

TASMANIA.

THE HOBART BRIDGE ACT 1936.

ANALYSIS.

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TASMANIA.



1936.

ANNO PRIMO

EDWARDI VIII. REGIS.

No. 33.

AN ACT to authorise the Construction of a Bridge across the River Derwent at Hobart, and to empower the Governor to Grant a Franchise in respect thereof, subject to certain conditions; and for the Regulation of Transport across the said River.

A.D.
1936.

[9 December, 1936.]

WHEREAS *Herbert Stanley Barnett* proposes to form a company to be registered in this State for the purpose of constructing a bridge across the River Derwent to connect the City of Hobart with the suburbs thereof on the eastern shore of that river:

Preamble.

And whereas it is desirable that such Company should be authorised, subject to the provisions hereinafter contained, to construct such bridge, and that the Governor should be empowered to grant to such company a franchise in relation thereto:

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Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

Short title.

1 This Act may be cited as the *Hobart Bridge Act 1936*.

Power to Governor to authorise construction of bridge.

2—(1) Upon the Governor being satisfied that such company as aforesaid (in this Act called “the Company”, which expression shall include the permitted assigns of such company), having for its principal object the building of a bridge (in this Act called “the bridge”) across the River Derwent at Hobart, has—

- i. Been incorporated in this State on or before the thirty-first day of December, one thousand nine hundred and thirty-seven:
- ii. Available at the date and for the object aforesaid, a sum of not less than two hundred and fifty thousand pounds :
- iii. Lodged with the Treasurer a deposit of five thousand pounds for the purposes of this Act : and
- iv. Entered into a binding arrangement satisfactory to the Governor, with every person who, immediately prior to the passing of this Act, was engaged in conducting any ferry service across the River Derwent between the City of Hobart and the eastern suburbs, as defined by this Act, for the purchase of the rights of such person in relation thereto, or for the payment to him of compensation in respect of any damage likely to be sustained by him by reason of the building of the bridge and the opening thereof for traffic or otherwise through the operation of this Act—

the Governor, by order-in-council may authorise the Company, subject to the provisions of this Act and to such conditions as the Governor may impose, to construct a bridge across the said river between such points on the western and eastern banks thereof respectively as the Governor, by such order, may direct.

Hobart Bridge.

(2) Such conditions as aforesaid shall include the requirement that provision shall be made for the bridge to carry such water-mains as the Governor at any time may require in such manner and subject to such conditions as may be prescribed.

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(3) The conditions prescribed shall include provision for the supply, at all times to the company, free of cost, of such water as the Company may require for the maintenance and cleansing of the bridge and that the Company shall be indemnified against any expense in respect of the provision, laying, and maintenance of such water-mains as aforesaid.

(4) The Company shall lodge with the Minister, before any such order is made, as the Minister may require, such plans and specifications of the proposed bridge and all approaches thereto, together with such information and particulars as the Minister may require, and such plans and specifications shall be subject in all respects to the approval of the Governor.

3—(1) As a contribution towards the fulfilment by the Company of the obligation imposed upon it by paragraph iv. of subsection (1) of section two—

Contribution
by the State
to purchase
of existing
rights.

i. The Minister for Railways shall transfer and assign to the Company the Steamship Lurgurena with all equipment and appurtenances appertaining thereto: and

ii. The Treasurer shall pay to the Company the sum of seven thousand five hundred pounds—

so soon as the bridge has been completed and opened for traffic.

(2) The Company shall not sell the said steamship without the approval in writing of the Governor at any time within twelve months after the bridge is opened for traffic.

4—(1) Upon the making of an order as provided by section two, the Company shall proceed, within a time to be specified in such order, not exceeding twelve months after the date of the order, to construct the bridge in accordance with the terms of such order, and shall complete the same to the satisfaction of the Governor within the time, not exceeding three years, specified in such order or such further time, in each of the said cases, as the Governor may allow.

Obligations
of Company.

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(2) The design and the plans and specifications for the construction of the bridge shall be prepared by State officers (including in that term such consultants, if any, as the Minister may think necessary) under the supervision of the Director of Public Works (in this Act called "the Director") at the cost of the Company.

(3) The bridge shall be constructed under and subject to the supervision of the Director, and the Company, and all persons employed by it in relation to such construction, shall comply with the requirements and directions of the Director.

(4) If in any case the Company fails to agree as to any requirement of the Director, for the purposes of this section or section ten, the matter shall be submitted to the arbitration of the Professor of Engineering of the University of Tasmania, as sole arbitrator, in accordance with the provisions of the *Arbitration Act 1892*, and his decision shall be final.

