

Government of Madras.

EDUCATIONAL DEPARTMENT.

Recd.

Rego

} 1910

Enclosures

Spare copies

G.O., No. 33, 20th January 1910.

Registration of Books.

Informing the Registrar of Books that he should be guided by the opinion of the Advocate-General with regard to the registration of copyright in a prospectus and should not receive or register publications which are exempted from the operation of Act XXV of 1867.

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GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—the following paper :—

Letter—from Rao Bahadur M. RANGACHARYA, M.A., Registrar of Books, Madras.
To—the Secretary to Government, Educational department (through the Director of Public Instruction).
Dated—the 9th December 1909.
No.—1916.

In forwarding herewith a copy of the opinion of the Advocate-General regarding the registration of the proprietorship of copyright in a "Prospectus" under the Indian Copyright Act XX of 1847, I have the honour to state that the practice which, as may be made out from the correspondence on the subject hereto annexed, prevails in the Presidencies of Bombay and Bengal, wherein also the same two Acts, viz., XX of 1847 and XXV of 1867 are in operation, makes me doubt whether the Registrar of Books in Madras is really expected to have nothing to do with the registration of copyright under Act XX of 1847. A notification of the Government of India, No. 5605, dated 21st December 1871, of which also a copy is herewith sent, as embodied in a circular of this office, exempts certain publications from the operation of the Book Registration Act XXV of 1867. Under this Act the registration of copyright also is made possible (*vide* section 18) on the payment of the prescribed fee of Rs. 2 for the purpose. Pretty frequently a practical difficulty arises, when publications, which, according to the above-mentioned notification of the Government of India, are exempted from the provisions of Act XXV of 1867, are presented for copyright registration under this Act, or, it may be, under Act XX of 1847, as the applicants do not generally mention under what Act they wish to secure their copyright. The difficulty here is of a two-fold character. The first is as to whether the officer appointed for the ordinary registration of books under Act XXV of 1867 is really expected to have nothing to do with the registration of copyright as contemplated in Act XX of 1847. The second difficulty relates to the question of how far the exemption by Government notification of certain publications from the obligation of registration under Act XXV of 1867 deprives owners of such publications of the privilege of having their copyrights therein registered according to the plan contemplated in section 18 of the said Act. It can be easily made out that the public find it easier to secure the registration of copyright as under Act XXV of 1867 than as under Act XX of 1847. Evidently it is with a view to give such facility for copyright registration that it was provided for in Act XXV of 1867. Since exemption from an obligation need not mean the deprivation of a legally provided privilege, I am led to think that even such publications as are exempted from the obligation of ordinary registration may be presented for copyright registration under the said Act XXV of 1867. This is a matter which has to be decided by taking into consideration what was intended by the Government of India to be the full effect of the exemption notified by them in their notification No. 5605, dated 21st December 1871. The Librarian of the Bengal Library, who registers books in Bengal under Act XXV of 1867, is also of opinion that this question is "a very complicated one and ought to be referred to Government for authoritative decision". I have therefore the honour to submit that the authoritative opinion of the Government of India be obtained on the point for future guidance.

ENCLOSURES.

In re the Registration of a "prospectus" under Act XXV of 1867.

