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CHAPTER 284

WESTERN UNION TELEGRAPH COMPANY

An Act to authorise the Western Union Telegraph Company, Limited, to establish and maintain a telegraph cable to and from this Island.

1920-7.
1951-6.
L.N. 168/
1967.
Commence-
ment.

[11th December 1920]

1. This Act may be cited as the Western Union Telegraph Company Act. Short title.

2. For the purposes of this Act, the expression "the Company" means the Western Union Telegraph Company. Inter-
pretation.

3. (1) Subject to the provisions hereinafter contained, full power and authority is hereby granted the Company for a period of five years beginning on the 11th December, 1920 to have and exercise such right of way as may be necessary for laying a cable in the bed of the sea and foreshore and continuing their line to or from the necessary station. Authority to
Company to
lay cable.

(2) The said cable shall be carried direct to Miami in Florida or some contiguous landing place or, temporarily, with the approval of the Governor-General, to Cojima in Cuba or some contiguous landing place.

(3) At the expiration of the said period of five years a further grant of such power and authority as aforesaid may be made by the Cabinet for a period not exceeding five years and such grant may from time to time be renewed by the Cabinet for a period not exceeding five years on each occasion.

4. The Company shall not, without the consent in writing of the Minister responsible for Lands first obtained, place any buildings, works or materials, or do any other act on the said foreshore or bed of the sea, which may, in the opinion of that Company
not to place
works, etc.,
on foreshore
without
consent.

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Minister, prejudice or obstruct, or tend to prejudice or obstruct, navigation or to be or become injurious to the public interest.

Minister may remove from foreshore things placed there without consent.

5. (1) It shall be lawful for the Minister responsible for Lands and any person or persons duly authorised by him at any time to remove from the said foreshore and bed of the sea all buildings, works and materials which may have been placed there by the Company without the consent or approval hereby required thereto, and to abate or put an end to any act done by the Company which may, in the opinion of that Minister, prejudice or obstruct, or tend to prejudice or obstruct, navigation or to be or become injurious to the public interest, and to restore the said foreshore and bed of the sea to the former or proper condition thereof, and the Company shall pay to that Minister or such authorised person or persons as aforesaid all expenses incurred in and about the premises.

(2) It shall also be lawful for the Minister responsible for Lands and any person or persons duly authorised as aforesaid, notwithstanding anything in this Act contained, to erect or construct on the foreshore and bed of the sea any works which, in the opinion of that Minister, may be required for the purpose of navigation or in the public interest.

Company bound by Convention of 14th March, 1884.

6. The Company shall with respect to their whole system of telegraphs observe the provisions contained in the Convention for the Protection of Submarine Cables signed at Paris on the 14th March, 1884, and any provisions which may for the time being be in force in substitution therefor or amendment thereof; and the Company shall be deemed to be bound by the said Convention as though they had been parties thereto.

Telegraph to be open to all.

7. Every telegraph of the Company shall be open at all times to the messages of all persons alike without favour or preference and the Company shall provide and maintain with the approval of the Minister responsible for Telecommunications a suitable office in the City of Bridgetown for the reception of such messages.

8. (1) The Company shall accept and register all cable addresses and perform all other matters as are customary with respect thereto. Duties of Company.

(2) The Company shall accept and transmit at not exceeding current rates all messages handed to them for transmission over the Company's lines and all other connecting lines and shall deliver all messages that may be received for all persons in this Island. The Company shall grant to the inhabitants of this Island the same facilities in regard to the transmission of deferred messages as are in force upon other systems of the Company or in which the Company are concerned.

(3) In respect of telegrams transmitted on behalf of the Crown over the cable the subject of this Act, the Company shall charge rates not in excess of half the rates charged for the time being to the ordinary public, after deducting all outpayments to other Administrations or telegraph companies. L.N. 168/
1967.

(4) Where the Company declines to receive any message for transmission as directed or, after having received such message, declines or omits to transmit the same, the Company shall, unless there is a breakdown in the Company's cable, be liable for each offence to a penalty of one hundred and twenty dollars to be recovered as hereinafter provided.

(5) The Company shall make half yearly returns to the Minister responsible for Telecommunications on the thirtieth day of June and the thirty-first day of December in each year showing the number of messages which have passed over their lines and the aggregate number of words during the six months previously thereto and shall pay into the Consolidated Fund on the above dates or within ten days of each of them the sum of one cent in respect of each message originating or terminating at this Island.

9. Any person in the employment of the Company who wilfully or negligently omits or delays to transmit or deliver any message or by wilful or negligent act or omission prevents or delays the transmission or delivery of any message or improperly divulges to any person the purport of any message shall be guilty of an offence under this Act. Wilful or negligent omission or delay over messages.

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Company's stations in Barbados to be under management of Western Telegraph Company.

L.N. 168/
1967.

10. (1) The telegraph station or stations in this Island shall be equipped, maintained, staffed, and permanently controlled and worked by Commonwealth citizens and shall be under the entire control and management of the Western Telegraph Company, Limited, or some other Commonwealth company registered in and having its registered office within a part of the Commonwealth, and the Chairman of such Company and a majority of the directors thereof shall at all times be Commonwealth citizens and such Company shall not at any time be or become directly or indirectly controlled by foreigners or a foreign corporation.

(2) In case the Company fail to comply with any of the provisions of this section, all privileges and concessions granted by this Act shall cease and determine.

Regulations.

11. (1) The Minister responsible for Telecommunications shall, when and so often as is necessary, make such rules and regulations as may be necessary for the following purposes—

- (a) the rates to be charged;
- (b) the registration of cable addresses;
- (c) the proper returns to be made under this Act.

