

Public (1895) Department.

ORDINARY MS.

G.O., No. 874

Dated 29th Oct 1895

INDEXED.

[Despatch Abstract.]

TELEGRAPH TRAFFIC CODE.

Recording endorsement of the Government of India forwarding copy of its letter to the Government of India and North-Western Provinces and Oudh transmitting copy of correspondence relative to the revision of Articles 151 and 152 of the---

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

From

The Government of India
Home Department

CV

Go. No. 894 of 29-10-9.

Recorded.

28/10/95

5013
28/10/5.

No. 20 Public
1605

Dated 8th
Received 16th
Recd 22nd } October 1895
Encl 2.

To the Secy. Dept. } Dept 7/
" P. W. Dept.

Subject

Forwarding copy of letter
to the Government of the
N. W. P & Oudh regarding
Sec 5 (1) (6) of the Indian
Telegraph Act - VII of 1885

No. 250-T. dated the 10th August 1895.

From—The Government of India, Public Works Department,

To—The Director-General of Telegraphs.

I AM directed to forward herewith copy of a letter from the North-Western Provinces and Oudh Government, No 738, dated the 11th June 1894, pointing out a conflict between section 5 (1) (b) of the Indian Telegraph Act, No. XIII of 1885, and Article 152 of the Telegraph Traffic Code.

2. I am to inform you that the Government of India are of opinion that Article 152 of the Telegraph Traffic Code, as it stands, is directly calculated to neutralize the power, conferred on Government by section 5 (1) (b) of the Indian Telegraph Act, to order the divulgence of any message or class of messages in the interests of the public safety. In order, therefore, to bring the Article referred to in the Telegraph Traffic Code into harmony with the law as embodied in section 5 (1) (b) of the Indian Telegraph Act, the Government of India have caused the accompanying re-draft of Article 152 of the Telegraph Traffic Code to be prepared, and I am to request that the same may be substituted for the existing Article bearing that number in the Telegraph Traffic Code.

3. I am also to inform you that the Government of India have considered it necessary to revise Article 151 of the Telegraph Traffic Code owing to there being certain inaccuracies and omissions therein. I am accordingly to request that the accompanying revision of that Article may be substituted for the existing Article 151 of the Telegraph Traffic Code.

4 I am to request that the Government of India may be informed when the above revisions of Articles 151 and 152 have been carried out in the Telegraph Traffic Code.

Re-draft of Article 151.

THE public functionaries mentioned below are also empowered to order a Telegraph Officer to divulge any telegram or the purport of any telegram:—

The Governor General in Council, the Governor in Council of Madras, the Governor in Council of Bombay, the Lieutenant-Governor of Bengal, the Lieutenant-Governor and Chief Commissioner of the North-Western Provinces and Oudh, the Lieutenant-Governor of the Punjab, the Chief Commissioner of Burma, the Chief Commissioner of the Central Provinces, the Chief Commissioner of Assam, the Chief Commissioner of Coorg, the Chief Commissioner of Ajmere, the Resident at Hyderabad, the Resident in Mysore, the Resident in Kashmir, the Agent to the Governor General in Central India, the Agent to the Governor General in Rajputana, the Agent to the Governor General in Baluchistan, the Agent to the Governor General at Baroda, and the Superintendent of Port Blair and the Nicobars.

Re-draft of Article 152.

Under section 5 of the Telegraph Act, the Governor General in Council or Local Government or any officer specially authorised in this behalf by the Governor General in Council may, on the occurrence of any public emergency or in the interests of the public safety, order that any message or class of messages to or from any person or class of persons or relating to any particular subject, brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the Government or any officer thereof mentioned in the order, and if any doubt arises as to the existence of a public emergency, or whether any act done under the section was in the interests of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government is to be conclusive proof on the point. This section is for the purpose of giving

Government the power of intercepting or detaining messages and ascertaining their contents whenever in the opinion of the Government any public emergency or the interests of the public safety justify this course, and a telegraph official receiving an order under this section is bound to obey it and to intercept or detain the message or class of messages specified in the order, or to disclose the contents thereof as the case may be.

