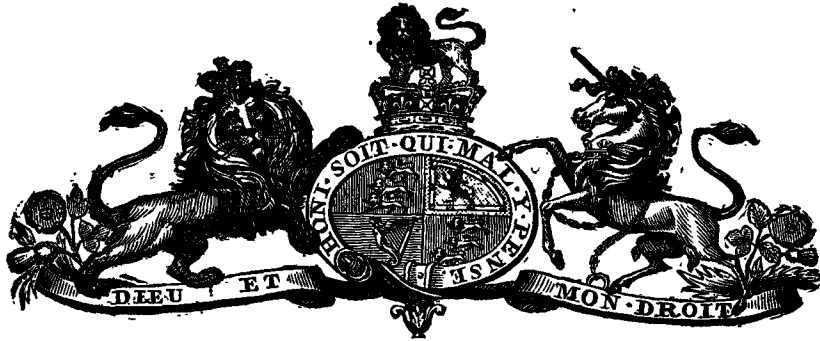


NEW ZEALAND.



TRICESIMO NONO

VICTORIÆ REGINÆ.

No. XLIV.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Repeal of existing Acts. Saving of existing contracts &c.</p> <p>ESTABLISHMENT OF TELEGRAPH LINES.</p> <p>3. Governor may establish lines of electric telegraph and appoint Commissioner.</p> <p>4. Governor may purchase lines and plant.</p> <p>5. Governor may contract for keeping in repair line across Cook's Straits, or enter into other contracts for lines.</p> <p>6. Governor may appoint officers &c.</p> <p>POWER TO ENTER AND TAKE LANDS.</p> <p>7. Commissioner may enter upon lands and take levels.</p> <p>8. Powers of Commissioner &c.</p> <p>9. Entry not to be made on land without consent.</p> <p>10. Power to have trees removed in certain cases.</p> <p>11. Interpretation of the term "Commissioner" for purposes of previous sections.</p> <p>PURCHASE OF LANDS, OFFICERS, &c.</p> <p>12. Lands may be purchased.</p> <p>13. Governor in Council may make regulations.</p> <p>14. Recovery of fees &c.</p> <p>15. Commissioner to transmit all messages &c. Penalty. Precedence. Proviso.</p> <p>INJURIES TO TELEGRAPH LINES.</p> <p>16. Accidental injuries to telegraph lines.</p> | <p>17. Injuries by careless driving, how punishable.</p> <p>18. Offender may be apprehended without warrant. Penalty.</p> <p>19. Damage to line to be made good in addition to penalty.</p> <p>PRODUCTION OF TELEGRAMS IN EVIDENCE &c.</p> <p>20. Telegrams not to be produced in evidence.</p> <p>21. Unless with consent.</p> <p>22. Saving in the case of treason felony or perjury.</p> <p>23. Officer not responsible for transmitting libels.</p> <p>24. Privileged communications conveyed by telegraph not to be deemed maliciously published.</p> <p>25. Witness before Select Committee of either House or Royal Commission free from penal actions if he make full disclosures. Chairman may give him certificate.</p> <p>26. Penalty for improperly divulging messages.</p> <p>COMPENSATION.</p> <p>27. Compensation for loss &c. for land taken for purposes of this Act.</p> <p>28. How compensation to be determined.</p> <p>29. Out of what funds compensation to be paid.</p> <p>MISCELLANEOUS.</p> <p>30. Penalties may be recovered summarily.</p> <p>31. Fees and fines, how disposed of.</p> <p>32. Interpretation.</p> <p>33. Act not to affect other Acts.</p> |
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AN ACT to consolidate and amend the Laws relating to the Construction Establishment and Maintenance of Electric Telegraph Communication, and to provide for the Regulation thereof. Title.

[12th October, 1875.]

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

Electric Telegraph.

Short Title.

1. The Short Title of this Act shall be "The Electric Telegraph Act, 1875."

Repeal of existing Acts.

