[Edl. / 6]
806—29-5-00.

Educational (1900) Department.

ORDINARY MS.

G.O., No. 435-436

DATED 8—9—00

INDEXED.

13

[Despatch Abstract.]

Addressing the Govt of India on the subject of surrendering the Copyrig in the "Manual on Hydraulics" to Lieut Col. Love, Principal, College of Engineering, Madras.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
GO	530 Ms 80						

Educational (~~189~~ 1900) Department.

CURRENT No. 662

To 372/93 To 640 and 10/10/96 196 and 24/4/97

To 680/90

DESPATCHED
18 MAY 1900

From The Director of Public Instruction, Madras.

No 5114.

Dated 18th May 1900.

Received ASSISTT. SECY. TO GOVT. 19 MAY 1900

Registered 17-5-00

Enclosures one

Spare copies

In Orders

~~Asks whether the Director's recommendation may be accepted.~~

~~(1) Put up the Act, please. (2) Has the recent correspondence about amending it been commd. by the G. of I.?~~

~~31.5.1900.~~

(1) Put up

(2) No.

31/5/00

SUBJECT.

Recommending that in the circumstances stated, the Copyright in the book entitled "Manual on Hydraulics" prepared by Lt. Col. Lowe may be surrendered to him.

G.O. – further papers

BACK

G.O.	No.		
Genl	Record pp.	7.	21-5-00
Ed ×	346	: 21-6.	97 Mis
" ×	947	: 10 –	12-94 "
"	680	: 16 –	9-93 "
"	372-	73 : 5 –	6-9

and Record papers

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Ed 166-67 : 12-3-98 Mis

Ed 54 : 28-1-98 Mis

Ed 227 : 24-3-91 "

" 797-8 : 8-12-90 "

" 161 : 20-2-90 "

" 226-7 : 25-4-89 "

" 169 : 27-4-89 Copy

" 105 : 25-2-89 Mis

" 523-4 : 5-9-88 "

" 582 : 7-6-88 Copy

" 1187 : 10-11-87 Mis Mis

" 196 : 12-4-87 Mis

" 640 : 4-10-86 "

" 1701 : 26-7-84 Mil Cste

No 1872-C. 2 31st January 1900.

To

The Director of Public Instruction,

Madras.

Sir,

I have the honour to ask whether Government will be pleased to transfer to me the copyright of the book entitled "Hydraulics" which was written by me in 1886.

2. The work was published at Government expense in January 1887 and an honorarium of Rs.500 was assigned to me for writing the book and seeing it through the Press on the understanding that a further award would be made if the book proved useful. The first edition of 500 copies sold so as to realize a small profit to Government after the payment of all expenses including the honorarium. The work was then revised and the Government approved of my publishing an edition of 1000 copies at my own expense. This number of copies was actually issued in two editions of 500 copies each. Sanction has now been asked to the issue of a further edition of 500 copies.

3. As Messrs. Macmillan & Co. have enquired whether they may be permitted to publish the work for sale in England and India, I venture to ask Government to restore to me the copyright of the book. The writing which involved considerable labour was done during vacations and holidays. Government has incurred no charge which has not been fully recouped and I may perhaps be correct in assuming that it is not desirous of profiting pecuniarily by work of mine which is outside the duties of my appointment.

I have &c &c

(Signed) H.D.Love, Lt.Col., R.E.

Principal.

/True Copy/

G.H. Stuart

Director of Public Instruction.

Encl. 1
to Cu 662

CURRENT No. 3662

Office of the Director of
Public Instruction,
Madras, 18th May 1900.

No. 5114.

From

The Hon'ble Mr. G. H. STUART, M.A., *Barrister-at-Law*,
Director of Public Instruction,
Madras,

To

The SECRETARY TO GOVERNMENT,
Educational Department,
Fort St. George.

Sir,

A

B

Encl/680 C
4-9-93

In G.O.No 640, Educational, dated 4th October 1886, Government sanctioned the printing at the public expense of a Manual on Hydraulics prepared by Lt.Col.Love, and in G.O.No 196, Educational, dated 12th April 1887 sanction was also accorded for payment of an honorarium of Rs.500 to Lt.Col.Love, the copyright in the book vesting in Government. The first edition having been exhausted, Lt.Col.Love was permitted in 1893 to bring out a revised edition of 1000 copies on his own account and at his own expense, Government retaining the copyright. These 1000 copies were, however, actually issued in two editions of 500 copies each. In the enclosed copy of his letter No 1872 C, dated 31st January last, Lt.Col.Love requests that the copyright in the book may be surrendered to him so that he may issue another edition, the present edition being almost sold out. As the copyright does not appear to be of any use to Government, I have the honour to recommend that, in the circumstances stated by him, his request be complied with.

