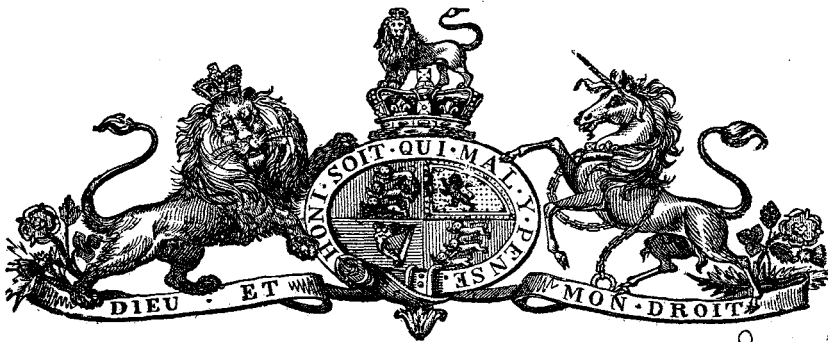


As to Cable Charges  
see Gaz. 69-752

As to other Charges  
see Gaz 69 p 799  
TASMANIA.



1856-7.

See also 46 Vic No 5

53 - - - 56

51 - - - 31

57 - - - 30.

ANNO VICESIMO

# VICTORIÆ REGINÆ,

No. 22.

See 37 No. 23

See now Federal Acts.

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## AN ACT for Electric Telegraphs.

[5 June, 1857.]

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 From and after the passing of this Act every line of communication by Electric Telegraph constructed or to be constructed in *Tasmania*, and every Submarine Telegraph connected with the Island of *Tasmania* and its Dependencies, constructed out of the public funds respectively, shall be under and subject to the several provisions of this Act, and the several rules and regulations hereby authorised to be made as hereinafter mentioned.

Present and future lines to be subject to Act, and rules to be made.

2 It shall be lawful for the Governor to appoint a proper person to be Inspector of Telegraphs, who shall superintend the construction, establishment, management, maintenance, and protection of lines of communication by Electric Telegraph, and also to appoint such other officers, clerks, and servants as may be necessary; and such Inspector of Telegraphs, officers, clerks, and servants, from time to time to remove, and appoint others in their stead.

Governor may appoint and remove Inspector and Officers, &c.

Francis Barker Gaz 69 p 819  
C. Moore Kelly Gaz 73 " 133.

Power to enter and survey lands, and to take earth, &c.

**3** It shall be lawful for the said Inspector of Telegraphs, and all persons acting under his authority, to enter into and upon any lands in *Tasmania*, not being a garden, orchard, yard, or lawn, and to survey and take levels of the same or any part thereof, and also to dig, cut, remove, and carry away any stone, soil, sand, gravel, and trees or timber, suitable or necessary for the construction, formation, or maintenance of any such line of communication or any part thereof, or any other works belonging or in anywise appertaining to any such line.

Telegraph posts may be set up, &c.

**4** It shall be lawful for the said Inspector of Telegraphs, and all persons acting under his authority, to erect, set up, and maintain all masts or posts for the supporting of any cord or wire of any such line in and upon any lands, not excepted in the previous Section, upon giving Twenty-one days' notice to the Proprietor or his Agent, and to the Occupier, and in and upon any shore of the sea, and any road, and to make all needful and necessary excavations in the same for erecting or placing such masts or posts, and also for laying down subterranean lines of communication, and to attach any cord or wire to any such masts or posts, and to maintain, preserve, and amend the same when necessary: Provided that every cord or wire of any such line, if above the surface, crossing any road be placed at least eighteen feet from the ground; and that the free use and enjoyment of any road, and the navigation of any inlet, bay, river, creek, or lake, over, along, across, or underneath which any such cord or wire or line of communication may pass, be not hindered or obstructed further than is absolutely necessary for the proper construction, establishment, and maintenance of any such line of communication.

Trees to be removed.

**5** All indigenous trees and underwood, not growing on any lands excepted in Section 3, may be cut and removed for the space of twenty feet on each side of any such line of communication by the proprietor of the lands upon which such trees and underwood may be; and in default thereof the said Inspector of Telegraphs, and all persons acting under his authority, may enter upon the said lands, and cause the said trees and underwood to be cut and removed, upon giving Fourteen days' notice to the Proprietor and Occupier: Provided always that, in the exercise of the powers granted by this Act, the Inspector of Telegraphs, or persons acting under his order, shall do as little damage as may be.

Compensation to be made in certain cases of injury.

