commission must be limited to certain definite questions to enable Your Excellency to judge and decide the case.
- (5.) That the Commission is therefore invalid.

As regards Objections (1) and (2).—If this were acted upon it would mean two inquiries instead of one, which I do not think the statute contemplates, besides which it appears to me that the question of whether the claim is equitable or not depends generally upon a purview of the whole case, which cannot be obtained until the whole matter has been thoroughly investigated as in the present instance, and Your Excellency would not, therefore, be in a position to judge the equity of the case without such investigation and report. In any case, the practice adopted hitherto was adopted in this instance, and until it is set aside by competent Court of jurisdiction I think it should be acted upon.

As regards Objections (3), (4), and (5).—I do not see the force of this contention. The decision rests with Your Excellency, and is not delegated to me. All I am asked to do is to report for Your Excellency's information, and this I believe is within the intent and meaning of the statute. Even if it be not so, Your Excellency's prerogative would, I believe, enable Your Excellency to refer the questions in this case to a Royal Commission, and the instruments issued to me in this case being under the Seal of the Colony makes them partake of that nature. Consequently, I am of opinion that these objections should be overruled.

An equitable objection was raised in this case which did not come up in the former case. It is, that when the various counties interested in this and "the former case" agreed to constitute themselves a harbour district for the purpose of constructing the Harbour of Timaru the Levels County impliedly agreed that its roads would be free to all traffic from the outside counties of Timaru. I do not think this objection can stand. In the first place there was then no law to enable a contribution to be made, and there is no evidence that the question was ever raised; and, in the second place, the agreement was for one large definite object, and the parties no doubt had in view that in carrying out that object adjustments as to minor details might have to be made as time went on.

A great deal was made by counsel for Waimate as to the alleged extravagant estimates of metal required, in the opinion of the Overseer for the Levels County, to be put on the roads, and it was implied that as the Levels County had allowed the roads to get into such a bad condition as to require all this it was a work of reconstruction, and not maintenance, and it was not, therefore, equitable to now ask for assistance to do what should have been done from time to time in the past. The Waimate County brought Mr. Howarth, Engineer for Southland County, and Mr. Bremner, their own engineer, who both testified to the excessive nature of the proposals of the Overseer. On the other hand, the Levels County produced Mr. Marchant, of Timaru, and Mr. Black, late Overseer for Waimate, who both confirmed in every particular the necessity for the work proposed. The question is one of engineering practice. The roads are not in bad order, but they are weak in places. Some engineers advocate putting a large quantity of metal on a road at once and allowing it to wear through gradually, with little attention for years. This is the practice in Levels County. Others advocate constant vigilance and keeping the surface up to par by light and frequent dressings of metal or shingle. This is the practice in Waimate and Southland. I do not consider it to be any part of my duty to determine which of these practices is better. All Your Excellency can, I think, do is to apportion the cost of maintenance, and if the county charged can prove that the other county has done that which does not fairly come under the meaning of "maintenance" they cannot be compelled to pay.

Towards the conclusion of the case I succeeded in inducing the parties to agree as to the proportion of heavy traffic that comes yearly over the Main South Road and the Otupua Road. Exhibit No. 25 shows that about 1,340 tons comes to six firms in Timaru yearly from the portion of Levels County that uses these roads, and Exhibit No. 26 shows that similarly there came from Waimate 1,174 tons. This does not, however, include goods that come from farmers owning land in both Levels and Waimate Counties, and it does not include back loading, and as it only refers to six firms in Timaru it is not a complete statement of the heavy traffic; but it shows that the proportion of such traffic is probably about eleven twenty-fourths from Waimate and thirteen twenty-fourths from Levels. It was, however, argued, with some justice, I think, that as the Waimate people have to traverse the whole length of these roads, and as Levels people only use them from place to place to and from Timaru all along their length, the proportion of their use of

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

much as would at first appear, as the bulk of the ratepayers on Waimate side cross the river to Otipua Road by Brassell's or Jeffcoat's fords, which can be used at ordinary times, so that comparatively few cross the bridge.

My remarks as to natural causes damaging a road apply with much greater force to a bridge. A bridge, as a rule, rots out, and becomes useless by the action of the atmosphere, or is damaged or destroyed by floods, whereas the traffic on it, as a rule, only damages the decking, which is inexpensive to repair as compared with replacing other parts of the bridge. The bridge being a connecting-link between the two counties, the onus of its upkeep is *prima facie* cast upon the two counties in equal proportions. This being so, and as no evidence was brought to show that the Waimate traffic specially damaged the structure, or caused any special expense in the maintenance of the bridge, and looking to the equities of the matter as set out in the former and in this case, and also that Waimate County should, I think, contribute to the Otipua Road in the proportion mentioned above, I am of opinion that the present arrangement whereby each county pays half the cost and each manages one of the bridges is just.

Lower Pareora Bridge.

This is a very important structure on the Main South Road, and over it a considerable amount of light traffic and sheep pass, both North and South from Waimate, Levels, and other counties; but more comes from the south than north. Levels County seeks to compel Waimate to pay two-thirds of the cost of its maintenance.

My remarks on the Upper Pareora Bridge apply to this case also if "the Main South Road" be substituted for "Otipua Road." This being so, I cannot recommend Your Excellency to alter the present apportionment of the cost of maintenance.

IN CONCLUSION.

I respectfully state that, in my opinion—

1. Waimate County Council should contribute one-fourth of the cost of maintaining the Otipua Road from the Upper Pareora Bridge to the junction of the road with the Main South Road.

2. Waimate County Council should contribute one-fourth of the cost of maintaining Brassell's Road on the condition already mentioned.

3. Waimate County Council should contribute one-sixth of the cost of maintaining the Great South Road from the Lower Pareora Bridge to the junction of the road with the Otipua Road.

4. No alteration should be made in the present apportionment of the cost of maintaining the Upper and Lower Pareora Bridges, whereby each county controls one of the bridges and each contributes half the cost.

5. Levels County has mistaken its remedy in respect to the Cave-to-Cannington Road, and any action towards obtaining a reapportionment of the cost of its maintenance should be taken under section 250 of "The Counties Act, 1886."

6. Each party should pay its own costs, and the costs of the Commission, including the hire of the hall in which the inquiry was held, should be equally divided between the two counties.

I have, &c.,

Wellington, 20th May, 1902.

W. S. SHORT, Commissioner.

MINUTES OF EVIDENCE.

MINUTES OF EVIDENCE in respect to an Inquiry held at Sophia Street Hall, Timaru, on the subject of the Apportionment of the Cost of maintaining the following Roads and Bridges: Main South Road, Otipua Road, Brassell's Road, Cave-to-Cannington Road, Upper and Lower Pareora Bridges.

THE case was between Levels and Waimate County Councils.

Levels County was represented by Messrs. Raymond and Moore, Solicitors; Waimate County was represented by Messrs. Kinnerney and Hamilton, Solicitors.

Mr. Kinnerney stated the following preliminary objections:—

1. Section 8 of "The Public Works Act, 1900," emphasizes sections 113 and 114 of "The Public Works Act, 1894." Before Commissioner can be appointed (a) Governor must be satisfied that the claim is "equitable": No evidence to show this. (b) Notice must be given to parties interested to show cause before he decides whether or not it is "equitable." This was not done.

The Commission assumes that the Governor has been satisfied, and it directs the Commissioner to report. This shows the necessity for the procedure. It is clear that such is essential to the issue of the Commission. The Commission is therefore not legally issued, and it has therefore been issued without powers.

(2.) The scope of the Commission is too wide. Sections 113 and 114, "Public Works Act, 1894," are incorporated for the purposes of section 8. These do not contemplate a Commission so wide (*vide* subsections (7) and (8) of section 114). Submits that the Commissioner should be asked to report on some specific matter.

The whole of the Governor's authority should not be delegated. The Commissioner should be directed to report on some specified subject in order to allow the Governor to judge the case. Here the matter is not specific, but the whole question is whether or not a contribution should be made, and, if so, how much. The only power is a statutory power to report on specific matters to

enable the Governor to decide the main question, not to report upon the main question. Thus, in subsection (2), section 114, the question is whether a bridge should be erected and be under the Minister or local authority; also, under subsection (7), to report on any matter, &c., that the Governor may consider necessary. Parties also should be made acquainted with particulars as to matters they will have to meet.

Mr. Moore, for Levels County, said,—

There are circumstances in this case which do not exist in the other cases, and much of the general matter given before might be eliminated from this case. Calls attention to the position of the two counties. Waimate depends upon Timaru because (1) it is the port for the upper part of Waimate; (2) it is the only considerable town and market; (3) the freezing-works are within Levels County; Waimate is fast becoming a more settled county, and the whole of the produce from the north part comes to Timaru. The Harbour Board returns show that the cargo passing on the wharves has almost doubled in four years. In 1901 there were 475,000 carcasses shipped. In 1899 397,000 carcasses were shipped, and this was the next highest. In Levels County there are only 228,649 sheep; in Waimate County there are 602,705. The increased number of carcasses shipped is mainly due to increased settlement. Recently Pareora Nos. 1 and 2 Settlements, in Waimate, have been started, also various small settlements in different parts of the county.

By the Year-book it appears that the population of Levels was 5,496; population of Waimate, 5,653. Area of Levels, 273 square miles; Waimate, 1,343 square miles. Capital value, Levels, £1,493,000; unimproved, £1,098,000: capital value, Waimate, £2,403,000; unimproved, £1,906,000.

The ways of communication from Waimate to Timaru: (1) Railway along coast to Timaru; (2) Otipua Road *via* Upper Pareora Bridge; (3) *via* Brassell's Crossing and on to Otipua Road; (4) Great South Road over Lower Pareora Bridge; (5) road from Cannington Settlement to Cave.

The roads in Levels are divided into main and district roads; but if the road claimed for—the road from Otipua to Bridge—is a main road the others are district roads.

With increased settlement comes increased cost of maintenance of roads: Expenditure on main roads, 1897, £609; 1901, £2,175: expenditure on district roads, 1897, £2,347; 1901, £2,124. The returns show that the increase has been gradual. Levels has sixty-four miles of main roads and 386 miles of district roads. Average expenditure, £34 a mile on main roads, £6 a mile on district roads. Total expenditure on all roads and bridges in 1899, £2,756; in 1900, £2,828; in 1901, £4,299. This clearly shows that the expenditure is increasing.

The whole area of Waimate County affected by these claims is the whole of the Upper and Lower Pareora Riding. The area of Lower Pareora is 105,000 acres; of Upper Pareora, 251,000 acres. The land in these ridings is the same as in Levels County, excluding the Elworthy Estate. Elworthy Estate has 52,000 acres, and all the portion on map coloured pink is Elworthy's. Nearly the whole of this estate is in the Upper Riding.

The traffic consists of: (1) heavy traffic—wool and grain; (2) light traffic, especially on Saturdays; (3) sheep traffic. The grain is the heaviest item; six or seven horses are put to the wagons, and they do considerable damage to the road, possibly more than Mackenzie wool-wagons. There is practically no light traffic from this side into Waimate.

Not far from the boundary is the Borough of St. Andrew's. It may be said that in this case there should be an alteration of boundaries. It is a remedy, but not the remedy now. A Bill was before Parliament last year, but it was not carried. The Elworthy Estate is an illustration. They pay £687 county rates to Waimate. They use one mile of Waimate roads and eleven miles of Levels roads for their carting. The Main Otipua Road is a main arterial road from Pareora Bridge to Timaru (see map). On that road there is very heavy traffic from Waimate. Waimate traffic preponderates. Only a small amount is carted by Levels ratepayers to Timaru, and there is no railway near enough to compete with that traffic.

The evidence will be of two kinds: (1) tabulated statements showing holdings, &c.; (2) evidence of witnesses as to traffic by—(a) owners and carters, of their own knowledge; (b) witnesses who speak generally; (c) those who have tallied traffic.

Table A will be put in (Exhibit 2). The method on which we arrive at tonnage carted is to assume that one-third of the land is cropped every year and that two-thirds are in pasturage. The Year-book gives 30 bushels of wheat and 40 of oats to the acre. Wheat averages 37 bushels to the ton and oats 56. Then, back loading is estimated on the basis that one-sixth of the two-thirds will be in turnips, and that requires 1 cwt. manure to the acre. Stores are also brought back. This leaves wool of two-thirds in pasture at one and a half crossbred sheep per acre, and each sheep gives 7 lb. wool. On this basis Table A is compiled: Table shows 67,174 acres, less Elworthy's 52,287 acres; leaving 14,887 acres. It will produce—Grain, 3,900 tons; back loading, 166 tons; wool, 47 tons: total, 4,113 tons. Elworthy's Estate gives—Grain, 200 tons; wool, 167 tons, miscellaneous, 20 tons; back loads, 75 tons; stores, 35 tons: total, 497 tons. Mr. Elworthy's wool returns support this. If 52,000 acres, less the grain, equal 167 tons wool, then it shows that 47 tons from 14,887 acres is about correct. This gives a total tonnage of 4,113 *plus* 497 tons, totalling 4,610 tons. This does not include sheep or light traffic. All that traffic comes this way from over the river into Levels, and all comes this way except what comes over Brassell's or Jeffcoat's fords on to Main Otipua Road.

Table B (Exhibit 3) shows the Levels farmers using the Otipua Road, and by the same process it will be seen that 2,246 tons is the tonnage of Levels people using the Otipua Road. This must be reduced by three-fifths, as the Levels traffic does not use the whole road. Then, the tonnage from Levels using the whole road would be 1,348 tons. The proportion, therefore, is—as 1 is to Levels County so is $3\frac{1}{2}$ to Waimate. We claim only half cost of that road. Looked at from another point of view, Elworthy's wool is 167 tons; others in Table A, 47 tons: total, 214 tons.

The annual sheep returns show for those in Table A 74,700 sheep. If this is multiplied by 7 lb. wool per sheep it equals 233 tons, which is closely approximate to 214 tons above. The sheep traffic on the roads is very heavy. One witness estimates 50,000 sheep on this road. Thus Elworthy's have 60,000 sheep, and according to experts these will give 25,000 lambs. If 5,000 be deducted for deaths, &c., 20,000 will be the surplus stock every year. Where do they go? We say they all come along this road.

Brassell's Road is almost indistinguishable in evidence from this road—viz., Otipua Road. Table A shows those who use Brassell's Road ford so far as we know. About 4,000 acres on Waimate side use Brassell's ford. Table G shows ratepayers in Levels who use that ford. It is apparent that this road exists chiefly for convenience of Waimate settlers. It is chiefly used for the cartage of grain, and is not used for cartage of Levels produce.

Great South Road: Here the volume of traffic is less than on the other road, but this refers only to heavy traffic. The light traffic is greater than on Otipua Road. Table C (Exhibit 5) shows 1,756 acres in Waimate using this road. That gives the total tonnage on the same basis as 507 tons. Table D (Exhibit 6) shows the Levels ratepayers who use this road. Their acreage totals 7,776 acres, from which the estimated tonnage is 3,204 tons. This must be halved, because half the ratepayers collectively use the whole road. This tonnage equals 1,602 tons. This gives a proportion—as 3 is to Levels, so is 1 to Waimate. We claim one-third. This is a low estimate, as several people live on the river half-way between the two bridges, and they sometimes use one and sometimes the other roads. A return will be put in from the grain-stores. This shows a considerable number of persons using the road for grain traffic who are not on the lists. This, also, does not include light traffic and sheep, which are very large as against Waimate.

Two bridges: The same evidence as to the roads applies to the bridges. Each county now contributes half. We ask for two-thirds. The Waimate traffic over the Upper Bridge—a larger proportion goes over the Lower Bridge. The ford is only used when the bridge is in direpair as at present. The bridge is of more convenience to Waimate than to Levels. The tally was taken over the Lower Bridge. Mr. Hansen took it on Waimate side for thirteen days—viz., from the 4th April to the 18th. The estimate of sheep coming over the Lower Bridge from Waimate by tally was 14,550 or one thousand a day; light traps, 72; persons carried, 104; drays and wagons, 17: from Levels—Sheep, 300; traps and carts, 11; persons carried, 14; drays and wagons, 4. This tally is valuable for roads also. In answer to question as to why two-thirds is claimed for bridges and only one-third for roads, seeing that only part of it goes over the bridges, it may be stated that all Waimate traffic comes this way and use the bridges, but all Levels traffic comes, but does not use the bridges.

Cave-to-Cannington Road is a boundary-road between Levels and Mackenzie Counties. At present each county contributes half to upkeep of the road. We seek to make Waimate contribute half of our share. Table E. [Exhibit 7] shows 18,491 acres using that road. Two big estates—viz., Cannington and Pringle's—are included. They use the whole road. It is their natural outlet to the Cave Railway. Table F shows the Levels ratepayers who use the road. There are only two totalling 1,800 acres. We claim one-fourth in this case. As to the arrangement with Mackenzie this has nothing to do with the case. It is one between ourselves and Waimate.

Estimates of Work required: These show the work required to put the roads into efficient repair. This work was never intended to be done all at once. The Engineer has shown what work would, if done, keep the road in order ten or twelve years. It is simply a question of maintenance. The figures claimed show that for the two chief roads Otipua will cost £810 and Main South Road £808; and the Engineer says that these works require to be done. During the last three years Otipua has cost £247 a year and Main South Road £158 a year. The proposal was to show what, if done, would keep roads in order for a number of years. There was no need to give an estimate at all. The claims are moderate, they are even too small. The Commissioner is not bound by the proportions claimed. The main question is as to traffic. If we prove that the roads are largely used we are entitled to a proportion of the cost of maintenance. There is here no question as to access. It is clear that these roads are causeways. The evidence will show the justice and equity of the matter. Elworthy's Estate alone pays £687 rates for the use of one mile of road. They use eleven miles of our roads without payment. If we prove that roads are largely used we are entitled to a contribution under section 8 of "The Public Works Act, 1900," and section 114 of "The Public Works Act, 1894."

EVIDENCE FOR LEVELS COUNTY COUNCIL.

Samuel Hansen sworn.—Is a farmer at Lower Pareora Bridge, on Levels County side. Has known traffic for nine or ten years. Traffic consists of grain, wool, skins, and miscellaneous. Knows part of Pareora Ridings. Traffic over Lower Pareora Bridge comes from Waimate, chiefly from Lower Pareora Riding. Has seen Waimate traffic outside that riding—viz., Pentland Hills wool—come to Timaru. It is on the other side of the Borough of Waimate. It came in two four-horse wagons, about four trips each. The carter was Luke. Has been through table D and knows every one of these people and their farms. They send all their produce by road, and it comes over the Main South Road. Do not remember any others. Kept a tally of traffic from 4th to 18th April. (This is the statement I made and these are the books I kept). One shows people who crossed from Waimate side. Levels people going into Waimate are also shown in the book. Prepared statement as above and the results are correct. The tally shows a very large proportion of Waimate people over Levels who use the bridge. From his observation a larger number come from Waimate to Timaru than go over from Levels to Waimate. His general observation confirms the tally. There is a settlement on other side of river, and people must come into Timaru to fetch their produce in and to take back stores. Springbrook Settlement is close to the river on Waimate side. From Lower Pareora Riding eleven out of every twelve come by the road. They grow grain, root-crops, and a few sheep and cattle.

