

PART III.

ROADS:

Minister for Lands and Works—

Public Works Department—Renison Bell-Rosebery Road (additional)	£80,000
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BRIDGES:

Contribution on the £ for £ basis with the Burnie Municipal Council for the purpose of widening and providing a footway on the Pearl Street Railway Bridge at Wivenhoe	£2,400
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THE SECOND SCHEDULE.

(Section 4.)

Minister for Transport—

New offices, Transport Commission. (additional)	£100,000
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SUMMARY.

The first schedule:	£
Part I.	1,000
Part II.—	
Buildings	58,300
Miscellaneous	2,700
Part III.—	
Roads	80,000
Bridges	2,400
	144,400
The second schedule:	
The Transport Commission	100,000
	£244,400

OBJECTIONABLE PUBLICATIONS.

No. 80 of 1954.

AN ACT to prevent the distribution in this State of objectionable publications, and to provide for matters incidental thereto. [21 December, 1954.]

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:—

1—(1) This Act may be cited as the *Objectionable Publications Act 1954*.

(2) This Act shall commence on a date to be fixed by proclamation.

2 In this Act, unless the contrary intention appears—

- “authorized officer” means an officer appointed under this Act who is authorized, in writing, by the chairman of the Board, either generally or in a particular case, to exercise the powers conferred on authorized officers by or under this Act, and includes the secretary;
- “Board” means the Publications Board of Review constituted under this Act;
- “chairman” means the chairman of the Board;
- “distribute” includes sell, circulate, or deliver (whether gratuitously or for money or money’s worth, and whether publicly or privately), or leave in a public place, or expose in any manner to public view;
- “newspaper” means a printed paper that is published regularly and in good faith for the dissemination of public news and that is known and recognized as a newspaper in the generally accepted sense of the word;
- “objectionable publication” means a publication that is determined by the Board, pursuant to section eight, to be objectionable;
- “publication” means any book, pamphlet, magazine, or printed paper, and (without prejudice to the generality of this definition) includes a publication of the type that is commonly or popularly known as a comic, comic paper, comic strip, comic book, or crime comic, but does not include—
- (a) a newspaper; or
 - (b) a publication that is of a purely official, religious, professional, or scholastic character;
- “part”, used in relation to a publication, means any picture, article, item, paragraph, or other part of the publication, whether appearing wholly or partly on the outside of, or within the covers (if any) of, the publication;
- “picture” includes any print, photograph, lithograph, drawing, sketch, figure, or other representation, and any reprint, facsimile, copy, colourable imitation, or other reproduction of a picture;
- “secretary” means the secretary to the Board;
- “sell” includes—
- (a) barter, exchange, or offer or expose for sale;
 - (b) supply or receive for sale;

Interpretation.
 Cf., 3 Eliz.
 II, No. 2.
 (Qld.), s. 5,
 (Vict.), s. 4,
 No. 12 of
 1901 (C’th.),
 s. 28.

- (c) have in possession for sale;
- (d) send, forward, or deliver for or on sale; and
- (e) cause, suffer, or allow to be bartered, exchanged, or sold, or to be offered or exposed for sale.

Savings.
Q'ld., s. 4.

3 Nothing in this Act prejudices or affects the operation of the provisions of section one hundred and thirty-eight of the *Criminal Code* or the provisions of Division IV of Part II of the *Police Offences Act 1935*, and this Act shall accordingly be construed as being in addition to, and not in derogation of, those provisions.

The Publica-
tions Board
of Review.
Q'ld., s. 6.

4—(1) There shall be a Board, to be known as the Publications Board of Review.

(2) The Board shall consist of not more than five persons appointed by the Governor, one of whom shall be appointed as the chairman of the Board.

(3) The members of the Board shall hold office during the Governor's pleasure.

(4) An officer of the Public Service may be appointed as a member of the Board and may hold office as a member thereof in conjunction with his office as an officer of the Public Service.

(5) A quorum of the Board consists of—

(a) two members, if the Board consists of not more than three members; or

(b) three members, if the Board consists of more than three members,

and the Board may function, notwithstanding a vacancy in its membership, so long as a quorum remains.

(6) The members of the Board may be paid such remuneration as the Governor may determine, but no determination shall be made under this subsection with respect to the remuneration to be paid to a member who is a person to whom the *Public Service Act 1923* applies except upon the recommendation of the Public Service Commissioner.