I have the honour to be,
Sir,
Your most obedient servant,
G H Stuart
Director of Public Instruction.

[E. & L. / 1]
500—28-5-00.

4

Educl. DEPARTMENT.

6

Papers to be read in Proceedings :—

Again G.O., No. , dated 189 .
Again G.O., No. , dated 189 .
Current No. of 189 , dated , from
" " " 189 , " , "
" " " 189 , " , "

N

C. No. 662/1900

~~ORDER.~~ Reference

Dpd.
H.P.
28.6.00

The Director of P.I. is requested to report whether copyright of the second edition of Lt. Col. Lane's manual of hydraulics was registered in the name of Government in accordance with G.O. No. 680, ~~[illegible]~~ Educl., 16th Septr., 1893; whether the third edition (of 500 copies) was a stereotyped issue of the second; ~~[illegible] whether~~ & whether the fourth edition which it is now proposed to ~~[illegible]~~ publish ~~is~~ to be identical in every respect with the second or third, as the case may be.

H.P.
28.6.00

2. He is also requested

to state whether the new edition is to be published in England or in India.

28.6.1900

1900

Educational (189) Department.

CURRENT No. 1021

DESPATCHED
26 JUL. 1900

From The Director of Public Instruction, Madras.

Order

No. 7357

Dated 26th July 1900

Received 27 JUL. 1900

Registered DD

Enclosures

Spare copies

SUBJECT.

Stating that the copyright of the Second edition of Lt. Col. Love's Manual of Hydraulics was registered in the name of Government.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CURRENT. No. 1021

OFFICE OF THE DIRECTOR OF
PUBLIC INSTRUCTION,
Madras, 26th July 1900.

No. 7357

From

THE HON'BLE MR. G. H. STUART, M.A., *Barrister-at-Law*,
DIRECTOR OF PUBLIC INSTRUCTION,
Madras,

To

THE SECRETARY TO GOVERNMENT,
Educational DEPARTMENT,
Fort St. George.

SIR,

With reference to memorandum Ref.on C.No 662, dated 28th June last, I have the honour to state that the copyright of the Second Edition of Lt.Col.Love's Manual of Hydraulics was registered in the name of Government. The following extracts from the letter from the Principal, College of Engineering No 1285, dated 16th instant contain the information required by Government on the other points referred to in the memorandum:-

"3. The Third edition was issued partly from stereotyped plates of the second edition (92 pages) and partly from newly set up type (25 pages). The latter embraced appendices which consisted of entirely fresh matter. The lithographed plates were corrected and re-photographed. The stereotyped plates were also revised and corrected.

"4. The fourth edition will be practically identical with the third, i.e. 92 pages from stereotyped plates, and 25 pages from newly set up type. The drawings will be again photo-lithographed.

"5. As copies of the book are urgently required, the fourth edition must be printed in India. If Government should be pleased to restore to me the copyright of the work, as asked in my No 1872/C, dated 31st January 1900, I propose to enter into arrangements with Messrs. Macmillan & Co. to publish subsequent editions of the book in England in a somewhat different form".

P.T.O.

I have

Ed. Cor. 960—1-12-99.
6

I have the honour to be,

Sir,

Your most obedient servant,

G H Stuart

Director of Public Instruction.

Exd

M.

HM

Educl. Dept.

C. Nos. 662 & 1031

In 1886 (G.O. No. 640 Educl.,
A 4th Oct.) Government sanctione
the printing at the publi
expense of a small manua
on hydraulics by Lieut.-Colone
(then Captain) Lane, the cost
being met from the Educationa
grant; & in a subsequent
order (No. 196 Educl., 12th
B April 1887) an honorarium
of R 500 was made to him
2. Six years afterwards
it was decided (G.O. No. 680
C Educt., 16th September 1893)
after correspondence with
the Government of India
to permit him to publish
and dispose of a revised
second edition of the
manual on his own accoun
subject to the provision
that Government retained
the copyright of the wor
3. It appears that in-
stead of printing the
intended number of copies

a thousand copies" as a second edition, two editions of five hundred copies each were brought out, the later of these – the third edition – being not a mere stereotype of the second but containing new matter. ~~The copyright~~

4. It is now proposed to bring out a fourth edition. This is to be practically identical with the third, & Lt. Colonel Lane asks Government to "restore" to him the copyright of the book.