The Registrar of Books has nothing to do under Act XX of 1847 and the question whether the prospectus referred to is a "book" within the meaning of that Act does not arise. The Registrar is only concerned with the registration of books under section 18 of Act XXV of 1867; the acquisition of copyright (under Act XX of 1847) follows automatically upon the registration of a book under section 18 of the Act of 1867 combined with the payment of Rs. 2. The only question therefore to be considered is whether the author or proprietor of the prospectus is entitled to claim registration of it by delivering a copy under section 9 of Act XXV of 1867. That it would fall *prima facie* within the definition of a "book" there can be no doubt. The definition in section 1 is only *inclusive* and not *exhaustive*. Lists of stock, exchange prices, trade catalogues, lists of articles for sale, etc., have been held to be "books" and subjects of copyright (see Halsbury's Laws of England, volume 8, sections 346 to 353, and the notes thereto and Encyclopedia of the Laws of England, 2nd edition, Volume III, page 621). As the prospectus is *prima facie* within the purview of Act XXV of 1867, we have to see what is the effect of the notification of the Government of India of December 1871. The prospectus will no doubt fall within the classes of publications referred to therein; but the notification purports only "to exempt" the publications from the provisions of the Act. The ordinary meaning of the word "exempt" is to release or excuse from a liability. If the notification is understood in this sense, the result will be that while the publisher of a book will not be *bound* to deliver a copy under section 9 he will not be debarred from tendering a copy and claiming registration. But as section 21 of the Act, under which the notification is made, only empowers the Governor-General in Council to "*exclude*" any class of books from the operation of the whole or any part of the Act, it may be presumed that when the Government of India speak of "exemption" in the notification they really meant "*exclusion*". In this view, the Registrar of Books is not bound to receive or register the prospectus.

MADRAS,
8th November 1909.

P. S. SIVASWAMY AIYAR,
Advocate-General.

Circular memorandum.

The Registrar of Books thinks it desirable to call the attention of District Registrars, Printers and Publishers to the following notification of the Government of India exempting certain publications from the provisions of Act XXV of 1867. Such publications should in no case be sent in for registration, nor should they be received by the District Registrars for transmission to this office :—

NOTIFICATION.

By virtue of the power vested in the Governor-General in Council by section 21 of Act XXV of 1867, entitled "an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such book," His Excellency in Council is pleased to declare that the following publications are exempted from the provisions of the said Act :—

1. Reprints of books *without* additions or alterations, and *without* new notes or commentaries.
2. Acts of the Legislative Councils *without* notes or commentaries.
3. Price lists and tradesmen's circulars.
4. Catalogues of books and other articles, auctioneers' notices, and advertisements.
5. Play-bills, comprising advertisements of theatrical and musical entertainments.
6. Decisions of courts of law *without* notes or commentaries.
7. Petitions and appeals addressed to constituted authority under the provisions of law.
8. Testimonials of private individuals or public officers.
9. Annual reports of schools, banks, societies and firms.
10. Almanacs and calendars.
11. Labels affixed to articles of commerce.

HOME DEPARTMENT, PUBLIC,
FORT WILLIAM,
December 1871.

E. C. BAYLEY,
Secy. to the Govt. of India.

2. According to a ruling of the Madras Government, all Magazines, Reviews, Literary and Scientific Journals and similar *periodical* literature published in parts at fixed intervals, and intended to be continued for an indefinite time, should also be registered in the same way as books.

OFFICE OF THE REGISTRAR OF BOOKS,
MADRAS,
15th August 1908.

M. RANGACHARYA,
Registrar of Books.

Letter—from Rao Bahadur M. RANGACHARYA, M.A., Registrar of Books, Madras.
To—the Oriental Translator to Government, Bombay.
Dated—Madras, the 7th June 1909.
No.—727.

I have the honour to request that you will be so good as to favour me with information relating to the following points :—

(1) Whether two separate registry books one for the registration of copyrights under Act XX of 1847 and the other for the ordinary registration of books and also for copyright registration under Act XXV of 1867 are maintained.

(2) Whether books which are exempted from the provisions of Act XXV of 1867 (*vide* the Notification of the Government of India, Home Department, Public, dated December 1871) are received and copyrighted under Act XX of 1847. If so, how such entries of copyright are included in the quarterly catalogues for publication in the Official Gazette.

Copy to the Librarian, Bengal Library, Calcutta.

Letter—from SYED SHAMSUDDIN KADRI, Esq., B.A., Oriental Translator to Government.
To—the Registrar of Books, Madras.
Dated—Bombay Castle, the 17th June 1909.
No.—760.

