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Hon. Mr. Cadman.

COUNTIES ACT AMENDMENT.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Constitution of new road districts.</p> <p>3. Altering boundary-lines of road districts to agree with lines of sections, or for road purposes.</p> <p>4. Special orders creating, merging, or abolishing ridings or road districts to be gazetted.</p> <p>5. Council may declare all district roads to be county roads.</p> <p>6. Protection of footpaths in county roads.</p> <p>7. (1.) County Councils may agree with Fire Brigades, &c. (2.) Fire Inspectors. (3.) Powers of Fire Inspectors. (4.) Constables to assist Fire Inspectors. (5.) Damage done by Fire Inspectors to be damage by fire. (6.) Governor may appoint Fire Inspectors in certain cases.</p> <p>8. County Councils may require owner of land to remove impediments to watercourses, &c.</p> <p>9. Readjustment of representation by County</p> | <p>Councils. Governor, on petition, may review representation.</p> <p>10. County electors to have one vote only.</p> <p>11. Resignation by whole Council not to dissolve Corporation. Commissioner may be appointed to administer Act during suspension of Council.</p> <p>12. Power of Council to levy general rates in county, and separate rates differentially in ridings. Subsidies.</p> <p>13. Separate accounts for each riding to be kept. Apportionment of income between county and ridings.</p> <p>14. Liabilities of road district when merged.</p> <p>15. When resolution for special loan deemed to be carried.</p> <p>16. Cheviot County united to Amuri County. Chatham Islands constituted a county. Boundaries of Whangarei County altered.</p> <p>17. Validation of creation of ridings in Ohinemuri County, and of elections therein.</p> <p>18. Creation of new counties by petition.</p> <p>19. General amendments of principal Act.</p> |
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A BILL INTITULED

AN ACT to amend "The Counties Act, 1886."

Title.

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

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| <p>1. The Short Title of this Act is "The Counties Act Amendment Act, 1891." It shall be read together with "The Counties Act, 1886" (herein called "the said Act").</p> <p>2. Notwithstanding anything contained in section four of "The Road Boards Act, 1882," it shall be sufficient if a petition to the Council praying for the constitution of a new road district be signed by two-thirds of the ratepayers for the area to be comprised in the proposed new road district, and otherwise be prepared and notified as in the said section four mentioned.</p> <p>3. The Council of any county may from time to time, with the consent of the Road Boards of the districts to be affected, on the application of either of such Boards, alter the boundaries of any road districts—</p> <p>(1.) When the boundary-line dividing such districts runs through sections of land, and may make such line to follow the</p> | <p>Short Title.</p> <p>Constitution of new road districts.</p> <p>Altering boundary-lines of road districts to agree with lines of sections, or for road purposes.</p> |
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one or other boundary-line of the sections so traversed as they think fit; or

(2.) For the purpose of road requirements, may annex any portion of a road district to an adjoining district in the same county.

It shall not be necessary to have a fresh election of the Boards of the road districts affected by any alterations of boundaries made under this section, or of any members thereof, anything contained in section thirteen of "The Road Boards Act, 1882," to the contrary notwithstanding; unless the Council shall otherwise think fit in the case of an alteration made under subsection two of this section, in which case the Council may order a fresh election to be held either of the whole Board or of any member for a subdivision of a Board affected by any such alteration.

In counties where the said Act is suspended the Governor may, upon petition, exercise the powers herein conferred upon the County Council.

All alterations of districts heretofore made in the foregoing manner are validated.

Special orders creating, merging, or abolishing ridings or road districts to be gazetted.

4. A copy of every special order creating or abolishing a riding or road district, or changing the name thereof, or merging a road district or town district in the county, shall be sent to the Colonial Secretary in the same manner as provided in section one hundred and twenty-five of the said Act with respect to special orders making any alterations in the boundaries of any riding or road district, and shall be gazetted by him. The provisions of the last-named section shall apply in respect to every special order in this section mentioned.

