

1980, No. 46.

COUNTIES ACT
AMENDMENT.

AN ACT to amend "The Counties Act, 1876."

[1st September, 1880.]

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

Short Title.

1. The Short Title of this Act is "The Counties Act Amendment Act, 1880."

Meaning of "public works" extended.

2. The expression "public works" in "The Counties Act, 1876" (hereinafter called "the said Act"), and any Act amending the same, shall include works for the purposes of water supply, irrigation, and drainage of land,

3. Where any non-navigable river or stream runs lengthways between two or more counties wholly or in part, then the boundaries of each such county shall extend to the middle of such river or stream, following its natural course, and the boundaries of any county affected by this provision shall be deemed to be and are hereby altered accordingly.

Where rivers, &c., run lengthwise between two counties, the middle thereof to constitute boundary.

Each of the counties divided by such river or stream shall bear all cost of cleansing the portion of such river or stream included within its boundaries, and of keeping in repair and maintaining the banks of such river or stream within such boundaries; but nothing herein contained shall control or interfere with any powers conferred upon the Governor or the Minister by "The Public Works Act, 1876," or any Act amending the same, or control or interfere with the powers or duties of any River Board constituted under any Act or Ordinance.

Repair of banks of dividing rivers of counties.

4. A copy of every Proclamation issued under the fourteenth section of the said Act shall be laid before both Houses of the General Assembly in the session of Parliament next ensuing after the issue thereof, and within ten days after the commencement of such session.

Proclamations to be submitted to Assembly.

5. The fifteenth section of the said Act is hereby repealed, and in lieu thereof it is enacted that,—

Proclamation to be laid before Parliament.

A copy of every such Proclamation shall be laid before both Houses of the General Assembly within ten days from the issue thereof, if the General Assembly be then in session, and if not, then within ten days after the commencement of the next session thereof.

If a resolution is passed by both Houses of the General Assembly to the effect that such new county should not be constituted, then such Proclamation shall not come into force.

Proceedings to be taken thereon.

If no such resolution is passed, the said Proclamation shall come into force on the day after the conclusion of the session of the General Assembly in which such Proclamation has been laid before it, and on and after such day the district described in the said Proclamation shall cease to form part of the county or counties in which it was theretofore included, and shall be a county within the meaning of this Act.

Provided that no resolution shall be passed in respect of any such Proclamation unless and until it has been laid before each House of the General Assembly for one month; and if the said period of one month shall not have elapsed before the end of the session, then such period shall be reckoned from the first day of the next succeeding session.

6. The Council of any county may, by special order, assume the control and management of any pound within the county established or constituted under any law for the time being in force, and which is the property of Her Majesty the Queen; and, upon such order taking effect, such pound shall be deemed to be a public pound established under the said Act, and all the provisions of the said Act shall extend and apply to such pound accordingly.

Public pounds heretofore established may be brought under Counties Act.

7. Whenever a road district shall be included in two or more counties, each part of such road district shall, for the purposes of the thirty-seventh, thirty-eighth, and thirty-ninth sections of the said Act, be deemed to be a separate road district, and may take all necessary proceedings prescribed by the said Act in order to effect a merger in the county within which it is situate, as if each such part were a separate road district. But no merger shall take place unless each of the several parts of the road district so constituted a separate road district as aforesaid shall comply with the provisions of the said section thirty-seven, and all the counties concerned shall respectively have issued special orders under the said section.

Road district included in two or more counties may merge in such counties.

Powers and functions of respective counties in respect of parts of district merged.

Upon such merger being effected, and subject to the provisions hereinafter contained, the corporation of each county and its Council, and all other persons affected, shall have all the powers, duties, and functions mentioned in the said thirty-ninth section in respect of the part of the road district so merged.

Councils may agree as to division of property, &c., and apportion liabilities.

8. The Councils of the counties into which such road district has merged may agree to divide all real and personal property belonging to the Road Board, and to apportion all rates due or payable, and all liabilities, contracts, and engagements of the Road Board, in such manner as they may think fit.

The effect of every such agreement shall be that the corporation of each county and its Council shall stand in the place of the road district and the Road Board respectively in regard to all matters and things in such agreement provided for, and shall be binding and conclusive on all other persons whomsoever.

If no agreement made, actions and contracts, &c., may be enforced against either of such counties.

9. If no agreement is made within two months after such merger is effected, then any action pending at the time of such merger against the Road Board, or any contract, liability, or engagements of such Board then remaining unperformed or outstanding, may respectively be continued and enforced against either of the corporations of the counties into which such road district has been merged, at the option of any person having the legal right to continue such action or carry on or enforce any such contract, liability, or engagement.

Every merger of road district to be gazetted.

10. Upon any merger of a road district with a county, the Council of the county in which the road district is merged shall cause a notification of such merger to be gazetted.

Power to lease ferries and ferry reserves without auction or public tender.

11. When any public reserve is granted to or vested in any County Council for the purposes of a ferry or ferries, or where any ferry is granted to, vested in, or under the control of such Council, notwithstanding any provision to the contrary contained in "The Public Reserves Act, 1877," or any amendment thereof, or in "The Public Works Act, 1876," or any amendment thereof, such Council shall have the power of leasing to any person such reserve and ferry, or any part of such reserve with the ferry, for any term not exceeding fourteen years, for such rent and on such terms and conditions as to the maintenance of such ferry as they may think fit, and without submitting such lease to public auction or public tender; but prior to the granting of any such lease the proposed terms and conditions thereof shall be publicly notified in the county for at least two months.

