

1934

23314

1934

23314

KENYA

CO 533/452

The Telegraphic Press Messages Ordinance.

Previous

Subsequent

Reg 247	27/11
Room 309	29/11
Mr Freestone	28
S. M. Nelson	1:12
Mr. Weston	1
297	16/12
Room 309	27/11
Mr Roberts-Wray	9/11
Mr Wood	10
Room 311	14
299	16/11
297	13/11
G. R.	18/11
Library (light)	22/11
R. 297	0

FILE A.

G.S.
Tel. Press Messages
Ordinance.

Govt. Notice No 666 of 1954
A Bill to confer temporary exclusive rights in respect
of telegraphic press messages.

Shewale Library

2. A/Asst. Secretary Shri. (annex) _____ 21 Oct. 54.
Trans. 12 copies of Report of Select Committee on a Bill to
confer temporary exclusive rights in respect of telegraphic
press messages.

(This need not be
reproduced at
present.)

The Bill is designed to prevent
Riacy in respect of news
communicated by Reuters
Await the Ordinance

By M. J. J. M.
G.S. / to see

noted
Allv C. H. Cross with
28/11/54.

Doreen
28
atom

3. Governor Byene 601 _____ 22nd Nov. 54.

reauthenticated &
printed copies to
Library

Trans. 2 authenticated & 12 printed copies of the
Telegraphic Press Messages Ordinance, 1954, No 45.

The Ordinance closely follows Selection
Ordinance No 41 of 1952. The most
important deviation occurs in
Section 3 with regard to the
protection of telegraphic messages
from publication. In Kenya,
payment or equivalent consideration
must have been made before the
message becomes a protected
message, ~~but in the~~

Information

G.F.
Tel. Press Messages
Ordinance.

1. Govt. Notice No 66 of 1934
A Bill to confer temporary exclusive rights in respect
of telegraphic press messages.

Shaw's Library

2. A.P. Secretary Shri (Annular) _____ 24 Oct 34.
Trans. 12 copies of Report of Select Committee on a Bill to
confer temporary exclusive rights in respect of telegraphic
press messages.

(This need not be
repeated at
present.)

The Bill is designed to prevent
piracy in respect of news
communicated by Reuters
? Await the Ordinance

Bygones noted
G.D. to see Mr C. H. Cross with
20/11/34.

Director
28
atm

3. Governor Bygones 601 _____ 22 Nov 34.

1 authenticated &
1 printed copies to
Library.

Trans. 2 authenticated & 12 printed copies of the
Telegraphic Press Messages Ordinance 1934, No 45.

The Ordinance closely follows Palestine
Ordinance No 41 of 1932. The most
important deviation occurs in
Section 3 with regard to the
protection of telegraphic messages
from publication. In Kenya,
payment or equivalent consideration
must have been made before the
message becomes a protected
message, ~~that is to say~~

Information

Information conveyed by Reuters
will be protected, ~~and~~ since
information is only transmitted
to subscribers to Reuters
Service

Subject to legal process
& sanction G.P.

Offices with
27.12.34

W. Robert-Wing
9/1/34

S. S. W. Road 10.1
atmos

Noted
reburied
27/1/35.

John [unclear]
Ed [unclear]

H
DM

To Kenya, 51 (3 answers) 6/3 16 JAN 1935

Return [unclear] note.

33



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

KENYA.
No. 601.

RECEIVED
14 DEC 1934
C. O. REGY

November, 1934.

Sir,

I have the honour to transmit two authenticated and 12 printed copies of "An Ordinance to confer temporary exclusive rights in respect of Telegraphic Press Messages", No. XLV of 1934, which passed its third Reading in the Legislative Council on the 25th of October, and to which I assented in His Majesty's name on the 15th of November. Copies of the Legal Report and a Comparative Table prepared by the Attorney General are also enclosed. Copies of the Report of the Select Committee of the Legislative Council which examined the Bill were forwarded under cover of the Acting Colonial Secretary's Note No. D.Leg.Co.26/3/5/44 of 27th October.