Cross-examined by Mr. Hamilton.—Live in Levels, and am a ratepayer. No one assisted me, but for a couple of days my son took the tally. This book is in my own handwriting. My son took his tally on paper, and I transcribed into this book his notes. Was there from 4th to 18th April. I put these entries down every day. On 18th tally taken by my own observation. Cannot say which two days I was not there. Springbrook Settlement is nearly adjoining St. Andrew's and railway-station at St. Andrew's. These settlers mostly have small holdings, and they mostly cart produce to Timaru. Practically all of them cart pretty nearly all. They grow grain, and they cart it in drays and spring-carts. Easter came during the time I took the tally. Cannot say how much wool Pentland Hills carted. Object of taking tally was to show what crossed to Timaru and back from both sides. We put down all that came. This accounts for Grant's sheep from Oamaru. Was paid by Levels County.

Thomas Black sworn.—Is overseer for Levels County Council. Has resided in Waimate all his life, except three years. Made an estimate of the work required to be done. *Re* Main South Road: Adheres to the report he furnished. [Pointed out position of roads on map.] When he made out these estimates he reckoned that the work would keep the roads in order for ten or twelve years. Thinks it advisable to spend all this at once. Has nothing to do with fixing the proportions. The estimates are for maintenance only. Considers the amounts he has stated are necessary for maintenance for ten or twelve years. We put maintenance metal on when original metal has worn down. It would last that time. Generally the metal and shingle on the roads are getting low down. As regards the road from town-boundary to Saltwater Creek. They have put on some quantity on main roads in town. Would use the road-roller, and about 15 yards per chain would be put on the rest. A less amount than that would be insufficient the way we work. If you put on a small amount the sheep would knock it into the water-tables. Prepared Tables B, D, and F, in conjunction with Messrs. McLaren and Orbell. Has had a large personal acquaintance with that part of the county. These tables represent the Levels ratepayers using the roads. Got the areas and valuations from the rate-book. The mileage was taken out by Mr. Whitehead and me as scaled from map, and they are approximately correct.

Cross-examined by Mr. Kinnerney.—Has had three years' experience with Levels County, and as a boy worked with his father on the Waimate County Roads. Is twenty-six. Has had three years' experience as an overseer. Has had no qualifications as an engineer. Heard Mr. Howarth's evidence *re* 25 yards per chain on road town-boundary to Saltwater Creek. Does not agree with him that metal would stop traffic. The roller would fix that up. Just over town-boundary knows 16 yards per chain were used, and that Borough Council ordered more to be put on. Does not think 25 yards per chain is renewal. 25 yards per chain was used when road was first made. By metalling in this way we really spread the maintenance of fourteen years in one year. My instructions were that I was to report on the roads. Cannot remember that I was not asked to report on the renewal. Very likely I should plough up the road. It has been the practice to allow the roads to wear down for a number of years. This road has been allowed to wear down with the exception of a few loads of beach-shingle. Has not gone through Council's account to see. Would say that road has been practically neglected for several years. Neglected for ten years, but it has had surfacing. *Re* Otipua Road: This road has not been neglected. Parts of it have been reshingled, and 12 to 14 yards per chain put on. Levels County have done very little—not what they should have done. Knows that some portions have been repaired. Will not say they have not had slight coats now and again. The average cost of road-maintenance in Levels on district roads is about £13 8s. per mile, and £22 to £25 per mile on main roads per year. Formed the estimates himself. If estimates were reduced road would probably last a less time. A coat like that is not needed all over the roads, only in parts. Where I specify 15 yards per chain this is required to make the road last. I have put 10 or 11 yards on portions of the Main South Road. The Council only allowed me a certain amount to do the work. The rest of the road, as it wears out, will require it. It is necessary as other portions wear out to put on similar quantities. *Re* Brassell's Road: Cannot explain why this road is three-quarter and Otipua Road half. Knows Cannington Road. Last year we spent £60 to £80 for metalling and maintenance. We put at least 9 yards per chain. Mackenzie County does the work. Before they do work they send in estimates to our county. The road is a boundary-road.

Re-examined by Mr. Raymond.—When Mr. Howarth spoke of the road outside the town-boundary, should think he had a roller in mind. A roller would smooth it. It is the custom in South Canterbury to put on a good quantity and make a good job. I was road-grading in the north. My father was Road Overseer for Waimate for fifteen years, and I often assisted him.

Duncan McLaren sworn.—Is a farmer. Member of Levels County Council. The Main South and Otipua Roads are in his riding. The Otipua Road is treated as a main road and Great South Road as a district road. The whole cost of a district road is charged to the riding and the cost of the main road to the county. In each riding we are allowed one main road. In this case it was selected by my predecessor. Lives at Kingsland, and his way to Timaru is along the Main South Road, five miles and a half to Timaru. Lived there eight or nine years. Before then lived at Otaio, in Waimate County, below the south part of Pareora Riding. Lived there sixteen or seventeen years. Knows Waimate County as well as Levels. Is continually on the Main South Road. Knows Otipua Road well, and is frequently on it. Tables A, B, and C were prepared under his supervision. Has been through list on Table A. It shows what it purports to show. Few names are on it that he does not know to be substantially correct. Table B comprises all Levels County ratepayers who use Otipua Road. Table C comprises all Waimate ratepayers who use Main South Road. There is more heavy traffic on Otipua than on Main South Road. These ratepayers bring their produce to Timaru on this road. They use the upper bridge or crossings. To best of his belief the ratepayers shown on Tables A and C use this road. Table D comprises Levels ratepayers who use the Main South Road. The grain and produce in Waimate all comes over Otipua

and Brassell's Roads, and their light traffic as well as their Saturday traffic into Timaru. Great lot of traffic comes. Very little Levels traffic goes over the border to Waimate; practically none. There is no business there from Otipua Road. A few go by the Main South Road to St. Andrew's sales once a month. This is the only business that Levels ratepayers go to Waimate for. The sheep traffic by these roads is very large. Numbers come along the Main South Road, and very considerable numbers come along the Otipua Road. Elworthy's sheep: they have a surplus of from twenty to twenty-four thousand. They would all cross the Upper Bridge. Then they go by Zigzag Road. They would come on to Otipua Road only for a short distance. There is considerable settlement on Waimate side near the Lower Bridge. Potatoes, mangolds, roots are raised there. It comes to Timaru mostly by the Main South Road. Apart from Elworthy's land the Lower Pareora Riding is similar to Levels land. The Kingsdown land being nearer port is more valuable, not that it produces any more; there is less cartage. All the land is suitable for agriculture and pasture. On the average from seven to ten years one-third is in cultivation. A large part of Elworthy's is ploughable. Quite 40,000 acres are ploughable. About 8,000 to 10,000 acres is good agricultural land. Knows the estate very well. It is cropped from time to time, but not so much as if it were in smaller holdings. Has known the property since 1876. Cannot say what area of it has been cropped this year. The upkeep of the Main South Road is charged to his riding. It is an expensive road to keep up. Keeps his riding in poverty. The reason of the cost is the large amount of outside traffic.

Cross-examined by Mr. Kinnerney.—Knows Elderslie Estate, and that there are forty or fifty miles of road laid out in the estate. The one mile previously mentioned was for carting from the property. The other roads are for working the property. Judges from his knowledge of the country that twenty-four thousand surplus sheep come from Elderslie. They only use a portion of Otipua Road and then go on Zigzag. They only use a short piece of Otipua, probably half a mile, cannot say. Could not give estimate of agricultural land on Elderslie. It would only be a guess. As to sheep using the roads: Messrs. Grant and Cunningham are the largest buyers in Levels. They buy fat sheep and send them to the freezing-works. In addition to other sheep brought into Levels some come from Southland. These mostly come by rail, but a few are driven by road. Thinks the sheep derailed at Morven are sold there. A few may be driven to Timaru. *Re* lands in Waimate County, including Elworthy's: Table A, 52,000 acres. Said that excepting Elworthy's the land was the same as in Levels County. There are thousands of acres in upper portion of Pareora Riding only fit for pasturage. John Elder's 3,695 acres is purely pastoral. So is Mary Squire's land. Is not aware that John Elder uses Cave Road, probably he does. Does not know that Mary Squire sends produce to St. Andrew's. J. D. Parish may send to St. Andrew's. G. Cox used to use Otipua Road within last two years. Does not know if he does so now. Often sees Ben Mack on road. Saw him recently. McKeown Bros.—Does not know they carted to St. Andrew's recently. Has seen them several times on the road carting grain. Is aware that railway rates were reduced to St. Andrew's three years ago. Thinks he has seen them within the last two years carting. Thinks he saw them this year. Wake is a new man. Does not know where he carts. Has a pretty good knowledge of the matter. Arrived at the position from common sense. Has been member of Levels County four or five years. Remembers that Levels County was constituted four or five years ago. Before then it was part of Geraldine County. It was previously the Levels Road Board. Could not say if Geraldine, Waimate, and Mackenzie all combined for purposes of forming the Port of Timaru. Only a part of Waimate is included in rating district for Port of Timaru. South of Waiho is part of the Oamaru Harbour District. Forgets where boundary runs. Object of Timaru Harbour was to enable farmers to send grain and get goods cheaper. When these counties combined they contemplated an increase of traffic. Anything that benefits Timaru benefits Levels, but it benefits Waimate also. It is a benefit to the whole of South Canterbury. The prosperity of the market town benefits the district near it. The most remote settler in Waimate pays as much in £1 as Levels ratepayers. A Bill was promoted by Levels County for the purposes of including these ridings in Levels on petition from Pareora Riding. The Levels County Council took the matter up by the request of the ratepayers in these ridings. The Bill was lost through political log-rolling. Levels County paid all the expenses of that Bill. If Levels County had succeeded there would have been no necessity for this Commission. They would then have had to contribute their share to these main roads. The remainder of Waimate would then have escaped. Nothing has been done in Levels County about the Bill since Parliament rose. The Council settled the proportions claimed. They had an idea of the traffic on the roads. The tables were prepared since. Had a good deal to do with proportions claimed from Waimate. It would have been just to ask for more. We should be warranted in asking more than three-quarters for Brassell's Road. It is of very little use to our ratepayers. Our ratepayers hardly use it. It is so largely used by Waimate people and so little by us that we have done little to it. The Main South Road and Otipua Road are not kept in the condition they ought to be, because the outside traffic is so great. We have rated up to 1d. in the pound. Our limit is 1½d. Levels Engineer was instructed to make an estimate of the cost of repairing roads. Do not know if word "renewal" was used. The Levels contribution to harbour rates is £1,431, and Waimate £1,875, but that is a larger county. Does not know Cannington Road.

Re-examined by Mr. Raymond.—Elworthy's estate: The wool and grain are carted by Otipua Road over the bridge. All the traffic from these come on that road. In preparing the tables did so with an intimate knowledge of the district and in view of the roads that must generally be used by the ratepayers. Waimate does not pay more, proportionately, to harbour rates than we do. On petition of the ratepayers in Waimate, Levels County promoted the Bill. Copy of Bill was put in (see Exhibit 12). Before going on with the Bill we asked Waimate County to discuss the Bill (see Exhibit 13). Also correspondence (Exhibits 14, 15, 16). So far as he is aware

there was no opposition to the Bill from any ratepayer in Lower Pareora Riding. Understand that Waimate County Council opposed it. Our rate is 1d., and Waimate County rate $\frac{1}{8}$ d. (admitted). If these people joined us their rate would be higher. Levels rates on the improved, Waimate on the unimproved value. [Details of Waimate, Levels, and Geraldine Counties, taken from public records, handed in (see Exhibit 17).]

Frederick William Marchant, M.I.C.E., sworn—Has had experience in the construction of roads and maintenance of same. In years past was in Public Works Department, and one time was Engineer to Mount Cook Road Board (now Mackenzie County). Has been over Main South and Otipua Roads with Mr. Black's report. Has made an estimate of the annual expenditure for maintaining these roads. From borough boundary to Saltwater Creek estimates cost of maintenance at £1 per chain per annum—50 chains, £50. From Saltwater Creek to Pareora Bridge estimates it at 10s. per chain, or £40 per mile, or £240 for whole road per annum. From Saltwater Creek to Brassell's Road, same estimate, £190 per annum; Brassell's Road, a mile and a half at £15 per mile, £22 10s. per annum; Brassell's Road to Bridge, three miles and a quarter at £15 a mile, or £43 15s. per annum. Has read Mr. Black's estimate. Thinks that all the roads require all he has put down for them. The usual and best practice after a road has a surface is not to interfere with it till the metal has all worn out. In the main road the clay shows through the shingle, showing that little shingle is left. It is not advisable to shingle a road every year. After proper expenditure, as shown, it is a matter of traffic as to how long road will stand. The Wai-iti Road was done by me twelve years ago, and has been without expenditure until recently. Under his experience this is the best for our traffic, and is much cheaper than the other way.

Cross-examined by Mr. Kinnerney.—You put down a coat of metal. You have it for many years. Let it wear out, and then renew it. In constructing a road you would put down 15 yards to 25 yards per chain in first instance. Has been over the roads, and referred to the portions mentioned by Mr. Black. The roads, as a whole, require to be dealt with in the same manner. They are living on the metal put on years ago. You must let them go, and about every ten or twelve years put on new metal. In many places on Main South and Otipua Roads considerable lengths of metalling are required. Provides for certain lengths of road required to be kept up per annum. His estimate is an average one. You must let your annual contribution accumulate, and put a proper coat of metal on. Mr. Black's proposal may require to be adopted in other cases, but he looks at the thing from a different point of view to me. I give an annual average sum. Does not think there is anything in his estimates to find fault with. Examined these particular portions specially, but not in other cases.

Re-examined by Mr. Raymond.—Speaking as an engineer, considers Mr. Black's proposals are distinctly maintenance. The road was constructed twenty or thirty years ago. Refers to maintenance-metal only. Only one item on Brassell's Road has any reference to construction—viz., the cutting. These earthworks might be called reconstruction.

Thomas Scott sworn.—Lives at Pareora. Lives opposite Brassell's Crossing. Holds roughly 1,300 acres. His chief produce is grain. Sends roughly 8,000 bushels, equals 200 tons. Bulk of it comes over Brassell's Road ford to Otipua Road, thence to Timaru. Occasionally sends some to St. Andrew's. This year sent some, as river was impassable at the time. His wool runs about forty bales on the average. It comes by same way. Back loading amounts to about 25 tons. All comes back by Otipua Road.

Cross-examined by Mr. Hamilton.—Road is a considerable benefit to me to go to Timaru. Could not do quite so well to send to St. Andrew's. Most likely shall send grain by road. If a slight reduction made on rail would send it by rail. Every year more goes by rail.

Re-examined by Mr. Moore.—Lives about seven miles from St. Andrew's. Can cart three trips in two days in fair weather.

John Anstey sworn.—Is a farmer in Levels County, near Beaconsfield, adjoining Brassell's Road. His farm fronts that road. Has 182 acres in Waimate County. Produce comes from that farm across river by way of Brassell's Road. Roughly 2,500 acres of Waimate uses Brassell's Road and Main Otipua Road, not counting Elworthy's. Knows Waimate people who use Brassell's Road. Referring to Table A, one or two use Levels Roads a very little, and a few more use part of Levels and part Waimate Roads. *Re* Table A, G. Cox uses road very little; formerly he used Levels roads. Wake almost wholly uses Levels road. J. D. Parish sometimes uses Levels, sometimes St. Andrew's. Mary Squire's wool goes to St. Andrew's, but light traffic to Timaru. The two McKeowns: thinks till recently it came this way, but lately it went to St. Andrew's. Light traffic comes to Timaru. Except those mentioned all come by Brassell's on to Main Otipua Road. *Re* Table G: All except Tate, whose section is now held by T. Haynes. This table is correct. No others besides this. They all use Otipua Road. Some can get on to Otipua Road without using Brassell's Road. Witness can. Knows some people who use Great South Road. Quality of land, excluding Elworthy's, in Lower Pareora is similar to area in Levels. Is all agricultural. Am director of Farmers' Co-operative Society.

Cross-examined by Mr. Hamilton.—Traffic on Otipua Road is increasing, so is traffic to St. Andrew's. Do not think more farmers send to St. Andrew's than formerly. This year the fords have been bad. Do not think there is enough difference in railway rates to induce farmers to cart to St. Andrew's largely. All these men could get to St. Andrew's. Has land almost the same as Mr. Scott's. Should never think of going to St. Andrew's. Has 417 acres in Levels County. Sheep and light traffic go to Waimate. He crossed sheep on the 17th April from Levels to Waimate, and on the 15th the other way also—some a few days before going north. On 17th April there were eight hundred. Did not see Hansen, and no one spoke to him. Very seldom drives sheep to Waimate unless he drives them to his farm there. Thinks Blackmore's grain all goes to Timaru. Knows most of it does either by Brassell's or Jeffcoat's.

Cross-examined by Mr. Moore.—Mr. Hansen knows me and could tally from his house. Sheep generally come northwards. Fats certainly do, and also bulk of stores. Fats go to freezing-works. The increased settlement below the river is on account of Government cutting up land. New settlements at Springbrook and Pareora No. 3. Knows name of people there. Not many bring their traffic through this way. Thompson brings a portion.

Samuel Higginbotham sworn.—Is a farmer in Lower Pareora Riding. Has been there about fourteen years. Has about 540 acres. Knows land on both sides of river. Excluding Elworthy's, land on both sides is similar. Productivity somewhat equal. It depends on the season. Am a connection of Elworthy's. Produce from Elworthy's all goes by Main Otipua Road to Timaru. It crosses by the Upper Bridge. Sheep mostly go over by Zigzag Road. They cross the bridge. Table A: All these are Waimate ratepayers. He is a Waimate ratepayer. Sidey will cart to Timaru. The others will all come over Jeffcoat's or Brassell's Crossing. All these, except perhaps Sidey, will cart to Timaru, and not to St. Andrew's. It pays better. It is almost a day's trip to St. Andrew's. The traffic along Otipua Road is increasing. It has a tendency to increase from Waimate. There is more of that portion being put in crop than there was a year or two ago. Next year there will probably be a good deal more. Was one of the petitioners for joining Levels. He uses mostly Levels roads. For heavy traffic he uses it exclusively, except about two miles to the river. There is not much heavy traffic to St. Andrew's. None from where he lives.

Cross-examined by Mr. Hamilton.—Knows Elworthy's Estate. Roughly there are about fifty miles of road through it.