2. "The Electric Telegraph Act, 1865," and "The Electric Telegraph Act Amendment Act, 1874," shall be and the same are hereby repealed: Provided that nothing herein contained shall affect any contract promise or agreement made with or by and on behalf of Her Majesty, or with or by and on behalf of the Electric Telegraph Commissioner under the said repealed Acts previously to the passing hereof, and then incomplete or unfulfilled: And provided further that this Act shall not render invalid or in any way affect any act matter or thing that may lawfully have been done under the said Acts hereby repealed or any penalty or liability incurred thereunder, but all actions suits or proceedings heretofore commenced and in progress under the said Acts shall and may be continued and perfected enforced and recovered under the said repealed Acts.

Saving of existing contracts &c.

All persons holding offices of any kind under the said repealed Acts shall, without any further appointment, be deemed to hold like offices under this Act, and all regulations in force under the repealed Acts shall continue in force until other regulations are made under this Act.

ESTABLISHMENT OF TELEGRAPH LINES.

Governor may establish lines of electric telegraph and appoint Commissioner.

3. It shall be lawful for the Governor, from time to time, to establish lines of communication by electric telegraph throughout the colony, and to appoint a proper person to superintend the construction establishment management maintenance and protection thereof, who shall be called the Electric Telegraph Commissioner, hereinafter called the "Commissioner," and may from time to time remove any person so appointed.

It shall be lawful for the Governor in Council from time to time to appoint a General Manager of Electric Telegraph Lines, (hereinafter termed "the General Manager,") who shall act under the directions and instructions of the Commissioner; and the Governor may from time to time remove any person so appointed: Provided that the person now holding office as such General Manager shall be deemed to have been appointed under this Act.

Governor may purchase lines and plant.

4. It shall be lawful for the Governor, upon such terms and conditions and in such manner as and whenever he shall consider fitting, to arrange for and complete the purchase of electric telegraph lines, and such offices furniture plant and instruments as shall be necessary for the working of such electric telegraph lines, and such lines offices furniture plant and instruments when purchased shall be under the control and management of the Electric Telegraph Commissioner.

Governor may contract for keeping in repair line across Cook's Straits, or enter into other contracts for lines.

5. It shall be lawful for the Governor to enter into any contract or contracts with any person or persons for the keeping or maintaining in repair and working order the electric telegraph line or mode of communication at present laid across or under Cook's Straits, or at such time or times as to the Governor shall appear fit or may be expedient to enter into other contracts for the construction placing laying down fixing and keeping or maintaining in repair and working order any other line or lines of cable or telegraph communication across or under Cook's Straits aforesaid, and also an electric telegraph line or mode of communication across or under Foveaux Straits, to connect lines of electric telegraph in the Middle Island of the colony and in Stewart's Island.

Governor may appoint officers &c.

6. It shall be lawful for the Governor to appoint all such officers clerks and servants as in addition to the Commissioner and General Manager shall be requisite for the purposes of this Act, and such

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officers clerks and servants from time to time to remove, and other or others to appoint in their stead.

POWER TO ENTER AND TAKE LANDS.

7. The Commissioner for any of the purposes of this Act may enter into and upon any lands whatsoever, whether Crown lands or private lands, and survey and take levels of the same or any part thereof, and also dig cut remove and carry away any earth stone soil sand and gravel whatsoever, and any trees or timber suitable for the construction formation or maintenance of any such telegraph line or any part thereof, or any other works belonging or appertaining to any such line or connected therewith.

Commissioner may enter upon lands and take levels.

8. The Commissioner shall have and may exercise the following powers:—

Powers of Commissioner &c.