(5) There shall be payable to such arbitrator as aforesaid such fee as may be prescribed and the same shall be payable as directed by the award.

(6) The Company shall pay to the Minister on demand, such reasonable sum as the Director shall have certified to be due from the Company, in respect of the period specified in such demand, for the services of any State officer for the purposes of this section or subsection (4) of section ten.

(7) The plans and specifications of the bridge shall be the property of the Company, but the Company shall supply to the Director a full, complete, and accurate copy of all such plans and specifications, and such copy shall be retained by the Director.

(8) The Company at all times during the continuance of its franchise under this Act shall keep and maintain to the satisfaction of the Minister a channel of sufficient dimensions and with sufficient depth of water for the navigation of vessels through the bridge.

Governor to
make available
certain lands
and to provide
roads,
&c.

5- (1) The Governor shall make available to the Company and permit the Company to use and occupy such and so much land as the Governor may think necessary for carrying out the construction of the bridge and the approaches thereto or for the operation or maintenance thereof.

(2) The Company shall occupy all such land as tenant of His Majesty, during the continuance of the franchise, and,

Hobart Bridge.

upon the determination of the franchise granted to the Company under this Act, the Company shall forthwith give up possession of such land. A.D. 1936.

(3) The Minister shall cause to be provided and maintained such roads as he may consider necessary to connect the bridge with the City of Hobart and the eastern suburbs thereof respectively; and shall cause to be provided and maintained, until the completion of the bridge at or in the vicinity of Pavilion Point, a railway siding on the main line of railway.

(4) For the purposes aforesaid the Minister may cause to be constructed, reconstructed, and maintained, such roadways as he may consider necessary on, through, and over, such part of the Queen's Domain as he may think fit and the cost of such maintenance shall be borne as may be prescribed.

(5) The Minister shall cause to be carried out such surveys and investigations as he may think necessary to determine the exact position in which the bridge shall be placed and the points at which any particular parts thereof shall be constructed.

(6) In the construction of any such roadways as aforesaid which cross or impinge on any part of any State railway, the Director shall consult with the Commissioner for Railways, and shall give effect to all reasonable requirements of the Commissioner with regard thereto.

6—(1) Upon the completion of the bridge to his satisfaction, the Governor by proclamation may grant to the Company a franchise in respect thereof; and such franchise shall be terminable as hereinafter provided. Power to Governor to grant franchise to Company.

(2) Such franchise shall give to the Company subject to this Act—

i. An exclusive right to transport passengers for hire between the City of Hobart and—

(a) The Town of Lindisfarne:

(b) The Town of Bellerive: and

(c) Any part of the area outside and between the said towns which lies to the west of the road now leading from Bellerive to Risdon—

respectively (all of which places on the eastern shore of the said river are hereinafter called "the eastern suburbs") at such fares not in excess of the prescribed rates, as the Company thinks fit:

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- ii. The exclusive right for a period of twenty years after the granting of the franchise to transport for hire across the bridge parcels and goods not exceeding twenty-eight pounds in weight in any one lot; and to make prescribed charges therefor:
 - iii. The exclusive right to transport for hire passengers from any part of the eastern suburbs to any other part thereof: and
 - iv. The right to charge, levy, and collect tolls in respect of all persons goods, vehicles, and animals passing over the bridge (other than those transported by the Company or exempted as prescribed) but not in respect of vessels passing through the bridge—
- so long as the same remains in force.

(3) For the purposes of paragraphs i. and ii. of subsection (2) hereof, the Company shall be at liberty to—

- i. Transport to any destination: or
- ii. Pick up at any starting point—

within the area in the said city which is shown on the diagram in the schedule and therein surrounded by red boundary lines or within the eastern suburbs, respectively, any passengers, parcels, or goods.

(4) The provisions of paragraphs i. and ii. of subsection (2) hereof, and of subsections (1) and (4) of section seven, shall not apply in respect of any person, parcels, or goods carried on any licensed public vehicle proceeding in good faith to or from a place beyond the limits of the City of Hobart or of the eastern suburbs, respectively, if such person has contracted in good faith for his transport to or from beyond such limits.