By Commissioner.—Some of these are formed and metalled and never used. A road right up Gordon's Valley is never used. The traffic went off the centre on to the side. The upper portion of Pareora Riding is rougher; not quite so suitable for cropping. Considerable difference in upper portions Pareora Riding as compared with Levels. It is more used for wool than grain. Do not say if it was cut up for settlement it would not produce as much. A good deal of Elworthy's grain comes over Limestone Bluff Zigzag, but it all comes on to Otipua Road to Timaru. The land has not been cropped much the last six years, but prior to that a good deal. They had six hundred acres in themselves, which yielded forty bushels about five or six years ago. They had other land in crop. It comes over Limestone Hill, near Pareora River, called Limestone Zigzag. (This is in extreme west side of estate.)

Re-examined by Mr. Raymond.—Periodically hundreds of acres of Elworthy's land are being cropped along Limestone and Gordon Valleys. This land would have continued to be cropped if croppers would have paid the price. Elworthy is likely to crop it himself. Land is likely to be cropped in future, and the area cropped is likely to increase. In Limestone Valley there are 5,000 acres under offer to Government suitable for crops. Roughly speaking there is a ten-thousand-acre block there that is arable and likely to be cropped. In Gordon's Valley there are 3,000 or 4,000 acres that can be cropped. In ordinary course all the outlets from these lands must come by the Otipua Road to Timaru.

Robert Hutton sworn.—Is a blacksmith at Beaconsfield, six miles from Timaru, on Main Otipua Road, near Brassell's Road, about one mile and a half from river. Lived there nearly twenty-four years as a blacksmith. Knows the traffic on the road. Does a large amount of business with people coming and going. Traffic nearly all comes from Waimate side—grain, wool, and sheep, also considerable quantity of light traffic. From Timaru to Waimate there is very little traffic. No comparison between the two. Cannot give estimate of sheep travelling.

Cross-examined by Mr. Hamilton.—Lived six miles from Timaru. Referred to Waimate traffic as nearly all coming on this road. Nearly all the traffic on the Pareora Riding comes on the Otipua Road. Considerable quantity of shingle is carted from Pareora River bed. There are a number of farms between him and Brassell's ford.

James Blackmore sworn.—Is a farmer on Pareora Road, between Jeffcoat's and Brassell's Crossing on Waimate side. Has a property in Levels. His produce consists of wheat and oats. Carts half by Jeffcoat's and half by Brassell's Crossing, thence by Otipua Road to Timaru. Carts about 5,000 bushels a year on the average, also twenty bales wool. Comes same way generally by Brassell's. Takes about 15 tons back loading by Brassell's. Has been there a long time. *Re* Table A: They all use the road, but do not know Mrs. Squire. Parish generally carts to St. Andrew's. McKeown sometimes sends to St. Andrew's, sometimes to Timaru. The reason they carted to St. Andrew's was because they could not use the fords.

Cross-examined by Mr. Hamilton.—Cannot say that there is more tendency for traffic to go to St. Andrew's than it used to do.

Re-examined by Mr. Raymond.—In his opinion these two ridings should be in Levels for the purpose of traffic.

Thomas Priest sworn.—Is a farmer in Upper Pareora Riding, about two chains from Upper Bridge, on Levels side. Lived there thirty-four years. Knows the traffic on the road. Knows many Waimate people who use the road. Many people on Table A use Jeffcoat's or Brassell's Crossing. Mr. Elworthy is the largest user of the Upper Bridge and Otipua Road. He crops more than 300 or 400 acres. He generally carts by wagon three or four times a week, and a large number of those wagons are wool-wagons. *Re* Table A: C. Hendry does not travel on that road. Knows all the others, and the bulk of their traffic comes over the bridge and Otipua Road. The land is much the same on both sides of the river. Agrees with the estimate of one-third cropping and two-thirds pasturage. There is little traffic from Levels into Waimate all the way. Stores only are carted from Timaru for stations.

Cross-examined by Mr. Kinnerney.—Table A: The biggest part comes over Brassell's and Jeffcoat's Crossings. Did not say it came over Upper Bridge. Does not know much of Parish. Thinks Cox went last year to St. Andrew's, but does not know. McKeown did cart last year. Wake

does not cart. Met him this year going to St. Andrew's. Do not know Sidey. With these exceptions witness said that all the people named carted by Otipua Road.

Re-examined by Mr. Raymond.—Wake has been two or three years there. When Mack was there he came over Jeffcoat's and his successor comes same way.

William John Black sworn.—Contractor. Is father of Overseer in Levels County. Was for many years in employment of Waimate County. Knows Pareora Riding and Waimate ratepayers who use the ford and come on to Otipua Road. Was nearly sixteen years Overseer. Resigned two years ago. Re Table A: Some of these names were not there in my time. Do not know Mr. Benjamin. Never saw C. Hendry on the road. J. Elder goes over the bridge. Do not think Mary Squire does. Do not know J. D. Parish. Since road fixed up on other side G. Cox goes to St. Andrew's. Cannot say which way McKeown goes. Do not know Parry or Wake. With above exceptions rest come over Otipua Road either by Jeffcoat's or Brassell's ford. Re Table C: Do not know A. J. Gobbett, J. Hall, Gallatly, Abbot, J. Bowie, O'Loughlin, Spiers, La Mesurier, J. Ward. With these exceptions all the people in table use the Main South Road and Lower Pareora Bridge. Barring men taking back stores there is no traffic from Levels to Waimate by Otipua Road or Main South Road. Knows Cave-to-Cannington Road. Re Table E: Do not know J. Good, Knight, Scott, Elms. Is not sure of J. Collier. With these exceptions knows the people in this table use the road. Firewood is carted down this road. Ritchie sends wool, also Pringle. It is a wool road. Not much grain is grown there. Re Table F: Do not know if these people use the road.

Cross-examined by Mr. Kinnerney.—Obtained knowledge of this road while he was Overseer. There is no traffic from Levels on that road. New Zealand and Australian Land Company do not use the road. Do not know anything about land in Mackenzie County. New Zealand and Australian Land Company cart timber on road. Has often met their bullock-wagons, P. or E. Rowe carted for them. Re Table E: These people cross over towards the Cave. Not heavy traffic, not good country. Cannington wool is the chief item. The wood is the most of the lot; not much grain sent. The timber is for fencing and firewood. Rowe also had a bush. The only traffic of importance on this road is wool and firewood. Do not know number of tons. If Levels carted 81 tons the other place carted much more. Re Table C: Cannot say how the heavy traffic of these people goes.

Samuel Hansen re-examined.—Re tally: Does not say it is complete. Some may have gone through whom he did not get. Some would not give their names. Some traffic may have gone through at night. Cannot say tally is complete. Cannot swear if he was there on the 17th April. Anstey swore he took seven hundred or eight hundred sheep on the 17th April. It may have been on day he was away. Cannot explain why Anstey's sheep are not in tally.

Alexander Hastie sworn.—Is a farmer at Springbrook, two miles on North side of St. Andrew's. Been there eight or nine years. Knows traffic on Main South Road. Settlers from Springbank use it for light traffic. Table C: Does not know Mesurier. All the others use the Main South Road for light traffic. Does not send much heavy traffic to Timaru. They take their loads on their traps. Mostly root-crops are sent. Takes back stores. There is not so much traffic from Levels to Waimate as from Waimate to Levels. Sometimes witness grows 50 or 60 tons. Others put in the same acreage. One or two have more than him. Some seasons grow up to 300 tons and some go by road to Timaru. The greater portion of what he grows goes to Timaru.

Cross-examined by Mr. Kinnerney.—Ordinary light cartage goes to Timaru. Dairy factory not transferred traffic to St. Andrew's. Thinks of late years Drinnan, Hall, Gallatly, Catherwood, and great part of large holders send to St. Andrew's.

Cross-examined by Mr. Raymond.—A portion goes to St. Andrew's and a portion to Timaru. Can only say about his own that it goes to Timaru. From what he sees as a whole the small holders send to Timaru.

Samuel Bee sworn.—Is a farmer at Kingsdown, about six miles and a half from Timaru, on Main South Road. Has been there twenty-five years. Knows traffic has increased a great deal of late years. Light traffic has increased more. Means light traffic to Timaru. The reason is on account of breaking-up of Pareora No. 1 seven or eight years ago, and No. 2 four or five years since. The traffic coming north is a great deal larger than that going south. It is twice as much. Re Table C: Does not know D. Keepe or Mesurier. Knows all the rest. They use Main South Road to Timaru for general carting. They take back stores. Levels ratepayers only use the road to go to St. Andrew's sale.

Re-examined by Mr. Kinnerney.—There are two stores in St. Andrew's. Do not know if they deal at St. Andrew's. Knows that a great many do bring stores back. Traffic is mostly light traffic. Very few drays. They often come to Timaru as well as on Saturdays. Thinks some of the heavy traffic goes to St. Andrew's. Has not seen Drinnan much north lately. Do not think Hall takes much grain to Timaru. Some of the others take much grain to Timaru. Gallatly and Catherwood do not often bring grain to Timaru. Some of the others take goods to St. Andrew's, but knows that some cross the river to Timaru. Witness lives one and a half miles from Pareora Bridge on Kingsdown side. Very few Kingsdown people cart to St. Andrew's.

Charles Chivers sworn.—Is a storekeeper at Beaconsfield. Lives on corner where three roads meet, viz., one from Elworthy's (road from bridge), one Brassell's Road, and one Otipua Road. The store is on the corner. Has been there thirty-four years. Is familiar with traffic on the road. Traffic from Waimate side is very heavy. No comparison with traffic from Timaru. Three-fourths to four-fifths would be the traffic from Waimate. Elworthy uses Otipua Road a good deal; so does Blackmore, Scott, Bell, Chamberlain, and others, and most of those on Table A use the road. Cannot give an estimate of sheep on the road.

Cross-examined by Mr. Hamilton.—In comparing traffic, means what goes over the river. Some traffic goes from Levels to Waimate. Is only speaking from general observation. Has

seen Parish go backwards and forwards lately not with heavy traffic. Do not know Cox or Sidey. Wake goes backwards and forwards. Witness's man drives a grocer's cart and goes twice a week.

Re-examined by Mr. Raymond.—It is a mutual benefit. It serves people in Waimate.

Robert Brooklin sworn.—Is a farmer and lives at Kingsdown. Fronts Main South Road and knows it well. Sees a lot of traffic up and down the road. Very large portion of traffic comes from the other side. Cannot state proportion. Large amount comes from the other side, especially sheep. Table C: Does not know Rogers or Mesurier. Knows all the others in table, and that they use the road for light traffic. They do not cart much heavy traffic on the road. They take that to St. Andrew's. Witness travels a good many sheep himself from Waimate, where he has about 800 acres, and he carts to St. Andrew's. The sheep chiefly consist of freezers for freezing-works. Witness brings stores from Waimate, and shifts sheep from one side to the other. Knows that many sheep travel, but cannot give the numbers. Five times as many come into Levels as go into Waimate. Sheep for freezing-works are driven. All go by road. This does not apply to the whole county. Upper and Lower Pareora Ridings sheep are driven by road. North of Studholme Junction biggest majority come by road.

Cross-examined by Mr. Kinnerney.—Has a freehold farm in Levels. 500 or 600 acres leasehold on south side. Takes a traction-engine both ways. Carted about seven hundred bales from Pareora season before last on Otipua Road to Timaru. The sheep are bought by dealers in Levels, and dealers at St. Andrew's send as much as do the people in Levels. Grant and Mackenzie buy a lot of sheep in Pareora, and they travel up. They are the largest dealers. Table C principally relates to light traffic. They cart a little sometimes. Drinnan generally carts to Timaru. Has seen him cart. Hall, Gallatly, and Catherwood cart to St. Andrew's.

Re-examined by Mr. Raymond.—Waimate sheep going to freezing-works come from Upper and Lower Pareora and Otaio Ridings. They chiefly come by road. Hardly any come by rail. Traction-engine went over to thresh for the Waimate people. None come over from Waimate. Wool-wagons come over Lower Pareora Bridge last week. There was a considerable amount of traffic last year. One lot came from Pentham Hills, behind Waihao Downs, south of Waimate Borough.

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Mr. Raymond said the rateable value of freezing-works is £21,020, and rate at 1d. in pound equals £87 11s. 8d., which includes everything. The harbour rates are paid out of revenue. The statement of expenditure of Levels County for five years in the other case was by consent applied to this case. The sheep returns, H.—23, year ended 30th April, 1901, give Levels and Geraldine sheep combined. Separated by consent they are—Number in Geraldine County, 445,841; number in Levels County, 228,649; number in Waimate County, 602,705; number in Mackenzie County, 394,927.

William Hansen sworn.—Is son of Samuel Hansen (previous witness). Kept tally for two days over Pareora Bridge. At close of day handed the details to his father. Saw Mr. Anstey. Spoke to him. He was going north. Do not remember day of the week. Asked him the number of his sheep. He said three hundred. Did not see him take any south. Put all traffic down on a piece of paper. Gave that to his father. On other days his father was at the bridge. Did not keep tally on Sunday. Does not know if his father did.

Cross-examined by Mr. Hamilton.—Sales of stock and sheep are held at St. Andrew's once a fortnight. Did not know if farmers in Levels attend these sales.

Samuel Hansen recalled.—Did not take tallies on Sundays. On other days took interval for dinner. Talled from 8 or half-past till 4 or half-past. Was not particular to an hour. Took traffic as it came. Took it all to the best of his ability. Mr. Anstey has given me a memorandum of the number of sheep he took. On Sunday, 13th, he took a thousand northwards which witness did not note. On 15th he took three hundred, and my boy took the tally. Thought he had put it down in book. On 17th, 770 went southwards. They went over at dinner-time. Mr. Anstey has property on both sides of the river, and these sheep were coming from one of his farms to another. Witness has no interest in making misstatements. Mr. Whitehead and Mr. Black asked me to take tally and the county paid me.

Cross-examined by Mr. Hamilton.—Sales are held once a fortnight at present, and a good many farmers from Levels go. Knows that sales are held at Studholme, and that some Levels farmers go.

Re-examined by Mr. Raymond.—At present St. Andrew's sales are held fortnightly; before they were held once a month. From south end of Pareora Bridge, St. Andrew's is distant two miles and a half. Not many sheep taken from Levels to Studholme. Studholme is twelve miles from Pareora River.

Charles William Orbell sworn.—Is Chairman of Levels County. State of finances of Otipua Riding not so good as other ridings. This is attributable to traffic which requires much expenditure on account of traffic on the two roads and Upper and Lower Pareora Bridges, and on roads between the two bridges from the other side of the river. In the other ridings the main roads are not the same as in Otipua Riding. There is one main road in each riding. No other riding has such a main road as Otipua and Main South Road. In Seadown Riding there is one main road—the Great North Road. In Otipua one of the two main roads has to be classed as a district road—viz., from Pareora Bridge to Saltwater Creek. Is manager of New Zealand and Australian Land Company at Levels. Knows Cave-to-Cannington Road. It leads from Pareora River to Cave Railway-station. *Re* Table E: Knows most of the Levels ratepayers who use the road. Do not know J. Good, G. Squire, G. Collier. All the others use road, with these exceptions, to his knowledge. Some use it for light traffic and some for heavy traffic. It is their road for taking produce to the Point. *Re* Table F: These and portions of the New Zealand and Australian Land Com-

pany—about 600 acres—are all who use this road from Levels. Knows Mackenzie ratepayers who use it. These principally include our company. Their frontage is practically the whole frontage on Mackenzie side; also one man, Graham, who has 10 or 12 acres of land near Cave Railway-station; also Mr. Burnett, one mile and a half from Cave. These are the only three people who use the road. The land company is the chief holder on the Mackenzie side. Mr. Burnett runs back. He has nearly the same area we have. In Mackenzie the company has possibly 2,600 acres for which the road is used. It is principally grazing. Do not cart our wool down there. We drive our sheep by that road. We have carted timber from bush in Waimate side. The bush belongs to the company. The timber is principally carted for use in Mackenzie County on the part of the land above referred to, and also on Cave to Albury portion. Carts about twenty loads per annum. This is the only use we put the road to. For seven or eight years we have not carted grain on this road. There is about 300 acres of grain in this year. It was about six years ago since we cropped there before. The settlers on Waimate side (Table E) grow very little grain. Do not think they grow any to cart to the railway. Mr. Burnett uses the country almost entirely for sheep. Graham has only 10 or 12 acres. *Re* Table F.: This land is not used for grain that is taken away, or only very little. Sometimes Mr. Acton grows a little. McPherson does not grow any. Waimate people in Table F use the road.

By Commissioner.—Waimate people more largely use this road than do ratepayers in Mackenzie or Levels. Thinks Waimate County has more traffic on this road than either Mackenzie or Levels, or fully as much. Waimate traffic is bigger than the other two separately.

Cross-examined by Mr. Kinnerney.—Road is on the boundary of Levels County. Counties contribute half each. Ritchie and Winter are the greatest carters. The traffic of the others is not very considerable, but in the past a good deal of traffic was caused by them. Nicholson carts a good deal. Does not say it is wool. Witness says it is bush traffic. His firewood is traffic. He has carted double what New Zealand and Australian Land Company has done. It is carted to the railway-station and sold. Does not know whom it was sold to. New Zealand and Australian Land Company's carting is not done by Rowe. We cart for ourselves for years past. Our cartage would not amount to 81 tons. We bring eighteen to twenty loads at $1\frac{1}{2}$ to $1\frac{3}{4}$ tons at a time, and it is not very heavy on the road. Burnett's land runs back to two or two and a half miles. The depth of our land varies. We only hold 2,600 acres in Mackenzie that come on to this road.

Mr. Kinnerney having referred to Mr. Orbell's evidence in the other case—*Mr. Orbell*: It does not come along Cave-to-Cannington Road. The sheep in Levels County from 600 or 700 acres are driven along the road. Sometimes a little grain may be grown. *Re* Main South Road: Council has received a grant for this road. We do not know why it was given. We got £250, I think. Does not think there is another sum of £250, but it was mentioned in the Council that we should get £240 from the Government. Does not remember what he said at Council meeting on the 1st May. *Re* newspaper report, *Timaru Herald*, 9th January, 1902: As far as he remembers it was intended that we should include Upper and Lower Pareora bridges. It refers to Opihi bridges. There was a resolutions of County Council's, 6th February, 1901, to report on renewing as well as repairing. These roads want repairing. A good bit is spent on the Main South Road, Brassell's, and Otipua Roads. I have not inspected the roads. *Re* Upper and Lower Pareora Bridges: The lower one is under our control by the proclamation of the Governor. The Upper Pareora Bridge is under the control of the Waimate County, and each pays half. Remembers the Bill to incorporate Pareora Ridings in Levels County. The Levels County took an active part at the request of the ratepayers in Waimate County on petition from them. We took steps to get the Bill introduced, but the Bill was not passed. If the Bill were passed these ridings would have come into Levels County, and then the claim would not have been made. We would maintain these roads if we got their rates. Cannot say what will be done about the Bill. Council has passed no resolution dropping the Bill. Cannot say if it will be introduced next session.