Answer (4)

No. 9

2. I shall be glad to be informed that His Majesty will not be advised to exercise his power of disallowance in respect of this Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL,
GOVERNOR.

THE RIGHT HONOURABLE MAJOR
SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. I.



Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this *15* day of *November*
1934.

J. BYRNE.

Governor.

AN ORDINANCE TO CONFER TEMPORARY
EXCLUSIVE RIGHTS IN RESPECT OF
TELEGRAPHIC PRESS MESSAGES

33



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NAIROBI,
KENYA.

KENYA.
No. 601

RECEIVED
14 DEC 1934
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Answer (4)

No 2

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GOVERNOR.

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Governor

Assented to in His Majesty's
name this *15* day of *November*
1934.

J. BYRNE.

Governor.

AN ORDINANCE TO CONFER TEMPORARY
EXCLUSIVE RIGHTS IN RESPECT OF
TELEGRAPHIC PRESS MESSAGES

ORDINANCE No. XLV of 1934

An Ordinance to Confer Temporary Exclusive Rights in Respect of Telegraphic Press Messages.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows :—

1. This Ordinance may be cited as the Telegraphic Press Messages Ordinance, 1934. Short title.

2. In this Ordinance, unless the context otherwise requires Interpretation.

“telegraph” means a line, wire, or other apparatus used for the purpose of telegraphic or telephonic communication, and includes a pneumatic tube, submarine or other cable and any apparatus for transmitting or receiving messages or other communications by means of signals, whether with or without the aid of wires;

“telegraphic message” includes a message or other communication sent by telegraph.

“telegraph office” includes any structure, room, place or receptacle of any kind, appointed by authority of the Postmaster General or used by a telegraph company for the receipt, despatch or delivery of telegraphic messages;

“time of publication” means the moment when the first copies leave the premises in which they have been printed.

3. When any person publishes in any newspaper or other printed paper published or circulated in the Colony or supplies for such publication any message for the right to publish which payment or equivalent consideration has been given and which has been transmitted by telegraph from any place within or outside the Colony and lawfully received by him, no other Protection of certain telegraphic messages from publication within a certain period.

person shall, without the written consent of the first-mentioned person or his agent thereto lawfully authorized, print or publish, or cause to be printed or published, such message or the substance thereof or any extract therefrom until a period of eighty-four hours has elapsed from the time of first publication; and the publication of the whole or any part of such message or the substance thereof, shall be deemed to be a publication of the same:

Provided that—

- (a) such period shall not extend beyond ninety-six hours from the time when such message was received at a telegraph office;
- (b) the publication of any similar message lawfully received by any other person shall not be deemed or taken to be a publication of such first-mentioned message within the meaning of this Ordinance; and
- (c) no telegraphic message published as aforesaid shall be protected under this Ordinance unless it is printed with a heading which indicates that such message has been received by telegraph and unless the time and the date of its receipt at a telegraph office are stated in such heading, which heading, together with the date of publication of the newspaper, shall be prima facie evidence of the time of receipt and date of publication, respectively, of such message:

Provided further that bona fide comment on such message, by a weekly or monthly publication shall not be considered an infringement of this section so long as the said comment does not appear within twelve hours after publication of the said message.

4. During the period in which a telegraphic message is protected from publication under section 3 hereof, no person shall, without the written consent of the person whose consent is necessary under that section, tender for transmission for purposes of publication the intelligence contained in that message or the substance thereof or any extract therefrom.

5. In any prosecution under this Ordinance the production of any document which—

- (a) purports to be a telegraphic message;
- (b) contains the intelligence published or supplied for publication; and

Transmission of protected messages for publication prohibited.

Presumptions in prosecutions under Ordinance.

