

Mr. Wilford.

PETONE AND LOWER HUTT GAS-LIGHTING.

[LOCAL BILL.]

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Lighting district.</p> <p>3. Gas Lighting Board.</p> <p>4. Powers of Board as local authority.</p> <p style="text-align: center;"><i>Election of Board.</i></p> <p>5. Constitution of Board.</p> <p>6. Resignation of office.</p> <p>7. Vacancy in the Board.</p> <p>8. Persons not eligible for election and disqualified persons.</p> <p>9. Chairman of Board and Deputy Chairman.</p> <p>10. Honorarium of Chairman.</p> <p>11. Members' fees.</p> <p style="text-align: center;"><i>Committees and Proceedings of Board.</i></p> <p>12. Committees, &c.</p> <p style="text-align: center;"><i>Appointment of Officers.</i></p> <p>13. Officers, &c.</p> <p style="text-align: center;"><i>Borrowing and Rating Powers.</i></p> <p>14. Special loan proposals.</p> <p>15. General rate.</p>	<p>16. Power to levy special rate.</p> <p>17. Sinking fund.</p> <p>18. Valuation and rate roll.</p> <p>19. Objection to rate struck not allowed as a defence.</p> <p>20. Acquisition of gas undertakings.</p> <p style="text-align: center;"><i>Contracts.</i></p> <p>21. Board may enter into contracts for purposes of Act.</p> <p>22. Mode of contracting.</p> <p>23. Contracts over £50 to be made by tender.</p> <p>24. Actions or suits may be maintained on contracts.</p> <p>25. Board may compound for breach of contract.</p> <p style="text-align: center;"><i>Accounts.</i></p> <p>26. Municipal Corporations Act, 1920, to apply.</p> <p>27. Moneys to be paid into bank.</p> <p>28. Operating on bank account.</p> <p style="text-align: center;"><i>Amalgamation of Boroughs.</i></p> <p>29. Board ceases to exist on amalgamation. Schedule.</p>
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A BILL INTITULED

5 AN ACT to constitute and empower a Board to produce and supply
 10 Gas in and for the Boroughs of Petone and Lower Hutt and
 certain ~~Portions of the Hutt County,~~ *lands contiguous thereto*, and
 for that Purpose to acquire the Gas-producing Plant and Mains,
 and the Whole of the Gas Undertakings of both Boroughs,
 and the Land and Material in connection therewith; and to
 take over the Loans and Liabilities of the respective Boroughs
 relating thereto; and to do all such Acts as are incidental
 or conducive to the Attainment of the above Objects.

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

1. This Act may be cited as the Petone and Lower Hutt Gas-
 lighting Act, 1922, and shall come into force on the first day of
 November, nineteen hundred and twenty-two.

Title.

Short Title and commencement.

Lighting district.

2. The Boroughs of Petone and Lower Hutt and ~~the portions of the Hutt County~~ *all lands lying* within a radius of five miles from the post-offices at Petone and Lower Hutt respectively shall, for the purposes of this Act, be and be deemed to be one district, to be called "The Petone and Lower Hutt Gas-lighting District" (hereinafter referred to as the district). 5

Gas-lighting Board.

3. From and after the commencement of this Act a Board to be known as "The Petone and Lower Hutt Gas-lighting Board" (hereinafter referred to as the Board) shall be empowered to undertake the supply of gas for public and private use within the limits of the district, and the Board shall for such purposes have all the powers conferred on Borough Councils under the Municipal Corporations Act, 1920, and any amendments thereof, so far as they relate to the supply of gas for public and private purposes; and the Board shall also have all the powers, so far as they relate to lighting, which were vested in the ~~Petone Corporation~~ *Borough Council* by the Petone Corporation Lighting and Sanitation Loans Empowering Act, 1898, and all the powers which became vested in the ~~Hutt Corporation~~ *Lower Hutt Borough Council* by the Petone and Hutt Corporations Empowering Act, 1905. From and after the commencement of this Act the ~~Petone Corporation~~ *Borough Council* and the ~~Lower Hutt Corporation~~ *Borough Council* shall cease to have any of the powers vested in them by either of the before-mentioned Acts, or by Part XXVI of the Municipal Corporations Act, 1920. 10 15 20

Powers of Board as local authority.

4. (1.) The Board shall be a local authority within the meaning of the Local Bodies' Loans Act, 1913, and the Local Bodies' Finance Act, 1921-22, and *for the purposes of this Act*, shall have and may exercise within the Boroughs of Petone and Lower Hutt all and every of the powers conferred on a local authority by the said Acts; and the combined area of both boroughs shall be deemed to be "a district," and the Board's fund shall be deemed to be "a local fund" within the meaning of the Local Bodies' Loans Act, 1913. 25 30

(2.) The Board shall be a body corporate with perpetual succession and a common seal, with power by special order to alter and change such seal; and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, disposing of, and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer. 35 40

Election of Board.

