

T A S M A N I A.

 THE HOBART BRIDGE (ACQUISITION AND
 ADMINISTRATION) ACT 1944.

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1944.

ANNO OCTAVO ET NONO

GEORGII VI. REGIS.

No. 20.

AN ACT to provide for the Acquisition by the State of the undertaking of the *Hobart Bridge Company Limited*; to make provision for the vesting in the Transport Commission of the Administration, Control and Management of the Hobart Bridge and the Transport Services in connection therewith; to authorise the Acquisition of certain Land in the Eastern Suburbs of Hobart; and for matters incidental thereto. [11 December, 1944.]

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1944

BE it 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:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Hobart Bridge (Acquisition and Administration) Act 1944*. Short title.

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- A.D. 1944. **2** In this Act, unless the contrary intention appears—
- Interpretation.
- “the account” means the Hobart Bridge Account to be kept pursuant to section fifteen;
 - “the Act” means the *Hobart Bridge Act 1936**;
 - “the bridge” means the bridge constructed by the company pursuant to the provisions of the Act;
 - “the Commission” means the Transport Commission;
 - “the Company” means the *Hobart Bridge Company Limited*, being the company referred to in the Act;
 - “the date of acquisition” means the eleventh day of December, 1944;
 - “the rights of the company under the Act” includes such rights (if any) as the company had immediately prior to the commencement of this Act, or, but for this Act, might have had, to the benefits of sections three and six of the Act;
 - “the undertaking” includes all the property and assets of the company and the rights of the company under the Act, but does not include any shares held by it in any other company, or any moneys payable to it by any person and any securities therefor.

PART II.

ACQUISITION OF THE UNDERTAKING OF THE COMPANY.

Acquisition of undertaking of company. **3** The undertaking of the company shall be acquired by the State in accordance with this Part as on and from the date of acquisition.

Vesting of property and cesser of rights under the Act.

4—(1) On the date of acquisition—

- (a) the undertaking of the company (except as provided by subsection (2) of this section) shall be vested in and become the absolute property of His Majesty, freed from all mortgages, charges, liens, interests, and trusts affecting the same; and
- (b) the rights of the company under the Act shall, subject to this Act, cease and determine,

and the company shall be entitled to compensation in respect thereof as provided by this Part.

(2) So much of the undertaking of the company as consists of—

- (a) plant, buildings, workshops, tools, vessels, and other equipment owned and used by the company for the construction, maintenance, or operation of the bridge; and

¹ Edw. VIII. No. 33, as amended by 1 & 2 Geo. VI. No. 80, 4 & 5 Geo. VI. No. 89, 7 Geo. VI. No. 63, 7 & 8 Geo. VI. No. 72, and 8 Geo. VI. No. 1.

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(b) vehicles, vessels, plant, and other equipment used by the company in operating transport services in accordance with the Act, shall, on the date of acquisition, be vested in the Commission, but in all other respects the provisions of subsection (1) shall apply thereto. A.D. 1944.

5 The following provisions shall apply to the determination of the amount of the compensation to be paid to the company in respect of the acquisition of its undertaking as provided by this Part:— Determination of compensation.

- (a) the amount of the compensation shall be determined by the Chief Justice, whose decision shall be final;
- (b) the amount of the compensation shall be determined, subject to this section, in accordance with the law relating to compensation for the compulsory acquisition of property;
- (c) subject to paragraph (d), the amount of compensation shall be the value of the undertaking as at the first day of December, 1944;
- (d) the depreciation in the value of the undertaking resulting from any insufficiency in design of the bridge or from any damage to the bridge caused on or about the fourth day of December, 1943, shall be assessed at the sum of £200,000 and no more;
- (e) the expenses in connection with the formation of the company and the raising of its capital (*inter alia*) shall be taken into account, and an amount equivalent to a fair return during the period of construction of the bridge on the amount of the capital of the company for the time being paid up shall be included;
- (f) interest shall be paid by the State to the company at the rate of four pounds per centum per annum on the amount of compensation as so determined from the date of acquisition until the date of payment thereof;
- (g) the legal and other expenses incurred by the company in connection with the determination of the amount of the compensation (to be fixed by the Chief Justice), and the company's costs in connection with the vesting of the undertaking of the company in His Majesty or the Commission as provided by this Part, shall be paid by the State to the company out of moneys provided under section nine.

6 The company, upon payment to it of the amount of compensation determined in accordance with this Part, shall forthwith discontinue all proceedings pending in the Supreme Court against the Attorney-General and *George Davy Balsille* and *Allan Walton Knight* for damages for alleged negligence Company to discontinue certain proceedings.

