800—17-12-02.

Educational (1904) Department.

ORDINARY MS.

1

G.O., No. 206

DATED 29 · 3 · 04

206) 321-Edn

PRINTED IN G.O. 321 Edl 30-5-1904

INDEXED.

10

[Despatch Abstract.]

Registration of Copyright.

Requesting the Hon'ble the Resident at Hyderabad to furnish this Govt with a copy of the regulations in regard to the — in books obtaining in that State.

BACK PAPERS.

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

FURTHER PAPERS.

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

1,000–5-12-02.

Educational (190) Department.

CURRENT No. 299. ✓

From

[Name]

[Designation] Nawab Aziz Jung Bahadur

[Station] Hyderabad Deccan

No.

Dated 14. 2. 1904.

Enclosures

Received 19. 2. 1904.

Registered Do 190 .

SUBJECT.

Forwarding a copy of his work in Hindustani for the registration of copyright in Madras.

BACK PAPERS.

Act. XX of 1847 (India) Ed. E. 27-1.88: 60. S.C. 13-1.88: 16. G.O. No 896 E.R. d/21-11-1895.	G.O. No 264 d/ 3.4-95 R.O Ed. E. Record pp: 7. 22-2-04

Put up. papers referred to p. 7. of the current
KKM
19/2

put up 10

FURTHER PAPERS.

The receipt of this letter has been acknowledged
KKM
20-2-04

Nar
19/2/4

p. 3. (384)

CHIEF SECRETARY TO THE GOVERNMENT OF MADRAS.
18 FEB 1904

11C: Esd with the postage stamps 18/2/04

Stamps

CHIEF SECRETARY
18-FEB. 1904
GOVERNMENT OF MADRAS

To

The Secretary to the Government of Madras
(Home Department.

Sir

I beg to state that I intend getting registered certain books composed by me which have been printed in, H. H. the Nizam's dominions and are about to be published. I have got them registered in H. H. the Nizam's Government.

Stamps for Rs 3/ takement sgment to Cash Keeper for safe Custody.
PH
19/2/04

My object is that, the copyright should also be protected likewise throughout the whole of British India; with this intent, I had been to Madras; but, the Registrar of books in that Presidency refused to register my books because they have been printed in H. H. the Nizam's dominions and not in Madras Presidency.

I desired to obtain my object by getting them registered in the British R Presidency at Hyderabad, but the Political office of the Residency replied that such registrations are not in vogue in the Residency.

SECRETARY TO GOVERNMENT
19 FEB 1904
LOCAL & MUNICIPAL DEPARTMENT.

As directed by the Registrar of Madras I now feel the necessity of looking to you for the purpose forwarding herewith copy of the reply given to me on the subject by the said Registrar and I draw your attention to the resolutions

L. P. 5
M

of the Madras Government No 60 dated 27th January 1888 and No 16 dated ~~31st~~ 13th January 1888 Educational Department, which clearly affirm that registration obtained in one State will do in others respecting the protection of Copyright. Then, I beg to know whether, in sense of the Resolutions alluded to above, I may rest satisfied that registration obtained in H. H. the Nizam's Government will stand good throughout British India; if not, I hope you will kindly issue orders to the effect that my book, a copy of which is here with sent together with the schedule, be duly registered in Madras.

I here with attach postage labels of Rs (3)
I mean Rs 2 as registration fee and Rs 1 for a registered reply to me.

The form of my book is here with.

Recd 18 11 04

I am Sir
your humble and obedient servant

The signature of Nawab Azeez Jung
Bahadur pensioned 1st Talukhdar of
H. H. the Nizam's Government.

14th - February 1904

Azeez Bagh
city Hyderabad
Deccan

P. 7.

Schedule No I of Act XX of 1847

Nawab Azeez Jung Bahadur	1	Author's name
Azeez Bagh city Hyderabad. Deccan	2	Residence 3
Siakh - i - dekan	3	Name of the book
A history of the Native account keeping System	4	Subject
In. H. H. the Nizam's Dominion	5	where printed
Throughout the whole of British India	6	where will be published
180	7	Number of pages
1904	8	In what year will be published
	9	Particulars

Extract of the Registrar of books Madras

no (17) dated 25th January 1904

L + M

In reply to your letter of the 19th Instant, I have the honour to inform you of the existence of orders of the Madras Government concerning the International union for the protection of literary and artistic works. But, if you want to make sure of the protection of Copyright in your work in the British Territory, you may get your book registered in the Home Department under Act XX of 1847 transmitting your application to the secretary to that Department with a copy of the work and a fee of Rs (2) Two and schedule No I duly filled up in the form subjoined to that Act and that will protect your proprietorship of Copyright against all infringement in British India; but which no Local Registrar of Books can do.