**Prohibition of
ferry services.**

7—(1) Upon the opening of the bridge for traffic, it shall not be lawful for any person other than the Company to contract for the transport of, or to transport, any passengers or goods for hire to or from any point on the western shore of the River Derwent between the Zinc Works Wharf at Risdon and the property known as the Grange on the Brown's River Road (hereinafter called "the western limits") from or to any point on the eastern shore of the said river between

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Bedlam Walls and the south-eastern boundary of the Town of Bellerive (hereinafter called the "eastern limits") otherwise than by means of the bridge. A.D. 1936.

Penalty: One hundred pounds.

(2) At any time after the opening of the bridge for traffic it shall be lawful for the Company to transport for hire any passengers or goods by boat across the said river between any two points within the western and eastern limits respectively and to make prescribed charges therefor

(3) The provisions of subsection (1) hereof shall not apply in respect of any passengers or goods carried by airship.

(4) No person shall transport for hire across the bridge any passenger, or any parcels or goods not exceeding twenty-eight pounds in weight in any one lot, to or from the City of Hobart from or to the eastern suburbs if the destination of such passenger or goods, as the case may be, is within any such place as aforesaid, except on behalf, or with the consent, of the Company, or except as prescribed.

Penalty: Ten pounds.

(5) If at any time it is found necessary to close the bridge for traffic for any period exceeding twelve hours the provisions of subsection (1) hereof shall be suspended until the bridge is again open for traffic.

(6) In any case where the bridge is closed as aforesaid, it shall be the duty of the Company to provide such transport during such closure as, in the opinion of the Minister, is reasonable for the conveyance of passengers, parcels, and goods between the said city and such point on the eastern shore of the River Derwent as the Minister may direct.

Daily penalty: Twenty pounds.

8—(1) So soon as the bridge is opened for traffic, and at all times during the continuance of the franchise granted to it under this Act, the Company shall provide and maintain adequate transport services to the satisfaction of the Governor for the transport of passengers and goods (not exceeding twenty-eight pounds in weight in any one lot) between the City of Hobart and the eastern suburbs

Company
to provide
transport.

Daily penalty: Fifty pounds.

(2) For the purposes of such services the Company shall provide such plant and equipment, as the Governor may approve, and such service shall be operated in accordance with time-tables to be approved by the Governor.

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Limitation of
fares, tolls,
and charges.

9—(1) The fares, tolls, and charges to be prescribed in respect of persons, goods, animals, and vehicles passing over the bridge shall not exceed in any case the amounts payable in respect of existing transport services at the commencement of this Act for the transport of such persons and things respectively across the said river at Hobart, unless the Governor is satisfied that in any particular case such excess is warranted, but such fares, tolls, and charges shall not be less than the amounts aforesaid without the consent of the Company.

(2) If, in the opinion of the Minister, the Company unreasonably withholds its consent to any fare, toll, or charge proposed to be prescribed, the matter shall be submitted to arbitration under the *Arbitration Act 1892*, and the amount to be prescribed shall be in conformity with the award thereunder.

Maintenance
of bridge.

10—(1) The Company at all times during the continuance of its franchise, and at the cost of the Company, shall maintain the bridge and all approaches thereto, and shall keep the same in good and substantial repair and condition under the supervision and in accordance with the requirements of the Director.

Daily penalty : Ten pounds

(2) The Company at all reasonable times shall permit and facilitate the inspection of the bridge by an officer appointed by the Minister for that purpose.

(3) If at any time such officer reports that any defect or want of reparation exists in respect of the bridge or the approaches thereto, the Minister may give to the Company notice in writing requiring it to remedy such defect or make such repair within a reasonable time to be specified in such notice, and the Company shall comply with such requirement.

(4) If the Company makes default in complying with any such requirement the Minister may cause such defect to be remedied or such repair to be effected and may recover from the Company any expenses incurred by him in relation thereto.

(5) For the purposes of this section the approaches to the bridge shall include such portion (not exceeding one hundred feet shoreward from the faces of the shore abutments at each end of the bridge) of the roadways leading thereto as the Minister and the Company may agree, or as may be prescribed, but the Company shall maintain all works constructed by it for the purposes of the bridge.

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11—(1) The amount deposited by the Company with the Treasurer, as provided by section two, shall be held by the Treasurer as security for the compliance by the Company with the provisions of this Act. A.D. 1936.
Application
of deposit.

(2) The Treasurer shall pay to the Company half-yearly, at such dates in each year as he may determine, interest on the amount aforesaid, or on the balance thereof remaining after any prescribed deductions have been made, at the rate of four pounds per centum per annum until the deposit is forfeited or repaid.

(3) If the Company fails to comply with the provisions of subsection (1) of section four, the said deposit shall be forfeited to, and become the property of, His Majesty.