Council may declare all district roads to be county roads.

5. In addition to the powers conferred by section eighty-one of "The Public Works Act, 1882," the Council by special order may from time to time declare all district roads in any riding to be county roads. But if before the confirmation of the resolution contained in the special order to make such alteration a petition is presented to the Council, signed by a majority of the ratepayers of the several road districts in the riding to be affected by such order, praying that the proposed alteration be not made, then such special order shall not be made, or a special order may be made in lieu thereof in accordance with the prayer of such petition.

Protection of footpaths in country roads.

6. Every County Council—

May lay out footways on one or both sides of any road within the county, and may construct the same of such dimensions and of such materials and in such manner in all respects as it thinks fit; and

May from time to time make, alter, or revoke by-laws to prevent persons from riding or driving any animal, or driving or wheeling any truck, barrow, or carriage of any kind upon or along any footway, and to punish any persons for so doing.

"Footway" means so much of any road as is laid out or constructed by the authority of the Council for foot-passengers only, and includes the edging and kerbing thereto.

County Councils may agree with Fire Brigades, &c.

7. (1.) The Council of any county may agree with any Fire Brigade or other persons as to providing the necessary plant and extra labour

for the purpose of extinguishing fires, and for the payment to any such brigade or persons, out of the General Account of the County Fund, of such remuneration by way of gratuity as the Council thinks fit.

(2.) The Council may from time to time appoint, and may remove Fire Inspectors.
 5 and reappoint, one or more Fire Inspectors. Every such appointment shall be by warrant under the hand of the Chairman of the County; and every appointment, as well as every removal or resignation, of such officer shall be publicly notified in the county.

(3.) A Fire Inspector may, on the occasion of any fire occurring Powers of Fire Inspectors.
 10 in the county, do the following things:—

He may take the command of any Fire Brigade or other persons who by previous agreement with the Council have placed their services at the disposal of the Council, or who for the time place themselves at his disposal:

15 He may order any person engaged in extinguishing the fire (hereinafter called a "fireman"), or any constable, to remove any persons who, by their presence or otherwise howsoever, interfere with or impede the labours of the Fire Brigade or other firemen in extinguishing the fire:

20 He may take any measures he thinks best for the protection of life and property:

He may, with any assistance he requires, break into, take possession of, or pull down any premises, for preventing the spread of fire, doing, however, as little damage as possible thereby:

25 He may interfere with the supply of water in the water-works as he thinks fit, in order to get a greater supply or pressure in the neighbourhood of the fire.

30 And no penalty, damages, or claim for compensation shall be recoverable by or against any person in consequence of any act done under the authority of this section.

(4.) All police-constables are hereby authorised and required to aid every Fire Inspector in the execution of his duty, and may at their discretion clear any street in or near to which a fire is burning, and Constables to assist Fire Inspectors.
 35 may remove any persons who, by their presence or otherwise howsoever, interfere with or impede the labours of the firemen.

(5.) All damage to property caused by any Fire Inspector, or any person acting under his orders, in the due execution of their duties under this Act, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire, anything in such policy to Damage done by Fire Inspectors to be damage by fire.
 40 the contrary notwithstanding.

(6.) In all parts of the colony outside of any county, or where the said Act is suspended, the Governor may by warrant under his hand appoint Fire Inspectors under the provisions of this section, who shall Governor may appoint Fire Inspectors in certain cases.
 45 have all the powers, duties, and responsibilities granted or imposed by this Act upon Fire Inspectors appointed by warrant of the Chairman of a County.

8. Where the obstruction of any watercourse, stream, or river County Councils may require owner of land to remove impediments to watercourses, &c.
 50 in any part of a county, and whether or not within the limits of any road district in such county, is likely to cause damage to property within the county or to any public work therein, the County Council may order the occupier, or, when there is no occupier, the owner, of

any land on the bank of such watercourse, stream, or river to remove any fallen tree or any drift-wood, tree, shrub, or bush, or any part thereof, impeding the free flow of water in the said watercourse, stream, or river, or to lower or trim any part of a tree, shrub, or bush overhanging such watercourse, stream, or river, and likely to fall 5 therein.