Constitution of Board.

5. The first Board under this Act shall consist of seven members, three of whom shall be appointed by each Council, and the seventh shall be elected by a majority of the votes of such six appointees, and in the event of their being unable to come to an agreement, he shall be appointed by the Governor-General in Council. Thereafter, whenever there shall be a general election of Councillors in each borough the electors of each borough shall elect three members of the Board, and the members so elected shall appoint the seventh member (*in this Act referred to as the appointed member*) who, in the event of their being unable to come to an agreement, shall be appointed by the Governor-General in Council. The Board so constituted shall hold office for the same term as Borough Councillors; and a new Board shall be elected and appointed in a similar manner at each general election of Councillors. 45 50

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Provided that ~~any~~ *the* appointed member shall hold office until the appointment of his successor.

6. Any member of the Board may resign his office by writing under his hand delivered to the Chairman or the Secretary of the Board, and in such case, or in case of his death, incapacity, or ouster from office, or his absence without leave of the Board from four consecutive ordinary meetings thereof, his office shall become vacant, and such vacancy shall be deemed a casual vacancy.

Resignation of office.

Struck out.

7. Whenever any vacancy shall occur during the term of office of a Board the Board shall at a subsequent ordinary or special meeting proceed by ballot to fill such vacancy. No person shall be appointed to fill a casual vacancy whose name does not appear on the electors roll for the office of Councillor of the Borough which elected the person whose office has become vacant, but this restriction shall not apply if the vacancy is that of the appointed member of the Board, and the member so appointed shall hold office until the appointment of his successor. The Board shall continue to act during and notwithstanding any vacancy in its membership.

Vacancy in the Board.

New.

7A. Whenever any casual vacancy occurs, the Board shall, at a subsequent ordinary or special meeting, proceed by ballot to fill such vacancy. In the case of a casual vacancy in the office of an elected member no person shall be appointed to fill the vacancy who is not eligible for election as a Councillor of the Borough which elected the person whose office has become vacant. The member so appointed shall hold office only for the residue of the term of office of the vacating member. The Board shall continue to act during and notwithstanding any vacancy in its membership.

Vacancy in the Board.

8. (1.) Any person incapable of being elected to be or of being a Councillor of either Borough shall be ineligible to hold office as an elected member of the Board.

Persons not eligible for election and disqualified persons.

(2.) The provisions of section forty (except paragraphs (a) and (b) thereof) and section forty-one of the Municipal Corporations Act, 1920, shall, *mutatis mutandis*, apply to members of the Board.

9. A member of the Board shall in and for each term be chosen by the Board as its Chairman, and there shall also be a Deputy Chairman chosen in the same way, who shall act in the absence of the Chairman or when his office is vacant, and at all meetings the Chairman, Deputy Chairman, or Acting-Chairman, as the case may be, shall have a deliberative, and in case of equality of votes, a casting vote.

Chairman of Board and Deputy Chairman.

10. The Board may from time to time vote and pay the Chairman of the Board an honorarium not exceeding the sum of fifty pounds per annum.

Honorarium of Chairman.

11. The Board may from time to time vote and pay to each member of the Board, exclusive of the Chairman, a fee of *ten* shillings and *sixpence* in respect of each meeting of the Board or of a committee of the whole of the Board attended by him:

Members' fees.

Provided that no member shall be entitled to more than one fee when two or more meetings are held on the same day:

Provided also that no member shall be entitled to receive such payment in respect of any meeting unless he is present at the time appointed for the holding of such meeting, or within fifteen minutes thereafter.

Committees and Proceedings of Board.

Committees, &c.

12. The whole of Parts VI and VII of the Municipal Corporations Act, 1920, and any amendments thereof, shall apply, except in so far as the same are altered or modified by anything herein contained, and, *mutatis mutandis*, shall be read into and form part of this Act.

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Appointment of Officers.

Officers, &c.

13. The Board may appoint for such period and upon such terms as it thinks fit such Returning Officers, Managers, Engineers, Secretaries, clerks, and other officers, servants, and workmen as may be necessary:

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Provided that one person may, if the Board thinks fit, fill several offices.

Borrowing and Rating Powers.

Special loan proposals.

