

Mr Lapwood

**ROTORUA CITY AND ROTORUA COUNTY
EMPOWERING**

[LOCAL]

ANALYSIS

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Price 1s.

No. 93—1

A BILL INTITULED

An Act to enable the Rotorua City Council and the Rotorua County Council to make provisions for the purchase and control and orderly development of the electricity supply undertaking at present administered by the Tourist and Publicity Department in the Rotorua electric supply area 5

WHEREAS it is expedient to enable the Rotorua City Council and the Rotorua County Council to purchase the electric supply undertaking at present administered by the Tourist and Publicity Department and to control the distribution of electricity to consumers in the Rotorua electric supply area: 10

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 15

1. Short Title—This Act may be cited as the Rotorua City and Rotorua County Empowering Act 1966.

2. Interpretation—(1) In this Act, unless the context otherwise requires—

“Area of Supply” means any defined area within which the Authority is now, or at any time hereafter, authorised to erect electric lines for the purpose of supplying electrical energy to consumers: 20

“Authority” means Rotorua Electric Supply Authority constituted under this Act: 25

“District” and “District of the Authority” means the County of Rotorua and the City of Rotorua as constituted from time to time:

“Minister” means Minister of Electricity:

“Net capital value of the undertaking” means the capital outlay of the Authority less its outstanding loan liability in respect of all its functions in each case as at the end of the financial year last preceding the year for which any calculation under this Act is to be made: 30 35

“Capital outlay” means the outlay of the Authority on fixed assets and stocks:

(2) Where for the purposes of this Act it is necessary to ascertain or calculate the rateable capital value or population of any area, such value or population as the case may be, shall upon receipt of a written request from the Authority be ascertained or calculated by the Valuer-General or the 40

Government Statistician, as the case may be, as at a date or dates as near as reasonably practicable to the date of the receipt of the request.

PART I

5 ROTORUA ELECTRIC SUPPLY AUTHORITY

3. Constitution of Rotorua Electric Supply Authority—

(1) Notwithstanding anything contained in the Electric Power Boards Act 1925, the Municipal Corporations Act 1954, the Counties Act 1956, or any other enactment relating to the distribution of electricity, there is hereby constituted the Rotorua Electric Supply Authority in accordance with this Part of this Act, and the Rotorua City Council and the Rotorua County Council are hereby empowered and authorised to do all things necessary or expedient for the fulfilment of the purposes of this Act.

(2) The Authority shall be a body corporate having perpetual succession and a common seal with power to purchase, take on lease, hold, deal with, and dispose of by sale, lease or exchange real and personal property and to do and suffer all that bodies corporate may lawfully do and suffer.

(3) The Authority shall be deemed to be a Local Authority under the Public Works Act 1928, the Local Authorities Loans Act 1956, the Local Authorities (Members' Contracts) Act 1954, the Public Bodies Contracts Act 1959 and the Local Bodies Meetings Act 1962, and, subject to the express provisions of this Act, the provisions of the said Acts shall extend and apply to the Authority.

4. Protection of officers and employees or compensation for the loss of office—The provisions of the Local Authorities (Employment Protection) Act 1963 shall apply to any officers or employees affected by the creation of the Authority.

5. Members of Authority—(1) The Authority shall consist of six members, three of whom shall be appointed by the Rotorua City Council and three by the Rotorua County Council and such appointment shall be made within one month after the coming into force of this Act.

(2) The members of the Authority shall be appointed after the first appointment within one month next after each triennial local body election and the members shall continue in office until their successors are appointed:

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Provided that either the Rotorua City Council or the Rotorua County Council may by resolution at any time revoke the appointment of any member appointed by it and appoint another member in his stead.