The signature of

Dewan. Bahadur. V. Krishna Chariar

[$\frac{E.}{2}$] Cop

1,500—7-10-03.

ED2 321 / 30-5-04

ED2 206 / 29-3-04

S. copy

EDUCATIONAL DEPARTMENT.

C. No. 299 From ~~the~~ Nawab Aziz Jung Bahadur No , dated 14 . 2 . 1904.

SUBJECT.

Registration of Copyright.

p. 3 of the current file

p. 4

Nawab Aziz Jung Bahadur, a pensioned Talukdar of the Nizam's Government; has written in Hindustani a History of the System of Native account keeping & had the Copyright in the book registered in that State. With a view to protect this Copyright in British territory, he applied to the Registrar of Books, Madras, for having it registered in Madras (also). The Registrar replied that he could not register a book printed & published outside British India & suggested that application might be made to the Home department, (he might have added "of the Govt. of India"). Nawab Aziz Jung has accordingly now forwarded the book to the Secretary to the Govt. of Madras, "Home department." He wants to know whether the registration already effected in the Nizam's dominions holds good in British India

India also under the terms of the
International Copyright Convention of
887. (G.O. No 60 Edl d/ 27th January 1888). L
If not, he desires registration to be
effected in Madras also.

2. Under the Convention of 1887 L
the copyright in books printed &
registered in one of the States
included in the Convention is
protected only in the countries of the
Copyright Union, of which the
Nizam's dominions is not one.
The registration in Hyderabad will
not therefore protect the copyright
in the book in British India. As
to registration in Madras, the Press
and Registration of Books Act, 1867,
does not provide for the registration
of a book printed outside British India.

3. A question similar to the
present one was raised in 1883 when G.O. No 666-7 / 3-10-83 T.
S. Radhakrishna Aiyar of the Pudukkotta
College enquired of the Registrar of Books
whether his "Text book on Arithmetic"
which was printed and published in
the Pudukkotta State, should be
registered in Madras for the protection
of the copyright in it in British India.
As

As there was no provision in the Press
& Registration of Books Act, 1867, for
the registry of books printed in Native
States, the matter was referred to Govt
by the Registrar. The Govt simply
T. forwarded the correspondence to the
Govt of India for consideration as the
question of copyright was then engaging
the attention of that Govt.– vide
T G.O. Nos 666-7. Edl d/ 3rd October 1883.
The Govt of India in reply stated that
the point would be considered when
the Indian Copyright Act, 1847, came
under amendment.– vide their letter
U No. 174 d/ 26th January 1884 in G.O. No
62 Edl d/ 6th February 1884.

4. In June 1886, the Govt of
V G.O. No 1709 Judl / 27-6-85 India forwarded for remarks, a
draft bill to amend the Indian Copyright
Act, 1847. In this however no provision
was made for the protection in
British India of Copyright in
works published in Native States.
This omission in the draft bill
was noticed by the Registrar of Books,
but Dr Duncan, then Ag. Director of
Public Instruction, observed that
the point was one which perhaps
could hardly be dealt with in that
bill

bill & that there ought to be a separate Copyright Act to deal with such cases. The opinions of this Government and of those consulted in regard to the draft Copyright bill, were forwarded to the Govt. of India in September 1885 vide letter No. 2341 Judl dd 4th September 1885. Nothing further is officially known about this amending bill, but the late Mr Pringle who was in Calcutta, subsequently said that after a deal of correspondence & note writing, the matter had been dropped.

W

5. In these circumstances Nawab Aziz Jung may be informed that there is no provision of law for the registration of his book in British India.

Py
26/2/4 The book has been registered in Hyderabad. If there is any law of registration of books in Hydrabad, the book is already protected throughout His Majesty's dominions+ and in a large number of foreign countries by the International Copyright Acts 1844-1886. If there is no such law, the author cannot (it is thought) register his book in British India (because the B. I. law only applies to books published in

+ The procedure here would be under §54 of the Specific Relief Act (~~#~~ permanent injunctions) and §492 of the C.P.C. (temporary injunctions) Ag.

Statutes rel. to India Vol II p 816

British India); but if I have read §8 of the International Copyright Act, 1886, rightly he is at liberty to register the book in the United Kingdom and he will then have the same rights as if the book had been published in ~~Engl~~ the United Kingdom.

Put up Hydrabad Regulations please, if we have them.
2nd Asst.
Ag 29.2.4

No copy of the Hyderabad Regulations is available here or in the Connemara Library but Nawab Aziz Jung says that he has registered the copyright in his book in Hyderabad. It seems therefore that there is a copyright regulation in that State.