In reply to your letter No. 727, dated 7th June 1909, I have the honour to send you the following information on the points referred to by you :—

(1) Under section 3 of Act XX of 1847 a separate registry book is kept wherein are entered, as per schedule I to the Act, the names and full particulars of all books, the proprietorship of whose copyright is registered. No separate registry book is kept under Act XXV of 1867 as under that Act the memoranda of all books received in this office, whether the proprietorship of their copyright is registered or not, are entered in the quarterly catalogue of books only. Under the last paragraph of section 18 of Act XXV of 1867 every registration of copyright under the Act is "deemed to be an entry in the book of registry kept under Act XX of 1847".

(2) The books which are exempted from the provisions of Act XXV of 1867 are received in this office and copyrighted under the Act and the entries of copyright thereof are published in the additional list usually appended to the quarterly catalogue of books. Such an additional list appears at the end of the catalogue as would be seen from a reference to the quarterly catalogue of books ending 31st December 1908, published from this office.

Letter—from MANMATHANATH RUDRA, Esq., Librarian, Bengal Library.
To—the Registrar of Books, Madras.
Dated—Calcutta, the 28th June 1909.
No.—57-L.

With reference to your letter No. 728, dated the 7th June last, I have the honour to state for your information that two registers are kept in this office—one for all books received in this office and the other for containing particulars of copyright applications, the fees for which are paid to this office under Act XXV of 1867. No separate copyright register except this library catalogue is maintained in this office.

As regards books, which are exempted from registration I have the honour to state that if such books are delivered by printers under section 9 (a) of Act XXV of 1867 as amended by Act X of 1890 they are received in this office and are catalogued and copyrighted. The question is, in my opinion, a very complicated one and ought to be referred to Government for an authoritative decision.

N. Ref. on Cur. No. 8205/09, dated 20th December 1909.

Submitted to Government.

A. G. BOURNE,
Director of Public Instruction.

Order—No. 33, Educational, dated 20th January 1910.

With reference to his letter No. 1916, dated the 9th December 1909, the Registrar of Books will be informed that he should be guided by the opinion of the Advocate-General and should not receive or register publications which are exempted from the operation of Act XXV of 1867.

(True Extract.)

L. M. WYNCH,
Ag. Secretary to Government.

To the Director of Public Instruction.
 " " Registrar of Books.

NOTES CONNECTED WITH G.O., No. 33, EDUCATIONAL,
DATED 20TH JANUARY 1910.

[SUBJECT.—*Copyright registration of publications exempted from ordinary registration under the Press and Registration of Books Act of 1867.*]

From the Director of Public Instruction, dated 20th December 1909, No. 8205.

The Registrar of Books raises the question whether copyright may not be secured under the Press and Registration of Books Act XXV of 1867 of a publication exempted from ordinary registration under that Act by the Home Department Resolution No. 5605, Public, dated 21st December 1871.

2. The following publications are exempted from registration by the Home Department Resolution above referred to :—

- (1) Acts of the Legislative Councils without notes or commentaries.
- (2) Price lists and tradesmen's circulars.
- (3) Catalogues of books and other articles, auctioneers' notices, and advertisements.
- (4) Play-bills, comprising advertisements of theatrical and musical entertainments.
- (5) Decisions of courts of law without notes or commentaries.
- (6) Petitions and appeals addressed to constituted authority under the provisions of law.
- (7) Testimonials of private individuals or public officers.
- (8) Annual reports of schools, banks, societies and firms.
- (9) Almanacs and calendars.
- (10) Labels affixed to articles of commerce.

3. The Registrar states that in connection with the question of registration of the proprietorship of copyright in a prospectus (falling under item (2) above "price lists and tradesmen's circulars"), the Advocate-General has given the opinion that the Registrar of Books has nothing to do with the registration of copyright under the Indian Copyright Act XX of 1847, and is not bound to receive or register the prospectus. But as publications exempted from the provisions of the Press and Registration of Books Act, 1867, are nevertheless received and copyrighted under the Act, both in Bombay and Bengal, if they are delivered by printers under section 9 (a) of the Act, the Registrar doubts whether he has really nothing to do, as the Advocate General states, with the registration of copyright under the Indian Copyright Act, 1847, and he requests that the question may be submitted to the Government of India for an authoritative decision for his future guidance.