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A.D. 1944. and breach of statutory duty in respect of the bridge, and such payment shall be accepted by the company in full satisfaction and discharge of all claims, actions, and demands by the company against the said defendants (whether now or hereafter to become manifest) in respect of all damages directly or indirectly caused by such alleged negligence or breach of statutory duty.

Loan to company to be deducted. **7** The amount advanced by the State to the company in accordance with the provisions of section three of the *Hobart Bridge Act 1941**, or so much thereof as remains owing, together with all interest due thereon, shall be deducted from the amount of compensation determined in accordance with this Part.

Deposit to be refunded. **8** On the date of acquisition the Treasurer shall repay to the company the sum of five thousand pounds deposited by it in accordance with the requirements of section two of the Act.

Borrowing power. **9** The Treasurer may borrow such sums as may be necessary to provide for the payment to the company of the amount of compensation determined as provided by this Part.

Proceedings to determine compensation. **10**—(1) Subject to this section, the proceedings in relation to the determination of the amount of compensation to be paid to the company in accordance with this Part shall, so far as practicable, be conducted as if the same were a reference to a single arbitrator and the provisions of the *Arbitration Act 1892†*, so far as the same are applicable, shall apply thereto.

(2) Paragraph II. of section nine of the *Arbitration Act 1892†* shall not apply to such proceedings.

(3) The Chief Justice may call in the aid of one or more assessors for the purposes of such proceedings and may determine the amount of compensation with their assistance, but shall not be bound by the opinion or advice of any such assessor.

Cf. 6 Geo. VI. No. 64.

(4) Any person who does any act or makes any omission in the course of, or with respect to, such proceedings which, if done or made in relation to the Chief Justice in his capacity as a judge, would constitute a contempt of court, shall be punishable in like manner in every respect as if the act or omission had been done or made in relation to the Chief Justice in that capacity.

* 4 & 5 Geo. VI. No. 89.

† 56 Vict. No. 8; for this Act as amended, see Reprint of Statutes, Vol. I., page 150.

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PART III.

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ADMINISTRATION, CONTROL, AND MANAGEMENT
OF THE BRIDGE.

11 On and after the date of acquisition, the administration, control, and management of the bridge shall be vested in the Commission. Administration &c., of bridge.

12 This Part shall be incorporated with the *Transport Act 1938**. Incorporation.

13—(1) Subject to this Part, the Commission may levy such tolls and charges in respect of all traffic or of any specified class of traffic (including pedestrian traffic) upon or across the bridge as may be fixed by by-law but not in respect of vessels passing through the bridge. Tolls.

(2) The amount of the tolls and charges so fixed shall not be less than will be sufficient, in the opinion of the Commission, to meet the administration, maintenance, and operating expenses in connection with the bridge, and to provide for the payments required to be made in accordance with sections sixteen and eighteen. Provided that the amount of such tolls and charges shall not, during a period of three years after the commencement of this Act, be less than the tolls and charges prescribed under the Act at the date of such commencement.

(3) The Commission may make by-laws prescribing the amount of tolls and charges for the purposes of this section, the collection thereof, and exemptions from the payment thereof, and any other matters necessary or convenient to be prescribed in relation thereto.

14 For the purposes of this Part, the capital cost of the bridge shall be deemed to be the amount determined by the Governor, on the recommendation of a committee consisting of the Commissioner for Transport, the Under-Treasurer, and the Director of Public Works, to be the amount expended by the company in the construction of the bridge, together with the value of any land required by the Commission in connection with the operation and maintenance of the bridge, less the amount referred to in paragraph (d) of section five. Capital cost of bridge.

15—(1) There shall be kept in the books of the Commission an account to be called the "Hobart Bridge Account". Hobart Bridge Account.

(2) There shall be credited to the account—

- (a) all receipts of the Commission from tolls and charges in respect of the bridge;
- (b) moneys advanced by the Treasurer to the Commission in accordance with section eighteen;
- (c) amounts received by the Commission in accordance with section twenty; and
- (d) other moneys received by the Commission in connection with the bridge (other than moneys received under section seventeen).