Proceedings
of the Board.
Q'ld., s. 7.

5—(1) The Board shall meet at such times and places as it may determine.

(2) The chairman shall preside at all meetings of the Board at which he is present but, if he is absent from any meeting, one of the remaining members of the Board shall preside thereat.

(3) The chairman or other member presiding at a meeting of the Board has a deliberative vote only.

(4) If, at a meeting of the Board at which all the members are not present, the voting on a question is equal, the determination of that question shall be deferred until a meeting at which all the members are present.

(5) Subject to this Act, the Board may regulate its own procedure.

6—(1) The Governor may appoint a secretary to the Board and such other officers as he may consider necessary for the administration of this Act.

Secretary
and officers.
Q'd., s. 9.

(2) An officer of the Public Service may be appointed under this section and may hold office under this section in conjunction with his office as an officer of the Public Service.

(3) The secretary and other officers appointed under this section shall be paid such remuneration as the Governor may determine, but no determination shall be made under this section with respect to the remuneration to be paid to a person to whom the *Public Service Act 1923* applies except upon the recommendation of the Public Service Commissioner.

7 Subject to this Act, the Board—

(a) shall—

Functions of
the Board.
Q'd., s. 8.

- (i) examine and review publications with the object of preventing the distribution in this State of objectionable publications, or of any parts thereof, and, in particular and without prejudice to the generality of this sub-paragraph, examine and review any particular publication that is referred to it by the Minister for examination and review; and
 - (ii) furnish to the Minister, as and when required by him, such reports and information as he may require (either generally or in a particular case or in respect of a particular matter) in relation to the administration of this Act or the exercise or performance of the Board's functions or duties under this Act;
- (b) may exercise such other powers and functions, and shall perform such other duties, as are conferred or imposed upon it by or under this Act; and
- (c) generally, may do all such acts and things as may be necessary for the proper exercise and performance of its powers, functions, and duties under this Act and for carrying out or giving effect to the objects of this Act.

Power of the Board to prohibit the distribution of objectionable publications. Q'ld., s. 10.

8—(1) Where, in the opinion of the Board, any publication consists in substantial part of pictures (whether with or without the addition of words) and—

- (a) is of an indecent nature or suggests indecency; or
- (b) portrays, describes, or suggests acts or situations of a violent, horrifying, or criminal, or of an immoral nature,

the Board may, having regard to the matters referred to in section ten, determine that the publication is an objectionable publication.

(2) Subject to section nine, where the Board determines that a publication is an objectionable publication it may, by order, prohibit the distribution of that publication in this State.

(3) An order under this section—

- (a) applies with respect to all copies of the publication to which it relates, including, in appropriate cases, all copies of every edition, part, number, or series thereof;
- (b) may specify the publication to which it relates by such means of distinguishing it as the Board may think suitable;
- (c) is sufficiently authenticated if it—
 - (i) is signed by the chairman and countersigned by the secretary; or
 - (ii) is signed by the two remaining members of the Board and countersigned by the secretary;
- (d) is a statutory rule within the meaning of the *Rules Publication Act 1953*, and, in addition to being notified in the *Gazette* in accordance with the provisions of that Act, may also be published or advertised in such other manner as the Board may think desirable;
- (e) continues in force on and from the date on which it is notified in the *Gazette* until it is revoked by the Board; and
- (f) may at any time be amended or revoked by a subsequent order made by the Board.

(4) Without prejudice to the generality of paragraph (f) of subsection (3) of this section, the Board may, in its absolute discretion, revoke an order under this section if—

- (a) the Board is satisfied that the publication to which the order relates has been so reconstructed as to be no longer objectionable; or

(b) in the case of a publication that is published periodically, if the publisher gives to the Board an undertaking, to the Board's satisfaction, to eliminate from the publication all parts of it that, in the opinion of the Board, are objectionable.

(5) If it considers it desirable so to do, the Board may cause a copy of any order under this section to be served on any person either personally or by post.

(6) Upon the revocation of an order under this section, the provisions of section sixteen of the *Acts Interpretation Act 1931* apply to the order as if it were a regulation that has been rescinded.

9—(1) Before making an order under section eight, the Board shall, as prescribed, publicly notify its intention to make the order.