In the event of any such owner or occupier failing to comply with such order within fourteen days from the receipt thereof, he shall be liable to a penalty not exceeding *five* pounds for every day during which such order is not obeyed, and a further sum equal to the cost 10 incurred by the Council in removing, lowering, or trimming any such tree, shrub, or bush, or any part thereof; and the said cost shall be a charge on the land, and may be recovered as rates are recovered under "The Rating Act, 1882."

Where any such obstruction as aforesaid has arisen through 15 the cutting-down of the bush on any land, or the falling of any tree in or over any watercourse, stream, or river, the owner of the land on which such bush or tree was standing shall be liable for the removal of the obstruction caused thereby, notwithstanding that the felling of the bush on such land was actually done by parties other than the 20 said owner under any contract or agreement with such owner or on his behalf.

The Council, for the purpose of preventing or lessening any damage which may be threatened, or which may actually have occurred by the overflow of any watercourse, stream, or river by any 25 obstruction thereof, shall by its servants have the free right of ingress, egress, and regress on any land on the banks of any such watercourse, stream, or river.

Nothing contained in this section shall be construed to limit the authority of any River Board under "The River Boards Act, 1884." 30

Readjustment of representation by County Councils.

9. Section forty-six of the said Act is hereby repealed, and in lieu thereof it is enacted as follows:—

The Council shall, on some day in March preceding the expiration of the term of office of the Councillors, hold a meeting for the purpose of readjusting the representation of the different ridings, 35 and shall alter the representation in such way as they shall think fair, taking into consideration the number of ratepayers, rateable value, area, and other circumstances of the several ridings, subject, however, that there shall not be less than one nor more than three Councillors for each riding. 40

if they deem it desirable

Governor, on petition, may review representation.

If any County Council fails to make a readjustment in the representation of the different ridings in the Council, as aforesaid, or if the ratepayers in any one or more ridings feel themselves aggrieved by any such readjustment when made, they may petition the Governor for redress; and thereupon the Governor, if he think 45 fit, by Proclamation, shall make a readjustment in the representation in the different ridings if not made by the Council, or may amend and alter any such readjustment if made, in manner as he shall think fit and just.

A map...

Every petition from the ratepayers of any riding as aforesaid shall 50 be signed by not less than three-fifths of the ratepayers in the riding.

In this section "ratepayer" means county elector.

10. Section sixty of the said Act is hereby repealed, and in lieu thereof it is hereby enacted as follows :—

County electors to have one vote only.

5 Every county elector shall be entitled to vote at every election of a member of the County Council for any riding in which he is enrolled, but shall not have the right to exercise more than one vote in such riding, whatever may be the value of his rateable property therein.

10 In any case where there is more than one person appearing on the valuation-roll as the occupier of any one property, then, for the purpose of voting, only the person whose name appears first on such roll shall be deemed to be entitled to vote in respect of such property.

15 11. If the election of members of the Council of any county is not held within the appointed time, or any extended time for such election, or becomes void, or if a County Council resign in a body, or the number thereof becomes so reduced by any means as to be unable to carry on its duties, and no provision is made by the Council to supply the vacancies, the Corporation of the county shall not be thereby dissolved; and the Governor, either on petition of any three
20 or more ratepayers of the said county or of his own motion, may from time to time appoint or remove and reappoint a Commissioner for the purposes hereinafter mentioned.

Resignation by whole Council not to dissolve Corporation.

25 (1.) On such appointment all powers, duties, and functions which might or could have been exercised by the Council of such county shall vest in and shall be exercised or exercisable by such Commissioner as effectually and in the same manner and with the same consequences, *mutatis mutandis*, as if he were the Council of the county or a quorum thereof as the case may require.