Every such official acting in obedience to any such order is exempted from the penalty imposed by section 26 of the Act on telegraph officers wilfully omitting to transmit or intercepting or detaining any message or any part thereof, but in order to secure for himself the benefit of the exception, he should before omitting to transmit or intercepting or detaining any message satisfy himself with reference to the particulars specified in the order that the message which he has in his hands is the particular message or a message of the class referred to in the order.

In the case of individual messages such particulars should when practicable include the names of the sender and addressee or one of them and the time and place of transmission, or such other particulars as may be available, and as will tend to the clear identification of the telegram required.

In the case of a general order affecting a class of messages it is not practicable to prescribe the nature of the particulars required but they ought to be such as to enable the officer to determine without serious risk of error whether any particular message does or does not belong to the class. A receipt for any message disclosed to the Government or an officer of Government in accordance with any such order shall always be obtained if possible.

No. 56-T., dated the 15th August 1895.

From—The Director-General of Telegraphs,

To—The Secretary to the Government of India, Public Works Department.

WITH reference to your letter No. 250-T., dated the 10th of August 1895, I have the honour to state that the corrections ordered in the Traffic Code of the Telegraph Department will be issued without delay, and the report asked for sent in when the correction has been circulated. I have, however, to point out that the re-draft of Article 151 requires to be supplemented by an explanatory note, as drafted below, in order to prevent misunderstandings and useless or irritating correspondence on the part of the Telegraph and Post Masters. I may add that it is found absolutely necessary in practice to issue very precise orders in such matters to the subordinate staff of the Telegraph and Postal Departments.

2. I accordingly propose to supplement draft Article 151 by the following note:—

"These orders will be signed by a Secretary to Government, in the cases of the public functionaries above named, whose orders are usually conveyed by this channel. In the remaining cases, the orders will be personally signed by the public functionaries in question."

No. 277-T., dated the 13th September 1895.

From—The Government of India, Public Works Department,

To—The Director-General of Telegraphs.

I AM directed to acknowledge the receipt of your letter No. 56-T., dated the 15th August 1895, and in reply to inform you that the Government of India consider that the words "or Local Administration" should be inserted after the words "a Secretary to Government" in the proposed explanatory note to re-draft Article 151 of the Telegraph Traffic Code. Subject to this addition, the proposed explanatory note is approved by the Government of India.

2. With the above addition the re-draft of Article 151 will now read as follows, and should be substituted for that sanctioned in Public Works Department letter No. 250-T., dated the 10th August 1895:—

"The public functionaries mentioned below are also empowered to order a Telegraph Officer to divulge any telegram or the purport of any telegram:—

"The Governor General in Council, the Governor in Council of Madras, the Governor in Council of Bombay, the Lieutenant-Governor of Bengal, the Lieutenant-Governor and Chief Commissioner of the North-Western Provinces and Oudh, the Lieutenant-Governor of the Punjab, the Chief Commissioner of Burma, the Chief Commissioner of the Central Provinces, the Chief Commissioner of Assam, the Chief Commissioner of Coorg, the Chief Commissioner of Ajmere, the Resident at Hyderabad, the Resident in Mysore, the Resident in Kashmir, the Agent to the Governor General in Central India, the Agent to the Governor General in Rajputana, the Agent to the Governor General in Baluchistan, the Agent to the Governor General at Baroda, and the Superintendent of Port Blair and the Nicobars.

"These orders will be signed by a Secretary to Government or Local Administration, in the case of those of the public functionaries above named, whose orders are usually conveyed by this channel. In the remaining cases the orders will be personally signed by the public functionaries in question."

No. 738, dated Naini Tal, the 11th June 1894.

From—J. D. LATOUCHE, Esq., Chief Secretary to the Government of the North-Western Provinces and Oudh,

To—The Secretary to the Government of India, Home Department.