14. Section eleven of the Local Bodies' Loans Act, 1913, shall not apply to any special loan proposed to be raised by the Board, and, in lieu thereof, the following provision shall apply to every special loan proposed to be raised by the Board under the powers contained in the said Act:—

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The proposal to borrow such money shall be deemed to be carried if the total number of valid votes recorded at the poll in favour of the proposal shall exceed in number those recorded against the same, and the Board may proceed with the proposal accordingly. Any person eligible to vote on any loan proposal by either the Petone Borough Council or the Lower Hutt Borough Council, and those only, shall be eligible to vote on a loan proposal by the Board; and the separate rolls of the two said Councils shall be used at any poll, without the necessity of preparing a joint roll.

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General rate.

15. (1.) The Board may from time to time, as it thinks fit, by special order make and levy general rates on the rateable value of all property in the boroughs of Petone and Lower Hutt for carrying into effect the general purposes of this Act, but the total amount of such rates for any one year shall not exceed *one penny* in the pound.

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(2.) Such rates shall be levied on the unimproved value of such rateable property.

Power to levy special rate.

16. (1.) For the purpose of providing the interest and sinking fund upon all or any loan or loans (whether special or otherwise) raised or to be raised, or debentures issued or to be issued, under the provisions of this Act the Board shall have power to make and levy a special rate or special rates upon the unimproved value of all rateable property within the said ~~rating-district~~ *Boroughs of Petone and Lower Hutt* as the Board shall from time to time determine.

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(2.) It shall be lawful for the Board in any year, notwithstanding the provisions of section twenty-one of the Local Bodies' Loans Act, 1913, to pay the interest on and the sinking fund of any such loan out of its ordinary and general revenues, and in such case it shall

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not be necessary to levy such special rate; and every such loan and the amount of every debenture and coupon representing the same shall be a debt of the Board.

5 17. There shall be created a sinking fund of *one* per centum per annum for the redemption of each and every loan or debenture issued under this Act. Sinking fund.

10 18. For the purpose of rating, the valuation roll and rate-book ~~for the said district~~ shall be compiled from the valuation rolls and rate-books respectively of the said boroughs, and a copy of any valuation roll or rate-book, or part thereof, in force in any such borough, certified as correct by the Mayor or Town Clerk of such borough, shall be conclusive, so far as it extends, and shall be receivable as evidence in proof of the facts therein appearing. Valuation and rate roll.

15 19. No objection shall be allowed in any Court to any rate which the Board shall purport to strike, make, or levy under the provisions of this Act which shall or may form security for the debentures or coupons issued hereunder; and no informality or irregularity, whether in form or in substance, in the making, striking, or levying of such rate, or in the election or appointment of any body or person acting in connection therewith, shall be allowed by any Court as a defence to any action or proceedings for the recovery of such rate, or be entertained as a ground for quashing such rate, or restraining the recovery thereof. Objection to rate struck not allowed as a defence.

20 20. (1.) Immediately upon the coming into operation of this Act, the works, machinery, plant, land, buildings, and mains (excepting public street-lamps) at present the property of either the Petone or Lower Hutt *Borough* Councils and used solely in connection with the supply of gas for public or private use in the said district, shall vest in the Board, and the Board shall issue to each Council debentures for the total amount of the value of its respective share of the said works, machinery, plant, land, buildings, and mains, less the amount of the loans and liabilities of each Council in respect thereof. The total amount due to each Council shall be ascertained and determined by Matthew Joseph Kennedy, of the City of Wellington, Gas Engineer, or, in the event of his being unable to act, by some person to be appointed by both Councils, or, in the event of their being unable to come to an agreement, by the Governor-General in Council. A certificate in writing signed by the said Matthew Joseph Kennedy, or such person so appointed as aforesaid, shall be final and conclusive as to such amount. Each debenture shall be for a sum not exceeding one thousand pounds, and shall bear interest at the rate of *five and a half* per centum per annum, payable half-yearly, and have a currency of thirty years, and shall have attached thereto separate coupons for the interest payable thereunder, which debentures and coupons shall be in the forms prescribed by the Local Bodies' Loans Act, 1913; provided, however, that the Board may redeem the said debentures or any number thereof on six months' notice in writing. Any sums available for redemption of such debentures shall be paid to each Council proportionately to its share of the total amount for which debentures have been issued. In respect of such debentures, and as a security therefor, the Board shall strike a special rate, to be an annually recurring rate, over the whole of the rateable Acquisition of gas undertakings.

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property (on the basis of the unimproved value) of the boroughs of Petone and Lower Hutt sufficient to yield *ten* per centum per annum more than the annual or other charges in respect of such debentures, including a sinking fund of *one* per centum per annum. Immediately upon the coming into operation of this Act, the liabilities of both Councils, ascertained in manner hereinbefore provided, shall be assumed by and be discharged by the Board. 5

(2.) Nothing herein, however, shall prejudice the right of any creditor of either Council to exercise any remedies that such creditor would have had against either Council if this Act had not been passed. 10

(3.) The land acquired by the Board under this section is described in the Schedule hereto, and such land shall vest in the Board without further authority than this Act; and the District Land Registrar for the District of Wellington shall, on request, issue a certificate or certificates of title ~~thereto~~ for the said land, or any other land acquired by the Board, on deposit in the Land Registry Office at Wellington of any plans required by him. 15

Contracts.