5. The case is a peculiar one. As regards the first edition, Captain Lane wrote the words, but Government (by giving him an honorarium remunerated him for his trouble and also paid ~~for~~ the cost of printing; it was in every sense a departmental publication, & in such circumstances it has always been held (& probably correctly) that ‡ copyright vests in the State, whether (or not) the Government have by registering themselves as proprietors created a prima facie proof that

CN. 6627/1900

they are such.

The second edition was on another footing. In regard to the text, it was quite different from the first edition; it was not published by Government, nor did Government pay the cost of printing; no remuneration was given from Provincial revenues to Major (Lieutenant Colonel) Lane; he brought it out on his own *account, ran the risks & received the profits. I think there cannot be much doubt that copyright subsisted with Major Lane.

But the Government of India in the † P.W. department, possibly misunderstanding the case, decided* that ~~copyright~~ Government should "retain" the copyright. It is stated by the Director in his letter‡ of the 26th ult. that Government were registered as the proprietors. This act of registration altered the position & made the State

D

* In G.O. No. 166 Ednl., 12 March 1898, Govt. explicitly ~~also~~ disavowed having any connection with the ~~trade~~ supply & sale of the manual, & told the author to make his own arrangements, if he wished to do so, for sending home some copies for sale in England by the agents of the India Office.
A.S.

† A department of the G. of I. which is not always careful to consult the Home or Legislative dept. in regard to matters beyond its own province, & which in consequence makes mistakes in regard to legal points at times!
A.S.

* in letter No. 2165 G. d/ 17.8.93 (Flagged C)

‡ C. No. 10214/1900

prima facie owners of copyright in this second edition. Very soon a third edition was brought out. This was partly stereotyped from the second edition but contained entirely new matter as well. Apart from any question of registration, Major Lane's relation to this edition ~~work~~ was the same as that in regard to the second; the Government had nothing to do with it in any respect; & I think it would be held in a Court that copyright subsisted with Major Lane. In this case Government did not register their names, & there was therefore no creation by them of *primâ facie* proof of proprietorship.

6. ~~It~~ As to the future fourth edition, it is stated that it is to be much the same as the third, & Lt. Colonel Lane asks Government to "restore" the copyright to him. Copyright will not come into being until the

Ev 680 d/16-9-93? dy C.

B

book is actually published; and if the view taken above is correct and the entry made in pursuance of G.O. No. 176 Educn. 12th April 1887 not only did no more (this much is certain) than create a *primâ facie* proof that Government were the proprietors, but ~~could~~ also could easily have been rebutted by the other evidence, — then, there is no question of "restoration". Moreover, the edition appears to have been completely sold out, so ~~that~~ it would do Lt. Colonel Lane no good to ~~apply~~ have his copyright acknowledged, at this date.

7. As regards copyright in the forthcoming edition, nothing that Government can say or do will alter facts. On publication of the work, copyright will subsist ~~with~~ somewhere. If Lt. Colonel Lane enters his name in the Book of Registry kept under the Copyright

A

Act (XX of 1847, as subsequently modified), or under § 18 of Act XXV of 1867, the entry will at any rate have the limited force already described. And as, (so far as we know,) only Government can contest ~~the~~ his claim to be proprietor, & action under § 6 of the Copyright Act will not, ever, therefore, be taken, Lt. Colonel Lane will be in appearance, as well as truly, the owner of copyright.

A

8. I think ~~therefore~~ we might advise him to take this course; but I may mention that ~~the~~ ~~in regard~~ questions of this sort are regarded by the Government of India as so doubtful that latterly it became a rule to take the law officers' opinion whenever there were clearly difficulties in a case of copyright. Mr Chalmers, lately the Legal Member, was always very averse to the Legislative department itself giving advice to the Home department, or to any department seeming to advise an author as to his legal position, his regular phrase (in the latter case) being "Counsels' opinion should be taken."

9. I think it will be ~~safer~~ ~~therefore~~ the safe plan here to ask the Govt. Solicitor u/o to be so good as to look into the case, & to advise whether what I have ventured to suggest above at A may be recommended to Lt. Col. Lane as the best course to take.