(2) All rules and regulations and revocations and alteration of rules or regulations made under this section shall be published in three issues of the *Official Gazette* and when so published shall become law and be binding on all persons affected thereby.

Messages on Her Majesty's service to have priority.

12. Where the Minister responsible for Telecommunications requires the Company to transmit any message on Her Majesty's service, such message shall (notwithstanding anything hereinbefore contained) have priority over all other messages, and the Company shall as soon as reasonably may be transmit the same, and shall, until such transmission thereof, suspend the transmission of all other messages.

On an emergency Governor-General may take possession of works and lines.
L.N. 168/
1967.

13. (1) Where in the opinion of the Governor-General an emergency has arisen in which it is expedient for the public service that the Crown should have control over the transmission of messages by the Company's telegraph, the Governor-General, by warrant under his hand, may direct and cause the

Company's works and lines, or any part thereof in Barbados, to be taken possession of in the name and on behalf of the Crown, and to be used for Her Majesty's service and, subject thereto, for such ordinary service as may seem fit, or may direct and authorise such persons as he thinks fit to assume the control of the transmission of messages by the Company's telegraph either wholly or partly or in such manner as he directs.

(2) Any such warrant shall not have effect for a longer time than one week from the issuing thereof, but the Governor-General may issue successive warrants from week to week, as long as in his opinion such emergency continues.

(3) There shall be paid out of moneys voted for the purpose by Parliament to the Company as compensation for any loss of profit sustained by the Company by reason of the exercise by the Governor-General of any of the powers of the present section such sums as may be settled between the Crown and the Company by agreement or, in the case of difference, by arbitration, such arbitration to be conducted as provided by subsections (4) to (9).

(4) The Minister responsible for Telecommunications and the Company shall each, within fourteen days after the delivery by one to the other of a demand in writing for an arbitration, nominate an arbitrator.

(5) The two arbitrators nominated shall, before entering on the arbitration, nominate an umpire.

(6) If either party or arbitrator makes default in nominating an arbitrator or umpire within six weeks after receiving from the other a demand in writing for such nomination, the Chief Justice may, on the request of that Minister or of the Company, under his hand nominate an arbitrator or umpire.

(7) The arbitrators shall make their award within two months after their nomination, otherwise the matter shall be left to be determined by the umpire.

(8) The umpire shall make his award within three months after notice from the arbitrators, or one of them, that the matter is left to be determined by him or in default a new umpire shall be appointed, as nearly as may be in manner

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aforesaid, who shall make his award within the like time, or in default be superseded, and so as often as occasion shall require.

(9) The award of the arbitrators or umpire shall be final and conclusive as between the Crown and the said Company.

Notice of interruption to be given to Minister.

14. The Company shall give immediate notice to the Minister responsible for Telecommunications of any interruption of telegraphic communication with the Island.

Concession not to be assigned without consent.

15. The Company shall not, without the consent in writing of the Minister responsible for Telecommunications first obtained, assign or dispose of the concession or permission granted by this Act, or any benefit arising therefrom, or delegate any of the powers by this Act conferred.

Privileges and concessions to cease in certain events.

16. In any of the cases following, that is to say—

- (a) if the said cable is not maintained throughout the whole length to the satisfaction of the Minister responsible for Telecommunications, subject to section 17; or
- (b) if the terminus outside Barbados of the said cables is altered so as in the opinion of that Minister to affect the objects for which such cable was laid; or
- (c) if the said cable is, without the permission of that Minister, landed at or by means of any branch cable connected with any point intermediate between the points of departure and arrival specified in this Act; or
- (d) if any act is done or suffered whereby, either wholly or partially, the concession or permission by this Act granted or any benefit arising therefrom or any powers by this Act conferred shall, without the assent of that Minister first obtained become vested in or delegated to any body or person other than the Company; or
- (e) if the said cable is at any time used for other purposes than those in this Act specified; or
- (f) if default is made in the observance or performance of any of the provisions in this Act contained and on the part of the Company to be observed and performed,

then, and in any such case, it shall be lawful for the Minister responsible for Telecommunications to order that all privileges and concessions by this Act granted as to the said cable shall cease and determine, as he shall in his absolute discretion think fit, and such privileges and concessions shall thereupon cease and determine accordingly, but without prejudice to any remedy for the breach of any provision in this Act contained and on the part of the Company to be observed and performed.

Effects of
two years'
discon-
tinuance.

17. If telegraphic communication by the said cable between the points of departure and arrival specified in this Act at any time ceases to be duly maintained by the Company for a period of two years continuously (unless such maintenance is prevented by act of God or restraint of Princes), the privileges and concessions granted shall cease and determine so far as the same relate to the cable by means of which communication has been so interrupted, but without prejudice as aforesaid.

Penalty for
violations of
Act.

18. Any person refusing or neglecting to comply with any of the provisions of this Act or making a false return under this Act or violating any of the provisions of this Act shall be liable to a penalty of one hundred and twenty dollars.

Method of
recovery of
penalties.

19. All fines and penalties imposed by this Act may be recovered in a summary manner before a magistrate on the information of any person.

Repugnancy
to United
Kingdom
Act.

L.N. 168/
1969.

20. Nothing contained in this Act shall be of any force or effect if repugnant to the provisions of any Act of the United Kingdom Parliament in force before the 30th November, 1966, for the purpose of regulating the powers to be exercised by telegraph companies within the Commonwealth.

Act not to
affect rights
of Crown.

21. Nothing in this Act declared or expressed shall affect the rights of Her Majesty, Her heirs, and successors or any person whomsoever, except those for whose benefit this Act is passed.

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