Members of the Authority shall be members of the Council appointing them or persons possessing both a residential and ratepayers qualification as electors within either the Rotorua City or the Rotorua County. 5

(3) The following persons shall be incapable of being appointed members of the Authority: 10

(a) Any person who is not an elector or does not possess a qualification as an elector within the district:

(b) An alien:

(c) A mentally defective person within the meaning of the Mental Health Act 1911: 15

(d) A bankrupt who has not obtained his order of discharge, or whose order of discharge is suspended for a term not yet expired, or is subject to conditions not yet fulfilled:

(e) A person convicted of any offence punishable by imprisonment unless he has received a free pardon or has served his sentence or otherwise suffered the penalty imposed on him. 20

(4) Vacancies. If any person while holding office as a member of the Authority— 25

(a) Dies; or

(b) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Authority; or

(c) Is ousted from his office; or

(d) Is absent without leave from four consecutive meetings of the Authority; or 30

(e) Ceases to be an elector, or ceases to possess a qualification as an elector within the district; or

(f) Becomes a mentally defective person within the meaning of the Mental Health Act 1911; or 35

(g) Is adjudged a bankrupt; or

(h) Is convicted of any offence punishable by imprisonment,—

his office shall be thereby vacated.

(5) If any person does any act as a member being incapacitated under this section, except under paragraph (f) of subsection (4) hereof, he shall be liable on summary conviction to a fine not exceeding fifty pounds. 40

(6) It shall be the duty of the Audit Office to institute proceedings under this section, but nothing in this section shall be so construed as to prevent any such proceedings from being taken by any other person.

5 (7) All fines recovered under this section by the Audit Office shall be paid into the Public Account to be credited to the Consolidated Revenue Account.

(8) In the event of any vacancy occurring in the members of the Authority the vacancy shall be filled forthwith by that
10 Council whose appointee had ceased to be a member, and the person appointed to fill the vacancy thus occurring shall, subject to the provisions of this Act, continue in office for the residue of the term of the person so ceasing to be a member.

15 **6. Ouster of office—**(1) Upon proof in the first instance, by affidavit or otherwise, that any member of the Authority is or has become incapable under this Act of holding his office, any Magistrate's Court in the district, or, if there is no such
20 Court, then the Magistrate's Court nearest to the public office of the Authority, may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of the same.

(2) If on the return of the summons it appears to the Court, on affidavit or oral evidence on oath, that such person is
25 incapable under this Act, of holding the said office, the Court may adjudge such person to be ousted of the same.

(3) In any such proceedings the Magistrate's Court may exercise all the powers and authorities which it may exercise in its ordinary jurisdiction in civil cases, and the procedure of
30 such Court shall, so far as applicable, apply generally to proceedings under this section.

(4) No matter in relation to a disputed election shall be heard by the Magistrate's Court under this section.

(5) No question which may be tried under this section shall
35 be tried in the Supreme Court, and no proceedings in the Magistrate's Court hereunder shall be removable into the Supreme Court by certiorari or otherwise.

7. Chairman and Deputy Chairman of the Authority—

(1) The Authority shall at its first meeting elect one of its
40 members to be Chairman of the Authority, to hold office for one year and subsequent appointments of Chairman shall be made in each succeeding year. The Chairman shall not have any casting vote.

(2) At every meeting for the election of a Chairman the Secretary of the Authority, or if there shall be no secretary, then some person appointed by the Authority shall so preside, and in the case of an equality of votes shall determine the election by lot in such manner as the Authority directs. 5

(3) The Chairman may resign his office by writing under his hand delivered to the Secretary of the Authority, and in such case, or in the case of his ceasing from any cause to be a member of the Authority, his office shall become vacant and the Secretary shall forthwith convene a meeting of the Authority for the election of another Chairman. 10

(4) The Authority may from time to time appoint one of its members to be Deputy Chairman, and such Deputy Chairman shall hold office for one year from the date of his appointment. 15

8. Remuneration of Chairman and Members—(1) The Authority is hereby declared to be a Statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) The Authority may pay to the Chairman of the Authority and of any committee of the Authority such annual allowances as may from time to time be fixed by the Authority with the approval of the Minister of Finance. 20