(c) is addressed to and has been delivered to the person publishing or to some person on his behalf by an officer of the Posts and Telegraphs Department or a telegraph company,

shall be prima facie evidence that the message published or supplied for publication is a message published under the protection of this Ordinance; and proof that any person is the responsible editor of any newspaper in which there has been any publication contrary to the provisions of this Ordinance shall be prima facie evidence that such person wilfully caused the unlawful publication.

6. Any person who contravenes any provision of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds; and in the case of a second or subsequent conviction to a fine not exceeding fifty pounds. Penalties.

Passed in the Legislative Council the twenty-fifth day of October, in the year of Our Lord one thousand nine hundred and thirty-four.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.

LEGAL REPORT

THE TELEGRAPHIC PRESS MESSAGES BILL, 1934.

This Bill is the result of representations made by Messrs Reuters Limited to the effect that certain newspapers in the Colony, which do not subscribe to Reuters' Service, have, during recent months, published Reuters' messages.

The Bill follows very closely the Telegraphic Press Messages Ordinance passed in Palestine in 1932. The deviations from the Palestine Ordinance and the reasons therefor, all of which alterations, except the one first mentioned, were inserted in Select Committee of Legislative Council, are as follows -

- (1) The last seven words of the definition of "telegraphic message" which appear in the Palestine Ordinance are omitted from the Bill, as being redundant;
- (2) The definition "time of publication" in the Bill is different from that in the Palestine Ordinance. It was felt that the Palestine definition was rather vague and uncertain, and the definition in the Bill is more appropriate;
- (3) Clause 3 of the Bill differs from section 3 of the Palestine Ordinance in that Clause 3 of the Bill provides that payment or equivalent consideration must have been made before the message becomes a protected message, and also in that the time of protection afforded in the

Bill/

Bill is eighty-four hours instead of seventy-two, the proviso (a) being altered from eighty-four to ninety-six accordingly;

- (4) The words "or of the intelligence therein contained, or any comment upon or reference to such intelligence" which occur in the eleventh, twelfth and thirteenth lines of section 3 of the Palestine Ordinance have been deleted; and ~~the~~ a ~~following~~ proviso, taken from the South African law on the subject (second proviso to section 1 of Act No.26 of 1917) has been added after proviso (c) of Clause 3 of the Bill, providing that bonafide comments by a weekly or monthly publication shall not be considered an infringement of the law so long as the said comment does not appear within twelve hours after publication of the message;
- (5) The words "in like manner" appearing in line nineteen of section 3 of the Palestine Ordinance are deleted as being redundant.

A Comparative Table is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,

25th October, 1934.

W. H. King
ATTORNEY GENERAL

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COMPARATIVE TABLE

THE TELEGRAPHIC PRESS MESSAGES BILL, 1934.

No. of Clause.	Remarks.
1.	Short Title. Section 1 of the Telegraphic Press Messages Ordinance, 1932, of Palestine.
2.	Cf. section 2 of the Telegraphic Press Messages Ordinance, 1932, of Palestine - verbal amendments only.
3.	Cf. section 3 of the Telegraphic Press Messages Ordinance, 1932, of Palestine - see Legal Report.
4.	Cf. section 4 of the Telegraphic Press Messages Ordinance, 1932, of Palestine - verbal amendments only.
5.	Cf. section 5 -do-
6.	Cf. section 6 -do-

102
2

R E P O R T
O F
THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON
THE PROVISIONS OF A BILL TO CONFER
TEMPORARY EXCLUSIVE RIGHTS IN
RESPECT OF TELEGRAPHIC PRESS
MESSAGES.

Your Excellency,

We, the Members of the Select Committee of Legislative Council appointed to consider and report upon the provisions of a Bill to confer temporary exclusive rights in respect of Telegraphic Press Messages, have the honour to make our report as follows:-

We recommend the following amendments to the Bill:-

1. That Clause 2 of the Bill be amended by the deletion of the definition of the term "time of publication" which occurs therein and the substitution of the following definition-

"'time of publication' means the moment when the first copies leave the premises in which they have been printed."