(4) The Treasurer may retain out of the said deposit and pay into the Consolidated Revenue the amount of all penalties imposed on the Company under this Act and any amount payable by the Company under section ten and not paid on demand ; but this provision shall not prevent the recovery from the Company of any amount so deducted and upon recovery thereof the amount shall again be included in the deposit.

(5) Upon the certificate of the Minister that the bridge has been completed to his satisfaction, the Treasurer shall repay to the Company out of the said deposit the sum of three thousand pounds with interest thereon as aforesaid up to the date of such repayment.

(6) Subject to the foregoing provisions, the said deposit shall be refunded to the Company upon the determination of its franchise.

12—(1) From and after the expiration of twelve months after the opening of the bridge for traffic, the Treasurer shall pay to the State Sinking Fund Commissioners annually on the first day of July in each year a sum of six thousand six hundred and twenty-five pounds by way of sinking fund for the redemption of the capital cost of the bridge. Sinking fund
for redemp-
tion of
capital cost
of bridge.

(2) When the amount standing to the credit of such sinking fund reaches the sum of two hundred and sixty-five thousand pounds, the same shall be paid to the Company and thereupon the franchise granted to the Company under this Act shall cease and determine.

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(3) If the plans of the bridge as approved by the Governor provide for an opening span exceeding one hundred and forty feet in width, the annual payments to the sinking fund shall be continued until the additional cost occasioned by such excess is redeemed, and the provisions of subsection (2) hereof shall be applied accordingly.

(4) So long as the franchise is in force, the Company shall pay as prescribed to the State Sinking Fund Commissioners an annual sum of five hundred pounds by way of depreciation fund, and upon the determination of the franchise the aggregate amount standing to the credit of such fund shall be paid into the Consolidated Revenue.

Provision if
company
wound up.

13 If, prior to the granting, or during the continuance, of the franchise the Company is wound up compulsorily or goes into voluntary liquidation—

- i. Before the construction of the bridge is completed, the Governor at his option may acquire the interest of the Company in any uncompleted works constructed by it and in any plant or equipment held by it and in any land reasonably acquired by it for the purposes of the bridge or its transport service at a price to be agreed upon by the Governor and the liquidator or to be determined by arbitration under the *Arbitration Act 1892*; or
- ii. After completion of the bridge, the Governor may acquire the bridge and all the property and rights of the company therein and thereto upon payment by the Treasurer to the liquidator of the Company of such amount as may be agreed upon by the Governor and the liquidator, or as, in default of agreement, may be determined by arbitration in accordance with the *Arbitration Act 1892*, but such amount shall not be less than the aggregate value of the sinking fund at the time the Company is wound up compulsorily or goes into voluntary liquidation—

and thereupon the franchise shall terminate.

Moneys, how
to be provided

14 All amounts directed by this Act to be paid by the Treasurer shall be defrayed out of moneys to be provided by Parliament for that purpose.

Hobart Bridge.

15 If the bridge is acquired by the Governor under this Act, the Governor, by proclamation, may direct that tolls and charges in respect of the use of the bridge shall be charged and collected for such period as may be specified in such proclamation, and thereupon the Minister, shall cause to be collected tolls and charges of such amounts and at such rates as may be specified in such proclamation or as may be prescribed.

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Minister may collect tolls if proclaimed.

16 Upon the determination of the franchise granted to the Company, all property and interest in the bridge and all plant, and equipment used in the operation of the bridge shall vest in and belong to His Majesty, and all right, property, and interest of the Company thereto and therein shall cease and determine.

Bridge to become Crown property.

17—(1) If the Minister is satisfied that any such person as is mentioned in paragraph iv. of subsection (1) of section two has refused to treat with the Company or with a person approved by the Minister as the representative of the proposed Company, as the case may be, as to the matters therein mentioned, or makes any demand in relation thereto which, in the opinion of the Minister, is excessive or unreasonable, the Minister shall certify to the Company accordingly.

Procedure if ferry companies refuse to treat.

(2) Upon such certificate the Company or such representative as aforesaid may apply to a judge for a summons calling upon such firstmentioned person to show cause why an order should not be made for the determination of the matter.

(3) Upon the hearing of such summons the judge may inquire into the matters in dispute, and may determine the terms and conditions upon which the Company shall have the right to purchase the rights of such person in relation to the services mentioned in paragraph iv. of subsection (1) of section two, or the amount of compensation to be paid by the Company in respect of any damage mentioned in that paragraph, and may make such further or other order therein as the circumstances may require.