(3) The Authority may pay to each of its members (other than to the Chairman of the Authority and any Chairman of a committee receiving an allowance under subsection (2) of this section) an allowance of thirty shillings for each meeting of the Authority or any committee thereof attended by him not exceeding seventy-eight pounds in any financial year. 25

(4) The Authority may pay to the members of the Authority or of any committee thereof travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951. 30

9. Committees—(1) The Authority may from time to time appoint standing or special committees consisting of two or more of its members and may refer to any such committee any matters for consideration, inquiry, management, or regulation and may delegate to any such committee any of the powers and duties by this Act conferred or imposed upon the Authority except the power to borrow money, to make a bylaw, to institute an action, or to strike a rate. 35
40

(2) The authority may appoint a member of any committee to be the permanent Chairman thereof, and such power may be exercised by the committee where the Authority, on the appointment of the committee, does not appoint a Chairman.
5 Any committee may from time to time appoint a Deputy Chairman to act in the absence of the Chairman.

(3) The Authority may at any time and from time to time discharge, alter, continue or reconstitute any committee, or discharge any member of a committee and, if it thinks fit,
10 appoint another member in his stead.

(4) Every committee shall, unless sooner discharged by the Authority, be deemed to be discharged on the coming into office of the members appointed after each triennial local body election.

(5) Every Committee to which any powers or duties are delegated as aforesaid, may without confirmation by the Authority, exercise or perform the same in like manner and with the same effect as the Authority could itself have exercised or performed the same.

(6) Every such committee shall be subject in all things to the control of the Authority and shall carry out all directions, general or special, of the Authority given in relation to such committee or its affairs.

10. Chairman of meetings—At every meeting of the
25 Authority the Chairman, if present, or in his absence, the Deputy Chairman (if any) shall preside. If the Chairman and the Deputy Chairman (if any) are absent from any meeting of the Authority, then such member as the members of
30 the Authority then present shall choose shall be the Chairman of such meeting.

11. Quorum of Authority and Committees—(1) A quorum of the Authority shall consist of a majority of the members thereof.

(2) A meeting shall be duly constituted if a quorum is present thereat, whether voting or not.

(3) No business shall be transacted at any meeting of the Authority, or of any committee unless at least a majority of members is present thereat during the whole of the time at
40 which the business is transacted.

12. Questions to be decided by majority of votes—(1) All acts of the Authority and of any committee, and all questions before the Authority or any committee may be done and decided at a meeting of the Authority or committee by the majority of such members of the Authority or committee as are at present and vote at such meeting. 5

(2) Every question coming before the Authority or any Committee shall be decided by open voting.

(3) In the event of any member of the Authority not being able to attend a meeting of the Authority or of any committee of the Authority, the Mayor or the Town Clerk of the Rotorua City Council or the Chairman or County Clerk of the Rotorua County Council respectively may by notice to the Secretary of the Authority appoint a substitute for such member and such substitute shall at the meetings at which he attends have all the rights and powers of a member of the Authority. 10 15

(4) In the event of there being equality of voting on any question before the Authority, that question shall forthwith be referred by the Secretary to the Rotorua City Council and the Rotorua County Council for negotiation and decision and in default of an agreed decision the question shall be referred to the Stipendiary Magistrate for the time being sitting at Rotorua and his decision shall be final and binding on the Authority. 20

13. Proceedings not invalidated by irregularities, etc.—No act or proceedings of the Authority or of any committee or of any person acting as a member of the Authority shall be invalidated in consequence of there being a vacancy in the membership of the Authority at the time of such act or proceedings, or of the subsequent discovery that there was some defect in the election or appointment of any person so acting, or that he was incapable of being such member. 25 30

14. Meeting of the Authority—(1) The Authority shall hold meetings at such times and at such places as it from time to time appoints. 35

