

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.
House of Representatives,
2nd September, 1875.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

(Mr. Macandrew.)

Highway Boards Empowering Amendment.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. If such road shall continue up to the boundary &c., Board may give notice to treat with respect to it.</p>	<p>3. District Court or Supreme Court may summon Council &c. failing to treat. 4. Court may apportion work and order execution. 5. On omission other party may execute and recover expense. 6. Grants in aid how to be charged. 7. Rates how to be recovered.</p>
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A BILL INTITULED

AN ACT to amend "The Highway Boards Empowering Act, 1871." Title.

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 another road district created under any Ordinance of any Provincial Council or any Act of the General Assembly, 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 road district borough city or town shall not be drained formed macadamized or otherwise made good, or shall be ruinous or out of repair, the Board of such district may cause to be given to the Road Board, Council, or other governing body of the road district 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 macadamized 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

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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. 5

District Court or Supreme Court may summon Council &c. failing to treat.

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. 10 15 20

Court may apportion work and order execution.

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. 25 30

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, together with costs of suit, 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. 35 40 45

New Clauses.

Grants in aid how to be charged.

6. Whenever a judgment shall have been obtained in manner proxided in clause five, it shall be in the power of the presiding Judge to direct that any grants in aid of rates, either from the Provincial or General Government, receivable by the party against whom such judgment shall have been obtained, shall be primarily charged with the payment of such judgment. 50

Rates how to be recovered.

7. Notwithstanding anything contained in any Act or Ordinance to the contrary, all rates lawfully levied by or payable to the governing body of any highway district, or which may hereafter be so levied by or become payable to any such body, shall be recovered by action of debt or other appropriate proceeding in any Resident Magistrate's Court or any other Court having jurisdiction. 55