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- A.D. 1944. (3) There shall be debited to the account—
- (a) the costs of the collection of tolls and charges;
 - (b) the costs of administration, maintenance, and operation in connection with the bridge; and
 - (c) all payments under sections sixteen and eighteen.
- Interest and sinking fund. **16** There shall be debited to the account quarterly on the last days of September, December, March, and June respectively in each financial year, and paid by the Commission to the Treasurer—
- (a) interest at the State rate as defined by section thirty-eight of the *Hydro-Electric Commission Act 1929** on the capital cost of the bridge as determined in accordance with section fourteen, and on the amount of such additional expenditure as shall be incurred out of loan moneys on any construction work in connection with the bridge; and
 - (b) amounts by way of sinking fund in respect of the capital cost of the bridge at such rate as may be determined by the Governor on the recommendation of the Committee referred to in section fourteen.
- Capital expenditure. **17** The Commission, in accordance with the provisions of the *Transport Act 1938†*, may requisition the Treasurer for any moneys required by it for construction work in connection with the bridge which have been provided by Parliament for that purpose, and the Treasurer may pay such moneys to the Commission accordingly.
- Advances to the Commission. **18**—(1) The Commission may at any time apply to the Treasurer for an advance for meeting the costs of administration, maintenance, and operation in connection with the bridge, or for meeting any interest or sinking fund payments, and the Treasurer may advance such amounts as he thinks fit to the Commission for those purposes, upon such terms as to repayment as the Treasurer determines.
- (2) The Commission shall pay to the Treasurer quarterly, on the last days of September, December, March, and June respectively in each financial year, interest at the State rate, as defined by section thirty-eight of the *Hydro-Electric Commission Act, 1929**, on any advances made to the Commission under this section or on so much thereof as remains owing.
- Application of profits. **19**—(1) Whenever in any financial year the account in respect of the immediately preceding financial year shows a credit balance, the amount of the credit balance shall be paid by the Commission to the Treasurer and shall be applied by him in the reduction of the capital cost of the bridge as determined in accordance with section fourteen.

* 20 Geo. V. No. 83; for this Act as amended to 1936, see Reprint of Statutes, Vol. III., page 702. Since amended by 1 Geo. VI. No. 4, 2 Geo. VI. No. 21, 3 & 4 Geo. VI. No. 65, 5 Geo. VI. No. 8, 6 Geo. VI. No. 55, and 7 & 8 Geo. VI. No. 95.

† 2 & 3 Geo. VI. No. 70, as amended by 3 Geo. VI. No. 17 and 7 Geo. VI. No. 27.

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(2) On any reduction in the capital cost of the bridge in accordance with this section, the interest and sinking fund payments in respect thereof under section sixteen shall be reduced accordingly. A.D. 1944.

20 Whenever in any financial year the account in respect of the immediately preceding financial year shows a debit balance, the Treasurer shall pay to the Commission the amount thereof out of the Consolidated Revenue, without any other authority than this Act. Losses how met.

21—(1) All plant, buildings, workshops, tools, vessels, and other equipment vested in the Commission in accordance with paragraph (a) of subsection (2) of section four shall be deemed to be plant for the purposes of the *Road Construction Plant Act 1944** and to have been acquired by the Commission under that Act. Plant and equipment.

(2) There shall be debited to the Plant Account established under the *Road Construction Plant Act 1944**, such amount as the Director of Public Works certifies to be the value of the plant, buildings, workshops, tools, vessels, and other equipment so vested in the Commission.

(3) The amount so debited shall be paid by the Commission to the Treasurer in such instalments as the Treasurer approves and shall be paid by him to the credit of the loan account kept pursuant to section nine.

22 There shall be debited to the Commission as an additional loan under section twenty-three of the *Transport Act 1938* such amount as the Governor determines, on the recommendation of the committee referred to in section fourteen, to be the value of the vehicles, vessels, plant, and equipment vested in the Commission in accordance with paragraph (b) of subsection (2) of section four. Vehicles and vessels.

23 On and after the date of acquisition the bridge shall, subject to this Act, be deemed to be a public highway. Bridge to be public highway.

24 All works authorised or directed by the Commission to be carried out in connection with the bridge shall be constructed and carried out by the Director of Public Works. Construction work.

25—(1) The Commission may permit any local authority or other body to lay water mains over the bridge in such manner and subject to such conditions as may be agreed between the authority or body and the Commission, or, in default of agreement, as may be determined by the Governor. Water mains.

(2) A local authority or body to whom permission is granted under this section shall supply at all times, free of cost to the Commission, such water as the Commission may

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Consequen-
tial provisions.

26—(1) The Minister may sell or otherwise dispose of the steamship “Lurgurena” as he thinks fit.