(2) The Chairman or the Secretary shall give notice in writing to each of the members of the time and place appointed from time to time for holding ordinary meetings, and the members shall attend such meetings without further notice of each meeting. 40

15. Rules as to proceedings of the Authority or Committees, etc.—(1) The Authority may, by resolution subject to the provisions of this Act, make rules—

- 5 (a) Regulating the proceedings of the Authority and the conduct of meetings thereof respectively, and, subject to the Public Bodies Meetings Act 1962, the right of persons to attend such meetings:
- (b) Regulating the adjournment and postponement of meetings of the Authority and the manner in which
- 10 resolutions may be revoked or altered:
- (c) Prescribing the form, mode, and time of service of notices of meetings:
- (d) Regulating debates:
- (e) Providing for the calling of special meetings, and the
- 15 notice to be given to members:
- (f) Providing for the notice to be given to members of extraordinary business to be transacted at any ordinary meetings:
- (g) Directing minutes to be kept of all proceedings of the
- 20 Authority and prescribing the mode of confirmation, inspection, and custody of the same:
- (h) Providing for the custody of documents and the custody and use of the common seal, and prescribing the mode and form of attestation thereof:
- 25 Provided that no resolution made or passed under this paragraph shall affect any person acting in good faith and taking or to take any estate, interest or advantage under any document having or about to have the common seal affixed thereto:
- 30 (i) Prescribing the powers and duties of officers and servants of the Authority:
- (j) Prescribing forms of and in connection with any proceedings of the Authority:
- (k) Concerning anything incidental to any of the matters
- 35 hereinbefore referred to.

(2) Unless and until rules have been made by the Authority under this section, the New Zealand Standard Standing Orders for Municipalities, shall, *mutatis mutandis*, be the rules of the Authority.

- 40 **16. The Authority may provide offices, etc.**—(1) The Authority may from time to time provide and maintain public offices within the Authority's area, with suitable furniture for the same, for holding its meetings and transacting its business and for the use of its offices, and for any other
- 45 purpose approved by the Authority, or may cause buildings

to be erected on any land belonging to or leased to the Authority, or any such building to be added to or improved.

(2) Where pursuant to any authority conferred on it by this Act or any other Act the Authority erects any building, it may make provision therein for shops or offices and may let any such shop or office at such rent, for such term, upon such conditions and to such person or persons as it thinks fit. 5

17. The Authority may appoint officers and servants—

(1) The Authority may by resolution from time to time appoint suitable persons to be such officers and servants as it thinks necessary to assist in the execution of this Act, and may pay such persons such salaries and allowances, including allowances and travelling expenses in respect of their attendance at any conference or meeting, out of the funds of the Authority as it thinks fit. 10 15

(2) One person may hold two or more of such offices.

(3) Every person appointed to receive any money payable to the Authority shall give to the Authority sufficient approved security for the faithful execution of his office and the duly accounting for all moneys received by him on behalf of the Authority: 20

Provided that in lieu of or in addition to taking security from any officer the Authority may provide against any losses that may arise in the event of his dishonesty by taking out a guarantee policy and paying the premiums thereon or by creating a special fund for the purpose or partly by one method and partly by the other. 25

(4) During the absence from duty of any officer of the Authority by reason of illness, leave of absence, or other cause, the duties and powers of such officer may be performed and exercised by an acting officer appointed by the Authority, and any such appointment may be either general or for some occasion only. 30

(5) (a) All salaried staff positions created by the Authority and all vacancies in those staff positions occurring under the Authority may be publicly advertised, and shall be notified among the staffs of all sections or divisions of the Authority and be open to members of the staff or any committee or division: 35

(b) During the first three years after the constitution of the Authority, if in the opinion of the Authority, or of any committee of the Authority, two applicants for any such position are equally qualified, but only one of them is already on the staff of the Authority, that one shall be appointed. 40