Board may enter into contracts for purposes of Act.

21. (1.) The Board may enter into any contract with any person for doing anything authorized by this or any other Act to be done by the Board, or which is necessary for the purposes of this Act. 20

(2.) If any contract is for the execution of any work it shall specify the work to be done, and the materials to be furnished, and the prices to be paid, for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof. 25

Struck out.

Mode of contracting.

<p>when made with the Board,—</p>	<p>22. (1.) Any contract, which, if made between private persons,— Firstly, must be by deed: Secondly, must be in writing, signed by the parties thereto: Thirdly, may be made verbally, without writing: In the first case, shall be in writing under the seal of the Board: In the second case, shall be signed by two members of the Board on behalf and by direction of the Board: In the third case, may be made verbally without writing by the Chairman or by any two members of the Board on behalf and by direction of the Board; but no verbal contract shall be made for any sum exceeding <i>fifty</i> pounds: and all such contracts may be varied and discharged in the same manner respectively.</p>	<p>30 35 40 45</p>
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New.

Mode of contracting.

<p>Mode of contracting.</p>	<p>22. (1A.) Any contract which, if made between private persons, must be by deed, shall, if made by the Board, be in writing under the seal of the Board. (1B.) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith, shall, if</p>	<p>50</p>
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made by the Board, be either under the seal of the Board or signed by two members of the Board on behalf of and by direction of the Board.

5 (1c.) Any contract which, if made between private persons, may be made verbally without writing may be similarly made by or on behalf of the Board by any two members acting by direction of the Board, but no verbal contract shall be made for any sum exceeding *twenty* pounds.

10 (2.) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided by this section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board.

Struck out

15 **23.** No contract the amount whereof exceeds *fifty* pounds shall, except in cases of urgent necessity, be made except after public tender of which due public notice shall be given; but the Board shall not be compelled to accept the lowest or any tender.

Contracts over £50 to be made by tender.

20 **24.** In case of default in compliance with any such contract, either by the Board or by any other party thereto, such actions may be maintained thereon and damages and costs recovered by or against the Board or any other parties failing in compliance therewith as might have been maintained and recovered if such contract were between private persons only.

Actions or suits may be maintained on contracts.

25 **25.** The Board may compound with any person for such sum of money or other recompense as it thinks fit in respect of the breach of any contract or any penalty incurred thereunder or of any debt due to the Board, whether before or after any action is brought for or in respect of the same.

Board may compound for breach of contract.

Accounts.

30 **26.** The provisions contained in Part XIII of the Municipal Corporations Act, 1920, as to accounts shall *so far as is applicable* apply, and, *mutatis mutandis*, shall be read into and form part of this Act.

Municipal Corporations Act, 1920, to apply.

35 **27.** All moneys belonging to the Board shall be paid into such bank as the Board from time to time appoints and publicly notifies (hereinafter called the bank).

Moneys to be paid into bank.

40 **28.** No money shall be drawn out of the bank except by authority of the Board; and all money shall be paid by the Board in cash or by cheque, signed by any two such members of the Board as the Board from time to time authorizes, and countersigned by the Treasurer or other duly authorized officer; and shall not be paid otherwise. All cheques and other documents payable to the order of the Board shall be sufficiently endorsed for the purpose only of
45 payment into the Board's bank account if endorsed by the Treasurer or other officer authorized for that purpose.

Operating on bank account.

Amalgamation of Boroughs.

50 **29.** If the Petone Borough and the Lower Hutt Borough shall hereafter become one united borough, then, as soon as such union shall become effective, the Board created by this Act shall cease to exist, and all its assets and liabilities and powers and authorities shall, *ipso facto*, become vested in the Corporation of such united borough.

Board ceases to exist on amalgamation.

Schedule.

SCHEDULE.

ALL that piece or parcel of land containing 2 acres 3 roods 27·1 perches, being part of Lot 1, on deposited plan No. 413, and part of Lot 2 on deposited plan No. 1968, being part of Section 6, Hutt Registration District, Block XIII, Belmont Survey District, and the whole of the land in a plan deposited as No. 5828, in the office of the District Land Registrar at Wellington, and being part of the land comprised in certificate of title, Vol. 117, folio 88, and the whole of the land comprised in certificate of title, Vol. 102, folio 98.

By Authority: W. A. G. SKINNER, Government Printer, Wellington.—1922.