

Highway Boards Empowering Act 1871 Amendment Act 1875. Title.

A BILL

WHEREAS it is expedient to amend the "Highway Boards Empowering Act 1871." Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows:--

1. The Short Title of this Act shall be "The Highway Boards Empowering Act 1871 Amendment Act 1875." Short Title.

2. If any part of any main road or main district road in any road district shall continue up to the boundary of such district and into a borough city or town created under "The Otago Municipal Corporations Ordinance 1865" or any amendment thereof or under "The Municipal Corporations Act 1867" and the part of said road in the said borough city or town shall not be drained formed macadamised or otherwise made good or repaired or ruinous or out of repair the Board of such district may cause to be given to the council or other governing body of the borough city town or place adjoining the said road district in which the said road has been continued a notice stating the desire of the Board giving the notice that such part of such main road or main district road as aforesaid and described in such notice may be drained formed macadamised or otherwise made good or repaired and offering to treat and agree with the council board or governing body receiving the notice with respect to the performance by either party of the whole or part of such work and the future maintenance and repair of such part of the said main road or main district road and such agreement may as to any or all of such matters be made accordingly and every such board or council or governing body giving or receiving such notice shall for the purpose of carrying out any such agreement have power to perform any such work or any part thereof and to provide for such maintenance and repair and if any such council board or governing body receiving such notice shall refuse to treat and agree with the board giving such notice as to the subject matter thereof such board may take such proceedings in the Supreme Court or District Court as and in the manner hereinafter provided. If such road shall continue up to the boundary &c. Board may give notice to treat with respect to it.

3. If for the space of one month after the receipt of any such notice as is provided in the last preceding section of this Ordinance any such council or other governing body receiving the same shall not treat and agree with the board giving such notice as to the subject matter thereof it shall be lawful for such last-mentioned board at any time afterwards to apply to the Judge of the District Court holden for the district in which the road district or any part thereof is situated or if no part of such road district be situate within a district over which any District Court has jurisdiction then to any Judge of the Supreme Court for a summons calling on the council board or governing body so having omitted to treat or agree to show cause on a day to be fixed in such summons not being earlier than twenty-one days from the issuing of such summons why the work mentioned in such notice should not be executed. District Court or Supreme Court may summon Council &c. failing to treat.

Court may apportion
work and order exe-
cution.

4. The Judge of the District Court or Supreme Court as the case may be upon proof of the giving of such notice and upon the appearance of both parties or proof if the party so summoned shall not appear of the due service upon such party of such summons shall have power to hear and determine the matter in question and to divide as nearly as practicable such part of such highway transversely across the length thereof into two such lengths as the Judge shall see fit and to order that each party shall execute in respect of and upon a separate one of such lengths the works mentioned hereinbefore and described in the notice aforesaid or such of the said works as the Judge shall think fit or if the case so require shall in future undertake and provide for the maintenance and repair thereof.

On omission other
party may execute
and recover expense.

5. If either such party as aforesaid shall omit to comply with so much of any such order as shall apply to such party it shall be lawful for the other party from time to time after one month's notice to the party so omitting of their intention so to do to execute the whole or any part of the matters or things enjoined by such order upon the party so omitting and to recover the expense of so doing from the party so omitting in any Court of competent jurisdiction: Provided that the party so executing shall have also executed so much of any such order as shall apply to such last-mentioned party.