- (1.) He may cut and remove for any space not exceeding in any case the space of sixty-six feet on each side of any proposed line of telegraph, and any existing line of telegraph constructed under the said Acts hereby repealed, all such trees and underwood as may, in the opinion of the Commissioner, interfere or be likely to interfere with the construction or with the proper working of any telegraph line.
- (2.) When any such line shall be constructed in any place where from the mountainous or hilly nature of the country it shall appear to the Commissioner desirable to extend such clearing for a further space, it shall be lawful for him to do so, but so that the same shall not extend more than three chains from the line or proposed line of telegraph.
- (3.) For the purpose of obtaining access to any line he may, in manner hereinafter provided, enter into an agreement with the owner or occupier of any land for the erection of any gate or gates on land adjoining such line, and when any agreement shall be so made, the Commissioner may erect and maintain such gates for the use of himself and of his officers, and all others by his permission, for the purpose of obtaining access to such line.
- (4.) He may for any of the purposes of this Act enter into and upon any lands whatsoever, whether Crown lands or private lands, and may thereupon and upon any road shore of the sea or water erect set up and maintain any masts or posts for the support of the cord or wire of any such telegraph line.
- (5.) He may on such land road shore of the sea or water erect set up and maintain any other works necessary for the purposes of this Act, and may make any excavations in any land or road for erecting placing maintaining altering or removing such masts or posts and other works, and also for laying down maintaining altering or removing subterranean lines of telegraphic communication.

Provided that every cord or wire of any such line, if above the surface, crossing any road, be placed eighteen feet at least from the ground, and that the free use and enjoyment of any road, and the navigation of any inlet bay creek river or lake over along across or underneath which any such cord or wire or line of telegraph communication may pass, be not hindered or obstructed further than is absolutely necessary for the purposes of this Act or some of them.

9. The Commissioner shall not enter upon any land whatsoever, Entry not to be

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made on land
without consent.

not being Crown lands, for the purpose of constructing any telegraph, except by day, or until after one week's notice to the owner or occupier of such land, or his or their authorized agent, of the intention to construct such telegraph upon such land, unless with the consent in writing of such owner or occupier or agent :

Provided that if the owner or occupier cannot, after reasonable inquiry, be found, then it shall be sufficient if the Commissioner cause one week's notice in writing under his hand, of his intention to enter upon such land, or any part thereof, for the purposes of this Act, to be published in some newspaper circulating in the district where such land shall be situated, and to be posted in some conspicuous place on the ground so proposed to be taken as aforesaid, and after the expiration of the time mentioned in such notice the Commissioner may exercise all the powers hereby vested in him as effectually as if notice had been served on the owner or occupier of such land or his or their authorized agent :

Provided further, that the power given by this and the two last preceding sections shall not be exercised in or upon any homestead, yard, garden, pleasure-ground, or ornamental wood, without the consent in writing of the owner and occupier thereof, or of his or their duly authorized agent.

Power to have trees
removed in certain
cases.

10. If the Commissioner shall be of opinion that any telegraph line is in any manner injured or prejudiced, or any obstruction caused or likely to be caused to such telegraph line by any tree or shrub, whether ornamental or otherwise, growing or being on any land adjoining such telegraph line, or through which any such telegraph line may pass or be carried, it shall be lawful for any Resident Magistrate or two Justices of the Peace, on the application of the Commissioner, and after summons duly served on the owner and occupier, or upon the occupier only, if the owner cannot be found, of the land on which such tree or shrub may be, to make an order for the removal of such tree or shrub, or any part thereof, by such owner or occupier, or that the same be dealt with in such manner as such Justices may see fit, and in default of compliance with such order within eight days after a copy thereof shall have been served personally on such owner or occupier, such owner or occupier, as the case may be, shall, on conviction, forfeit and pay for such default a penalty not exceeding five pounds; and the said Commissioner if within the time aforesaid the order of the said Resident Magistrate or Justices is not complied with, may remove such tree or shrub, or such part thereof, so ordered to be removed, but so that no unnecessary damage be done or incurred.

Interpretation
of the term
"Commissioner" for
purposes of previous
sections.

11. In the exercise of all or any of the powers hereinbefore given under the seventh, eighth, ninth, or tenth sections hereof, the expression "the Commissioner" shall include the General Manager, or any surveyor engineer or other officer or person acting by or on behalf of the Commissioner or by his direction.

The provisions of this Act shall be sufficient to indemnify the said Commissioner and the General Manager, or any surveyor engineer or other officer or person acting as aforesaid, for what he or they shall do pursuant to the powers aforesaid: Provided however, that all such powers shall be exercised subject to the provisions hereinafter contained for ascertaining the compensation to be paid in the cases by this Act provided for.