Power to contract for building of bridges and to grant right to collect tolls.

12. It shall be lawful for any County Council to contract with any person or persons or body corporate for the building by such person or persons or body, at his or their own cost, of a bridge or bridges in connection with any county road or roads, and such contract may provide (subject to such terms and conditions as may be agreed upon) for granting to such builder or builders the right of levying and collecting for any term not exceeding twenty-one years, and applying to his or their own use and profit, tolls or charges for the use of such bridges:

Provided that the scale of rates to be charged shall first be submitted to and approved by the County Council:

Provided also that no such contract shall be entered into until the proposed terms of the same shall have been publicly notified in the county for two months, and that every such contract shall provide for the county being enabled to purchase such bridge at any time, at a price to be fixed by valuation.

Several counties may unite in contract.

13. It shall be lawful for the Councils of several adjoining counties to unite in such contract as is in the last preceding section mentioned, and all the provisions of such section shall apply to such contract: Provided that, in case of dispute among such Councils respecting the approval of the scale of charges, such dispute shall be settled by the Governor.

14. It shall be lawful for the Councils of two or more counties to unite for the construction, repair, use and maintenance of bridges, roads, tramways, and ferries, in any of such counties. Councils may unite.

TRAMWAYS.

15. Any County Council may, out of any funds which at the time being may be at their disposal, and in the manner provided by "The Counties Act, 1876," and "The Public Works Act, 1876," make and construct tramways for the use and convenience of the public within the county, and may use and work the same. Power to County Councils to construct tramways.

16. Every such tramway shall be deemed to be a work which the County Council is authorized to undertake, and the Council shall have and may exercise all such rights and powers, and shall have and be liable to all such duties and liabilities, in respect of any such tramway, as it would have in respect of any county road or other work it is authorized by law to undertake. Powers of County Councils in respect of such works.

17. The Council may make by-laws in respect of any such tramway—

- (a.) For determining the fares and charges to be paid for passengers and goods carried on a tramway, and for the storage of goods at any station connected therewith ;
- (b.) For regulating the speed at which carriages may travel thereon, and the distances at which they may follow one another ;
- (c.) For prescribing the use of steam, horse, or other power for propelling carriages ;
- (d.) For making time-tables showing the times of the starting and arrival of carriages at all stations on the tramway ;
- (e.) For regulating the ordinary traffic on any road or street on which any tramway is laid ;
- (f.) For regulating the conduct and punishing the misconduct of any persons employed on the tramway ;
- (g.) For preventing the commission of any nuisance upon a tramway, or in any premises or carriages belonging thereto.
- Power to make by-laws as to tramways.

Every such by-law shall be made in the manner and subject to the provisions affecting by-laws prescribed by the said Act.

18. A County Council may, in addition to the powers conferred by this Act,— Further powers of County Councils to lay tramways on roads and streets, &c.

- (1.) Lay any such tramway in or on any county road, or any road or street under the control of any Road Board, with the consent of such Road Board ;
- (2.) May dig up, alter the surface, and temporarily stop the traffic on such road or street ;
- (3.) Alter any drain or culvert upon or under such road or street, but so that the flow of water shall not be thereby impeded ;
- (4.) With the consent of the Borough Council, exercise any such powers in respect of any road, street, drain, or culvert under the control of any such Council.

19. The powers hereby conferred on County Councils under sections fifteen, sixteen, seventeen, and eighteen may be also exercised by the Council of any county in which the whole of the said Act is not in operation. Powers may be exercised by counties where whole Act not in force.

20. The cost of making and constructing any such tramway, and all stations or buildings required for the purposes thereof or to be used in connection therewith, and of working and using the same, shall be defrayed out of the County Fund, and all moneys received from the use or working of such tramway, or under this Act, shall be paid into the said fund. Cost of constructing and working tramways to be paid out of County Fund.

Incorporation of certain sections of "The Tramways Act, 1872."

21. The sections from fifty to fifty-four of "The Tramways Act, 1872," both inclusive, shall be deemed to be incorporated with this Act, and shall apply to any tramway made hereunder.

Act not to abridge public rights.

22. Nothing in this Act shall take away or abridge the right of the public to pass along or across any street or road on which any tramway is laid, whether on or off the tramway, on foot, or on horseback, or with carriages not having flange wheels or wheels suitable only to run on the rail of the tramway.

Council may make by-laws for regulating traffic on bridges.

23. The Council may make by-laws in manner provided by the said Act,—

(a.) For regulating the weight of any traction engine, and of the weight of any load drawn by such engine, which shall be permitted to cross any bridge :

(b.) For regulating the pace at which any horses, cattle, or vehicles shall cross any bridge.

Voting for special loans.

24. Section one hundred and forty-four of "The Counties Act, 1876," is hereby repealed, and the following is substituted therefor :—

If the number of votes given for the proposal within the several ridings taken together exceed one-half of the total number of voters of the whole county, the resolution in favour of the proposal shall be deemed to be carried, and the Council may proceed with the proposal accordingly ; but if not, then the resolution shall be deemed to be rejected, and the Council shall not so proceed.

Appeals to the Resident Magistrate's Court.

25. In the forty-seventh section of the said Act, all the words after "apply for relief" are hereby repealed, and the words following substituted in lieu thereof : "to the Resident Magistrate's Court which is nearest to the place where the roll of the riding is kept."