PART II

FUNCTIONS AND POWERS OF THE AUTHORITY

18. **Powers of the Authority**—For the purpose of exercising its functions the Authority shall have all the powers, 5 duties and responsibilities of an Electric Power Board constituted under the Electric Power Boards Act 1925 and of a Council under Part XIX of the Municipal Corporations Act 1954, and, subject to the provisions of this Act, all the provisions of those Acts and of any other Act conferring powers 10 or imposing duties on an Electric Power Board or a Council shall, as far as they are applicable and with the necessary modifications, apply accordingly as if references in any such Act to an Electric Power Board or a Council were references to the Authority and references to the district of a Power 15 Board or a Council were references to the district of the Authority.

19. **Transfer of electricity undertaking to Authority**—

(1) The Authority may enter into an agreement with the Tourist and Publicity Department on behalf of the Crown for the purchase of the undertaking of the Crown in respect 20 of the supply of electricity in the area of supply of that Department on such terms and conditions as may be agreed upon between the parties.

(2) Any such agreement may provide for the transfer of all real or personal property vested in the Crown in respect of 25 its undertaking to the Authority and for all rights, obligations, and liabilities of the Crown in respect of the undertaking to become rights, obligations and liabilities of the Authority.

(3) Any such agreement shall be referred to the Minister of Electricity for his approval and shall have effect from such 30 date as the Minister signifies his approval by writing addressed to the parties.

(4) Until the Minister signifies his approval as aforesaid the Authority shall not exercise any functions or powers under this Part except such powers as are incidental to the functions 35 of the Authority before it commences to supply electricity under this Act.

(5) On approval being given under this section, the agreement to which the approval relates shall have effect according to its tenor and shall be binding on the parties to the 40 agreement.

20. Right to supply electricity—Subject to the provisions of this Act and subject to the provisions of the Public Works Act 1928, the Authority shall have within its area of supply the exclusive right to supply electricity by retail to consumers and subject as aforesaid to enter into contracts for the supply of electricity in bulk to any licensee authorised to distribute electricity. 5

21. Generation—With the consent of the Minister and subject to the provisions of the Public Works Act 1928, the Authority may generate electricity for retail supply to consumers within its area of supply. 10

PART III

FINANCIAL PROVISIONS

22. General Duties—It shall be the duty of the Authority so to exercise its functions under this Act as to secure that its revenue is not less than sufficient to meet its outgoings properly chargeable to revenue account and that after meeting all outgoings satisfactory reserves are maintained according to the best commercial practice and the requirements of this and any other Act. 15 20

23. Annual estimate of Electricity Supply Authority's proposed expenditure and revenue—(1) The Authority shall, as soon as practicable, after the first day of April in each year cause an estimate to be prepared of the proposed expenditure of the Authority on revenue and capital account. 25

(2) In respect of revenue expenditure the estimate shall show the appropriations for all payments required to be charged or normally charged against the revenues of an electricity undertaking in accordance with the Electric Power Boards Act 1925 or the corresponding provisions of the Municipal Corporations Act 1954: 30

Provided that these charges shall in any event include payments for interest, depreciation or sinking fund charges, periodical payments on account of loans, and provision for financing capital works out of revenue as prescribed by this Act. In case of doubt, the decision of the Audit Office shall be final as to the inclusion or sufficiency of any appropriation. 35

(3) In respect of capital expenditure, the estimate shall show the source of finance for all capital works for the year. 40

(4) The Authority shall also prepare an estimate of anticipated revenue in that year.

(5) Except as expressly hereinafter provided, any surplus or deficiency at the end of any year shall be carried forward and allowed for in making and assessing the next year's requirements.

- 5 (6) The Minister may by notice in writing require the Authority to submit for his approval the estimates of revenue and expenditure prescribed by this clause.

24. Periodic estimates of revenue and expenditure—The Authority shall cause such further estimates to be prepared
10 for such periods as may be prescribed by regulations under this Act and the Minister may by notice in writing require the Authority to submit such estimates for his approval, but shall not be bound to do so.