2. That Clause 3 of the Bill be amended as follows:-

(a) by the insertion of the following words between the word "message" and the word "transmitted" which occur in the third line thereof:- "for the right to publish which payment or equivalent consideration has been given and which has been";

(b) by the deletion of the words "seventy-two" which occur in the ninth line thereof, and the substitution therefor of the words "eighty-four";

(c) by the deletion of the words "or of the intelligence therein contained, or any comment upon or reference to such intelligence" which occur in the twelfth and thirteenth lines thereof;

- (d) by the deletion of the words "eighty-four" which occur in the sixteenth line thereof and the substitution therefor of the words "ninety-six";
- (e) by the deletion of the words "in like manner" which occur in the twentieth line thereof;
- and by the addition thereto immediately after proviso (c) thereof of the following proviso:-

"Provided further that bona-fide comment on such message by a weekly or monthly publication shall not be considered an infringement of this section so long as the said comment does not appear within twelve hours after publication of the said message."

We have the honour to be,

Your Excellency's obedient servants,

SD. T. FITZGERALD (CHAIRMAN)

SD. H. S. SCOTT (MEMBER)

SD. T. D. H. BRUCE (MEMBER)

SD. F. W. CAVENDISH-BENTINCK (MEMBER)

SD. ROBERT SHAW (MEMBER)

@ SD. A. C. L. de SOUZA (MEMBER)

Nairobi,

23rd October, 1934.

@ Subject to the following reservation:-

The majority of the Committee has agreed to an increase in the periods of 72 and 84 hours provided in Section 3 of the Bill, whilst I proposed a reduction in both these periods. My reasons for doing so are as follows:-

- (a) Two days from the time a newspaper containing a protected press telegraphic message leaves the press in which it is printed

is a sufficiently long time for any such message to be considered private property.

- (b) The proposed legislation, which is directed against possible piracy by weekly papers, has been copied from that of South Africa where it has been in force for many years.
- (c) The rapidly changing conditions in the transmission of world news require relative laws to be as elastic as possible. The proposed law does not seem to me to be so.
- (d) It was revealed in evidence that there are three or four weeklies in the Colony as against as many dailies. Of the latter, who are the only ones who pay for press telegraphic messages, only one seems to be interested in protection of bought news, and to that extent the proposed legislation does not appear to represent a general desire from purchasers of news for protection.
- (e) None of the existing weeklies in the Colony makes a speciality of news as do the dailies, and the occasion has not, in my opinion, yet arisen for protective legislation; neither have the purchasers of telegraphic press messages proved financial losses necessitating state legislation in their behalf.

Sd. A.C.L. de Souza.

Member.

Colony and Protectorate of Kenya

GOVERNMENT NOTICE No. 616

His Excellency the Governor in Council has approved of the following Bill being introduced into the Legislative Council.

J. F. G. TROUGHTON,
Acting Clerk of the Legislative Council.

A Bill to Confer Temporary Exclusive Rights in Respect of Telegraphic Press Messages.

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Telegraphic Press Messages Ordinance, 1933."

2. In this Ordinance, unless the context otherwise requires—

"telegraph" means a line, wire, or other apparatus used for the purpose of telegraphic or telephonic communication, and includes a pneumatic tube, submarine or other cable and any apparatus for transmitting or receiving messages or other communications by means of signals, whether with or without the aid of wires;

"telegraphic message" includes a message or other communication sent by telegraph.

"telegraph office" includes any structure, room, place or receptacle of any kind, appointed by authority of the Postmaster General or used by a telegraph company for the receipt, despatch or delivery of telegraphic messages;

"time of publication" means the moment when the first copies leave the printing press to be put at the disposal of the public.