Kc

Py
29/2/4 The author may be told that under our law only books published in British India can be registered in British Ia; but that if his book has been registered in Hydrabad under any law in force in Hyderabad, his copyright is protected in British India by a provision of the International Copyright Acts, 1844 to 1886. Ag 1.3.4

On the informn. available in these papers, Mr. Galletti's Note appears to me to be correct.

Ag 18.3.04

D.M.

I do not follow the W.S. in considering that §8 49 & 50 Vic c 33 has application. Will he explain?

H
22 8 02

Vol II Stat. rel. to India p 816

Intern.l Copyright Act 1886 §8: The Copyright Acts shall … apply to literary work first produced in a British possession in like manner as they apply to a work first produced in the United Kingdom

§1 (2) & Sched. 2 thereto: ~~[illegible]~~ The Copyright Act 1842 is included among "The Copyright Acts"

Hydrabad is a British possession+

+ It is a separate possession because it is not under the same legislature as British India. H

"First produced" = "published"

Vol I Stat. rel. to India p. 199

Therefore §11 of the Copyright Act, 1842 [beginning "a book of registry"] and §13 ibid [beginning "it shall be lawful"] apply to literary work published in Hydrabad in like manner as they apply to a work ~~first produced~~ published in the United Kingdom Provided that the law of Hyderabad does not provide for the registration of such copyright [ex hypothesi it does not provide].

This assumes that the drafter of §8 knew what he was about and that a strict construction of it is possible. But I am not sure that this isn't rather a large assumption and that § 8 isn't a vicious example of legislation by reference gone wrong: i.e. that it fails by attempting to incorporate provisions which were not meant for or adapted to incorporation; and a court might hold that it fails. – ×

The Advocate-General might be asked to advise; but probably there is no decided case. As far as I know, the only British Colony which has not a law of copyright of its own is Tasmania.

× We don't know that there is no law of copyright in Hyderabad.

If the author hasn't yet published the book – i.e. (1) offered it for sale to the public (2) offered it gratuitously to the public in Hyderabad, he can (first) publish in England by making a present of one copy to any bookseller with a request that it should be sold or given away to the public, and then there will be no doubt that he can apply for registry at Stationer's Hall [If he were an alien, it might perhaps be doubtful; but he is apparently a British subject+]

+ it doesn't matter if he isn't so long as he is resident in British dominions and owes a 'temporary allegiance' to His Majesty

If there is no law in Hyderabad and if he doesn't register at Stationer's Hall he ~~[illegible]~~ will still be protected, but will have to register before he can sue (§ 24 of the Act of '42)

Hy 23.3.4

Sec. 11 of the Statute 49 + 50 Vic. c. 33 defines a British Possession as including "any part of H. Majesty's dominions exclusive of the United Kingdom". In the Interpretation Statute 52 53 Vic. c. 63, sec. 18, "British India" + "India" are defined, and it seems fairly clear from those definitions that Hyderabad is not a part of British India or of H.M.'s dominions, + is not, therefore a British Possession.

Hyderabad is therefore a Foreign Country for the purposes of St. 49 + 50 Vic. c. 33.

There is, therefore, a flaw in the A.S.'s argument, + no Order in Council under Sec. 2 of the Statute seems to have been made in respect to Hyderabad

24. 3. 04

HM

Recd

Respectfully submitted that the Interpretation Act leaves it doubtful whether non-British India is or is not in the "dominions of His Majesty" [which is the expression of the International Copyright Acts+] and that if Hyderabad is (1) in the dominions of His Majesty and (2) makes its own laws it is (1) a possession, and (2) a separate possession.

+ Act of '86 § 11

I admit that for purposes of municipal law Hyderabad is not British territory and a native of Hyderabad is not a British subject. My contention is that in respect of International Copyright, Hydrabad is British territory and a native of Hydrabad is a British subject, and is subject to every prohibition and penalty and enjoys every right given by the International Copyright Acts or any Order in Council issued under them. This follows from the nature of the subject-matter of the Acts. In all its international relations Hyderabad is as much a part of the British dominions as Hampstead and if an Englishman ~~man~~ in Hydrabad pirates a French book, I do not believe that any British Court would allow him to plead that Hydrabad was not in the dominions of His Majesty & that the ~~off , if any, was committed abroad~~ Act does not apply to the case. For purposes of International Copyright no fine distinctions are possible; Hydrabad must either be Foreign or British; it can't be anything intermediate. If our protected states were Foreign Countries within the meaning of the I. C. Acts, would not the benefits of the Acts have been extended to them at once by Order in Council+? And the difficulty about an Order in Council treating Hydrabad as Foreign and its inhabitants as aliens would be this: that there would be a conflict with the Foreign Jurisdiction Act, 1890