PURCHASE OF LANDS, OFFICERS, &C.

Lands may be
purchased.

12. It shall be lawful for the Commissioner or any officer or person acting under his authority, for any of the purposes of this Act, to erect any buildings offices and works required for the effectual construction and working of such telegraph lines, and for such pur-

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poses to appropriate and set apart any waste lands of the Crown, and for such purposes, in the name and on behalf of Her Majesty, to purchase and acquire and hold such other lands as shall be found requisite for any of the purposes of this Act.

The Commissioner or any such officer as aforesaid may agree with the owner of any land for the purchase of any right or easement in or upon any land, and the terms upon which such right may be used or exercised, or such easement enjoyed.

13. It shall be lawful for the Governor, by Order in Council, from time to time to make alter amend and revoke regulations for the following purposes:—

Governor in Council may make regulations.

For the transmission and delivery of all despatches messages and communications by means of any such line.

For fixing and determining the fees rates or dues to be demanded and received for the transmission of any such despatch message or communication, and for the delivery thereof respectively, and the modes and times of payment.

For regulating the conduct management working and maintenance of any such telegraph line and the conduct of any officers or persons employed therein.

For providing by whom such fees rates and dues may be legally recovered.

Such regulations shall have the force of law when published in the *New Zealand Gazette*: Provided that a scale of all such fees rates and dues, and a copy of every such regulation, shall within fourteen days after being so published be laid before the General Assembly, if then sitting, or if not then sitting, within fourteen days after the commencement of the Session next following such publication.

14. In case of refusal or neglect of payment of any such fee rate or due, or any part thereof, on demand, to the person appointed to receive the same, such person may sue for and recover the same in any Court of competent jurisdiction in his own name.

Recovery of fees &c.

15. It shall be the duty of the Commissioner, and of all officers servants or workmen employed in the working of any such telegraph line, to transmit all messages despatches or communications which may be lawfully transmitted under this Act or any regulations for the time being in force hereunder, in the order in which they may be received, and every officer or person offending against this provision shall pay a penalty of not less than one pound nor exceeding twenty pounds:

Commissioner to transmit all messages &c.

Penalty.

Provided that all Government messages or despatches, and all messages relative to the arrest of criminals or accused persons, the discovery or prevention of crime, or matters connected with the administration of justice, may be transmitted in priority to any other message or despatch:

Precedence.

Provided also that, unless otherwise directed by any such regulation as aforesaid, no person shall be bound to transmit by any telegraph line any message or despatch except for the purposes mentioned in the last preceding proviso, unless the fee or rate for transmission and delivery of such message or despatch shall, if demanded, have been previously paid.

Proviso.

INJURIES TO TELEGRAPH LINES.

16. Any person who shall by negligence carelessness or other misconduct cause any injury to or destroy any of the wires cords insulators posts piers abutments apparatus works or lines of communication or any part thereof, or of the material or property relating thereto, shall, on conviction thereof, for every such offence forfeit and pay a penalty of not exceeding ten pounds, to be recovered on summary conviction before one or more Justices of the Peace.

Accidental injuries to telegraph lines.

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Injuries by careless driving, how punishable.

17. If any damage shall be caused to any of such wires cords posts piers abutments apparatus or works as aforesaid, or any apparatus material or property relating to such lines as aforesaid, by any vehicle drawn by horses or other animals, or anything loaded, on any such vehicle coming in contact with any such wires cords posts piers abutments apparatus works material or property as aforesaid, the driver or person in charge of such vehicle shall *primâ facie* be deemed to have been guilty of an offence under the sixteenth section of this Act without any proof of carelessness or misconduct, but such person shall be entitled to rebut such presumption.

Offender may be apprehended without warrant.

18. Any person whatsoever may, with or without warrant, apprehend any person who shall be found offending against the provisions of the sixteenth or seventeenth sections of this Act and deliver him to some constable or peace officer, or convey him before some Justice of the Peace to be dealt with according to law; and any person resisting any other person acting in execution of this provision shall, on conviction, pay a penalty not exceeding twenty pounds, or be imprisoned with or without hard labour for any period not exceeding two months.