Commissioner may be appointed to administer Act during suspension of Council.

30 (2.) All expenses, salaries, and other charges incident to the administration of the said Act by a Commissioner as aforesaid shall be paid out of the County Fund; and the consolidated revenue of the colony shall not be chargeable with any claim or liability of any sort in respect of such administration, or of any act or thing done, committed, or suffered by such Commissioner.

35 (3.) Notwithstanding the appointment of a Commissioner in any county, and at any time after such appointment, upon petition of at least three-fifths of the county electors of the entire county praying for an election of a County Council to be held, the Governor may grant such prayer, and thereupon all things shall be done in and towards the carrying-on of such election under the said Act, and all matters and things ancillary or incident to such election,
40 as if it were a first election to be held within a new county, saving and excepting that the provisions of section ninety-two of the said Act shall not apply in respect to any such election.

50 Upon the re-election of a County Council and its coming into office the Governor may revoke the appointment of the Commissioner.

But such revocation shall not affect or annul any act, thing, or matter legally done, performed, or executed by such Commissioner or under his authority whilst holding office as such Commissioner.

Power of Council to levy general rates in county, and separate rates differentially in ridings.

12. Sections one hundred and forty-eight, one hundred and forty-nine, and one hundred and fifty of the said Act are hereby repealed, and in lieu thereof it is enacted as follows:—

(1.) The Council of every county may from time to time, as they think fit, make and levy General Rates on all rateable property within the county for carrying into effect the general purposes of the said Act; but the rates made for any one year in any road district or town district within the county shall not be greater than one-half of the rate made in the remainder of the county, and the latter shall not exceed six farthings in the pound.

(2.) In addition to any general rate made under the *last-preceding* subsection, the Council of any county, for the separate purposes of the ridings therein, may, from time to time, make and levy Separate Rates in any one or more ridings, and in manner that the separate rates in one riding may vary from those in another.

The separate rates made in any one year in any road district or town district within any riding shall not be greater than one-half of the separate rates made in the remainder of such riding, and the latter shall, together with the general rates levied under subsection one of this section, not exceed the amount of six farthings in the pound.

Subsidies.

Any subsidies for the time being payable to a county under "The Local Bodies' Finance and Powers Act, 1885," or any Act passed or to be passed in amendment or substitution thereof, shall be payable upon the separate rates as well as the general rates collected under the provisions of this section within such county.

Separate accounts for each riding to be kept.

13. Sections one hundred and forty-five and one hundred and forty-six of the said Act are hereby repealed, and in lieu thereof it is hereby enacted as follows:—

(1.) In every county in which the whole Act is in operation a separate account shall be kept for each riding, to which shall be carried the amount of all the general rates collected in such riding, and all subsidies in respect of such general rates which shall be received from Her Majesty's Government, and the said account shall, except as hereinafter provided, be charged with the expenditure on public works executed therein.

Apportionment of income between county and ridings.

(2.) The Council may from time to time transfer from the general rates in the Ridings Accounts to the General Account—(a) such sums, being proportionate to the rateable property in each riding, as may be necessary to meet the general charges on the County Fund, and (b) such sums, being in the above-named proportion, as may be necessary to provide for the cost of any public work which in the opinion of the Council should be charged on the General Account, provided that such last-mentioned transfer shall in no case exceed *one-half* of the amount of the general rates collected in the riding.

(3.) Every separate rate collected in a riding, and all subsidies in

respect of such separate rate received from Her Majesty's Government, shall be carried to a separate account in the Ridings Account, and shall be charged with the work or service for which such separate rate was collected.

(4.) The cost of collecting the rates in each riding shall be charged upon the general or separate rate in such riding, as the case may be.

(5.) Nothing herein contained shall debar the Council from transferring from the General Account to the account of any riding such sum as they shall think fit.