Re-examined by Mr. Raymond.—*Re* grant from Government: It was allocated for putting up bridges. Government intended it for that purpose—viz., bridges on the road. There is no ground for believing that grant is an annual one. It was given us after the Pareora Settlement was cut up. We have not enough for the maintenance of the road permanently by reason of extra traffic. In his time of office a good deal of money has been spent on these roads. A large amount of metal was put on two or three years ago to the road up to the bridge. Otipua Riding is always behind in its finance on account of the upkeep of these roads. When the estimate was made up thinks the £250 had been granted by Government and spent. Got balance in February or March, and thinks the work was done. The Engineer's estimate is exclusive of what Government granted. (See letter to C. E. Roads, R. 2640/7, 23rd November, 1901.) The Bill was gone on with on account of the action of the Upper and Lower Pareora Ridings. The Lower Riding was unanimous, and the Upper was largely so. These proceedings are not taken on account of the Bill having been blocked by Waimate. We commenced them before that, and held them over until we saw if the Bill passed. Waimate opposed it, and our county asked Waimate to meet us. The incorporation of these two ridings would be a fair solution of the difficulty *re* this converging traffic. We have a large and genuine grievance, and it has been so for some time, and it will increase as settlement increases. What presses on us is the amount of money required to be spent on these main roads. The county has not directed what shall be done about the Bill. We should have to ascertain the feelings of the ratepayers in the two ridings.

Re-examined by Mr. Kinnerney.—When Lower Pareora Bridge was repaired some time since we got a grant, but do not remember the amount.

Herbert Elworthy sworn.—Is a sheep-farmer at Pareora. Manages the Pareora Estate. Has done so for two months. Has lived on the property all his life. In 1901 we carted over Pareora Bridge and Otipua Road 167 tons, 200 tons of wheat on bridge and road, also about 20 tons of mixed goods to Timaru. Carted as back loading about 75 tons manure, also about 35 tons stores

for homestead in a year. We have 58,000 sheep. We send between fifteen and twenty thousand every year, and of these about eight thousand are freezers. Last year we had a fair average of grain. We have six shepherds and about twelve hands all the year round, extra ones at shearing, and the ploughing is done by contract. Believes his brother supported the Bill. At present all their produce comes over the bridge and road to Timaru, but some of the sheep may go another way.

Cross-examined by Mr. Hamilton.—The above is a fair average. Our estate is well roaded. Cannot say what is the mileage. Not much goes out of Upper Pareora Riding besides ours. Thinks Elder uses the road to Cave. Evans's goes the same way as ours. Do not think he carts grain. Thinks he has about twenty bales of wool. Squire has all wool—about twenty bales—no grain. Collier sends his goods to St. Andrew's. Besides these and ourselves there is no other traffic on the bridge. Our estate is all in Waimate. The manure is manufactured. We get on the tracks in Timaru. It is chiefly bought by local dealers—that is, our sheep. Do not send wool to scouring-works.

Re-examined by Mr. Raymond.—His brother was a member of Waimate County Council, and has been for years. Cannot say which way Elder brings his wool. Thinks it would be as short to Cave. Cannot say which way he goes. It is not necessary to keep the bulk of roads through our estate in repair. They are covered with grass, but some have to be kept up. The great bulk of our estate is in Waimate. There are 14,000 acres outside which are leasehold. Rough country. The part in Waimate is where we grow all our grain and the best part of our sheep. The freehold in Waimate is about 48,000 acres. We pay £1,087 rates to Waimate County yearly.

David Caird sworn.—Lives at Pareora. Is a farmer. Lives on Levels side and has property on both sides. The largest part is in Waimate. Lives about 400 yards from Upper Pareora Bridge. Has 800 or 900 acres in Waimate. Carries between the two about two thousand sheep. The average amount in Waimate about one thousand five hundred. Cannot say what his average output from Waimate amounts to. Grows in Waimate 3,000 or 4,000 bushels and a quantity of oats. Carts grain over Jeffcoat's Crossing. All his stuff to Timaru comes that way. Grows more oats than wheat. Knows most of the settlers on that side of the river. *Re* Table A: Does not know Mrs. Benjamin or C. Hendry. Caldwell uses Brassell's. Sidey might come to St. Albans. With exception of above two, all people on Table A use Otipua Road. Very little traffic goes to Levels and Waimate, except Elworthy's back loading. Not much traffic from Levels to Waimate. Could not give estimate.

Cross-examined by Mr. Hamilton.—McMillan might come to St. Andrew's with some of his grain. Same remarks apply to Parish, but has seen him drive all his grain to Timaru. Cannot say in tons how much is carted by settlers in Table A. Cannot say how much Youdale carts. Cox might cart his grain now to St. Andrew's; he can go either way. Has seen Elder's wool brought down. He has brought it several times this way. Believe he has always brought it to Timaru. Does not know which way Sidey and Wake cart, but the light traffic comes to Timaru. Am an old resident, thirty years. Brassell's Road has been shingled in the last twenty years—part a long time ago and part not many years ago. There is considerable carting of shingle from river into Levels County. That road is principally used by Mr. Scott. This is the road they use for shingling the Otipua Road.

Re-examined by Mr. Moore.—Seldom uses Brassell's Road. Shingle has been carted for Otipua Road. Knows a few settlers about Brassell's Road. Table G: These are all Levels rate-payers who use the road.

Re-examined by Mr. Hamilton.—These settlers use it in addition to shingle-carters.

John Luke sworn.—Lives at Willowbridge, Waimate. Does general work and is a contractor and carter. Has brought about two hundred bales to Timaru this year—about 32 or 33 tons greasy wool. It came from Pentham Hills, and part from Studholme, in Waimate Estate. Wagons weigh 25 cwt. or 26 cwt. Made five trips. Knows that one team carted two loads to Redcliff, in Waikakahi. Came twice. Waikakahi is sixteen miles beyond Waimate.

Cross-examined by Mr. Hamilton.—The wool was sent to Mills's store along the Main South Road. Met the wagon at Pareora Bridge. Very little wool is carted on Main South Road.

Re-examined by Mr. Moore.—The wool was delivered by witness at Timaru. The other wool was heading for Timaru.

William Little sworn.—Lives at Cannington, and is manager of Cannington Estate in Waimate, 7,300 acres, the property of Mr. Ritchie. Seven thousand sheep on property. We shear on an average one hundred and seventy bales. It comes by wagon all the way to Cave, and then by wagon all the way to Timaru. We also send over three thousand sheep yearly by way of Cave down the Main Road to the freezing-works. The Cave-to-Cannington Road is our only road. We get our manure back by the wool-wagons, about 15 tons a year, and about 4 tons of grass and clover and 4 tons of other things. We only grow grain for contractors and for ourselves. We keep four contractors in summer, besides our own teams. We have two shepherds, two ploughmen permanent. In addition, Waimate people have heavy traffic, as per list, Table E: Shimbels sends 1 ton of wool; McPherson, 10 tons; Maxwell, 10 tons; Ford, 1 ton; Ritchie, 50 tons; Pringle, 6 tons; Fraser, 1½ tons; Nicholson, 2½ tons; Winter, 4½ tons of wool, and 4½ tons of grain, manure, &c.: total, 91 tons of heavy traffic. The New Zealand and Australian Land Company's traffic is not included. This is the export to Cannington Station. The wool comes right through to Timaru, but this refers only to Cannington Station; the others send to the Cave Railway-station. There is a bush—Levels Bush. Knocked off taking anything from there. The company has gone to another bush in Mackenzie County. Do not think Elder carts by Cave-to-Cannington Road. He would go along the Otipua Road to Timaru. *Re* Table F: McPherson gets timber from bush on hills. He lives one mile from Pareora River, on Cave-to-Cannington Road. Acton and New Zealand and Australian Land Company use the road. These are the only Levels settlers who use the

road. McPherson only grows grain for his own horses. On Mackenzie side, Levels Estate is the principal part that uses this road. Mr. Bennett, on Mackenzie side, uses one mile and a half from Cave. His wool comes on the road. Many more Waimate than Levels people or Mackenzie settlers use the road.

Cross-examined by Mr. Kinnerney.—There is very little traffic on this road. New Zealand and Australian Land Company used to cart a good deal at one time, but not now. The traffic is more than formerly. Was there four years ago at the New Zealand and Australian Company's bush. Levels Estate has 400 acres in oats in Mackenzie County about 30 to 35 bushels to acre, and this would come along the road. The Levels Estate is all but what Burnett owns in Mackenzie County on this road. They own some on Levels side. Levels Estate uses it a good deal for sheep. The outlet for the sheep is at the Cave. Levels sheep traffic is largely in excess of Waimate—as much in one month as Waimate would have in a year. The road has been better attended to the last two years than for twenty years before. A good deal of it was shingled the last two years, two miles done lately. Only uses a portion of the Cave-to-Cannington Road. The other Waimate people only use a portion of the road. Wool is generally carted in fair weather. The traffic wears it to a certain extent. The timber is carted at all times.

Re-examined by Mr. Raymond.—Wood traffic is pretty well a thing of the past. This part of Levels Estate would carry about four thousand sheep. The Levels property have four or five thousand that would use this road, and they take them backwards and forwards, and cause more traffic than ours do. They would take them for shearing, weaning, &c. They would take them four or five times a year, but only the outlying paddocks sheep would come all along the road. We only send our sheep away twice a year. Has lived there twenty-two years. Road is more used by all sorts and conditions of traffic by Waimate than Levels. Mackenzie sent an immense lot of grain down this year along this road. This came from Levels Estate in Mackenzie. Believes Waimate sends more traffic on the road, Levels more sheep. Heavy traffic is most injurious to the road. Sheep do not do much harm.

(This concluded the evidence for Levels.)

Mr. Kinnerney, for Waimate, said,—

I submitted two questions at the outset. I submitted that the Commission is invalid. I will not elaborate these points now. These are conditions precedent. The Commission gives power not authorised by the Act. The Commission should inquire into specific matters of fact.

I now submit that as to Cave-to-Cannington Road it should be excluded altogether. This is not a road giving access to Levels County. It is a boundary-road, and it is not situated within Levels County. Section 8 has no application to it, nor have sections 113 and 114, "Public Works Act, 1894." In any case the jurisdiction of sections 113 and 114 is for bridges. The question of how this road is to be governed is under section 250, "Counties Act, 1886." There is a complete and independent provision relating to it, and it is quite clear that Cannington Road cannot be dealt with under this Commission. Will prove in evidence that by the schedule to "Levels County Act, 1894," this road is a boundary of Levels County. Whether or not this road is in or out of the county, it is not a road in Levels County within the meaning of section 8 of the Act of 1900. I submit that Cannington Road is entirely outside the scope of this Commission.

As to the bridges: The Lower Pareora Bridge has already been dealt with by Governor's Proclamation under section 114, "Public Works Act, 1894." The Proclamation is in *Gazette* of 1896, page 1627. No grounds have been shown for varying or altering that Proclamation. The general rule is that a bridge across a river between two counties is divided equally, and this is the proper and correct rule to adopt.

As to the roads: Section 8 is limited to construction or maintenance, and it is not so wide as section 114. Section 114 is merely a machinery clause or for procedure, and it cannot enlarge section 8. They must show that the works are construction or maintenance. Submits that the work is construction. Mr. Black and Mr. Marchant show that they let the roads wear out and then really reconstruct, not maintain them. Mr. Marchant showed what required to be done in constructing, and submitted that remetalling with 25 yd. to chain is reconstructing, and in any case section 113, "Public Works Act, 1894," should have been complied with. Cannot say if his clients are prejudiced in steps not taken. I submit these provisions should have been complied with. I submit section 8 does not apply to cases of years of neglect. To do so would be to make the Act retrospective. The roads in some places are worn out. The Act is intended to apply to annual maintenance of works already done or to actual construction. I submit that if this claim is for reconstruction it is entirely outside the Commission. Levels County letter to Chief Engineer of Roads: The letter asks for a Commission *re* maintenance. The Commission includes it. Local body is bound by what it asks for.

Submits that section 8 does not apply to this case. It applies to a case where a road is a mere conduit-pipe, and there are no compensating advantages. Mr. Haselden said in Onslow Borough case, if road is a causeway the Act meets it. In the Hutt case the Borough of Onslow was impoverished, but in this case the roads are in a wealthy county. The Act only applies to a very special case, and not to moderate use of roads at all. The roads are not constructed for the local body in whose district they are situated, but for the general public. It was not intended to alter the whole road-system of the colony, but to deal with extraordinary cases where there are no compensating circumstances.

Another reason is that the contributing body has no voice in the expenditure of the money it is compelled to pay. Mr. Haselden lays down: 1. Large user. 2. Road must afford access. 3. Equitable that district should contribute. 4. Circumstances of situation of road to be considered. The question is, Has there been a large user of these roads by Waimate? There has

been nothing more than a reasonable amount of traffic from Waimate. Submits that the conditions show that there is not a large amount of traffic on these roads. We shall show that the outside traffic from Waimate does not exceed 1,300 tons. St. Andrew's Station takes the whole or great part of traffic from Lower Pareora Riding. The traffic by Otupua Road all comes from Upper Pareora Riding and from land in Levels, all produce from which is carted.

Another reason why Waimate should not contribute is that it is not equitable, because in 1882 the Timaru Harbour Rating District was constituted, and that includes Mackenzie, Waimate, Geraldine, and Levels Counties, and the Borough of Timaru; and Levels County did not object, as it was for the mutual benefit of these counties, and it must be taken that these bodies then agreed that each should maintain its own roads, as each pays the same rates. The value of land near Timaru has been increased on account of the increase in prosperity of Timaru, and this has been caused by the Harbour of Timaru. They must have contemplated that traffic would come over these roads. It is not therefore equitable that a practical toll should be set up against Waimate.

Nothing would have been heard of this claim had Levels remained part of Geraldine, as there would have been a large county. Produce is now shipped from Timaru instead of going to Lyttelton. Harbour Board report does not indicate a large increase of trade, as it formerly went to Lyttelton. Levels ratepayers have found that their expenses are increasing, and they want Waimate and other counties to pay. It was never contemplated that these counties should pay.

The Bill has apparently been dropped. It was promoted by Levels County with the intent to obtain a part of Waimate. If it had passed they would have got these two ridings, and spent their rates on their roads, and no part of their rates would have been spent on these two roads. If this is so, why should they seek to incorporate these two ridings? When they found this impossible then they asked for a Commission. If the apportionment is made the whole of Waimate County must bear the cost, and not the two ridings in question. The Counties Act provides how the expenditure in ridings is to be applied. If it can be done, then it would take the whole rates from these two ridings. The Act was never intended to apply to such a case as this. It applies only to a case where the district in which the traffic comes gets no advantage.

Submits that Cannington Road is not within the scope of the Commission.

The Main South Road is not largely used within the scope of section 8 of Act of 1900. The traffic on that road is principally light traffic, and it is of no importance as compared with the traffic of Levels farmers on this road. As a set-off there is considerable traffic by Levels farmers to St. Andrew's on show days. The sheep traffic is to the freezing-works in Levels County and for Levels County. The works belong to Christchurch Meat Company. The dealers are Levels ratepayers. There is no large user of the Main South Road within the meaning of the section.

Re Otupua Road: This is the only road on which there is any substantial traffic. There is a certain amount of heavy traffic. The figures given by Mr. Raymond are excessive. He takes 30 bushels grain, as per Year-book, and assumes it is all carted. He makes no allowance for grain retained for seed, or pig or cattle feed. He assumes that the wool of every sheep is shorn, but thousands of sheep are sold in their wool. We can prove the actual quantity carted. The total amount is 1,300 tons at the outside, including wool and grain, instead of 4,610 tons, as suggested by the other side. There is a difficulty in showing what the Levels traffic is, but we can show that the mills and stores in Timaru get 2,642 tons and perhaps more. They say the proportion against us is as 7 to 1. We say the proportion is as 1 to Waimate so is 2 or 3 to Levels.

Then Mr. Raymond says that the quantity carted should be reduced by three-fifths. This is contrary to the rating system. If that were done we should have to get the Rating Act amended so that the farmer twenty miles away should pay twenty times as much as the farmer one mile away. The question is whether the road is used at all, and the tonnage over it. If the produce is compared, then it will be found that the greater part is railed, and the amount carted in Levels is considerably greater.

EVIDENCE FOR WAIMATE COUNTY COUNCIL.

George Beech Cochrane sworn.—Is Clerk to Waimate County Council. Produces rate-book and valuation roll. Verified certain correspondence (see Exhibits 18 to 21). The total capital value of the county in March, 1902, was £2,685,876; the unimproved value was £2,281,145—viz., Upper Pareora, £258,857; Lower Pareora, £208,598; Otaio, £315,107; Makakahi, £235,451; Deep Creek, £287,381; Waiao, £777,266; Hakataramea, £198,485; total, £2,281,145. The net credit revenue was £10,431—Government grant, £408. It includes Government subsidy of 5s. in the pound on the rates. The total expenditure for the year was £10,987. The total revenue of the Upper Pareora Riding was £1,261 18s. 5d., and £739 of that was available for roads and £522 for other expenses. The total expenditure of Lower Riding was £929 3s. 2d, and £490 3s. 2d. was available for roads and £431 for other expenses. Estimate of rates, Upper Pareora Riding £1,294 15s. 6d. Was made up—Rates, £943 16s. 5d.; subsidy, £235 19s. 1d.; other revenue, £115: total, £1,294 15s. 6d. Estimates, Lower Pareora Riding: Rates, £760 16s. 6d.; subsidy, £190 3s.; other revenue, £94: total, £1,044 19s. 6d. Letter of the 24th February, from Chief Engineer of Roads, was the first intimation that Commission would be applied to this claim. No plans and other particulars were furnished either before or afterwards, and no notice was given that a Commissioner would be appointed.

Cross-examined by Mr. Raymond.—Had never seen a copy of Levels Overseer's report. This is all the correspondence I have received. Particulars of the claim are in letter of the 15th June, 1901. Council had a special meeting, and a reply was sent to Levels claim (see letter of the 25th July). The Waimate County Council has not passed any resolution suggesting any sum they are prepared to pay. It has never admitted any liability. The two letters from the District

Traffic Manager refer to grain only, without reference to the point of disembarkation. The Waimate County rates are $\frac{7}{8}$ d. in the pound on improved value. The total capital value of whole county is £2,685,876. Rating on unimproved value is in force in the county for one year. The total revenue in force in the county from rates last year at $\frac{7}{8}$ d. is £8,318. The rating in previous year was $\frac{11}{8}$ d. in the pound on capital value the previous year. The unimproved value of Elworthy's freehold, Upper Pareora, was on 39,635 acres; leasehold, 10,062 acres; Lower Pareora freehold, 3,302 acres. The capital value was—Leasehold and freehold, Upper Pareora, £198,005; Lower Pareora, £23,120. Mr. Elworthy paid last year £809 9s. 8d. county rates, £277 7s. 3d. harbour rates. We levy harbour rates three-tenths, county rates seven-eighths.