I am directed to submit the following point for the consideration and orders of the Government of India. Under section 5 (1) (b) of Act XIII of 1885 (The Indian Telegraph Act), Part II, relating to the privileges and powers of the Government, a Local Government may, in the interests of the public safety, order that any class of messages or messages relating to any particular subject, tendered for transmission at a telegraph office, shall be disclosed to the Government or to an officer mentioned in the order. But in Article 152 of the Telegraph Traffic Code it is explained for the guidance of officers of the Telegraph Department that the section of the Telegraph Act above quoted is not for the purpose of giving the Government the power of examining any telegrams, and that the Government must specify each particular telegram it desires to be divulged, giving names of the sender and of the addressee, and specifying time and place of transmission. It further lays down that the Telegraph official must satisfy himself of the identification of the particular telegram called for, in language that would lead to the inference that any departure from these instructions would render him liable to the penalties of the Act.

2. The instructions in the Telegraph Code seem to His Honour the Lieutenant-Governor practically to repeal the provisions of the Act, and I am to request the favour of this Government being informed whether Article 152 of the Telegraph Traffic Code should be considered to be in force.

No. 20 Public
1604

FROM

L. M. THORNTON, ESQ.,

Deputy Secretary to the Government of India

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF THE
NORTH-WESTERN PROVINCES AND OUDH.

Home Department.
Public.

Simla, the 8th October 1895.

SIR,

I AM directed to acknowledge the receipt of your letter No. 738, dated the 11th June 1894, pointing out that the provisions of section 5 (1) (b) of the Indian Telegraph Act, XIII of 1885, seem to be contravened by the instructions for the guidance of Telegraph officials contained in Article 152 of the Telegraph Traffic Code.

1. From the Government of India, Public Works Department, to the Director-General of Telegraphs, No. 250-T., dated 10th August 1895.
2. From the Director-General of Telegraphs, to the Government of India, Public Works Department, No. 56-T., dated 15th August 1895.
3. From the Government of India, Public Works Department, to the Director-General of Telegraphs, No. 277-T., dated 13th September 1895.

2. In reply I am to forward for the information of His Honour the Lieutenant-Governor and Chief Commissioner a copy of the correspondence marginally noted, relative to the revision of Articles 151 and 152 of the Telegraph Traffic Code.

I have the honour to be,

SIR,

Your most obedient Servant,

L. M. THORNTON,

Deputy Secretary to the Government of India.

20 Public

No. 1605.

COPY, with copy of the letter from the Government of the North-Western Provinces and Oudh, No. 738, dated the 11th June 1894, forwarded to all Local Governments and Administrations, for information.

Copy forwarded to the Public Works Department, with reference to that Department's Office Memorandum No. 278-T., dated the 13th ultimo.

Copy of correspondence forwarded to the other Departments of the Government of India, and to the Superintendent of Port Blair, for information.

By order,

L. M. Thornton

Deputy Secretary to the Government of India.

To
The Govt of Madras.

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G.O. No. _____ DATED _____

No. _____

to G. No. _____

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OF GOVERNMENT.

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NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL

A = Copy in full.
 B = Not to be copied.
 P = Copy abstract only.
 Q = Copy heading only.

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2. I accordingly propose to supplement draft Article 151 by the following note:—

"These orders will be signed by a Secretary to Government, in the cases of the public functionaries above named, whose orders are usually conveyed by this channel. In the remaining cases, the orders will be personally signed by the public functionaries in question."

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"These orders will be signed by a Secretary to Government or Local Administration, in the case of those of the public functionaries above named, whose orders are usually conveyed by this channel. In the remaining cases the orders will be personally signed by the public functionaries in question."

From

The Government of India
Home Department

No. 20 Pub
1605

Order Communicated to the Depts
of the Secretariat and to all
Heads of Depts under the Chief
Secretary.

Dated 8th
Recd 26th } - 10-95
Regd 28th
S.C. 6 & Encl 1.

To the Depts of the Secretariat
all Heads of Depts under the C.S.

Subject

Forwarding for information
of No 20 Pub/1604
Copy, with copy of the letter
from the Government of the
N. W. P. + Baluch No 738.