(2) The obligation imposed on the company by subsection (8) of section four of the Act to keep and maintain a channel for the navigation of vessels through the bridge shall, on and from the date of acquisition, be carried out and performed by the Commission.

(3) Section seven of the Act shall have effect, on and from the date of acquisition, as if the words “Transport Commission” were substituted for the word “company” wherever occurring therein.

Act to cease
to have effect.

27 Except as provided by section twenty-six, the Act (other than section twenty-four) shall cease to have effect on the date of acquisition, but this subsection shall not affect the operation thereof in respect of things done or omitted to be done before that date.

Staff.

28 Section eight of the *Transport Act 1938** shall extend to the appointment and employment of persons for the purpose of this Act.

Regulations.

29—(1) The Governor, on the recommendation of the Commission, may make regulations for the purposes of this Part, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out and giving effect to this Act, and in particular for—

- (a) prescribing the limitation of loads and speeds of vehicles upon the bridge or upon any particular section thereof;
- (b) regulating or prohibiting the painting and affixing of notices on the bridge and the defacement of the bridge;
- (c) prohibiting climbing or loitering upon the bridge;
- (d) regulating or prohibiting traffic or any class of traffic upon the bridge or upon any particular section thereof;
- (e) regulating the use of the bridge or any particular part thereof by the public;
- (f) regulating or prohibiting the sale of goods upon the bridge;
- (g) the preservation of order and public safety upon the bridge;
- (h) the payment of fees for any service or permission in connection with the bridge; and
- (i) regulating the passage of shipping and navigation through or under the bridge.

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(2) A regulation may confer on the Commission, or any member of the Police Force, or any officer of the Commission, any powers or authority required or convenient for the carrying into effect of all or any of the provisions of that or any other regulation, and may impose penalties not exceeding fifty pounds for the breach of any regulation. A.D. 1944.

PART IV.

ACQUISITION OF LAND.

30 All the land situated in the Town of Lindisfarne and the Parish of Clarence owned by *Derwent Investments Proprietary Limited* or agreed to be purchased from *Derwent Investments Proprietary Limited* by *Leslie Ernest James* and *Sunnylands Proprietary Limited* (excluding therefrom any land which has been agreed to be sold by *Sunnylands Proprietary Limited*) shall be acquired by the Governor as and from the date of acquisition for the purposes set out in section thirty-two. Land to be acquired.

31—(1) The said land shall be acquired in accordance with the provisions of the *Lands Resumption Act 1910**, and, in the application of those provisions, the value of the land shall be taken to be the value thereof on the first day of December, 1944. Method of acquisition.

(2) So much of the amount of compensation in respect of the said land as is equivalent to the cost of the said land to *Derwent Investments Proprietary Limited* shall be payable immediately upon the determination thereof, and the balance shall be payable in such instalments and over such period (not exceeding ten years) as may be determined by the Governor.

(3) Notwithstanding the provisions of section forty-six of the *Lands Resumption Act 1910*, no interest shall be payable on the balance of such compensation for the time being remaining unpaid.

(4) The costs of *Derwent Investments Proprietary Limited* in connection with the determination of such compensation shall be paid by the Governor out of moneys provided under section thirty-three.

* 1 Geo. V. No. 11; for this Act as amended to 1936, see Reprint of Statutes, Vol. VI., page 5. Since amended by 4 Geo. VI. No. 11.

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 Purposes for
 which land
 acquired.

32 The said land shall be used for the purposes of the *Homes Act 1935*†, and the Governor may, by deed of grant in accordance with the *Crown Lands Act 1935*‡ convey and alienate the land to, and vest the same in, the Board of Management of the Agricultural Bank of Tasmania, in fee simple.

Borrowing
 power.

33 The Treasurer may borrow such sums as may be necessary to provide for the compensation payable in respect of the said land, and credit the same to the Homes Act Loan Account kept in accordance with the *Homes Act 1935*.

† 26 Geo. V. No. 98. See Reprint of Statutes, Vol. VI., page 661. Amended by 2 Geo. VI. No. 57, 3 Geo. VI. No. 32, 4 & 5 Geo. VI. No. 82, 5 Geo. VI. No. 44, 6 Geo. VI. No. 3, 6 Geo. VI. No. 66, 7 Geo. VI. No. 31, and 7 & 8 Geo. VI. No. 89.
 ‡ 26 Geo. V. No. 35. See Reprint of Statutes, Vol. IV., page 1000. Amended by 3 Geo. VI. No. 8, 4 Geo. VI. No. 47, and 7 Geo. VI. No. 57.