Re-examined by Mr. Hamilton.—Mr. Elworthy has asked for expenditure on roads in Upper Pareora Riding, in his property. Cannot give particulars.

John Fleming Douglass sworn.—Is a sheep-farmer at Waihao Downs, and is Chairman of Waimate County Council. Under his direction certain areas growing grain in Waimate County have been prepared and computed. (See Exhibit 20.) Has seen this. These lists comprise such lands. Knows wool is sent from his district. Pentham Hills cart wool, and small quantity comes from Studholme. Part comes from both places. Sends none by road. Knows sheep traffic. There is considerable traffic from across Waitaki and from Southland, which is discharged at stations. Of the sheep that go to Levels most have been brought by Levels buyers. Had considerable experience in the use of roads. Has a mail-coach. As regards keeping roads in repair, if they are patched up in lengths they are very irritating to drive over, if long stretches of metal.

Cross-examined by Mr. Raymond.—Pentham Hills Station has about ten or eleven thousand sheep, and would shear eight or nine thousand, and that wool is drayed into Timaru. Knows Waikakahi. Never hear of wool from there. Up to last year Waorangu Station carted wool up to Timaru. They shear eighteen or nineteen thousand. Our Council was opposed to the severance. The opposition in Upper Pareora was a small minority in value. Most of our travelling sheep come north for the freezing-works. Some come for fattening, some for breeding. Does not say that the sheep stop in Levels. Knows that Levels has not a great extent of pastoral country. The bulk of the fat sheep from Waimate are railed. Does not know proportion. From Pareora they might be travelled north of Studholme. Rails everything. *Re* buyer: Refers to Grant, Mackenzie, and others. There are no fat buyers in his county. Roads patched up are less irritating than long stretches of metal. Knows it is harder on the horses. Does not mean a wheel-barrowful here and there. If you put on a mile at once it is irritating. What is done should be done properly. If the road is properly repaired it should last for a considerable time. Periodically a road should be repaired. It might mean every eight or ten years, but it might want a portion every year.

Re-examined by Mr. Hamilton.—Putting on a considerable quantity of metal, if road is properly repaired it ought to last ten or twelve years.

David Stowell sworn.—Resides at St. Andrew's. Has resided there thirty years. Has observed the traffic. No heavy traffic goes in from St. Andrew's, but a good bit of buggy and traps go in. Light traffic comes out from Timaru. Cannot say where it goes to. Sales are held at St. Andrew's fortnightly now. It is good for farmers to attend these sales. They come both ways, from Main Road and from Brassell's. There are settlements at Springbrook, St. Andrew's, and Pareora. They cart grain to St. Andrew's, and other produce. They might take a few potatoes to town, but it mostly goes to St. Andrew's. Traffic from the lower portion of Pareora goes to St. Andrew's. Has seen no heavy traffic from this place to Timaru except a load or two of grain. Lives about ten chains off the Main Road near St. Andrew's. A good deal of sheep travel both ways. Think one-fourth goes south and three-fourths go north. It is almost impossible to form an estimate.

Cross-examined by Mr. Raymond.—Most sheep go north. Good many go south past St. Andrew's. They might have come from Mr. Elworthy's. Keeps about six hundred sheep. The bulk go to Timaru, generally by rail. Never send by road. His fat sheep this year went by rail. Some fats go by road, but many go by rail from St. Andrew's. Those from higher up are often railed. From the whole of lower part of Pareora Riding they would go by road, but those near St. Andrew's go by rail. Supported Bill for incorporation into Levels. There was a unanimity of opinion in Levels Riding that they should join Levels.

By Commission.—Reason was because all their business interests lie in Timaru. It is the proper thing to do that Upper and Lower Pareora should be in Levels County. All his neighbours hold the same opinion.

By Mr. Raymond.—Lives on the sea side of St. Andrew's station. Has not seen grain coming to Timaru on Main Road, but grain from Upper Pareora Riding would be roaded to Timaru generally. Was Government Valuer, but is not now. Held that position eighteen months off and on. Valued Waimate County. Have resided in Pareora Riding over thirty years. Finished before Christmas. Some years ago Lower Pareora Bridge fell into disrepair, and with others endeavoured to get the Supreme Court to repair it. Considered it of importance that Pareora settlers should get to Timaru. Since then the circumstances have altered, and rates are cheaper on the railway.

Cross-examined by Mr. Kinnerney.—This was a good many years ago, and circumstances have changed since then. There is an increased tendency for goods to go by rail. A town like Timaru would increase the value of land. It encourages production. Grain can be grown to more profit, and also sheep. Thinks it proper that Lower Pareora should join Levels.

Charles Edward Bremner sworn.—Is engineer to Waimate County and A.C.E., and formerly engineer to Wairarapa North County sixteen years, and seven years engineer to Masterton Road Board. Has specially studied road-maintenance and contributed a paper to Institute of Civil Engineers in London. Has examined Mr. Black's estimates with letter from Levels County Council of 17th March, 1902. In witness's opinion the claim is for reconstruction of roads,

and would not come under the head of ordinary maintenance. The quantities of metal proposed to be used are in excess of maintenance and amount to reconstruction. *Re* Main South Road: £810 for 158 chains road equals £410 a mile. Cannot call that maintenance. It is an extremely high rate. Main Otupua Road: £620 on 85 chains road equals £584 a mile. The total suggested repairs over all roads, £8 or £9 a mile, is a very high estimate. It is quite unreasonable. In the Waimate County, on the Main South Road, this statement shows an average of £15 15s. 7d. a mile (see Exhibit 22). This gives a reasonable and fair approximation of the cost required for metalling this road all through if the road is not allowed to go to ruin. Also prepared statement analysing report of Levels County (see Exhibit 23). Also worked out the cost of maintaining roads in Waimate County, thus: Total expenditure, Pareora Road, £98 8s. for nineteen months, equals £8 13s. per mile; Main South Road, £95 10s. for nineteen months, equal £16 13s. 2d. per mile; Brassell's Road, £3 3s. for nineteen months, equals £2 13s. 4d. per mile; Upper Pareora Road to Pareora Bridge, £2 17s. 4d. for nineteen months, equals £21 4s. per mile. The average cost of maintenance in North Island is more than here. There is about £26 a mile all over the county. Had not inspected the roads before receiving the report. From that expected to find them much cut up. Examination showed roads in fair order; weak in places, but fairly sound. Does not think the additional traffic on Otupua Road affects it much. Difficult to estimate. The lists put in by Mr. Douglass were put in under my supervision. The best system of maintaining roads is to repair them gradually as they require it. This is the recognised practice, and perpetual vigilance is required. This would inconvenience traffic less than putting on a large quantity of metal. It is stated in Mr. Black's report on Otupua Road that putting on a large quantity of metal had diverted the traffic on to Pareora Road. Mr. Elworthy applied to Council to do four miles road-works on his estate, estimated to cost £640. Matter is under consideration of Council now. Sheep traffic does not damage a road that is flat much; but in side cuttings they do. You may lose months of work in one day with them.

Cross-examined by Mr. Raymond.—Did not hear Mr. Marchant. Disagrees with his statement as to putting a great quantity of metal on roads. After putting a lot of metal down it would cost a considerable amount. If you put a lot of shingle on a hard road it will not bind, and, if sheep go over it, requires constant attention. Disagrees with his method. It is a method, but a bad one. It is a bad principle, and contrary to all recognised practice. The roads in Levels are sound, but the crown is flat, and that wants metalling, but the side widths are not unsound at all. The roads in question are not hilly. There are no heavy cuttings. They go over a series of hills. The road from Pareora to Waimate is flat, and much the same is required for that road as for the road from Pareora to town boundary. Sheep traffic gives trouble on either a flat and undulating road, and it is destructive of a newly metalled road; but it applies a little more to an undulating than to a flat road. His average expenditure is over specific roads. We do have occasionally to put metal on by stretches of road, but do not think we have exceeded 6 yards per chain for maintenance purposes. On several roads we have put 12 yards per chain. Speaks of White's Point Line and another. These are charged to remetalling. In talking of construction of a road, the metal part is put in where it wears out. It has been the practice in Waimate to put considerable quantities on roads before he came, but it is an unwise practice.

Re-examined by Mr. Kinnerney.—In road worn out puts on 12 yards. In putting on so much it is reconstructing the metal way. Has seen the roads. Sheep traffic is very bad for roads with 25 yards of metal to the chain, but not so bad if road is metalled in usual way. *Re* Cave-Cannington Road: Has looked at description of boundaries in *Gazette* of Levels County, and has compared it with map (*Gazette*, 4th October, 1883, page 1417), and this road is in Mackenzie County.

Saturday, 3rd May, 1902.

Charles Edward Bremner re-examined by Mr. Kinnerney (continued).—Agreed that one person from each side should go over the lists of traffic and make a report as to which farmers from each county use the roads in question. Agreed that Mr. McLaren and Mr. Rhodes should go over these lists.

Mr. Hamilton said that the statements handed in yesterday had been gone over by Mr. Douglass, who pointed out boundaries of grain-growing areas, and that this statement was compiled by a witness who would be called. Mr. Raymond said he had had no opportunity of checking them.

Charles Edward Bremner recalled.—This is a plan prepared under my direction. It purports to show the cropping-area which gravitates to St. Andrew's and the portion which goes to Timaru through Levels County separately. The area pink goes to St. Andrew's; uncoloured area to Timaru.

Re-examined by Mr. Raymond.—On the boundary, perhaps, some cart both ways. (There is not much difference in the plans produced by both parties.)

Mr. Douglass recalled.—As to surplus in receipts for Upper Pareora Riding: There are several Government runs, and the thirds and fourths have accumulated. We are allowed to expend these with consent of owners of the runs. The county rate struck is still to the credit of the riding. The average quantity of seed per acre required is 2 bushels of oats, 2 of barley, $1\frac{1}{2}$ to $1\frac{3}{4}$ of wheat. The average horse-feeds required to be kept are 4 bags oats per week for four-horse team: 7 lb. per day per horse is much below the average.

Cross-examined by Mr. Raymond.—Thirds and fourths accumulated in Upper Pareora Riding. In other ridings that have runs there is the same surplus. There is a large accumulation in Upper Pareora Riding.

Robert John McEwan sworn.—Is a farmer at Pareora, near Ford. Has a farm with his brother—670 acres. Carts produce to St. Andrew's. It is cheaper than carting it to Timaru. Could take two trips to St. Andrew's, but only one a day to Timaru. During the last four years

carted to St. Andrew's, except last year. Could not get trucks last year. On the average we cart 8,000 bushels grain to St. Andrew's. Knows sheep travelling on Waimate roads. More go north than south. Cannot say difference. Knows J. Hall. He has a farm, 300 acres. He carts every bit to St. Andrew's. So does Parish, Squires, and Catherwood. Their carting is all grain. From Government settlement, Springbrook, they cart all their produce to St. Andrew's. Cox and Sidey cart to St. Andrew's. Do not know Wake. Sales are held at St. Andrew's once a fortnight; also at Studholme. Cannot say as to Makakahi. Farmers from Levels go to these sales by road. Over twenty Levels farmers come to St. Andrew's on sale-days. They come from twelve to fifteen miles back. Went through statement of cartage on Otupua Road. This is the statement, and it is correct, so far as I know. It is a fair average; 1,293 tons fairly represents the quantities carted over Otupua Road.

Cross-examined by Mr. Moore.—Carts all his produce to St. Andrew's, but carted grain to Timaru on the 10th and 11th April. Carted oats. Last year we carted it all. Year before to St. Andrew's. We shall not cart more to Timaru. It is cheaper to St. Andrew's. There is a grain-store in St. Andrew's, and one on our property. Our sheep go to freezing-works over these roads. They are bought by meat company on the place. *Re* Smith's land, top of map, cannot say where it goes. Knows Cox's grain sent to St. Andrew's last two years. Cox might take some to Timaru in his trap, but heavy traffic would go to St. Andrew's. Will swear his grain is going there. Cannot say which way B. Mack sends. Knows he used to cart to Timaru. Both Parishes cart to St. Andrew's. St. Andrew's sale is now held once a fortnight, while in winter it is held once a month. A lot of sheep are sold there—sometimes five thousand. Two hundred farmers are present, and out of that twenty come from Levels, if not more. This twenty go to the other sale in Waimate. W. J. Bartley, from Clairmont, comes fifteen or twenty miles from Levels. Has seen Mr. Orbell at Pareora. Never saw him at St. Andrew's. Pareora sale was a special sale, and Mr. Orbell was manager. Mr. Gibson, from Clairmont, was at St. Andrew's sale; thinks about six months ago. As to list of tonnage, no back loading is shown. It is usual to bring stores, &c., back. Scott Bros. would have about five tons and other things as back loads. Much the same applies to the others, so that there should be a considerable increase made to the list for back loading. Knows Springbrook. Can name several who do cart to St. Andrew's. Does not say that Hastie's evidence *re* his carting is incorrect. There is light traffic from all these settlers, and we all drive by Levels roads to Timaru. In the area round me over twenty drive light traffic to Timaru. We go in on Saturday as a rule.

Re-examined by Mr. Hamilton.—Carted 500 bushels in the two days. Carted to Timaru. Recognises Smith, Talbot, Cook, Campbell, Anstey, Watson, and several others as attending sales at St. Andrew's. Sometimes Christchurch Meat Company or Mr. Cunningham buy our sheep, also Mr. Grant or Mr. Mackenzie.

Joseph McEwan sworn.—Is a farmer at Pareora, near Brassell's. Farms 600 acres with his brother. We cart our grain and produce to St. Andrew's. Cheaper than carting to Timaru. It has been a regular practice of late years to cart to St. Andrew's. Last year we carted it all to Timaru, but under exceptional circumstances. We go in for grain growing. As to sheep traffic on main road, a little more comes from Waimate than from Levels. Heard my brother's evidence as to Parish, Cox, and others. This was correct. Has gone through the statement *re* carting grain, &c., over Otupua Road. Recognises this statement. It is a fair average, none overestimated. Represents 1,293 tons. Heard the statement of his brother *re* carting to St. Andrew's. Thinks that evidence is correct. The names of persons given by his brother as attending local sales are correct. Knows the settlers between St. Andrew's and Pareora. Their traffic mostly goes to St. Andrew's.

Cross-examined by Mr. Moore.—Attended St. Andrew's sales. Is there at every sale. Sometimes both go, but he generally goes. Has seen J. Smith and several others drive. Some of the others have farms in Waimate, but not many. The people mentioned mostly go regularly. Is quite sure. Confirms the list. We cart about 60 tons, and our back loading is about 20 tons, or about one-third as much. Cannot speak for the others. A fair average would be one-third except for Elworthy. Knows Springbrook settlers. Their heavy traffic goes to St. Andrew's. Would not contradict Mr. Hastie's evidence. They cart their produce on their Saturday traps—small loads. Says that the bulk of the heavy traffic goes to St. Andrew's. The light traffic comes all the way to Timaru.

Re-examined by Mr. Kinnerney.—Some of these settlers have no carts of their own. It pays better to send to St. Andrew's even if they have carts of their own.

John Drinnan sworn.—Is a farmer at Pareora near Brassell's ford. Has been seventeen years in the district. Carts to St. Andrew's. It is cheaper, because Government has reduced the tariff by railway. Has 600 acres on Otaia. Does not cart any grain or produce to Timaru. More sheep come north than south. Hall and several others near me cart to St. Andrew's. McMillan up to the present has not grown grain, but has croppers, some of whom are going to cart to St. Andrew's. Has about 400 acres. Has been through the figures in statement (Exhibit 21a). Knows all those except Elworthy and another, and, with these exceptions, should consider it a fair estimate. Knows the small settlement at Springbrook. Their heavy traffic goes to St. Andrew's. Their light traffic goes to Timaru. Some bring in small loads to Timaru, but the bulk of the heavy traffic goes to St. Andrew's. Attends the sales at St. Andrew's, and agrees with the statements of previous witnesses as to the persons in Levels County who use these roads.

Cross-examined by Mr. Moore.—Carts to St. Andrew's. Carts grain. This year grew about 2,000 bushels, equals about 20 tons. His wool goes to St. Andrew's. Regular practice last three years has been to cart to St. Andrew's, but carts light traffic to Timaru by lower Pareora and Main South Road. Comes in about once a week. *Re* sheep traffic: Knows the sheep on Otupua and Main South Road, but only general knowledge. Sees lots going each way. McMillan's carting is heavy. He grazed land previously.

Re-examined by Mr. Hamilton.—*Re* McMillan: Knows he carries four hundred ewes, equals about eight bales of wool. He has had two or three clips of wool.

George Lisle sworn.—Is a farmer at St. Andrew's. Was formerly manager of Pareora Estate ten years. The extent of the estate twelve years ago was 15,000 acres. It was sold down to about 8,000 acres when Government obtained possession. *Re* Exhibit 20: Recognises this statement. It is a fair statement of amount carted over the road to Timaru—1,293 tons. Bases his opinion on the knowledge he has of the whole county after keeping back sufficient for seed and feed. From the upper portion the greater part goes to Timaru. Farmers grow more oats than wheat. The average for sale is about 20 bushels per acre. They would have about one-third of their land in crop at a time, but a portion of this land is rough and steep and it cannot be cultivated. When he was manager carted grain twice only to Timaru—viz., in 1891 and 1899. There is considerable light traffic on the Main South Road, but more comes from Waimate than Levels. Witness's house is near the Main Road, and he can see the traffic. More sheep traffic goes north than south, but it is very hard to estimate it. Sheep go north for Grant and other dealers in Levels. Nine out of ten are for these persons. The settlers at Springbrook Settlement cart their goods to St. Andrew's. Sand is carted from Normanby to Timaru. It is in Levels County, and is carted over Main South Road. Has very often seen three drays which make two trips a day, and there would be two tons in each dray. Is a member of the Timaru Harbour Board, and the effect of the port is to increase the value of the land around Timaru. The effect of converging traffic is to enhance the value of the land near the centre.

Cross-examined by Mr. Raymond.—The land is all downland on both sides of the river, and should expect the same return from land on both sides. Land in Levels near Lower Pareora is of more value, as there would be less carting. Does not know the reason why Levels land is worth £4 or £5 an acre more than Waimate. We have established a grainery at St. Andrew's. It was established previous to my management. If not for that we should be obliged to get rid of grain at once. The general trend of sheep is towards the Port of Timaru. The bulk of them are driven. Some are bought by Christchurch Meat Company, and some by Mr. Grant, and he owns land in Waimate. There are over twenty settlers in Springbrook, and most of them have traps and horses, and they grow roots, &c., for market. Never heard of them carting to Timaru. They come to Timaru frequently over the bridge. They were carting sand from Normanby to-day. Believes the ground is fenced in, but does not know if Government has stopped the carting. Cannot say for what purpose they are carting.

