

No. 16.—1882.

J. R. LONGDEN.

**An Ordinance to authorize and regulate the use of Telephones
in this Island.**

Title.

WHEREAS it is desirable to permit the establishment and use of Private Telephones: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

1. This Ordinance may be cited as "The Telephone Ordinance, 1882."

Short title.

2. It shall be lawful for the Governor, with the advice of the Executive Council, to grant a license to any company to establish, maintain and use a line of telephones, or exchange telephones, within any part of this Island, which license shall be revocable by the Governor, with the like advice, on the breach of any of the regulations, terms or conditions in the said license contained.

The Governor may grant license to establish telephones.

3. It shall be lawful for the Governor, with the advice of the Executive Council, to establish and fix a royalty upon the establishment, maintenance or use of every telephone for which a license is granted under the preceding section. The amount of such royalty shall be fixed by the Governor, with the advice of the Executive Council, at the time of the grant of each license: Provided always that it shall be lawful for the Governor, with the advice of the Executive Council, from time to time as he may think expedient, by Proclamation in the "Government Gazette," to alter, vary, increase or decrease the amount of any royalty

Governor may fix royalty.

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established under the provisions of this Ordinance, so that such royalty shall not exceed 5 per cent. upon the fees received by any company for the use of the telephones.

Company may erect telephones.

4. Any company licensed as aforesaid may erect telephones or posts, or construct works upon, over, under, across or along any street, road, land, building, railway, canal or other property, and may alter or remove the same: Provided always that the company shall not be deemed to acquire any right other than that of user only in the soil of any street, road, land, building, railway, canal or other property under, over or along which they erect any telephone or posts or construct any work: Provided further, that every such erection and construction shall be conducted, carried out, maintained and performed in strict conformity to the conditions under which the license of the company erecting or constructing the same was granted, and in strict compliance with the regulations for the time being in force touching the erection, construction and maintenance of works, posts and telephones.

Company to make compensation: amount to be determined by arbitration.

5. In the exercise of the powers given by the last foregoing section, the company shall do as little damage as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them, by reason or in consequence of the exercise of such powers: the amount and application of such compensation to be determined by arbitration in the manner hereinafter provided.

Governor may make regulations.

6. It shall be lawful for the Governor, with the advice of the Executive Council, to make, and from time to time to repeal, alter, vary or amend such regulations as he shall consider necessary for any of the following purposes:—

- (1) For the giving of notices by the company to any bodies or persons upon whose property the company may enter, or whose property may be affected in the course of constructing or maintaining any work:
- (2) For the construction of works upon and under streets and roads:
- (3) For the removal of works affecting streets and roads:
- (4) For the allowing or restraining the opening or breaking up of streets and roads:
- (5) For the regulation of works affecting Municipal, private or Crown property;
- (6) For the removal or alteration of works affecting land or buildings:
- (7) For determining the obligations and liabilities of the company and of their servants respectively:
- (8) For the winding up of any company licensed to erect telephones under this Ordinance, and to prevent the sale by any company of any works without the consent of Government:
- (9) For any other purpose necessary for the proper working of telephones or exchange telephones, and for the protection of public or other property affected thereby.

Government may purchase

7. It shall be lawful for the Governor, with the advice of the Executive Council, at any time after the erection of a telephone

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or exchange telephone, to purchase the same from the company on behalf of the Ceylon Government; and the company shall, upon receiving six months previous notice in writing from the Colonial Secretary of the intention of the Government to purchase such telephone or work, sell and transfer the same to the Ceylon Government. In the event of the Government and the company being unable to fix the price to be paid for such telephone or work, the same shall be determined by arbitration in the manner hereinafter provided.

telephones so erected.

8. When any question of disputed compensation under this Ordinance, or under the regulations for the time being in force under the provisions of this Ordinance, authorized or required to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the company under the hand of their secretary or clerk, and on the part of any other party under the hand of such party or the agent of such party lawfully authorized in that behalf, and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing in which shall be stated the matter so required to be referred to arbitration shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

Reference to arbitration, and mode of procedure under it.

9. If, before the matters so referred shall be determined, any arbitrator appointed by either party die, or become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

In cases of death of arbitrator.

10. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this Ordinance; and if such umpire shall die or become incapable to

Election of umpire, and in case of death of umpire.

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act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of
umpire on failure
to elect.

11. If in either of the cases aforesaid the said arbitrators shall refuse, or shall, for seven days after request to either party to such arbitration, neglect to appoint an umpire, the Police Magistrate of the district where the matter referred to arbitration occurred, took place or commenced, shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this Ordinance, shall be final.

Arbitrators failing
to act.

12. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

Arbitrators failing
to make award.

13. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

Arbitrators and
umpire may call
evidence.

14. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Declaration to be
made by them.

15. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall, in the presence of a Justice of the Peace, make and subscribe the following declaration; that is to say—

I, "A B," do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Ordinance."

(Signed) A. B.

Made and submitted in the presence of

J. P.

Costs of
arbitration.

16. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the company, unless the arbitrators shall award the same or a less sum than shall have been offered by the company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions.

Custody and
record of award.

17. The arbitrators shall deliver their award in writing to the company, and the said company shall retain the same, and shall

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forthwith, on demand, at their own expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

18. The submission to any such arbitration may, on the application of either of the parties, be made a rule of the District Court of the district where the matter referred to arbitration occurred, took place, or commenced.

Submission to arbitration may be made rule of court.

19. No award made with respect to any question referred to arbitration under the provisions of this Ordinance shall be set aside for irregularity or error in matter of form.

Irregularity or error of form in award.

Passed in Council the Thirteenth day of December, One thousand Eight hundred and Eighty-two.

J. A. SWETTENHAM,
Clerk to the Council.

Assented to by His Excellency the Governor the Thirteenth day of December, One thousand Eight hundred and Eighty-two.

J. DOUGLAS,
Colonial Secretary.