Procedure to be observed with respect to the making of orders of prohibition.

(2) A person may, within a period of fourteen days after the publication of a notification under subsection (1) of this section, lodge with the secretary an objection to the making of the order to which the notification relates.

(3) An objection under subsection (2) shall be in writing and shall contain such particulars and statements as may be prescribed.

(4) Where a notification under subsection (1) of this section is published more than once, the period of fourteen days mentioned in subsection (2) of this section runs from the day on which the notification is first published.

(5) Upon an objection being lodged as provided in subsection (2) of this section, the Board shall fix a time and place for the hearing of the objection and—

(a) shall give written notice to the objector of the time and place so fixed; and

(b) shall, as prescribed, publicly notify the time and place so fixed.

(6) A person who makes an objection under subsection (2) of this section is entitled to appear before the Board at the time and place fixed for the hearing of the objection and to adduce evidence and to examine witnesses appearing before the Board on the hearing of the objection.

(7) A person may, at the time and place fixed for the hearing of an objection under subsection (2) of this section, appear before the Board and adduce evidence in support of the proposed order and examine witnesses appearing before the Board on the hearing of the objection.

(8) A person who is entitled by virtue of subsection (6) or subsection (7) of this section to appear before the Board may appear in person or may be represented by a legal practitioner.

(9) On the hearing of an objection under subsection (2) of this section the Board—

- (a) is not bound by formal rules of evidence but may inform its mind in such manner as it may think fit; and
- (b) has, and may exercise, the powers and authorities conferred by Division II of Part II of the *Evidence Act* 1910 on persons holding inquiries on commission.

(10) Subject to this section, objections under subsection (2) of this section shall be made, heard, and determined as prescribed.

Matters to be taken into consideration by the Board in determining whether a publication is objectionable.
Q'ld., s. 5, No. 3794 (Vict.), s. 169 (2).

10 For the purposes of this Act, in determining whether a publication is objectionable the Board shall have regard to—

- (a) the nature of the publication;
- (b) the persons, classes of persons, and age groups to or amongst whom or which the publication is intended, or is likely, to be distributed;
- (c) the tendency of the publication to corrupt those persons, classes of persons, or age groups, or any of them, notwithstanding that other persons or classes of persons, or persons in other age groups, may not be similarly affected thereby;
- (d) the nature and circumstances in which the publication is distributed in this State; and
- (e) the literary, scientific, or artistic merit or importance of the publication,

to the intent that a publication shall not be deemed to be objectionable unless, having regard to the foregoing matters and all other relevant considerations, the Board is of the opinion that the distribution of the publication in this State would have an immoral or a mischievous tendency or effect.

Seizure of objectionable publications.
Q'ld., s. 14.

11 An authorized officer or a police officer, at any time when any place where a person carries on the business of distributing publications, whether by wholesale or by retail, is open for business, may—

- (a) enter and inspect that place;
- (b) inspect and examine any publication that he finds in that place;
- (c) without payment, seize, remove, and detain any publication that he finds in that place (being a publication to which a subsisting order under section eight applies); and
- (d) on payment or tender of the current market price therefor or at the prescribed rate of payment, demand, select, and take or obtain any publication (whether a publication to which an order under section eight applies or not) that he finds in that place.

12—(1) Where a person is convicted of an offence against this Act, or against any other Act or law in respect of a publication that is seized pursuant to paragraph (c) of subsection (1) of section eleven, the court before which he is so convicted shall order that publication to be forfeited to Her Majesty.

Forfeiture of publications in certain cases. Q'ld., s. 14 (3).

(2) The forfeiture of a publication pursuant to this section is in addition to any penalty or punishment to which a person may be liable under this Act or any other Act or law in respect of that publication.

(3) A publication that is forfeited to Her Majesty under this section, or is retained by the Board pursuant to section thirteen, shall be destroyed or otherwise disposed of as the Minister may direct.

(4) No person is entitled to compensation in respect of the forfeiture, destruction, or other disposal of a publication pursuant to this Act.

13 The Board may retain any publication that is submitted to it under or for the purposes of this Act.

Retention of publications by the Board. Q'ld., s. 12.