Penalty.

Damage to line to be made good in addition to penalty.

19. Every person causing damage to any line of communication or any works connected therewith, although he may have been fined or imprisoned under this Act, shall also be liable to make good the damage done by him, the amount of which damage shall be determined by the Justices or Resident Magistrate adjudicating, and such amount when determined may be levied by distress of the goods and chattels of such person in the manner provided by law for the levying of a pecuniary penalty.

PRODUCTION OF TELEGRAMS IN EVIDENCE, &C.

Telegrams not to be produced in evidence.

20. Except as hereinafter provided, no officer clerk operator or other person employed in or about the working of any such line of telegraph shall, on the trial of any issue, whether civil or criminal, or of any matter or question, or on any inquiry in any Court of Justice, or before any person having by law or by consent of parties authority to hear receive and examine evidence, be competent or compellable to give evidence of the contents of any message despatch or communication transmitted or conveyed, or presented to be transmitted or conveyed, by any such line, nor to produce under any writ of subpoena summons or order the original of any such message despatch or communication signed by or on behalf of the sender.

Unless with consent.

21. The provisions of the twentieth section of this Act shall not apply if the person by or to whom any such message despatch or communication as aforesaid shall have been sent or addressed notifies to the Commissioner, or the General Manager aforesaid, in writing, that he desires that any such officer clerk operator or other person aforesaid may give such evidence or make such production as aforesaid.

Saving in the case of treason felony or perjury.

22. The provisions of the said twentieth section shall not apply to the case of any indictment information for treason felony or perjury, or of any preliminary magisterial inquiry into a charge of treason felony or perjury, if the consent in writing of the said Commissioner be first obtained to such evidence as aforesaid being given or to such production as aforesaid.

Officer not responsible for transmitting libels.

23. No officer clerk operator or other person employed in or about the working of any such line of telegraph as in this Act mentioned, shall be liable to any indictment information or other criminal proceedings or to any action or suit for damages, by reason of his having as such officer clerk operator or person transmitted or conveyed or taken part in transmitting or conveying by any such line of telegraph any defamatory libel.

Privileged communications

24. Any communication transmitted by any line of telegraph

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under this Act, which would be deemed a privileged communication if published only to the person to whom it is addressed, shall not by reason of its having been published to any officer clerk operator or other person employed as aforesaid for the purpose of being transmitted by such line of telegraph to the person to whom it is addressed, be deemed to have been maliciously published.

conveyed by telegraph not to be deemed maliciously published.

25. On any inquiry before any Committee either of the Legislative Council or of the House of Representatives, or any Joint Committees of such Council and House, or before any Commission duly appointed by the Governor touching the divulging of the contents of any telegram, or the publication of any telegram improperly divulged, every person who is examined as a witness and gives evidence on such inquiry and who thereon makes a true discovery to the best of his knowledge touching all things on which he is so examined, shall be free from all penal actions forfeitures punishments disabilities and criminal prosecutions to which he may have been or become liable at the suit of Her Majesty or any other person, for anything done by such person in or about the divulging of any telegram which is the subject of such inquiry or connected therewith: And no person shall be excused from answering any question put to him by such Committee Joint Committee or Commission on the ground of privilege, or on the ground that the answer to such question may criminate or tend to criminate the witness.

Witness before Select Committee of either House or Royal Commission free from penal actions if he make full disclosures.

When any such witness is so examined such witness shall not be indemnified under this Act, unless he receive from the Chairman of such Committee, Joint Committee, or Commission a certificate in writing stating that such witness appears to have made full disclosure touching all things whereon he has been examined. And the production in any Court of law of such certificate shall be a full bar to any action or prosecution against such witness for any act in or about the divulging of any telegram which is the subject of the inquiry revealed by the evidence of such witness; and the Court in which such action or prosecution is brought may award to such witness such costs as he may have been put to by such action or prosecution.