Cross-examined by Mr. Kinnerney.—The value of the land is four or five times more near Timaru, and it must be on account of the richness of the land. Land near a town must be of more value than land at a distance, because they can grow stuff for sale at the town. A port increases the value of property and makes a better market. It is a substantial advantage. These advantages increase the prosperity of the towns. The establishment of the Port of Timaru proportionately enhances the value of land in Levels County more than the land further away, and it has consequently afforded a better market to Levels farmers. All the local districts in the vicinity combined to form the Port of Timaru, and make themselves liable for loans amounting to £300,000 or more, and they take care to rate themselves on an equal basis. The Levels farmers use the streets of Timaru, and the Timaru Borough has not made any claim. It is just as reasonable for Timaru to make a claim on the Levels County as for Levels to claim on us for the traffic on their roads. As to Mr. Grant's land in Levels, does not know it is his or his brother's—does not know the area. *Re* sheep traffic: They do no great damage to well-worn roads, but to a new-metalled road they do much damage. Is a member of Waimate County Council. The maintenance of Elworthy's roads on his estate amounts to nearly as much as he pays. Knows it is now proposed to construct roads to his estate costing probably over £600.

Cross-examined by Mr. Raymond.—Waimate settlers who come over the bridge come to Timaru to do business with them. Was an active mover to sever their district from Waimate. The ratepayers were unanimous in Lower Pareora to join, and signed the petition and got others to sign, and the reason was that the traffic converged to Timaru, and for other reasons. They are more in touch with Levels and Timaru, and our business interests centred in Timaru. The proper county for the Pareora Riding to be part of is Levels County.

George Winter sworn.—Resides at White Rock, Waimate, and is a farmer. Holds 1,333 acres of freehold. Knows Cave-Cannington Road. Lived there two years and a half. This is their only road. Went through this estimate [not put in]. It is a fair estimate. It includes 81 tons from Levels County, and Levels County are the chief carters. This is the carting that is injurious to the road. In addition to that there are 350 acres of oats in Levels Estate, in the Mackenzie County. This must go to Cave. There are thirty-two stacks containing about 10,000 bushels. As to the sheep traffic, there is more traffic from the Levels Estate in one day than from Cannington sheep all the year round. Saw six or seven thousand sheep in one day from Levels. They injure the road more than all the traffic will do—on a new-shingled road especially. Knows Elworthy's property. Knows that Waimate County will expend about £1,000 on White Rock and Pareora River. Elworthy's property comprises the bulk of the Upper Pareora Riding.

Cross-examined by Mr. Raymond.—*Re* Cave-Cannington Road: Rough estimate carted on this road is 81 tons. Lives along the road. Mr. Orbell might know better than he does, but he is not always there. Of the 81 tons does not mean the Levels property only. The Levels Estate would have more than 21 tons. Does not know them individually. Cannot name them. The O'Neills live below the Cave. They come up for firewood. Some of the wood goes to Mackenzie. There is none now, because the sawmill is knocked off nearly twelve months ago. New Zealand and Australian Land Company are not now cutting. Apart from O'Neill's, the bulk of the Levels Estate on that road is on the Mackenzie side. Three thousand sheep go from Cannington down that road in one year. Speaks from what he saw. [*Mr. Raymond* said that witness's evidence

would show that twelve million sheep would go down every year.] Thinks Mr. Orbell's evidence is incorrect. The road is used by a large number of Upper Pareora Riding settlers. In numbers, more of them than of Levels settlers use this road, but there are only about three settlers in Mackenzie County who use it.

Re-examined by Mr. Kinnerney.—A Levels driver stated there were six or seven thousand sheep.

James Hall sworn.—Is a farmer at Pareora. Lives three or four miles from Brassell's ford. Comes that way. Heard the evidence of Mr. Lisle and Mr. Evans. Has seen the figure, and has heard that about 1,300 tons are carted by the Otipua Road, but does not know how much is carted. Thinks the statement is reasonable. Carts all his produce to St. Andrew's. Knows that Parish, Cox, and Sidey cart theirs to St. Andrew's. Knows the special settlement near the Pareora Road. Has seen them cart to St. Andrew's. Attends sales at St. Andrew's. Heard the names read out. They are correct. Has seen these people at the sales.

Cross-examined by Mr. Moore.—Cannot swear these people come by rail, but the biggest part come in traps.

Hugh Ritchie Bush sworn.—Is Stationmaster at St. Andrew's. Returns given in are correct. (See Exhibit 24). This traffic goes to Timaru. If the trucks were available last year, McEwan Bros.' produce would have gone by rail. Do not remember any others. The railage on grain was previously 3s. 9d. per ton; it is now reduced to 2s. 6d. The grain traffic from St. Andrew's side goes to Timaru. Knows the Springbrook Special Settlement; their produce is carted to St. Andrew's and railed to Timaru. Get wool and skins from Hansen in Levels County. Very little is railed from Normanby to Timaru, as the station is not used.

Cross-examined by Mr. Raymond.—Hansen brings his wool to St. Andrew's. Cannot say where he gets his wool. Springbrook settlers grow grain. They do not ship small lots of roots by the railway.

Re-examined by Mr. Hamilton.—Practically all the settlers' produce at Springbank comes by railway. The traffic from Makakahi and from Studholme goes north.

Cross-examined by Mr. Raymond.—As to sheep, people near St. Andrew's send half their sheep by rail and half by road. The statement of areas under crop in Waimate County was, subject to objections by Mr. Raymond, put in.

Charles Ackworth sworn.—Is Town Clerk to Waimate. These are the statements prepared by me (see exhibits 25, 26, and 27). The Clerk of the Waimate County made out these statements, and both sides agreed to them.

John William Freeman sworn.—Has kept a livery-stable at Waimate for many years. Can form a good idea of the traffic between Levels and Waimate. There are on an average only two traps a week from Timaru to Waimate Borough. The traps come to my stable, and they contain Levels or Timaru people. Knows of some carting that was done a month or six weeks ago from Timaru. One lorry came from Timaru to Waimate and made three or four trips in a month; was down four times. In the last six weeks or two months has been down four times. Also a big express with a lorry twice. Very often drags come through with footballers and picnic parties.

Cross-examined by Mr. Raymond.—The bulk of the residents from Waimate and Timaru go by train, but lorries were taken, also football teams have come both ways. Teams often come. There were six or seven from Timaru last season. The four-horse lorry is only an occasional thing. It conveyed luggage for residents and business people moving. This goes on now and then, but never knew of any coming from Waimate to Timaru. Sheehan brought some from Timaru to Waimate, also a dentist moved down, and is now a Waimate resident.

Duncan Scott sworn.—Is a farmer at Pareora. Lives near Brassell's ford. Heard the witnesses this morning as to cartage, and agrees with them as to the amount being reasonable.

Cross-examined by Mr. Raymond.—His son and himself hold 1,300 acres. They do all their carting over the Otipua Road. Does not know Wake. G. Scott used to come to Timaru over Jeffcoat's ford. The whole of the Lower Pareora Riding comes over the bridge or Brassell's ford to Timaru, and the bulk of the sheep come north.

Robert Rhodes sworn.—Is a sheep-farmer, and was brought up in this district. We are very old residents. Owns land in the Upper Pareora Riding—namely, 14,000 acres of leasehold, and my wife and myself hold 5,000 acres of freehold. They also hold land in the Otaio Riding—over 8,000 acres. As to sheep traffic, knows how the sheep near Waimate go. Is not conversant with the Main South Road. The bulk of sheep go from Waimate to persons in Levels. They are bought by northern dealers. The effect of the Port of Timaru on Levels lands and the fact of being a port means a congestion of people, and this enhances the value of land near that centre. That gives rise to traffic, and the traffic from Waimate helps to advance the value of land near Timaru in a greater proportion than in the case of land further back. As an instance, Government purchased Pareora No. 2. The lands on each side of the river are about the same value, but the highest rental obtained from Pareora No. 2 is at 11s. 6d. per acre at the most. Knows that Downlands, near Timaru, is let at £1 an acre. Thinks the land he referred to is a little better, but not in the same proportion. In the same neighbourhood land is let for 18s. an acre, and if it were a longer distance off they could not pay that rent. Does not know of any land in Waimate let at the same rent. Has 90 acres of land near Saltwater Creek. It is very rank, sour, and cold, with gorse, and we get from 10s. 6d. to 11s. an acre for it. It is the same price as obtained for best land at Pareora. It is close to Timaru. Knows the Bill as to the incorporation of the Upper and Lower Pareora Ridings in Levels County. The Waimate County Council passed a resolution objecting to these ridings going over, but the Council made no active opposition. It was opposed by certain ratepayers in the Upper Pareora Riding. The Bill was opposed because it included both Pareoras, and the petition signed by the Upper Pareora ratepayers against going over made no reference to the Lower Pareora Ridings. The report of the debate in the House shows that the parties might come to some under-

standing. There was no objection to the Lower Pareora Riding going over. Thinks that the county as a whole did not wish to be dismembered. Winchester, Temuka, and Silverstream are the largest wool-scouring works, and wool goes there from Waimate for scouring; goes to Winchester in quantity. Knows that it is of value to farmers to have farmers behind them. If there was no Waimate County the Levels County would not be quite so valuable, and if there were no surrounding country the port would not be so valuable. The loss of traffic from Waimate would be very severe.

Cross-examined by Mr. Raymond.—The true basis of the value of the land is its productive value. What you get out of land, less the cost of carriage to market, is the value of the land. As to his land near Saltwater Creek, it grows bad crops. The tenant might be able to work it better than he did. Cannot say why he pays so much rent. Cannot say if land on the south side of Pareora pays 11s. 6d. per acre. Since Pareora was purchased by the Government the value of land has increased. The tenants ought to be doing well. Knows Disle's farm. He has two properties. Should think that the lower land is worth from £12 to £13 an acre. Knows Stowell's farm is worth £12 to £13, and perhaps more. Is very valuable—perhaps might be worth £15. *Re* Willowbridge, half-way between Timaru and Oamaru: this land was sold for £28, and this was as far removed from Timaru and Oamaru as any part of Waimate. Bought Boyle's farm in Otaio. Believes the last tenant gave £1 an acre for it. Would not like to say what he would let it for. Was aware that the majority of the Upper Pareora Riding people in value wanted to secede. Elworthy wished to secede. It was the petition *re* incorporation that did not include the reference to Lower Pareora Riding. Refers to the petition against the riding going to Levels. The bulk of his property is in Otaio Riding. The Waimate County did not take any active steps to oppose the Bill. Witness did. The majority supported him. Thinks Mr. Walker and Mr. Studholme voted in favour of secession. The other five voted against. Saw a solicitor about it. There was a solicitor instructed by witness to oppose the Bill. *Re* wool: A lot of Waimate wool is scoured at Winchester. It went by rail. If there was no Levels County the Waimate County would be less valuable.

Re-examined by Mr. Kinnerney.—The market town lends additional value to the adjacent town. Much stuff is grown round the town for consumption in the town. It tends to give an increased value to the land, and as the town prospers the trade increases. The port is a large factor in the increase of the town. From his experience and knowledge finds that land near the town is more easy to let than elsewhere. Without the union of Waimate, Geraldine, and Levels does not think that Levels could have made a port. As to the Bill, knows that a large number of Bills are slaughtered by pressure of other business.

By the Commissioner.—The Council would not admit any liability as to the maintenance of these roads.

John Mundell sworn.—Is head auctioneer for the Co-operative Association, Timaru. This association has large business in land. Is acquainted with the value of land in Levels, but not so much in Waimate. Considers that the establishment of the Port of Timaru enhances the value of Levels land materially. It has advanced the lands more proportionately in Levels within ten miles of the port than in any other place, in his opinion to the extent of 25 per cent. at least. The port has had a marked effect upon the prosperity of the town. The people near the town can grow much more by living near the town than if they lived further away. As to sheep on the Main South Road: Mobs from Otago coming by road come by our roads. The sheep are often railed to St. Andrew's, and then if not sold they are travelled further north, and a considerable amount of sheep come. The majority of the biggest buyers live in Levels, and some in Mackenzie. These men amongst them buy half the whole lot. Thinks the principal wool-scouring works is Clarke's at Washdyke, in Levels; but not much is roaded up from Waimate to there—it goes by rail.

Cross-examined by Mr. Raymond.—Do not know the boundaries of the Upper and Lower Pareora Ridings, and cannot speak of Elworthy's country. The lands north of Otaio and south of Pareora should be a part of Levels County. Timaru is the only outlet for that country. Creameries are now established throughout the Waimate County, and this only refers to milk. There are a number of products within a radius of ten miles, and these products are trade to the town, and these are the things that make the land more valuable. The dealers who buy the sheep are middlemen.

Cross-examined by Mr. Kinnerney.—Adheres to his statement as to the increase in value within a ten-mile radius. Timaru is the outlet for a good deal more than from Levels.

(This closed the evidence for Waimate.)

Mr. Orbell recalled.—Heard Mr. Winter's evidence. Met Mr. Winter on the road and spoke to him. Mr. Winter said there were 7,000 sheep. Counted them myself, and there were 4,000, and part of them were brought only half a mile on the road and others four miles on the road. *Re* cartage from Cannington: Mr. Kinnerney read from a paper in reference to this. Described the traffic from Cannington and bush carted, and Mr. Kinnerney in cross-examination said that the road only carried Cannington wool. The Cannington-Cave Road was not under discussion until he gave his evidence. His previous evidence was on the Cave-Point Road, and Mr. Rolleston tried to elicit from him that heavy traffic had come by the Cave-Cannington Road. The Pareora Estate was bought by Government. As a whole it was opened at the same price as it was sold to Government. Mr. Lisle was manager of it. It was never under offer as a whole. The price was not from £8 10s. to £8 15s. an acre. It was not fixed to average that. The company would not sell in farms at that price. The Council did not attach any importance in respect to light traffic; our bone of contention was for through traffic right through to Timaru. It did not matter what traffic it was. The heavy traffic was our great grievance. It was the through traffic. Did not attach any importance to interchange of light traffic, but to excess of light traffic. Met Mr. Winter on the road. Was going to meet the sheep, and no sheep were added to them after he saw them.

Mr. Lisle recalled.—Was manager of the Pareora Estate and knew it well. It was open for sale. On the average it was open at a little over £9 an acre, but there were different prices, but £9 was the average. The company would get more for land sold on terms than for the sale of the whole estate in one lump. It was never open as a block as a whole. The company got what they expected for it as a whole.

After some discussion it was arranged that the statement of grain carted from Waimate to Timaru to certain of the largest stores in Timaru should be referred to Messrs. Rhodes, Orbell, and Lisle to check by Monday morning.

The case was then adjourned till 11 a.m. on Monday.

Monday, 5th May, 1902.

Mr. Kinnerney said that the produce carted to the stores in Timaru from Levels County and the north side of the Pareora River over the roads in question except the Cannington-Cave Road came to 1,340 tons from Levels, and from Waimate 1,154 tons (see Exhibits 25 and 26). This only refers to certain stores in Timaru, and they are the chief stores. This result was arrived at by the Councillor from each county as already arranged.

Mr. Raymond said that these statements did not show the total tonnage, for farmers owning farms on both sides of the river had been struck out.

Mr. Kinnerney, in final reply, said,—As to Lower Pareora Bridge, I maintain that subsection (12) of section 114 does not enable a Proclamation made thereunder to be varied. It only applies to an apportionment made under a previous Act, but not to an apportionment made under this Act. There is no other section that provides for it. But in the case of a boundary-road there is power (see section 109). The general rule of law is that a power once exercised is gone; it is like a judicial decision.

Re Cannington-Cave Road: The evidence given by *Mr. Bremner* shows that the road is a boundary-road, and quite outside the Levels County. It is impossible for them to say that this is a road within Levels County. It is within the Mackenzie County. The control is under the Mackenzie County by virtue of section 250 of the Counties Act, and section 8 of "The Public Works Act, 1900," no more applies to this road than it applies to bridges.

Re Otipua, Main South, and Brassell's Roads: I submit that these claims are outside section 8. The remedy is the promotion of a Bill to alter the boundaries, and this has been recognised by the claimants. Section 8 was intended to refer to any very special cases, as in the case of the Hutt Road. In this case it is only because a portion of the traffic from Waimate County comes over the road; the remedy is to alter the boundaries. The remedy proposed is more unjust than the grievance of the Levels County. Under the Bill the Levels County was prepared to bear a considerable portion of liability, and the ridings would be made to bear their share. I submit that there is no provision to apply to these ridings any expenditure in respect to works in an outside county. This is an argument to show that section 8 cannot apply to this case: Money must be expended on works in the county. The Levels County thought that the Bill would be their appropriate remedy. Section 8 can only be applied where the road is used by the ratepayers of the whole county. Section 8 does not contemplate a case of this sort. It does not apply to the repair of the roads before the Act was passed. It does not apply to roads that have been allowed to get into disrepair for years. It has been suggested that Waimate County opposed the Bill. It is shown by the evidence that this was not done, whatever any of the ratepayers might have done. Even if the county had opposed it, it would have been within its rights to do so. The county only said that it did not care to discuss the matter.

As to the increase in benefit of the Levels ratepayers, a large amount of traffic tends to benefit the town, and the trade benefits the farms of its own ratepayers, and this quite counter-balances any extra cost. When all the counties agreed to constitute the harbour district it was inferred that Levels County intended to bear the burden of additional traffic. The Levels allowed the roads to wear out. They should have maintained them year by year. It is said that the farmers whose farms are benefited pay an extra tax: this is not an answer. What man would object to pay a small additional tax if his land were increased £5 an acre? The Act should only be applied where ratepayers as a whole benefit, and not where a portion only benefits. As to the right of Levels County to increase their claim, this would be quite unprecedented, and is not allowed in the Supreme Court.

Mr. Hamilton said, whatever the Commissioner's opinion might be as to the volume of traffic, there has been a great volume of evidence. That has been caused by their very embarrassed condition, as there was no defined issue of law before the Commission. The terms of the Commission were so wide and so many incidental questions were involved that it was impossible to say how much evidence was required. The Commission, therefore, should have been limited to a defined question. The question is as to whether it was "equitable" that Waimate should contribute, and which road was largely used, before the Commission could have been issued. These commissions should be limited to a defined question. The Commission was issued in accordance with the request of the Levels County, and they are responsible.

