

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
The Mayor, Councillors, and Citizens of the
City of Wellington v. The Mayor, Councillors,
and Burgesses of the Borough of Lower Hutt,
from the Court of Appeal of New Zealand;
delivered the 26th July 1904.*

Present at the Hearing :

LORD DAVEY.

LORD ROBERTSON.

SIR ARTHUR WILSON.

SIR HENRI TASCHEREAU.

[*Delivered by Sir Arthur Wilson.*]

The question raised by this Appeal is as to the meaning of the word "adjacent" as used in Section 219 of the Municipal Corporations Act, 1900, of New Zealand. That section, omitting words unnecessary for the present purpose, says:—"In any case where the Council of
" any borough desires to construct
" a bridge in any position that
" will, in its opinion, be of advantage and
" benefit to the whole or any considerable
" portion of the inhabitants of an adjacent
" borough or county or other district, as well as
" to the inhabitants of its own district, and
" where it is, in the opinion of such Council,
" reasonable that the local authority of such
" adjacent district should contribute to the cost,"
the Council may in proper manner apply to the Governor, who may by warrant authorise the work to be done, "and may declare that a
" proportion of the cost thereof to be mentioned
" in such warrant shall be borne by any other
" local authority."

The Borough of Lower Hutt proposed to construct a bridge over the Hutt river, at a point within its own boundaries, and gave notice to the City of Wellington of its intention to apply to the Governor for power to construct the bridge, and to recover a proportion of the cost from the City of Wellington, alleging that the case fell within the section which has been cited. The City of Wellington opposed. The procedure followed in such cases was pursued, and ultimately the Governor by warrant purporting to be issued under the section, authorised the construction of the bridge by the Borough of Lower Hutt, and apportioned 20 per cent. of the cost to be borne by the City of Wellington.

The Borough of Lower Hutt claimed payment of one instalment of the 20 per cent. of the cost of the bridge. The claim was resisted. A special case was stated for the opinion of the Supreme Court, which was removed by order into the Court of Appeal for argument, and so the matter came before the latter Court.

The question raised by the special case was whether the one borough concerned was adjacent to the other within the meaning of Section 219 of the Act. The relative position of the two was shown on the map annexed. It is enough for the present purpose to say that on that map it is shown that the City of Wellington does not immediately adjoin the Borough of Lower Hutt, that there is a distance of over six miles between their boundaries, and that three other local divisions, Onslow Borough, Hutt County, and Petone Borough intervene. A majority of the learned Judges answered the question raised by the case in the affirmative, holding that Wellington City is adjacent to Lower Hutt borough within the meaning of the section. The minority of the learned Judges took a stricter view of the meaning of the word

“adjacent,” and considered that Wellington City cannot be called “adjacent” to Lower Hutt.

This difference of opinion can give rise to no surprise, for the question is one of difficulty. “Adjacent” is not a word to which a precise and uniform meaning is attached by ordinary usage. It is not confined to places adjoining, and it includes places close to, or near. What degree of proximity would justify the application of the word is entirely a question of circumstances. There is not much in the context or in the surrounding circumstances to throw light upon the sense in which it is employed in the present instance. It is enough for the decision of this Appeal to say that their Lordships could not properly advise His Majesty to interfere with the decision appealed against unless they were clearly satisfied that the view of the majority of the learned Judges as to the meaning of the section and its application to the present case was wrong, and they are far from being so satisfied.

Their Lordships will humbly advise His Majesty that the Appeal should be dismissed. The Appellants will pay the costs.
