

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 As applied to a road it means keeping it in the same condition as it was after being originally made, the essential requisite being constant vigilance on the part of the local body in charge.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