A.P.
4.8.1900

Secy.

The Assistant Secretary points out that it is very doubtful whether under the Copyright law, the Government ever has any rights as copyright proprietors over a new edition of Col Lane's work. Submitted that in the face of the letter of the G. of India d. 17 Aug 98 2168 G. Col Lane can hardly be told to register his name - The wa

'93 //

7. C

Evidently the wish of the Gov. of India that the Copyright should continue to vest in them. It would seem that the best course was to forward Col Love's application & point out the doubt as to whether Govt has any right to attempt to retain its Copyright and recommend that as Col Love is bringing out the new Edition here & in England at his own expense & risk Govt should permit him to register his name & waive any rights they may have in the book.

6 viii 00

This will be the best course.
7.8.00

[E. & L. / 1]
600—28-5-00.

Educational DEPARTMENT.

Papers to be read in Proceedings :—

Again G.O., No. , dated 189 .
Again G.O., No. , dated 189 .
Current No. 662 of ~~189~~1900 dated 18th May 1900, from the D. P. I.
" " 1021 " ~~189~~1900 " 26th July 1900 " " " "
" " " 189 " "

desp 8/9/00

ORDER. (misc.) No. 435 d/8.9.00

The Government of India will be addressed.

20.8.1900

To

The D.P.I.

23.8.00
2.9.00

Desp 8/9

Note.

This draft follows orders, but as it is believed that Govt. is not desirous of abrogating its powers, I beg to point out that the cause of the reference to the G. of I. in 1893 was simply the inability of this Govt. to sanction the honorarium. The question of copyright ~~[illegible]~~ should not have been touched at all ~~[illegible]~~ in letter No. 372, 5th June 1893.

21.8.1900

It should not have been, but unfortunately it was & as the G of I expressed wish the copyright retained we can hardly help addressing them now.
21-viii-00.

Letter No. 436 d/8.9.00

To the Secretary to the Government of India, P.W.Department.

Sir,

I am directed to refer you to the correspondence ending with the letter from the Government of India, Public Works Department No. 2165 G dated 17th August 1893 and to state that under the sanction conveyed in that letter Lieut Col., Love, Principal, College of Engineering, Madras, was permitted to publ and dispose of a revised edition of h manual of hydraulics on his own accou on the understanding that this Govern ment retained the copyright of the wo Permission was granted to print and an edition of one thousand copies but 2 editions of five hundred copies each were actually brought out, the third edition being not a mere stereotype of the second but containing new matter.

2. It will be seen from ~~this~~ Mr Price's ~~Government's~~ letter No. 373 Educational dated 5th June 1893 to the address of the Government of India in the Home Department that the first edition of the work was written by Lieutt. Col., Love, but that this Government remunerated him for his trouble by giving him an honorarium and paid the cost of printing. It was therefore a departmental publication and copyright in it really vested in the State. The second edition was considered to be equally the property of Government which registered its proprietorship, ~~&~~ although the same course was not followed in the case of the third edition, ~~then~~ it is presumed that the copy right of it ~~it~~ belongs to Government.

3. Lieutt., Col.,

4. Lieutt. Col., Love now proposes to bring out a fourth edition in India at his own expense and risk as in the case of the second and third editions. The new Indian edition is to be practically identical with the third, but subsequently ieutt., Col., Love proposes to publish ater editions in England in a slightly ltered form. His request that the copy-ight of the book may be restored o him appears to merit consideration there have been some alterations in book since the first edition, and vernment does not now be

Note.

I understand that no "stress" is to be laid on the "doubts" in the matter, & have therefore had the draft worded as shown, maintaining the view that copyright is created by registration as suggested in Mr [illegible] draft of G.O. No. 680 : 16 Sep 10/

N.P.
21.8.1900

cost of printing and is not remunerati the author. If therefore the Government of India has no objection and does not wish to retain the copy right which still as this Govt. considers, rests in the State, ~~vests in them,~~ I am to recommend that Lieutt., Col., Love may be permitted to register his name and that the rights possessed by Govt. ~~the State~~ may be waived.

(From orders)

21 viii 00

N.P.
21.8.1900

D.S.H.
2.9.00

Despd.
10-9-00

When given for copying ______
When copied ______
When examined ______ } 190 .
When signed ______

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

URRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

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