18 Except as provided by section twenty-three the Company shall not sell, assign, or transfer the bridge or the rights granted to it under this Act, or any of them, without the consent in writing of the Governor or except to a person approved by the Governor and upon such conditions, if any, as the Governor may impose.

Company not to assign without leave.

Hobart Bridge.

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Bridge to be
a public
highway.

19 Subject to the provisions of this Act, the bridge when completed and opened for traffic, shall be a public highway, and it shall be the duty of the Company at all times during the continuance of its franchise to keep and maintain the bridge open and fit for public traffic, except as may be prescribed.

Daily penalty: Fifty pounds.

Application
of 12 Geo. V.
No. 60.

20 The provisions of subsection (2) of section sixty-five A, of the *Marine Act* 1921, shall apply to the construction and setting up of the bridge; and, for the purposes of that section, the bridge shall be deemed to be a structure proposed to be constructed and set up for and on behalf of His Majesty.

Other bridges
not to be
built in
certain cases.

21 During the continuance of the franchise, no other bridge shall be erected across the River Derwent south of Bridgewater without the consent of the Company.

Power to
Company to
borrow.

22 The Company with the consent in writing of the Governor may borrow or raise money by mortgages, debentures, debenture stock, bonds, or other securities secured upon the undertakings or works of the Company or upon the rates, tolls, dues, or revenues chargeable or obtainable therefrom by it, but no person shall acquire any right to, or property in, the bridge, under this section, unless the Governor has expressly consented to the instrument under which the same is claimed.

Company
may use
trolley buses.

23—(1) For the purposes of its transport service under this Act, the Company may use and operate trolley buses between the City of Hobart and the eastern suburbs and upon any of the services mentioned in subsection (2) of section six.

(2) Before erecting any poles, wires, or other standing equipment, the Company shall obtain the consent of the council of the city or municipality, as the case may be, within which the same are to be erected, and comply with all reasonable requirements of such council in relation thereto.

(3) If in any case such consent as aforesaid is unreasonably withheld, or if the council seeks to impose unreasonable conditions, the matters in dispute shall be submitted to arbitration under the *Arbitration Act* 1892.

Hobart Bridge.

24—(1) It shall be lawful for the Minister, with the approval of the Governor, to acquire on behalf of His Majesty, under the provisions of the *Lands Resumption Act 1910*, any land on the eastern shores of the River Derwent between the towns of Lindisfarne and Bellerive not exceeding two chains from mean low water mark for the purposes of public reserves.

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Minister
may acquire
foreshore.

(2) All costs incurred by the Minister under this section shall be defrayed out of moneys to be provided by Parliament for that purpose.

25—(1) Except as in this Act expressly provided, nothing in this Act shall be construed as imposing on the Governor of this State any liability or obligation in respect of the bridge, or the construction thereof, or any responsibility for the sufficiency of the design, or of supervision of the construction of the bridge, or as giving to any person any right or remedy against His Majesty in relation thereto.

State not to
incur obliga-
tions.

(2) A copy of subsection (1) hereof shall be included in any prospectus issued for the purposes of the formation or flotation of the Company, or of the raising of any money for the purposes of this Act.

26—(1) The Governor may make regulations for the purposes of this Act.

Regulations.

(2) Any such regulations may provide for—

- i. The collection of tolls and charges, and the manner in which, and the conditions under which, gates or barriers may be employed for that purpose:
- ii. The cases in which and the persons to whom exemption from payment of tolls and charges shall be granted, but such exemptions shall not exceed those now granted in relation to the Lurgurena ferry service, together with police on duty, ambulances, and fire brigades:
- iii. The cases in which and the conditions under which passengers or goods may be transported for hire across the bridge:
- iv. The hours at which, the periods for which, and the conditions under which the bridge may be closed to traffic:

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- v. The regulation of traffic over, and the passage of shipping and navigation through or under, the bridge :
- vi. The times at which, the cases in which, and the conditions under which it shall be the duty of the Company to cause the bridge to be opened for the passage of shipping or navigation :
- vii. The precautions that shall be taken for the safety and protection of the public in, and in relation to, the use of the bridge, and the maintenance of order and decency in relation thereto—

and any other matters in relation to the bridge and the approaches thereto and to the transport service mentioned in this Act ; and may impose penalties not exceeding fifty pounds for the breach of any such regulation.

THE SCHEDULE.

CITY OF HOBART
Scale 6 chains to an inch