Chairman may give him certificate.

26. Any officer clerk operator or other person employed in the working of any such line as aforesaid who shall improperly divulge the contents of any message despatch or communication transmitted or conveyed, or to be transmitted or conveyed by any such line, or the purport of such message despatch or communication, shall, on conviction thereof, be liable to a penalty not exceeding one hundred pounds, or to be imprisoned with hard labour for any period not exceeding six months: Provided that nothing herein contained shall prevent the person duly authorized in that behalf from giving copies of any message despatch or communication to the person entitled thereto.

Penalty for improperly divulging messages.

COMPENSATION.

27. Every owner or occupier of any land house or building, and every other person who shall incur or suffer any loss or damage by any act or thing done by the Commissioner, or any person or persons acting on his behalf, unless such thing shall have been done with the consent of such owner occupier or other person, in the construction or maintenance of any telegraph line, shall be entitled to compensation for the same to be settled and determined as hereinafter provided.

Compensation for loss &c. for land taken for purposes of this Act.

If the possession of any land not belonging to the Crown, or any right or easement in through or upon any such land shall become necessary for the purposes of this Act, it shall be lawful for the Commissioner to proceed in the manner provided by "The Lands Clauses Consolidation Act, 1863," which said Act, together with any Act amending the same (except sections numbered from eight to

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fifty-four both inclusive), shall be deemed to be incorporated with this Act for the purposes hereof.

For the purposes of this Act the expression "promoters of the undertaking," where used in "The Lands Clauses Consolidation Act, 1863," or any Act amending the same, shall, subject to this Act, be deemed to mean the Commissioner.

How compensation to be determined.

28. The amount of any compensation to be paid in any of the cases mentioned in the last preceding section shall, in case of dispute, be settled and determined in manner provided by Part VI. of "The Immigration and Public Works Act Amendment Act, 1871," as amended by subsequent Acts, and the said Part VI. as amended as aforesaid shall, so far as applicable, be deemed to be incorporated with this Act.

In case any infant whose lands are taken or injuriously affected has no legal guardian resident in the colony, the word "guardian," when used in "The Lands Clauses Consolidation Act, 1863," shall be held to mean the Registrar or Deputy Registrar of the Supreme Court of the judicial district in which the lands affected are situated; but if there be more than one such Registrar or Deputy Registrar in any district, then the word "guardian," shall be held to mean the Registrar or Deputy Registrar whose office is nearest to the place where such lands are situated.

Out of what funds compensation to be paid.

29. It shall be lawful for the Colonial Treasurer, out of any moneys appropriated by the General Assembly for the erection or maintenance of telegraph lines, to pay on behalf of the Government the amount of compensation to be ascertained as is herein provided; but the party claiming such compensation must first make out a title to the lands or the estate or interest therein claimed by him, to the satisfaction of the Commissioner.

MISCELLANEOUS.

Penalties may be recovered summarily.

30. All penalties imposed by this Act may be recovered in a summary way as provided by "The Justices of the Peace Act, 1866," or any Act amending the same.

Fees and fines, how disposed of.

31. All fees rates and dues recovered under or by virtue of this Act, or the regulations to be made in pursuance hereof, shall be paid into the Public Account, and form part of the Consolidated Fund. All fines and pecuniary penalties recovered under this Act shall be paid one half to the Public Account for the uses of Her Majesty, and the other half to the informer or party prosecuting, who shall in all such cases be deemed a competent witness.

Interpretation.

32. In this Act,—

The term "road" means and includes any public or private road highway street square lane or passage and any railway or tramway.

The term "works" means and includes any buildings stations posts masts piers insulators excavations wires cords or other works in any way connected with any electric telegraph or line of communication constructed by or the property of the Government of the colony.

Act not to affect other Acts.

33. Nothing in this Act contained shall be deemed in any way to affect "The Telegraph Service of Notices Act, 1872," or "The Telegraph Cables Subsidy Agreement Ratification Act, 1873," or any contract agreement regulation or other matter or thing entered into made or done under the said Acts or either of them.

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