14 No action, claim, or demand lies or shall be allowed by or in favour of any person in respect of any loss or damage suffered or alleged to be suffered by that person by reason of any act, matter, or thing done by the Minister, the Board, a member of the Board, a police officer, or an officer appointed under this Act, if that act, matter, or thing is done in good faith for the purpose of carrying out or giving effect to the provisions or objects of this Act or in the exercise or performance of his or its powers, functions, or duties under this Act.

Indemnity. Q'ld., s. 19.

15—(1) No person shall—

- (a) distribute in this State any publication to which a subsisting order under section eight applies;
- (b) fail, upon payment or tender by an authorized officer or by a police officer of the current market price therefor, or at the prescribed rate of payment, to sell to that officer any publication that is demanded by him; or
- (c) contravene or fail to comply with any other provision of this Act that is applicable to him.

Offences. Q'ld., s. 17.

Penalty: For a first offence, fifty pounds; for a subsequent offence, not less than five pounds or more than one hundred pounds, or imprisonment for three months, or both.

(2) A person who aids, abets, counsels, or procures, or is in any way knowingly concerned in, the commission of an offence against this Act shall be deemed to have committed that offence and is punishable accordingly.

(3) Where a corporation commits an offence against this Act, the manager, managing director, or other chief executive officer of the corporation, and every person who, at the relevant time, was a member of the board of directors, executive committee, or other governing body of the corporation, is guilty of that offence and is liable to punishment accordingly, unless he proves that he had no knowledge of the commission of the offence and that he could not, by using all due diligence, have prevented its commission.

Avoidance of certain contracts. Q'ld., s. 21, No. 5779 (Vict.), s. 10.

16—(1) Notwithstanding any contract or any term or condition of any contract (whether entered into before or after the commencement of this Act and whether the contract is oral or in writing or is express or implied) a person is not liable for breach of contract by reason only of his rejecting any publication that is delivered to him, or of his refusing to accept delivery of, or to deal in any manner in, any publication if he in good faith and reasonably believes that his acceptance of delivery of, or his possession of, or his dealing in, that publication may render him liable to be prosecuted under this Act or under section one hundred and thirty-eight of the *Criminal Code* or under Division IV or Part II of the *Police Offences Act 1935*.

(2) No person shall enter into or make any contract, transaction, or arrangement, whether orally or in writing, for the purpose of, or that in any way has the effect (whether directly or indirectly) of defeating, evading, avoiding, or preventing the operation of, the provisions of this section.

(3) Without prejudice to any penalty or punishment to which a person may be liable under this Act, any contract, transaction, or arrangement entered into or made in contravention of subsection (2) of this section (whether entered into or made before or after the commencement of this Act) is void.

Evidentiary provisions. Q'ld., s. 18.

17 In a prosecution in respect of an offence against this Act—

- (a) it is not necessary to prove the authority of the chairman or of any other member of the Board, or of the secretary or any other officer appointed under this Act, to do any act;
- (b) a signature purporting to be that of the chairman or of any other member of the Board, or of the secretary or any other officer appointed under this Act, shall be taken to be the signature it purports to be and shall be deemed to have been duly placed on any document until the contrary is proved; and

(c) a certificate under the hand of the chairman or secretary that a document annexed to the certificate is a true copy of any order or notice made, given, or served under or for the purposes of this Act is evidence, and, in the absence of evidence in rebuttal, is conclusive evidence, of the matters to which it relates.

(2) In determining whether or not a publication alleged in a prosecution in respect of an offence against this Act to be the subject of an order under section eight is the publication to which that order applies, the court shall disregard any reconstruction (whether by way of alteration in title, change of subject, characters, story, or other features, or otherwise) of that publication made on or after the date when the order became effective and while that order remains in force, and evidence proving or tending to prove any such reconstruction is admissible.

18 Any prosecution in respect of an offence against this Act shall be heard and determined by a police magistrate sitting alone. Prosecutions to be heard by police magistrates.

19 The Governor may make regulations under this Act. Regulations. Q'd., s. 22.

DERWENT BRIDGE HOTEL LOAN.

No. 81 of 1954.

AN ACT to authorize the making of a loan by the Treasurer for the purpose of facilitating the erection of a hotel at Derwent Bridge, and to provide for matters incidental thereto. [21 December, 1954.]

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:—

1 This Act may be cited as the *Derwent Bridge Hotel Loan* Short title. Act 1954.