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14. When a road district or town district is merged in a county under the said Act, the County Council may levy a general rate for county purposes not exceeding six farthings in the pound on the rateable value of the property within the limits of such former road district or town district, and in addition thereto shall, if necessary, levy a special rate within such limits of such amount in the pound on the aforesaid rateable value as the Council shall think sufficient to discharge the outstanding liabilities of the former Road Board or Town Board of such district.

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And the Council, if they think that such liabilities are too large to admit of being discharged by a separate rate in one year, shall levy a special rate, to be an annually-recurrent rate, of such amount in the pound in each year on the rateable value aforesaid as the Council shall think sufficient to discharge such liabilities within any time the Council may determine.

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15. Section one hundred and ninety-seven of the said Act is hereby repealed, and in lieu thereof it is hereby enacted as follows:—

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(1.) If twice the number of votes given for the proposal within the several ridings taken together is not less than *three* times the number of votes given against the proposal, then and not otherwise 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;

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(2.) The provisions of this section shall apply in all cases of taking a poll within any county on a proposal to raise a loan in such county; and all provisions of the said Act, or of any other Act in conflict with this section are hereby repealed in so far as such last-mentioned provisions apply to counties and the taking of a poll as aforesaid in counties.

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16. The Cheviot County is hereby united to the Amuri County, and together the said counties shall form an united county under the name of the Amuri County, and such union shall be deemed to be made by Proclamation of the Governor on petition under section thirty-six of the said Act.

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The Chatham County is hereby constituted, and shall comprise the group of islands known as the Chatham Islands, lying between the parallels of 43° 30' and 44° 30' south latitude and the meridians of 175° 40' and 177° 15' west longitude.

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The boundaries of the Whangarei County, as the same are defined

Liabilities of road district when merged.

When resolution for special loan deemed to be carried.

Cheviot County united to Amuri County.

Chatham Islands constituted a county.

Boundaries of Whangarei County altered.

in the Schedule to "The Counties Act, 1876," are hereby repealed, and the boundaries of the said County shall be those described in the Schedule hereto.

This Act shall be deemed to be a special Act within the meaning of the said Act for the purpose of creating the new County of Chatham, and for altering the boundaries of the Whangarei County respectively. 5

The provisions of this section shall come into operation on the first day of October in the now present year.

Validation of creation of ridings in Ohinemuri County, and of elections therein.

17. Whereas the Council of the Ohinemuri County, by its resolution at a special meeting thereof held on the twenty-ninth day of March, one thousand eight hundred and ninety, made a readjustment of the representation by the addition of one member to the Council, and also, in like manner, at another special meeting held on the first day of June, one thousand eight hundred and ninety, altered the ridings of the county by subdividing the Waitoa Riding into the Waitoa Riding and the Netherton Riding: And whereas these matters respectively should have been done by special order: And whereas subsequently to the proceedings aforesaid, on the twelfth day of November, one thousand eight hundred and ninety, a general election of the Council was held, and the Council then elected is deemed to be not duly constituted according to law, by reason of the aforesaid proceedings being irregular, and it is expedient to validate such proceedings and the aforesaid subsequent election: 10 15 20

Be it therefore further enacted, as follows:— 25

All the above recited proceedings of the Ohinemuri County Council respecting the alteration of representation therein and the increase of the number of ridings of the county are hereby validated, notwithstanding any irregularity in the form of such proceedings; and the Council of the said county last elected as aforesaid is hereby declared 30 duly constituted for all purposes, and the members of the said Council shall be deemed to have been duly elected, any irregularity in the alteration of the ridings as aforesaid, or in the number of members thereof, also notwithstanding.

Creation of new counties by petition.

18. Section twenty-four of the said Act is hereby repealed, and 35 in lieu thereof it is hereby enacted as follows:—

The Governor in Council may, by Proclamation, declare that any part of a county or of two or more counties, not being less than two hundred thousand acres in extent, nor containing less than one hundred county electors, shall constitute a new county, with such name 40 and boundaries as he thinks fit, subject that a petition is presented to the Governor setting forth the boundaries of the proposed new county, signed by not less than three-fifths of the county electors for the districts comprised in the proposed new county, praying the Governor to constitute such new county. 45

General amendments of principal Act.