25. Fixing and variation of tariff—(1) The price to be
15 charged by the Authority for the supply of electricity shall be in accordance with such tariffs as may be fixed from time to time and these tariffs shall be so framed as to show the method of charge to be used as well as the price to be charged:

20 Provided that the tariffs in force immediately before the commencement of operation by the Authority in the supply area or any part of the supply area shall remain in force until varied or replaced by tariffs fixed in accordance with this section.

25 (2) The Minister may give directions to the Authority requiring it, in such classes of cases as may be specified in the directions, to obtain his approval in writing before exercising its powers under the foregoing provisions of this section.

30 (3) Notwithstanding anything in the foregoing provisions of this section and subject to any regulations made under this Act, the Authority may enter into an agreement with any consumer for the supply of electricity to him on such terms as may be specified in the agreement:

35 Provided that the Authority shall ensure that such agreements are only made in cases where the tariffs in force are not appropriate owing to special circumstances and that no undue preference is shown to any person.

26. Local Government Purposes Account—(1) Subject to
40 the provisions of this section, the Authority may if it thinks fit in any year transfer out of the revenue of the Authority as part of the expenditure on revenue account any sum not exceeding an amount equal to two and a half percent of the net capital value of the undertaking to an account to be called
45 the Local Government Purposes Account.

(2) If the accounts of the Authority for any year show a balance of revenue resulting from the operation of the undertaking of the Authority after due provision has been made for operating deficiencies from previous years, for all charges and expenses in connection with the management, operation and maintenance of the undertaking, including payments for interest, renewals, depreciation, loan repayment, together with an amount appropriated from revenue for capital expenditure which shall be not less than twenty-five percent of the estimated capital expenditure for the year in which the appropriations are being made and for any anticipated deficiency on operations for the subsequent year, then the Authority may, in respect of the year in which the balance of revenue has arisen, transfer to the Local Government Purposes Account an amount not exceeding two and one half percent of the net capital value of the undertaking, and not exceeding the balance of revenue for that year. 5 10 15

(3) When the accounts of the Authority have been audited, the Authority may make payments from the Local Government Purposes Account to the Councils of any local authority districts wholly or partly within the supply area in accordance with subsection (4) hereof. 20

(4) There shall be paid from the Local Government Purposes Account first any loan charges in respect of loans raised for outright purchase of any other undertaking, and the residue remaining may be paid to the constituent Councils of the City of Rotorua and the County of Rotorua in proportion to the mean of the percentage of population and the percentage of the rateable capital value of all land in the respective local authority districts. Any decisions of the Authority regarding the disposal of surpluses after payment into the Local Government Purposes Account shall require to be made by a two-thirds majority of the members of the Authority at a meeting convened to consider such decisions. 25 30

(5) If the audited accounts of the Authority for any year show a deficit resulting from the operations of the undertaking, then any balance remaining in the Local Government Purposes Account shall be applied to meeting this deficit. 35

(6) The decision of the Audit Office whether or not any expenditure is to be properly chargeable against any account or upon the value of the assets of the Authority shall be final and the decision of the Government Statistician and the Valuer-General upon the percentages referred to in subsection (4) of this section shall be final. 40

27. Constituent Authorities may provide funds—The Rotorua City Council and the Rotorua County Council may out of their general funds advance to the Authority such sum as they or it thinks fit towards payment of the expenses of the Authority incurred in the first six months after its constitution. All money advanced under this section shall be repayable by the Authority on demand.

28. Authority may borrow—Notwithstanding anything to the contrary in any Act, regulation, or rule of law, it shall be lawful for the Authority from time to time to borrow, subject to the provisions of the Local Authorities Loans Act 1956, the whole or any part of the advances hereinbefore validated and authorised and to make refunds out of the proceeds of any such loans to the Rotorua City Council or the Rotorua County Council.