+ under § 2 of the Act of 1886

which gives our Courts, say in Zanzibar, jurisdiction over the subjects of the several princes and states in India. If a ~~an Englishman~~ Frenchman in Zanzibar sued a native of Hydrabad under the Intern.l Copyright Acts, the native would produce our hypothetical Order in Council under the I.l Copyright Acts and say~~s~~: See, I am a Foreigner for purposes of Copyright, an alien; I must be sued in the Courts of my own Nation of Hydrabad; it must be proved that I have done something actionable under the I copyright law of my own nation of Hydrabad; while the Frenchman would produce the East Africa Order in Council and the Foreign Jurisdiction Act and say: No, he is not an alien, he is a British protected subject, he is obviously wrong in saying that this Court has no jurisdiction over him, he is amenable to British law and I can recover from him under the Copyright Acts.

A Frenchman can't sue another Frenchman for breach of copyright in the British Court of Zanzibar; but he can sue a British subject there; and my contention is that ~~in~~ the Frenchman would be entitled to treat a native of Hyderabad as a British subject in any place in which there is a

British Court for him to appeal to; i.e. as far as the International Copyright Act is concerned, he is a British subject and Hydrabad is a British possession; but on re-consideration, I think I was wrong about § 8 of the Act of 1886. I still believe that that section, if it admits of strict construction, would protect a native of Hydrabad against international piracy and would permit him to register at Stationer's Hall if there is no law of registry in Hyderabad; for no foreign tribunal and no English tribunal having foreign jurisdiction would deny that Hydrabad is a British possession. But a British India Court might say: We are not concerned with International Copyright; we are only concerned with the municipal law of England and with internal copyright within our own territories; this fellow from Hydrabad, which is not subject to the English municipal law, has registered at Stationer's Hall; but that registration only protects him against foreigners and not against Englishmen; the International Copyright Act does not modify ~~our~~ the English municipal law in respect of Copyright, as laid down in the Copyright Acts, namely that publication must be in the United Kingdom. — § 8 is a bad section

I don't follow. See Sec. 8 of 49 & 50 Vic. c 33

and might be held to mean what I at first thought; for that is what I still think it would mean if taken absolutely literally and if it is granted that in the International Copyright Acts British possession includes the native states of India.

25.3.4

Secy

I must leave it to the Hon. Member to decide on the rather doubtful & difficult points raised in the A.S.'s Notes. Sir C. Ilbert's book on the Govt. of India is put up, & may be of some service. On p. 269 Sir C. Ilbert says — "The territories of the Native States are not part of the dominions of the Queen, but their subjects are for international purposes in the same position as British subjects". On pp. 461-462, he has some remarks on the position of Protected Native States. If a subject of the Hyderabad State pirated a copyright book published in a country belonging to the Copyright union, he wd., according to Sir C. Ilbert, be held to be "in the position of a British subject": & we should have to prevent such piracy being carried on in Hyderabad. On this showing, Hyderabad is not a Foreign Country within the meaning of the Copyright Act 1886. & then, it seems to follow that it is a British Possession — tho' the wording of Sec. 11 — "H.M.'s dominions" — is awkward. ~~Being [illegible]~~

If we thus arrive at the conclusion that Hyderabad is a British possession, Sec 8 of the Statute of 1886 applies.

25.3.04

Ask the Brit. Resident for information as to copyright law in Hyderabad and then submit the case to the Adv. Genl.

K
27 3/04

Please draft ref: to Resid^t acc^g.
AGJ 28.3.04

The draft placed below is submitted for approval. [illegible] 29.3.4

Pb
29/3/4

E.
12
200—7-10.03.

EDUCATIONAL DEPARTMENT.

5 P

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

" " " " ………, " ……… 190 .

READ ALSO:—

C. No. 299, From ~~the~~ Nawab Aziz Jung Bahadur No. ………, dated 14 – 2 – 190~~4~~

" " ………, " " ………, " ………, " ……… 190

" " ………, " " ………, " ………, " ……… 190

Letter ~~ORDER~~ mis No. 206, dated 29 . 3 . 1904.

Desp
29/3/4

Desp
31/8/4

To

The Hon'ble the Resident
at Hyderabad.

Sir,

Nawab Aziz Jung Bahadur a pensioned Talukdar of Hyderabad has written in Hindustani a history of the system of Native account keeping and appears to have obtained the copyright in it registered in His Highness the Nizam's Dominions. He now desires to effect registration in ~~Br~~ British India and has submitted an application to this Govt. first. I am directed to enquire what is the law, if any, in His Highness the Nizam's Dominions as regards the registration of Copyright. If His Highness' Govt. has passed any Copyright Regulation I am to request that you will be so good as to forward a copy of it.

I have &c.

29/3/4

29.3.4

---

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

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

CURRENT 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.