4. It is for consideration whether the Government of India may be addressed, as suggested by the Registrar of Books.

T.K.—10-1-10.

Please see Sir George Forbes' remarks on the margin of page 3 of the notes with G.O., No. 112, Educational, dated 25th February 1909. It is certainly not the province of the Government of India to interpret Acts of the Legislature, but of the Courts of Law. As there seems however to be difference between the Madras Advocate-General's opinion and the practice in Bombay and Bengal, it is for consideration whether a reference to India may be made.

K. RANGASWAMI AYYANGAR—13-1-10.

I submit that the Registrar of Books should be bound by the opinion of the Advocate-General. His view seems the common sense one.

C. A. SOUTER—15-1-10.

I submit that the Registrar of Books should be guided by the opinion of the local Advocate-General and leave the parties concerned to raise the question if so advised.

This means that nobody can acquire a copy-right in such a book. This is a difficulty.
M. H[AMMICK].

It seems clear enough that a publication exempted from the operation of the Act cannot be registered thereunder.

L. M. WYNCH—17-1-10.

If we disagree with the Advocate-General, we may say so and we may ask India to give us the opinion of their Advocate-General. However in this case I think the Registrar must be guided by the Advocate-General's opinion.

M. H[AMMICK]—18-1-10

Draft please.

L. M. WYNCH—19-1-10.

Draft submitted for approval.

T.K.—19-1-10.

K. RANGASWAMI AIYANGAR—19-1-10.

Issue:

C. A. SOUTER—19-1-10.

(G.O., No. 33, Educational, dated 20th January 1910.)

READ AGAIN G.O., No., dated 190 ..

” ” ” ” ” 190

READ ALSO:—

C. No. 2316, From the D.P.I., No. 8205, dated 20-12-1909.

“ ” ” ” ” ” ” 190 .

" " " " , " " 190

190

ORDER.

P. S.

No. 33, dated 20-1-1900.

with ref- to his letter no. 1916
dated the 9th December 1909, the
Registrar of Books will be informed
that he should be guided by
the opinion of the Advocate-General
and should not receive or register
publications which are exempted
from the ^{operation of} ~~provisions of~~ Act XXV of 1867.

7. H.
19-1-10

RO

19.1.10

Chd
cap

Not for E. J.

To The D.P.I.
The Registrar of Books

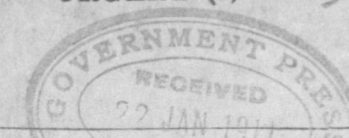
ORDINARY.

PRESS SLIP.

PREFERENCE.

URGENT (a).

EDUCATIONAL DEPARTMENT.
LEGISLATIVE



INSTRUCTIONS FOR THE SECRETARIAT.

Current No. 231/5 dated 22-12-1909.
G.O., No. 33, dated 20-1-1910.

(b)
Number of MS. pages sent { Correspondence including order or orders
(b1)
Notes.....

Docket: *Registration of Books. — Informing the Registrar of Books that he should be guided by the opinion of the Adv. General and should not receive or register publications which are exempted from the operation of Act XXV of 1867.*

(c) of copies required when struck off (not including copies for volumes and editors' table which are retained in the Press). Complete correspondence and orders. Notes

FOR RECORD.*			
Madras Records	...	...	15
Ooty Records	...	...	3
For filing with original	...	...	1
Total			19

FOR ISSUE.†

	Letter only.	Complete G.O.	Special issue copies of G.O. (b)		Notes.
			No.	Papers.	
Signature copies.....					
India Office.....					
Govt. of India.....Dept.					
Public Department.....					
Judicial Department.....					
Financial Department.....					
Revenue Department.....					
Public Works Department.....					
Local and Municipal Department.....Dept.					
Total			5		
Spare copies	The Director of Public Instruction.....				
	The Comr. for Govt. Examinations.....				
	The Superintendent, Govt. Museum.....				
	The Surgeon-General.....				
	The Accountant-General.....				
	The Collector of.....				
	The P. D. B.....				
	The.....				
	The.....				
	The.....				
Total					

(a) If a paper is marked to be printed urgently, the Superintendent of the section concerned should sign the Press slip. The Superintendent should exercise a careful discretion in the matter.