3. When any person publishes in any newspaper or other printed paper published or circulated in the Colony or supplies for such publication any message transmitted by telegraph from any place within or outside the Colony and lawfully received by him, no other person shall, without the written consent of the first-mentioned person or his agent thereto lawfully authorized, print or publish, or cause to be printed or published, such message or the substance thereof or any extract therefrom until a period of seventy-two hours has elapsed

Protection of certain telegraphic messages from publication within a certain period.

from the time of first publication; and the publication of the whole or any part of such message or of the substance thereof, or of the intelligence therein contained, or any comment upon or reference to such intelligence shall be deemed to be a publication of the same:

Provided that—

- (a) such period shall not extend beyond eighty-four hours from the time when such message was received at a telegraph office;
- (b) the publication of any similar message lawfully received in like manner by any other person shall not be deemed or taken to be a publication of such first-mentioned message within the meaning of this Ordinance; and
- (c) no telegraphic message published as aforesaid shall be protected under this Ordinance unless it is printed with a heading which indicates that such message has been received by telegraph and unless the time and the date of its receipt at a telegraph office are stated in such heading, which heading, together with the date of publication of the newspaper, shall be prima facie evidence of the time of receipt and date of publication, respectively, of such message.

Transmission of protected messages for publication prohibited.

4. During the period in which a telegraphic message is protected from publication under section 3 hereof, no person shall, without the written consent of the person whose consent is necessary under that section, tender for transmission for purposes of publication the intelligence contained in that message or the substance thereof or any extract therefrom.

Presumptions in prosecutions under Ordinance.

5. In any prosecution under this Ordinance the production of any document which—

- (a) purports to be a telegraphic message;
- (b) contains the intelligence published or supplied for publication; and
- (c) is addressed to and has been delivered to the person publishing or to some person on his behalf by an officer of the Posts and Telegraphs Department or a telegraph company

shall be prima facie evidence that the message published or supplied for publication is a message published under the protection of this Ordinance, and proof that any person is the

responsible editor of any newspaper in which there has been any publication contrary to the provisions of this Ordinance shall be prima facie evidence that such person wilfully caused the unlawful publication.

6. Any person who contravenes any provision of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty pounds; and in the case of a second or subsequent conviction to a fine not exceeding fifty pounds.

OBJECTS AND REASONS.

This Bill is the result of representations made by Messrs. Reuters, Ltd., to the effect that certain newspapers in the Colony, which do not subscribe to Reuter's Service, have, during recent months, published Reuter's messages. It is considered that legislation to prevent such piracy is desirable.

No expenditure of public moneys will be involved if the provisions of this Bill become law.

GOVERNMENT NOTICE No. 617

His Excellency the Governor in Council has approved of the following Bill being introduced into the Legislative Council.

J. F. G. TROUGHTON,
Acting Clerk of the Legislative Council.

**A Bill to Amend the Ancient Monuments
Preservation Ordinance, 1927.**

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

Short title.

No. 17 of 1927.

Powers to grant permission to excavate or remove monuments or antiquities.

1. This Ordinance may be cited as the Ancient Monuments Preservation (Amendment) Ordinance, 1934, and shall be read as one with the Ancient Monuments Preservation Ordinance, 1927, hereinafter referred to as the Principal Ordinance.

2. The Principal Ordinance is hereby amended by the addition of the following new section as section 20:—

"20. Notwithstanding anything in this Ordinance contained, the Governor may grant permission to any person to excavate and/or to remove from the Colony any monument, antiquity or protected monument, or any portion of a monument, antiquity or protected monument. Such permission shall be granted subject to such conditions as to the Governor may seem fit, and may include a requirement that a portion of any monument, antiquity or protected monument shall be surrendered to the Crown".

OBJECTS AND REASONS.

The law relating to the preservation of ancient monuments is at present under consideration with a view to revision, but it will be some time before the advice of the British Museum authorities to whom the matter has been referred, will be available.

Under the existing law no excavation or removal is permissible once a monument has been protected, and it is