The claim has been grossly overstated from the first. It is said that the amounts claimed are not imported into the inquiry. The claims are very serious, as £800 or £900 a year is involved. If the claim is boiled down it really vanishes. No doubt the Levels wished to show that a large amount of expenditure was required on the road. They no doubt thought that if they got an award they would be able to do these works. I submit that in doing this they have over-reached themselves. In doing so they have failed to bring themselves under section 8 at all. Their claims are not claims for maintenance; they are not under section 8. As to sections 113 and 114 of "The

Public Works Act, 1894," section 114 is imported into section 8, and the words "*mutatis mutandis*" are used—that is, the section is imported into section 8 in so far as it applies to maintenance. The Commission is worded as if it were only section 114, whereas it is under section 8, which has a more limited scope. There is a very wide difference between maintaining and reconstruction. In Annandale's Dictionary "maintaining" means to preserve or to keep in any particular state or condition; "repair" means to execute, restoration, or renovation of, to restore to a sound or good state after decay, injury, dilapidation, or partial destruction. As applied to a road it means keeping it in the same condition as it was after being originally made, the essential requisite being constant vigilance on the part of the local body in charge. If depression, &c., occur there should be periodical patching and constant and systematic attention. "Repair" as applied to a road would be to keep it in a constant state of usefulness. If a road is not repaired it rapidly deteriorates, and that work is maintenance. Repairs is not a claim which can be made under section 8; maintaining only can be claimed. The principle of the Act is to allow a county to maintain a road and keep it from getting out of repair, and not allowing it to get in bad order and then claim for repairs. We have shown by Mr. Bremner what "maintenance" means. It cannot for the purpose of the Act mean the same as "repair." Section 8 is limited only to maintaining pure and simple. It may be a question of degree as to what is road maintenance. The amount claimed is considerably beyond what maintenance really is. Mr. Marchant's evidence shows that £1 per chain per annum is sufficient for the part of the road near Saltwater Creek. According to his evidence it can only be a claim for maintenance. Levels County have only got themselves to blame if they come to grief over that.

The particulars as to this claim were only supplied after the Commission had been asked for. The Waimate County did not refuse, but only said they were not prepared to admit these claims. Waimate is not unreasonable. Mr. Raymond said that Waimate declined to discuss the matter as it referred to the boundary matter. I submit that the evidence *re* maintenance by Mr. Bremner and by Mr. Howarth should be accepted as conclusive. They are both men of large and special experience as road-engineers. Mr. Marchant has principally been employed on public works. These two men have made a special study of road-making. To metal a road as proposed by the Levels County is virtually destructive, extravagant, and improper. The proper method is to maintain them in the proper sense rather than to allow them to wear out. Mr. Black proposed to put 25 yards per chain on a road outside the borough boundary and Saltwater Creek, and yet in the borough only 16 yards is put on. 25 chains per year is the most they put on a new road. This shows that it is reconstruction. If we had not opposed this point we might have been prejudiced in any subsequent claim by the Levels County. I submit that this claim has been made under an erroneous conception of the Act—namely, that those outside the county are to pay for their use of the roads in the county. This is erroneous. The object of the Act is to give an indemnity such as for trespass. It must be borne in mind that the roads are roads in Levels County, and the duty of maintenance lies on the Levels County, no matter who uses them. It was not the intention of the Act to make those outside pay the same as those inside the county. If any one in Waimate or Levels damaged the road they would be liable to the Levels County. If Levels County negligently allowed the road to get out of repair, and any one was damaged, the Waimate ratepayers could not be held responsible. There is this difference, that the ratepayers in the county have a right to call on the county to repair the damage, and those outside have not. It was never contemplated that the roads should only be used by the ratepayers of the district. The roads are the property of the Crown, so every one has a right to use them, and only those who are members of the Corporation can force them to be repaired. The question is as to what extent others outside the district have the right to use the road without payment. The answer must be that they have such a right as does not unduly add to the cost of maintenance. This is not all, even if people outside the county did use the road and unduly increase the cost, and that use raises a corresponding advantage. That also must be taken into account. Therefore question—(1.) Has any traffic over the legitimate right of the use of these roads been proved? (2.) How does this add to the cost of maintenance? (3.) To what extent do ratepayers of Levels benefit by the increase of traffic? Applying these principles it has not been proved that there is any excess of legitimate right of user. It has not been shown that the roads are used to add to the cost, and it is impossible to apportion the expense. It has been proved that Levels County people do benefit by the increased traffic.

As to the Main South Road, nothing is clearer than that this claim fails entirely. No large use of this road has been proved. There is no use for heavy traffic at all, only a small quantity of wool. There is no carting of grain proved. The evidence as to this road is mainly sheep and light traffic. The sheep traffic is not Waimate traffic; it is Levels traffic. The sheep are bought by Levels men and are brought up for their own purpose. The evidence shows that there is a certain amount of light traffic. Evidence also shows that light traffic goes south, and that Levels people go to St. Andrew's and other sales, and they constantly use the road. The tally shows the disproportionate amount going north. This evidence is of no use, and it is unreliable, for it was shown that eight hundred sheep went south which were not put down in the tally. The tally-keeper admitted he was away for two days, and would not say which days. The tally did not show where the traffic originated. The light traffic was for settlers going to Timaru, and his evidence was contradicted by our witnesses. Our witnesses proved that traffic from Springbrook went chiefly to St. Andrew's, and the Stationmaster corroborated the other witnesses. Hansen said that a large proportion went north, but he was contradicted by the other witnesses. It was also shown that there was a large amount of heavy traffic by Levels farmers sending goods to the town, and a large amount of shingle was carted over that road. This was carted all the length by the farmers, and shingle is being carted over the whole road. Evidence shows a large amount of traffic going both ways. The same consideration applies to the bridge, and it is not competent for the

bridge to be dealt with at all. This is a main road for all the public from Christchurch to Invercargill.

Re Otipua Road: This claim is founded on heavy traffic, light traffic, and sheep. The evidence fails to show that sheep go there at all. Elworthy's sheep only go half a mile on this road. The evidence as to traffic on this road shows that traffic is not considerable, having regard to the Waimate and Levels Counties, nor is it considerable as compared with the total volume of traffic. The fact that thirty people out of five or six hundred in Waimate go to Levels, where the population is about the same, shows that the traffic is not large. It will be seen from the railway returns that traffic from Waimate is enormous (see return prepared by Mr. Ackers). The whole of the grain grown in the county is accounted for, and, taking the Year-book and making allowance for what is retained by the farmers, it is all accounted for. The railway returns show that an enormous amount goes by rail, as compared with the wool, over this road. The traffic must be shown to be a large use by the county as a whole. The evidence shows only a small portion of the people of the district use the road. Whatever proof there is that Waimate traffic uses this road, there is nothing to show that it increases the cost of maintenance to any appreciable extent. The other side have used unfair methods. It is not fair to take the number of miles of road used by the ratepayers of Levels County. The total traffic from each county should be compared. The only part of the road we might be said to use is the outermost part, for the nearer the town the more the traffic is. Mr. Black shows this in his estimate. Our traffic cannot appreciably affect that traffic. Our county is only populated to the same extent as Levels, but it is five times as large. This accounts for the great cost of the maintenance of roads in Levels. Also, every Levels ratepayer has a say in the management and upkeep of the roads. If our ratepayers have to pay we have no say in the management of this road. There is no evidence to enable the proportion to be made, and no apportionment can therefore be made, and the case must fail.

As to estimate of traffic, Levels and Waimate, the evidence shows we use it to the extent of carting 1,300 tons. I admit this is carted on this road. This also includes back loading. Their admitted traffic amounts to 2,642 tons, which includes back loading 880 tons, and which deducted from 2,642 tons leaves 1,762 tons; and if our back loading is deducted it leaves 1,190 tons. This is mostly made up from proved returns. We took 20 bushels to the acre as a basis. This makes the output 1,190 tons as against 1,762 tons. The returns put in this morning show our returns to be 1,174 tons, and their output to be 1,340 tons. It will thus be seen that our carting is under theirs; but in any case it is largely guesswork, and it cannot include all their carting, for Levels may cart their produce to the railway at Timaru. It is impossible to give a definite return, and no definite conclusion can be formed. A large amount of shingle is carted over the Otipua Road, and this must increase the traffic very much.

Suppose our traffic is equal, where is the evidence that our cartage increases the expense? If a great lot of grain carted affects the road some signs of heavy traffic will be shown, especially as it is said that the road has not been attended to for a long time. If any injury can be shown some signs would be seen near the ford. If the roads are not appreciably increased in cost, then how can it be shown that they increase in cost nearer the town? How can an approximation be arrived at? There is none.

Again, it is not shown by Levels that farms fronting the road must be used by other people. Also there is nothing allowed as to tradesmen from Timaru. These people must use the road very largely. There must be timber and building-material carted out, and the question is extremely involved.

The evidence as to the enhanced value of land is clear. Land near the port is of more value than the land further away. Our witnesses show that the value of land must be higher near the port, and that the traffic from the country makes Timaru a most important centre, and causes greater prosperity to the town. This traffic must have been contemplated when the port was formed; they must have contemplated the traffic which would come through the district. Now they say, "We have got a port and you have increased the value of our lands; you must therefore pay for the means of increasing our value." This is Krugerism. In any case it is a mutual benefit for both parties. It is not equitable to formulate a claim on such a basis. If Commissioner considers that contribution should be made, then the average cost of maintenance should be taken, and the proportion of it due to excessive traffic should be ascertained, and that fraction would then have to be divided by half. If the people of Waimate are required to contribute and the people from Timaru are also interested, they should be taken into account.

It is no part of our case to cite the Borough of Timaru; if we cited the borough our liability would remain the same. If it is for through traffic from Waimate to Timaru then the proportion might be reduced to half. Our contention is that Levels does get a benefit. When that is done the result is insignificant, and it is not the intention of the Legislature to provide that this remedy should apply to a case of this nature. It necessitates the consideration of vast numbers of things and vast calculations. It is only intended for a large grievance and not for a small one. It is only intended to apply to a mere causeway where the district in which it is situated gets no benefit at all. I submit therefore that the claim has entirely failed.

Another matter imported into this case as showing equity was that as to Mr. Elworthy paying £640 a year to Waimate and that he only used one mile of roads in Waimate. He uses fifty miles of roads. It is in evidence that £640 is to be expended on that riding and £1,000 for bridges. This is the only allegation that the other side has been able to base any claim for equity upon.

With reference to the Upper Bridge, that bridge is being maintained by the counties jointly. There is no necessity for any further apportionment.

As to Cave-Cannington Road, the evidence fails there also. Taking the evidence, only 2 tons goes over the road, allowing the 81 tons which Levels cart as timber. The sheep traffic is practically Levels station sheep, and the use by sheep is nearly all by their sheep alone. Taking all

this into consideration, I think we have made out our case, and that the other side have not made out their case, and as Levels has failed the cost of the inquiry should be adjudicated against them.

Mr. Raymond, for Levels:—

I will take the Waimate points in order:—

1. That the Governor should first be satisfied that there is a case, and that the case is equitable, before the Commission should issue. (a.) It is a remarkable circumstance, but that point has escaped the attention of all counsel and of every Commission that has come before. Query: How can the Governor satisfy himself as to the equity? (1) Only by inquiry himself; (2) only by delegating that duty to a Commissioner: and to undertake either of those courses would be absurd, as it would duplicate cost and the inquiries. It is admitted that such procedure is provided for. I submit that the Government had a duty to relegate to this Commission—the power to make all the inquiry. (b.) Section 8 of the Act of 1900 is divided into two parts. The first part is that if “he thinks fit.” This gives the right in certain cases to have an apportionment, an award, and a contribution. The second part says “and for that purpose.” There is a procedure to ascertain the right previously given by section 8. The procedure in this case is section 114 of the Act of 1894. The latter part of section 8 refers to the whole of the rights, and the Governor has the power to submit to the Commission all the facts necessary to ascertain whether the rights exist. These facts are (1) large use, (2) access, (3) equity, (4) apportionment. All these facts are properly relegated to the Commission. (c.) It is too late now, after the Governor has issued the Commission, to raise this question, for the Commissioner will take the position that the Governor has satisfied himself. It is improper for the Commissioner to inquire into the Governor’s grounds for issuing a Commission.

2. That specific matter should be relegated to the Commissioner. This point has not been taken before. The answer is in the latter part of section 8, and the Commission includes the ascertainment of all circumstances. Subsection (7) of section 140 is in the widest terms, and I submit that the Governor asks the Commissioner to inquire into the aggregate of matters mentioned by section 8. It is admitted by the other side that the Governor could individualise these questions. The terms of the Commission include the sum of the matters which the Governor can appoint a Commissioner to report upon, and I ask, Why should the Governor not use the terms which he has used instead of individualising the instances which comprise the sum in these terms? Further, it is contended that the Governor has delegated to the Commission what he should not delegate. The Governor’s function is the ultimate determination, and he has not delegated the determination, but reserves that right, and simply asks for a report and a recommendation.

3. The work proposed is “construction” or “reconstruction.” (a.) The terms of the Commission require the Commission to inquire into maintenance. Levels County ask for a contribution for maintenance, and the Commission is so worded, whatever the Commissioner’s opinion may be as to the evidence of traffic, to enable the Commissioner to report as to the traffic. (b.) The Overseer’s report is not a statement of claim, as in an action. To show that this is not so, the Governor cannot order the payment of any specific sum of money. I submit that the other side treats the Overseer’s report, which was sent to Waimate long before the Commissioner was appointed, as a claim. The letter to the Chairman of the Waimate County, dated the 15th June, 1901, forwards resolution and the estimates of the Overseer’s report. They attempt to fix us to these figures. The Commission is not limited to the proportion claimed by Levels in those series of resolutions. It is immaterial whether Mr. Black has overstated or understated the work to be done. The same question arose in the Hutt case, and the Magistrate refused to deal with it. It is not an inquiry into the cost of construction or maintenance. The existence of the roads is admitted, and the scope of inquiry is limited to access and the equitable view. If the Governor makes an award for maintenance, and if our Council afterwards does construction-works, the money so expended by Levels County could not be recovered under the award. I also submit that, if the report and so-called claim are part and parcel of the claim, the proposal of the Overseer is maintenance. The quantity of metal which the Overseer proposes to put on the road determines this point. Mr. Bremner does not say it is construction (see his evidence). It is a question of maintenance as against over-maintenance. Mr. Hamilton’s contention is that Levels asks for repairs, and that we differentiate between repairs and maintenance. Section 8 of the Act is designed to cover the whole question of the construction and maintenance of a road. It is idle to suggest that a local authority should be made liable for the whole cost of construction and not liable to repairs. We have to look at the intention of the Act. The Act relates to the whole future of a road, and only under very exceptional circumstances would it be that repairs are not included under maintenance. Mr. Hamilton quoted a dictionary meaning of “maintenance.” Thus, “keeping in condition” might mean keeping in bad condition. Section 8, in dealing with road-maintenance, deals with it in a special meaning in relation to roads. Mr. Marchant gives the cost of the annual maintenance, and says that Mr. Black proposes that the cost should be spread over a considerable number of years. If the Levels County spend an excessive amount in maintenance, the Waimate County could then refuse to pay on the award.

4. As to want of notice, it was practically admitted that this is a maintenance question. Notice is not necessary in such a case under section 114. It was not contended that the other side were prejudiced, but they would not admit they were prejudiced. Even if notice was necessary the provisions of section 113 are directory, and the issue of the Commission cures any want of compliance.

5. As to section 8 only applying when a road is like a conduit-pipe: But Mr. Haselden’s remarks were applicable to special circumstances—namely of the case he was investigating. He was referring to Petone, and was not suggesting any arbitrary rules for all cases. If the Levels Road were a causeway we should have asked for a higher contribution. We must consider the

volume of traffic which comes from Levels itself. We say that with the single exception of St. Andrew's sales there is no interchange of traffic between Levels and Waimate, and the road, so far as Waimate is concerned, is a causeway to the Borough of Timaru.

6. As to the Act only being intended to apply to extraordinary cases: I look at the Act itself, and I say that this is an extraordinary case. I believe that this county is extraordinarily situated. It is a middle circle round a point, and it is a causeway from the outer counties of South Canterbury to that point. There is no similar case in New Zealand.

7. As to contributing body having no voice in the apportionment of money: This is an objection to section 8 itself, and once it became law this argument fails. The same difficulty applies to boundary-roads and to bridges.

8. That practically everything comes from Levels County by road: I admit this, and I credit them with the Levels traffic.

9. As to the constitution of "The Harbour District Act, 1876," and as to "The Rating District Act 1882," and that the local bodies have impliedly agreed to maintain these roads: The statement of that proportion carries on its own face its refutation. It is a legal fiction. When they refer to an implied agreement they refer to an agreement which did not obtain in fact. We have to look at the very fact of this case, and this contention can only be set up on equitable grounds as involving a breach of faith on the Levels County. Such an undertaking was never considered. Even if they ought to have done so, they did not do so, and we must take facts as we find them.

As to the remarks that nothing of this case would have been heard if Levels had not severed from Geraldine, I say that nothing would have been heard of it if section 8 had not been passed. Even Mr. McLaren shows that his riding is being impoverished by the special traffic on these roads. It was not contemplated that this county should carry all this traffic for nothing.

Then, as to the question as to whether Levels is specially benefited by Timaru. I say it is not more proportionately than the other districts are in Canterbury. A rise in value means a rise in rental, and we must consider what is a rental. It is measured by the produce of the land and its proximity to market. If the Levels land is nearer to market than Waimate, and the land is equal, the difference in rental is the difference in the cost of freight. Mr. Rhodes admitted that the land at Saltwater Creek was not used for any other than agricultural and pastoral purposes. Mr. Mundell's statement as to there being an advance of 25 per cent. in two or three years on account of Timaru is ridiculous. There has been a general rise both in town and country. Mr. Mundell showed that creameries had been established near Waimate, and this will increase the value of the surrounding land there.

10. That nothing was heard of this claim until the Bill was rejected by the House: I do not say that Waimate County did oppose the Bill. If the Bill had passed the grievance would have ceased to exist, and it does not lie in the mouth of the Waimate County to say, "You can get your Bill passed, and we will oppose it." If we bring ourselves under section 8, and have not acted inequitably, then the question of the Bill does not help Waimate; and I claim that it is the strongest ingredient in the case of Waimate. The evidence shows that an enormous majority in value of the Upper Pareora Riding were in favour, and that there was unanimity amongst the settlers of the Lower Pareora Riding in favour of joining Levels. They all admit in the petition that their traffic is towards Timaru. The Waimate County refused to discuss the matter, and Mr. Rhodes instructed a solicitor, and communicated with members, and the Bill was therefore not passed. Now, Mr. Stowell and Mr. Lisle say that the interests of the Upper and Lower Pareora Ridings would be served by their annexation to Levels. The real ground of opposition is that the Waimate County people do not like to see their county dismembered.