**6** In all cases where by authority of this Act the said Line of Telegraph shall be constructed so as to cause any loss or injury exceeding Five Pounds, by cutting down timber or taking materials or otherwise, to the owner or occupier of any land, it shall be lawful for the owner or occupier, or both, as the case may be, to demand of and from the Inspector of Telegraphs Compensation for any injury sustained by him by reason of the construction of such Line of Telegraph; and such Compensation shall be assessed by two Arbitrators, to be chosen one by the said Inspector of Telegraphs and the other by the person claiming such Compensation, and such Arbitrators shall have power to appoint an Umpire, whose decision in case of difference between the Arbitrators, or in the event of their neglecting to make an award within two months from the date of their appointment, shall be binding and conclusive; and it shall be lawful for the Governor, by Warrant under his hand, to direct the issue of any sum which may be awarded by such Arbitrators or Umpire as aforesaid out of the

Governor may issue Warrant for amount awarded.

Colonial Treasury to the person or persons in whose favour the Award shall be made in respect of the injury sustained by the construction of the said Line of Telegraph: Provided that no Arbitration shall be had, and in Compensation shall be made, under this Act unless the same shall be demanded within three months after the first entry upon the land for the purpose of the construction of such Line of Telegraph.

**7** It shall be lawful for the Governor with the advice of the Executive Council to appoint the amount of fees, rates, or dues to be demanded or received for the transmission or conveyance of any despatch, message, or communication by means of any such line, and for the due delivery thereof respectively, and for copies of any such despatch, message, or communication; and also, with the advice aforesaid, to make rules and regulations for the transmission and conveyance of all despatches, messages, or communications by means of any such line, and for the payment of such fees, rates, and dues, and generally for the conduct, management, working, and maintenance of any such line of communication, and any such fee, rate or due, rule or regulation, to increase or lower, repeal, alter, or vary respectively, and appoint and make such others as may be deemed expedient: Provided that a scale of all such fees, rates, and dues, and a copy of every such rule or regulation, shall be published in the *Hobart Town Gazette*.

Power for Governor to make rules, &c.

Rules, &c. to be published.

**8** All such fees, rates, and dues so to be appointed as aforesaid shall be paid to such person at such place and in such manner as may be directed in such rules and regulations as aforesaid; and 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.

Payment of rates, &c.

**9** It shall be the duty of any such person, and of all officers, servants, or workmen employed in the working or operating of any such line of communication, to transmit all messages, despatches, or communications in the order in which they are received under a penalty not exceeding Fifty Pounds: Provided that every message in relation to the arrest of criminals, the discovery or prevention of crime, or any other matter connected with the administration of justice, and all Government messages or despatches, shall be transmitted in preference to any other message or despatch.

Messages, &c. how to be transmitted.

*see 2704. 7. 20. 37. 38*  
**10** Any person who shall wilfully or negligently injure, molest, or destroy, or wilfully or negligently permit to be injured or molested, any of the said lines of communication, any of the wires, cords, insulations, posts, piers, abutments, apparatus, or works belonging to or connected therewith, or any part thereof, or the material or property relating thereto, or shall in any way wilfully or negligently disturb, obstruct, or interrupt the free use or working of any such line of communication, or any works connected therewith, or shall wilfully and unlawfully obstruct, hinder, or prevent the forming, constructing, completing, or maintaining any such line of communication, or any part thereof, shall on conviction forfeit a sum not exceeding Fifty Pounds, or be imprisoned, with or without hard labour, for any period not exceeding six calendar months at the discretion of the Justices adjudicating.

*Ref by 370. 11. 06*  
 Penalty for injuring Telegraph or works, or stopping line, &c.

**11** Any officer, clerk, operator, or other person employed in the Secrecy.

working of any such line as aforesaid, divulging the contents of any private or secret message, despatch, or communication transmitted or conveyed, or to be transmitted or conveyed, by any such line shall, on conviction, be liable to a fine not exceeding One hundred Pounds, or be imprisoned, with or without hard labour, for any period not exceeding six months at the discretion of the Justices adjudicating: Provided that nothing herein contained shall prevent the person duly authorised in that behalf from giving copies of any message, despatch, or communication to any person duly authorised to receive the same by the person sending the message, despatch, or communication.

Apprehension of offenders.

**12** It shall be lawful for any person whomsoever, with or without Warrant, to apprehend any person who shall be found wilfully injuring, disturbing, or destroying any of the said lines of communication, or any of the wires, cords, insulations, posts, piers, abutments, apparatus, or works belonging to or connected therewith, and to convey him, or to deliver him to some constable to be conveyed by him, before some Justices of the Peace to be dealt with according to law; and any person resisting any person acting in execution of the provisions of this Act shall be liable on conviction to a penalty not exceeding Twenty Pounds, or to imprisonment with or without hard labour for any period not exceeding two months.

Service of notice upon owners and occupiers of land.

**13** Any notice required to be served under this Act upon any owner, agent, or occupier shall be either served personally on such owner, agent, or occupier, or left at their last known usual place of abode in *Tasmania*, and in the event of there being no occupier of such land, shall be affixed on some conspicuous part of such land.

Notice to be given by occupier to owner.

