

ORDINANCE No. XLV of 1934

Assented to in His Majesty's name this fifteenth day of
November, 1934.

J. BYRNE,
Governor.

[15TH NOVEMBER, 1934.] Date of assent.

**An Ordinance to Confer Temporary Exclusive
Rights in Respect of Telegraphic Press Mes-
sages.**

15th November, 1934.

Date of
commencement

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 Short title.
Messages Ordinance, 1934.

2. In this Ordinance, unless the context otherwise Interpretation.
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 com-
munication sent by telegraph.

“telegraph office” includes any structure, room, place or
receptacle of any kind, appointed by authority of the Post-
master 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 tele-
graphic
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.

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. Penalties.