19. The said Act is hereby amended as follows:—

- (1.) Section four* of the said Act is hereby amended by the omission of the second subsection thereof:
- (2.) In sections eleven, twenty-eight, and forty-four, after the words "not exceeding nine" there shall be inserted the 50 words "nor less than two:"
- (3.) In subsection one of section nineteen, for the words "shall

* Consequential amendments if clause ten of the Bill is passed.

have force in such county" there shall be substituted the words "shall be exercisable in such county by the Council thereof:"

- 5 (4.) In section twenty, subsection one, for the words "such suspension" there shall be substituted "the commencement."
To subsection two the following words shall be added:
"Any such Road Boards and Town Boards as aforesaid within their respective districts may make by-laws under 'The Road Boards Act, 1882,' and 'The Town Districts Act, 1881,' respectively, for any of the purposes mentioned in section three hundred and eleven of 'The Counties Act, 1886:'"
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- 15 (5.) In section fifty-four,† the words at the beginning of the section, from "if any petition" to "merging such road district in the county," shall be omitted:
- (6.) Section fifty-five† shall be omitted:
- (7.) Section sixty-three* of the said Act is hereby amended by the omission of all words after "defaulters' list:"
- 20 (8.) Section sixty-four* of the said Act is hereby amended by the omission of all words from "and shall assign" to "valuation of rateable property:"
- (9.) Section sixty-six* of the said Act is hereby amended by the omission of all words after "roll of the riding:"
- 25 (10.) In section eighty-two, for the words "at least one Councillor for each riding" there shall be substituted "not less than one nor more than three Councillors for each riding:"
- (11.) In subsection three of section one hundred and twenty-four the word "said" shall be omitted, and after the words "four weeks" shall be inserted the words "immediately preceding such subsequent meeting:"
- 30 (12.) Section one hundred and seventy-five shall be omitted:
- (13.) In section two hundred and forty-six, the words "the Schedule to" shall be omitted:
- 35 (14.) In the Second Schedule, for the figures and words "45 to 73 inclusive" there shall be substituted "45 to 57 and 59 to 73 inclusive," and for the figures and words "148 to 311 inclusive" there shall be substituted "148 to 310 inclusive:"
- 40 (15.) The Third and Fourth Schedules* of the said Act are hereby respectively amended by the omission of the last column in the tables thereof, headed respectively "Number of Votes."

The said Act shall be read as if it had been originally enacted with the substitutions, additions, and omissions required by this section.

* Consequential amendments if clause ten of the Bill is passed.

† Consequential amendments if clause fourteen of the Bill is passed.

Schedule.

SCHEDULE.**WHANGAREI COUNTY BOUNDARIES.**

THE Whangarei County is bounded towards the north-west by a right line from Trig. Station 18 on Tarai-o-Rahiri to the north-western corner of the Opuawhanga No. 4 Block, and by the northern boundary-lines of that block to the sea at Helena Bay (being the south-eastern boundary of Bay of Islands County); towards the east by the ocean; towards the south-west generally by Otamatea County to the main road from Tokatoka to Waikiekie and Mangapai; thence by a line along the middle of the Mangonui River to the confluence of the Tauraroa River with the said Mangonui River; thence by a line along the middle of the said Tauraroa River to a point in line with the north eastern boundary-line of Block No. 3 (Walton's and Elmsley's Grant); thence by a right line to the easternmost corner of that block; thence by Block No. 3 aforesaid and the Whangai Mokopuna Block (4892 in red) to Trig. Station 41 on Tangihua; and thence by a right line to Trig. Station 18 on Tarai-o-Rahiri, the place of commencement.

By Authority: GEORGE DIDSBURY, Government Printer, Wellington.—1891.