**14** When any Notice under this Act is served upon any occupier who is not the owner of the land, such occupier shall forthwith transmit such Notice to the owner or his agent, but the neglect of such occupier to comply with the provisions of this Section shall not prevent the Inspector of Telegraphs from proceeding under this Act.

Power to owner to object to lands being taken, or that other lands ought to be taken.

**15** In any case in which a notice of fourteen days as hereinbefore required to be given has been served, it shall be lawful for the owner or occupier of the lands therein referred to, at any time before the expiration of such notice, by notice in writing to the Inspector of Telegraphs, to object to the Inspector of Telegraphs, or persons acting under him, making use of such lands, either on the ground that the land proposed to be taken or used for any of the purposes aforesaid, or some part thereof, or of the materials contained therein, are essential to be retained by such owner in order to the beneficial enjoyment of other neighbouring lands belonging to him, or on the ground that other lands lying contiguous or near to those proposed to be taken would be still more fitting to be used for such purposes by the Inspector of Telegraphs; and upon objection so made such proceedings may be had as hereinafter mentioned.

Power to two Justices to order that lands and materials shall be taken.

**16** If the objection so made be on the ground that the lands proposed to be taken, or some part thereof, or the materials contained therein, are essential to be retained by the owner for his own use, or in order to the beneficial enjoyment of other neighbouring lands belonging to him, it shall be lawful for any Justice, on the application of such owner, to summon the Inspector of Telegraphs to appear before two

Justices at a time and place to be named in the summons, such time not being later than fourteen days after the date of the application; and on the appearance of the Inspector, or in his absence on proof of the due service of the summons, it shall be lawful for such Justices to enquire into the truth of such ground of objection; and if it appear to such Justices that for some special reason, to be stated in the Order after mentioned, the lands so proposed to be taken, or any part thereof, or of the materials contained therein, are essential to be retained by the owner of such lands in order to the beneficial use or enjoyment of other neighbouring lands belonging to him, and ought not therefore to be taken or used by the Inspector of Telegraphs, it shall be lawful for such Justices, by writing under their hands, to order that the lands so proposed to be taken, or some part thereof, or of the materials contained therein, to be specified in such Order, shall not be taken or used by the Inspector or persons acting under him; and after service of such Order on the Inspector, it shall not be lawful for him to take or use, without the previous consent in writing of the owner thereof, any of the lands or materials which by such Order he is ordered not to take or use.

**17** If the objection so made as aforesaid be on the ground that other lands lying contiguous to those proposed to be taken, and being sufficient in quantity, and such as the Inspector is hereinbefore authorised to use for the purposes aforesaid, would be more fitting to be used by the Inspector, and if in such case the Inspector shall refuse to occupy such other lands in lieu of those mentioned in the notice, it shall be lawful for any Justice, on the application of such owner or occupier, to summon the Inspector and the owners or occupiers of such other lands to appear before two Justices at a time and place to be named in such summons, such time not being more than twenty days after such application nor less than fourteen days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such Justices to determine summarily which of the said lands shall be used by the Inspector for the purposes aforesaid, and to authorise the Inspector to occupy and use the same accordingly.

Power to Justices to order other lands to be taken.

**18** If in the case last mentioned it appear to such Justices, upon the inquiry before them, that the lands of any other party not summoned before them, being sufficient in quantity, and such as the Inspector is hereinbefore authorised to take or use for the purposes aforesaid, would be more fitting to be used by the Inspector than the lands of the persons who shall have been so summoned as aforesaid, it shall be lawful for the said Justices to adjourn such inquiry, and to summon such other persons to appear before them at any time not being more than twenty days from such inquiry nor less than fourteen days from the service of such summons; and on the appearance of the parties, or in the absence of any of them on the proof of due service of the summons, it shall be lawful for such Justices to determine finally which of such lands shall be used for the purposes aforesaid, and to authorise the Inspector to occupy and use the same accordingly.

Power to Justices to summon other owners before them.

**19** All offences committed against the provisions of this Act may be prosecuted, and all penalties hereby imposed recovered, under the "*Magistrates Summary Procedure Act.*"

Procedure.

**20** Any person feeling himself aggrieved by any conviction, order, Appeal.

- or judgment of any Justice or Justices of the Peace under this Act shall be at liberty to appeal from such conviction, order, or judgment in the manner provided by "*The Appeals' Regulation Act*;" but no information, complaint, conviction, order, or judgment initiated or proceeded in under this Act shall be removed by *certiorari*.
- No *certiorari*.**
- Interpretation.**      **21** The words private or secret message, despatch, or communication in Section Eleven shall be defined to apply to messages, despatches, or communications described in writing to be private or secret at the time of sending the same by the person sending the same.
- Short title.**      **22** In referring to this Act it shall be sufficient to make use of the expression "*The Electric Telegraph Act*."