(b) Each letter, memorandum, or order, or set of orders, in the file of correspondence should be headed in succession with the Roman numeral I, II, III, etc., the number being written in red ink or blue chalk above the item. The particular papers to be printed in the special issue-copies should be indicated by the Roman numeral (I, II, etc.) by which that item has been headed in the correspondence file. All matter, including marginal remarks or references, to be printed should be written in ink and matter which should not be printed should be encircled. Initials and signatures that are not quite legible should be re-written distinctly.

(b1) For rules regarding printing of notes, see the rules in G.O., No. 1220, Public, dated 30th November 1900.

(c) The number of copies and the details of distribution should be filled in by the Superintendent or Referencer concerned.

(d) In the absence of special instructions to the Press to keep matter standing for a specified period, ordinary papers of 8 pages and under will be kept standing for one week, and larger papers for two weeks only. The type of notes and of all confidential papers is distributed immediately after striking.

(e) This slip, properly and completely filled in, should accompany every paper sent to Press; it will be returned by the Press when proofs are furnished; it should be sent to the Press when a call is made for revised proofs or when a corrected proof is sent for striking. When finally returned by Press it should be filed with the original order or letter.

INSTRUCTIONS FOR THE PRESS.

(a) If, in the opinion of the Superintendent of the Press, a paper has been marked urgent unnecessarily, he should send the Press slip to the Deputy Registrar with a remark to that effect.

(b) Unless a note to the contrary is made against the matter, pencil entries should not be printed. The Superintendent of the Press may bring to the notice of the Deputy Registrar any instance of incomplete or careless editing.

(c) Signature copies of letters to the Secretary of State or to the Government of India should be printed on hand-made paper.

(d) This slip should be returned by the Press to the Secretariat when proofs are furnished; it will be sent back to the Press when proofs are returned corrected and should be finally returned to the Secretariat when struck-off copies are supplied.

(e) The names of the Secretary and Members should be printed in full when they occur on the right hand side, but only the first time when they appear on the left side, the initials alone being printed later.

* Copies distributed on.....*(Press Clerk.)

† Copies distributed on.....*(Despatcher.)

TO PRESS, MADRAS.
OOTY.

A

Please send proof in triplicate. The papers have been carefully edited.

B

Proof returned corrected. Please strike off and send number of copies as indicated.

Type may be released after usual interval.
at once.

C

As the matter is clear manuscript and has been carefully edited, (b) proof need not be sent. Please print and supply number of copies as indicated.

Type may be released after usual interval.

..... Clerk.

..... Clerk.

..... Clerk.

..... Supdt.

..... Supdt.

..... Supdt.

(b) Three copies of proof of all notes should be sent for approval, except when instructions are given to the contrary.

SPECIAL INSTRUCTIONS.

TO BE FILLED IN BY THE PRESS.

Diary.	Initials of Press official.		
Received in Press on.....	22-1-10	22	22
First proof furnished on.....	10-1-10	22	22
Call for revised proof received on.....			
Revised proof furnished on.....			
Corrected proof received for striking on.....	28-1-10	22	22
Final copies supplied on.....	2-2-10	22	22
Account of copies.	Complete copies.	Notes.	Issue copies.
Supplied to Secretariat for Record.....	34	19	
" " " Issue.....	5		
For Volumes.....	12		
For E.T.....			
Total ...	51	19	