11. That, if you get your award, the cost will fall on the whole of the Waimate County, and that the two ridings will escape: Mr. Rhodes was willing for the Lower Riding to go, but it is from the lower part of the Upper Riding that all the traffic comes—namely, the very part that the county wishes to retain; and the part that they will let go is the part they have less traffic from. Mr. Rhodes said that the Waimate County declined to make any contribution towards these roads.

12. Section 8 does not apply to traffic from part of the county: If our facts bring us within it we are within the terms of the section. If we show that traffic comes from that district, it is immaterial whether it is from the Pareora Riding or anywhere else. We could easily get over the difficulty if we had the ridings. We could call the Main South Road a main road, and so the fair maintenance of these roads could be thrown upon the ridings of Waimate County. The Waimate County has prevented us getting the legislation we want, and the matter of internal finance of the Waimate County has nothing to do with us. If the Act does not apply in this case it applies in no case, for nowhere else is there a large county which uses the road in a similar one such as ours. If the Act does not apply to us, it means that the larger the county the less liability there would be.

13. As to the freezing-works: These works are established by the Christchurch Meat Company, and are on the border of the borough, and it is admitted that the shareholders are scattered over the whole of the South Canterbury District, and the only benefit which Levels gets from these works is a rate of £87 a year. Their rateable value is £21,000 out of a total of over £1,000,000. The rateable value of the land in the vicinity of these works is deteriorated by them, and the tendency will be to depreciate that value. For the purposes of stock in South Canterbury a slaughterhouse had to be established where the whole of the exportable stock of the county could be slaughtered, and where forty-five thousand carcasses are annually sent. Levels derives no benefit whatever from these works apart from £87 a year. All that Waimate can claim on the ground of mutuality is a fraction of those rates, and without those works part of the County of Waimate would be of comparatively little value. The existence of these works enhances the value of Waimate more than Levels, because Waimate is much more pastoral than is Levels.

14. As to sheep-dealing: All the exportable meat goes from these counties through Levels. There are three great buyers in the county as well as the Christchurch Meat Company, who are the greatest buyers. These three buyers are really middlemen, and help forward the industry all round. This is a case between all the inhabitants, not three or four men, and the whole of the inhabitants of the Waimate County benefit. If there was only one sheep-dealer, and he lived in Levels and paid no rates, could that possibly be any answer to a claim by the Levels County? We are dealing with all the inhabitants, and we should not take out three or four men. How does Levels County benefit by the existence of these men? One or two dealers may benefit.

15. *Re Cave-Cannington Road*, and section 8 of the Act: The road is in one district—namely, Mackenzie—and is largely used as required by the Act. I say that this is a road which comes within the terms of the Act. Under section 109 of the Public Works Act, and section 250 of the Counties Act, we have contributed half the cost of the road to Mackenzie County. I say that, if this shows that Waimate is within the terms of section 8, we have the right to ask for a contribution, and I submit with every confidence that the road is within the terms of section 8. If the Commissioner is of opinion that the road should be paid for by each county, and as Mackenzie County has not appeared at this inquiry, then I suggest that the proportion payable by each county should be raised to one-third, and that the difference should be borne by Waimate. But I do say that the matter should be dealt with by the Court, who should adjudge quarter to Waimate and quarter to Levels. It is not part of our case to prove that Mackenzie should pay less than half cost. We have nothing to do with the claim of half, or we shall run the risk of having to pay costs of Mackenzie. This is a question between Mackenzie and Waimate.

16. As to bridges—Lower Pareora Bridge—namely, that the Proclamation cannot be amended: Subsection (7) of section 114 shows that the Governor may from time to time appoint a Commissioner. If we show an equitable and just case, I ask why the Governor should not make the inquiry and issue a further Proclamation? Why should not the Governor have power to deal with the question? In an administrative act of this sort he has power. There is a legal maxim that a power once exercised is exhausted. Thus a power exercised under a will. In acts of administration the Act does not apply, and even if it did apply it is provided for under subsection (7). I am dealing with boundary-roads and bridges, and say that section 114 dealing with bridges provides for a difference in the distribution of the contribution. If the Commissioner is satisfied on evidence that these bridges should be more largely maintained by Waimate, Waimate should think themselves fortunate that they have not been made to pay long ago. It is unjust that they should use them more than us and still only pay the same.

The Upper Bridge is only of use to residents of Upper Pareora Riding; therefore the whole cost of the bridge should be thrown on the shoulders of Waimate and very little on Levels. As to the Upper Bridge, our case is now at large, and we claim a substantial proportion.

As to Lower Bridge, some farmers in Levels go twice a month to St. Andrew's for four months and once a month the rest of the year. With the exception of those people the bridge is only useful for the Waimate settlers. The point of the petition by these settlers was that the whole interest lies in the Borough of Timaru. The bridge exists almost entirely for the benefit of Waimate. We do not say that their heavy traffic comes, but their light traffic comes very largely.

As to Mr. Hamilton's statement that Levels is thickly populated and Waimate only thinly populated: But the parts using these bridges are as thickly populated as Levels.

Then, as to there being no definite proof: This is not a case where such proof can be given. The Commissioner has to inquire between the parties, and we have submitted as much evidence as can be reasonably expected. Waimate has endeavoured to bring definite evidence, and yet they say that the evidence cannot be definite.

Then, as to their contention that a fraction of the cost of Waimate traffic over and above what uses the road can be claimed: We have no evidence that the Borough of Timaru uses this road except by back loading. There is nothing to show that the road is largely used by Timaru.

Re Cave-Cannington Road: It is used by an enormous preponderance of numbers and area of Waimate people as compared with ourselves. The only Levels settlers are two, and about 600 acres of the Levels Estate. We show that acreage and the settlers from Waimate use it. As to the sheep, and the statement that a large bulk of the use of sheep on that road is for the purpose of Levels Estate, this is for the estate in Mackenzie County where there are 14,000 acres.

Main Otupua Road: Referring to Table A. On this table we have 14,879 acres. I put this as a first method of proof. I will eliminate Hendry, 132 acres; two Parishes, 371 acres; Cox, 145 acres; McEwan Bros., 433 acres; Sidey, 300 acres; Elder, 3,695 acres; Squire, 1,963 acres: total, 7,039 acres. If this is taken from the 14,879 it leaves 7,840, to which add—Smithson, 600; Tuhy, 300; McClintock, 80: making a total of 8,820 acres. On this basis if we take one-third of 8,820 acres as in grain, this equals 2,940 acres, and counting on the average 30 bushels of wheat and 40 bushels of oats to the acre, this represents 1,590 tons of wheat and 612 tons of oats. The two-thirds of the area being in sheep equals 5,880 acres, which would produce 28 tons of wool, and with back loading 110 tons, to which add the admitted quantity from Elworthy's of 497 tons, including back loading, and Squires 3 tons, making a total of 2,840 tons carted on the road.

Then I take Table B as we had it, 2,445 tons: I divide this by three-fifths, which equals 1,348 tons. We have for the Main Otupua Road, on the hypothesis that the land is one-third in crop yielding 30 bushels of wheat and 40 bushels of oats, and that two-thirds is wholly in pasture carrying a sheep and a half to the acre, and 7 lb. of wool comes from a sheep, we then have 2,840 tons of produce as coming from Waimate as against 1,348 from Levels. With regard to these figures we should cut our figures in half, as our settlers must only cart on the average half-way along the road.

The store returns show, exclusive of those stores which did not send in returns, and exclusive of certain farmers who own land on both sides of the river, that there were carried from Waimate

to the stores in Timaru 1,174 tons of grain and wool. This appears to have been carted by Waimate people using the Main South Road 109 tons, and from Waimate people using the Otipua Road 1,065 tons, making a total of 1,174 tons.

The Levels people send 1,340 tons, which come as follows: By Otipua Road, 729 tons; by Main South Road, 611 tons: total, 1,340 tons, as shown by store return. I again apply the same principle, and say that from the mileage we should take three-fifths off, to see our tonnage; and three-fifths of 1,340 tons equals 804 tons.

Then, as to the return from Waimate (Exhibit 22), by that estimate it is shown that the average of 30 or 40 bushels to the acre is too high. We did not make any deduction for seed or consumption of grain on the farms, and probably we put down too much for the crop, and in dealing with three sets of tests we should apply to both counties the same test in each case.

Of the total tonnage which comes over our roads 790 tons are grain and 50 tons are wool, showing that the produce of grain over 6,923 acres equals one-ninth of a ton of grain per acre, and that the produce of 50 tons of wool over the same area shows one one-hundred-and-fortieth of a ton of wool per acre of the same area. The totals are—740 tons of grain, 50 tons of wool: add Elworthy's 367 tons exclusive of back loading; Squire, 3 tons; Evans, 3 tons: total, 1,163 tons, as per this statement, carted over our roads from Waimate, exclusive of back loading.

I will apply to the Levels farmers mentioned in Table B the same estimate, namely, one-ninth of a ton of grain per acre and one one-hundred-and-fortieth of a ton of wool per acre for the whole area of 8,574 acres. We have only dealt with the productive part. 8,574 acres on this basis produces 952½ tons of grain and 61½ tons of wool—total, 1,014 tons; and three-fifths of this 1,014 brings down the cartage to 618 tons. On each of these three methods of dealing we see that there is a large preponderance of traffic from Waimate over Levels. In Table A thirty-two settlers, including Elworthy, bring light traffic over these roads. In Table B the light traffic from Levels farmers is fifty-eight, and if we take three-fifths of this for an average it reduces them to thirty-five. There is also an immense quantity of Waimate sheep come by this road because the Upper Pareora is pastoral, whereas the Lower Pareora and Levels are more grain-producing.

There is more difficulty as to the Great South Road. We have shown, from the store return, that 104 tons of heavy traffic come on that road. From Hansen's tally we show an immense superiority of traffic over the bridge from what comes the other way. We have Hastie's evidence that considerable numbers do their potato-carting over the bridge, and we have the fact, in addition, that Pentham Hills and Studholme wool come over this road. It has also been shown that at intervals, owing to the shortage of trucks, there is a cartage of grain and produce. The point I would wish to emphasize is, that two farmers have granaries at the railway-station where they can stock their grain till trucks arrive, but the immense majority of settlers have no granaries and must cart the grain if they have no trucks. The light traffic conceded across the bridge from Pareora Riding is very large. The farms shown on the map in pink are 125 farms, and these all send goods to market. The heavy traffic is once a year, but the light traffic is once a week in each case, so I say that the so-called light traffic is very heavy. The number of Levels settlers is thirty-nine, so that the proportion of Waimate farmers is three or four times as large as Levels; and as regards the Levels farmers we ask for a three-fifths reduction, because they do not all use the whole road. As to the sheep, the Stationmaster shows that half the sheep from that district come along the road. The only deduction which the other side contend should be made is that shingle is carted by themselves for maintaining the road, and certain sand from Normanby. On the other side there is also the traffic of a few Levels farmers over the Pareora Bridge. This is a case which loudly demands redress. We have met the other side by asking for a contribution in conference, and were refused. Then legislation was attempted, and we were not successful. We complain that our county is used as a thoroughfare to the Borough of Timaru, and that it is only equitable that we should get a contribution. The Levels County is not used for interchange of traffic.

Mr. Kinnerney said, Table 20A had been sworn to by our witnesses. The actual quantities produced by farmers using this road are sworn to by our witnesses. This is not a question based on expectation of all the wool and all the grain; it is made by men who know what they speak about. As to the Cave-Cannington Road, *Mr. Raymond* suggests that it affords access from Waimate to Mackenzie, but it is only Mackenzie County that can claim. Applying section 8 of the Act of 1900 in this case, it means that where any road in Mackenzie County is largely used by Waimate County it does not apply where the whole matter is governed by section 250 of the Counties Act of 1886.

The following evidence was taken by consent, on behalf of the Waimate County, before the commencement of this case on the 25th April, to enable the witness to leave for his home:—

Charles Henry Howarth sworn.—Is a member of the Institute of Civil Engineers. Has been twenty-two years Engineer for the Southland County Council, and resides at Invercargill. There were twelve hundred miles of road in Southland County, and this was one of the largest counties in New Zealand, and all the roads were constructed under his supervision. They were constructed in a similar manner to those in South Canterbury, and the material used was also similar. Yesterday made an examination of the roads referred to in the Levels County Council's Overseer's report. In his opinion the works proposed, considering the quantities to be put on, show that the claims are for construction. They are considerably in excess of the annual maintenance reasonably required. They are altogether unreasonable. Generally the roads were in good condition. They did not show signs of very heavy traffic. Assuming there had been much wet weather lately the condition of the roads was good. Has made notes on the various items apart from *Mr. Bremner*.

Re Main Otipua Road (item 1 on statement): The cost would amount to £720 per mile on that estimate. That part of the road is generally a good sound road. A fair amount to be put on that road would be 5 yards per chain, which would be ample. The Overseer's report shows 25 yards. In constructing new roads we never put more than 25 yards per chain for heavy traffic for similar roads. Knows the work being done inside the borough boundary in the construction of that road. They are remetalling the road there. They are really constructing the road, putting metal on the top of clay. Estimated they were putting on 16 yards per chain of broken stone. What is being put on the county road is superior to what the borough is putting on. The effect on traffic in putting on so much metal as the County Overseer proposes is that it would be a nuisance to the traffic. Five yards per chain would last for a couple of years. Item 2: Thinks this would amount to £420 per mile. Thinks 5 yards per chain would be sufficient to crown it up. This should last for two years. Item 3: There should be put on about 200 yards on this part, 40 chains. The crown was a little flat; this is all that is wrong with the road. 200 yards is ample. Item 4: Cannot say whether 150 yards is required. The road is in good order, and has been recently gravelled. Item 5: Should say that this is not required in the meantime; the road is in good order. There are a few weak places on one portion that want attention, but nothing like the quantity proposed. Item 6: This is a reasonable request, although the road is in fair order. The road requires patching here and there. *Re Brassell's Road* (item 7): This expenditure is not wanted. 150 yards of maintenance gravel is sufficient to make up the weak places, and the grass pared off the side of the road. Does not consider that cuttings come under the heading of "maintenance." The cuttings are reconstruction. There are three places where cuttings might be made with advantage. One is estimated at £41, the other one at £37 10s. 6d. This includes cutting down the rises and filling up the gully, also culverts and regravelling; total, £78 10s. That is based on the Overseer's prices. Thinks this is all that might be done. It would be an improvement, but it is not necessary. No other work is required on that road. *Re Main South Road* (item 7): Finds that 6 or 7 chains require 5 yards per chain, and the other part of the road is a good road. Item 8: Considers that the road is in good order; it is good in places, but in other parts the gravel is worn down to the formation. Considers that 5 yards per chain is sufficient, or 75 yards for the whole piece. Item 9: This is in much the same state as the previous piece. There are a few yards required in weak places. 10 yards are required; nothing more is required. The gravel traffic seems to have avoided it last year. Item 10: Is in much the same position as the last piece, and the same amount is required for the weak places near the bridge. Item 11: 10 chains are required here at 3 yards per chain. Item 12: This is the part where the Levels County are regravelling it now. This is a good hard road, and no maintenance gravel is required there. They are putting on 10 yards per chain, and do not therefore think that the rest requires 15. 10 yards is a very heavy coat. It would be a very heavy coat with us; it is too much. The parts not yet gravelled do not require anything at all. Item 13: The amount proposed equals 15 yards per chain. Part of this road has been gravelled recently. They have put on about 11 or 12 yards per chain. The part not gravelled is in very fair order. It is a little flat in centre and requires about 4 yards per chain. As to the claim generally, it is proposed 15 yards per chain should be generally put on. Such a quantity would be a reconstruction quantity. *Re Main Otipua Road*: Assuming that a certain amount of extra traffic in addition to the Levels traffic goes over the road, and that this amounts to 1,500 tons per annum, this would not considerably affect the cost of maintenance.

Cross-examined by Mr. Raymond.—*Re* the 1,500 tons. It would contribute to the disrepair in proportion as it stood to the total traffic. If the local traffic is 2,000 tons and the Waimate traffic is 1,000, the proportion would be as 1 is to 2. These roads are well constructed, and only need maintenance; they do not need reconstructing. Improvements could be made, but the claims are as a whole for maintenance only. My objection is that an excessive amount of metal is asked for for maintenance. Metalling and regravelling is of the character of maintenance-work. In the construction of a road you first of all grade the surface and put in culverts, ditches, water-tables, and cuttings, then a coat of metal is placed on the top. If the road is originally properly and efficiently constructed it will be best to maintain it well. If you allow the road to go too far you will have to put as much metal on as originally, but this would not be reconstruction of the road. The amount that Levels ask for does not imply that the road requires reconstruction; merely says that the Overseer wants as much metal put on as if he were metalling the road for the first time. A great deal depends on the amount of traffic. Has no fault to find with the material, and the Overseer has done the best he could as regards that. As regards 5 yards of metal per chain, it depends on the road as to what the width of the metal should be. As to the Main South Road, says that 5 yards per chain should last two years, but cannot say what width should be metalled. It varies. It will not require the same metalling all through. Examined these roads yesterday only; was about six hours, and went over thirty miles of road. Stopped half an hour for lunch. Was therefore on the road for about five hours and a half. We did not stop to make observations at cross roads. Did not get out of the trap and measure. We got out once or twice, but made no measurements. [Witness pointed out on map places on Main Otipua Road where he went, also on Brassell's Road.] Measured two steep gullies in Brassell's Road and made notes of these. It would be a great improvement to regrade this part. This is the only part he measured. In other parts did not make special observations as to soundness; judged from the surface. Could not tell very nearly the depth of the skin over the road as they drove over it, but could know the condition of the road. As to the Otipua Road, the work required is not maintenance; it might be required next season. It is not now required. Have had no previous experience in Levels County. In Southland County we are governed by local conditions.

Re-examined by Mr. Kinnerney.—Whatever experience a man might have for roads, 15 yards per chain is an excessive amount for maintenance. We consider in Southland that where a road is

much worn 10 yards a very heavy coat, and this is only put on when the traffic is very heavy. From 15 yards to 20 yards is sufficient to remake a road, and that would, to all intents and purposes, be reconstructing the metal portions; it would be remaking the road surface; it is more than maintenance. Made no measurements. Has been twenty-two years Road Engineer in Southland, and has had the maintenance of roads for that time, and knows what is required. Can tell at a glance what is required; the roads are exactly the same as in Southland—the same sort of maintenance. River-bed shingle is what is available in both cases. We use river-bed shingle largely, and it is of very much the same quality. As to the difference that certain amount of traffic makes to the road, the Levels County has to keep up the road in any case. If Levels has 2,000 tons and Waimate 1,000 tons, does not say, in charging it, that you should charge Levels two and Waimate one. It is very hard to say what proportion is chargeable. If the Levels traffic is 5,000 tons and the Waimate only 1,500 tons, and Levels must maintain the road, could not say if 1,500 tons would make any difference to the case.

By Commissioner.—5,000 tons would wear the road more than 1,500 tons.

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