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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 2026-7 Press ~~Mis.~~

243-247

Dated 30th December 1863

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Read the following papers:—

No. 243. From THOMAS WILKINS, Esq., Deputy Registrar of the High Court of Judicature at Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 7th August 1863, No. 88.

1. I am directed to acknowledge receipt of the Order of Government, dated the 18th May last, forwarding for the observations of the Chief Justice and Judges copy of a Bill to provide for the Registration of Assurances.

reply I am directed to transmit the accompanying observations recorded by the Chief Justice and Judges on the provisions of the Bill in question.

MR. JUSTICE HOLLOWAY.

3. "Repugnant as this Bill is to the principles of the English law of property, which by "judicial decision gradually removing the necessity for publicity in transactions connected with "the transfer of property has rendered it possible to transfer and encumber property with "perfect secrecy, I quite concur in its principle."

4. "Perjury and Forgery are not the exceptions but the rule, and having no reason to "believe that they are at all less common within the original jurisdiction of the High Court, "I would not exempt documents executed within that jurisdiction from the operations of the "Bill."

5. "I am fully aware that a considerable amount of clamour would result from the extension. "That clamour will resolve itself into the following questions or something like them. 'What "right has the public to a knowledge of my private affairs?' 'Supposing me pressed for money, "why should the necessity which is merely temporary be proclaimed?' 'Will not mercantile credit "be seriously affected by such publicity?' The answer is that the proclamation will prevent the "obtaining of fictitious credit by an apparent po[illegible]s which do not exist, and the "result will doubtless be to check speculation w[illegible]se of the speculator; but it "will by no means injure the trader who, dealing with funds which are his own, incurs only "liabilities which, in case of unsuccessful speculation, he will be able to meet. All these argu- "ments in favor of secrecy are in fact arguments not on behalf of fair traders, not on behalf of "honest men, but those who trade beyond their means and are able always in the hope of something "turning up to incur liabilities which at the time of incurring them they have no reasonable "prospect of meeting."

6. "I look upon the machinery of the Bill with the greatest alarm, and am satisfied that if "more effective means than those specified in the Bill are not adopted, the result of registration "will be in the attempt to defeat forgery, to give effect to forgery and false personation."

7. "An inquiry little, if at all, less complete than that held in a regular suit into the "identity of parties is absolutely necessary. Notices extensively circulated so as to reach "every person whom the document purports to affect ought to be rendered imperative."

8. "The very loose language of the Bill that the Registrar is to satisfy himself of the "identity will not meet the need."

9. "Those notices should be issued to every Talook Cutcherry, published in the District "Gazettes and in the villages in which the parties to the document reside."

10. "Where the purport of the deed is the transfer or charge of land, notice of intent to "register such a deed should be given and published at least one month before the deed is "finally registered. I object altogether to the permission of such registration by means of "agents. I would insist upon the presence of the parties themselves. For a few Annas many "agents are willing to run the risk and *do* run the risk of punishment for forgery or perjury, "knowing that the chances of a conviction are not great. Men, however, likely to deal in "such transactions as loans and sales are rather chary of putting themselves prominently for- "ward before a public Officer to effectuate a forgery. As to loans of money, there are of course "very obvious objections to the delay required for the purpose of such notice. It might be "obviated by registering such documents at once but providing that the registration shall be pro- "visional only in case of no objections being made within a reasonable time after the issue of "notice."

11. "It may be asked why such precautions are needed when by [illegible] inquiry "into the identity of the parties is made before registration."

12. "It is because there would not exist a particle of difficulty in procuring a man to "appear as if he was some one else and producing evidence that he is the person who is the other "party to a document."

13. "This will be done without a particle of fear, where the document is one likely to "remain unacted upon and uninquired for for any length of time; but there will be a great deal "more hesitation when by the aid of notices the real Simon Pure may within a month appear and "disavow the transaction."

14. "For a further security, I would not allow any transfer of land to be registered in any "other Registry office than that of the Division in which the land is situate."

15. "Publication every month should be made of the documents registered in the District "Gazette, the Moonsiff's Court, and Tahsildar's Cutcherry nearest to the Registry office. The "whole deed need not be set out. In distinct columns, there should be —

"i.—The house names and names of the parties."

"[illegible]laces of residence."

"iii.—The nature of the document, as sale, mortgage of land, security for money, &c."

16. "It will seem to some puerile to enter into these details, but in truth upon the correct "arrangement of these depends the question whether this Bill is to be the instrument of more "awful and more organized wickedness than that which it seeks to prevent."

MR. JUSTICE FRERE.

17. "I concur with Mr. Justice Holloway in his general approval of the Bill, as also in "his opinion that deeds having reference to land should be registered in the Division in which "the land is situated. Section XXVI [illegible] contains an express provision to "this effect."

18. "I am, however, disposed to think that the provisions of the Bill as respects the mode "of registration are sufficient. Such an exact inquiry as that recommended by Mr. Justice "Holloway as regards the identity of the parties, would, I [illegible] id impossible "in practice; nor do I view the provisions of the present Bill on this subject with the same "degree of apprehension. They are much more stringent than the existing law, Section IX, "Regulation XVII of 1802; and I am not aware that in Districts such as Canara for instance "where this law has been brought into most extensive operation, it has been attended with other "than beneficial consequences."

19. "The question whether the law should be applied to the original jurisdiction of the "High Court I would leave to the Judges presiding over that branch of the Court."

MR. JUSTICE PHILLIPS.

20. "I have perused with much interest this Draft Bill which is a great improvement on "what we have hitherto seen on the same subject."

21. "Having now for many years been a resident within the limits of the jurisdiction of "Her Majesty's late Supreme Court, I see no reason for excepting from the operation of the "new law, those parts of the Madras Presidency which at present form the jurisdiction of the "High Court on its original side, and so far as my own opinion goes, I would advocate the exten-"sion to them of the proposed Act."

22. "Adverting to Section VII I cannot help feeling that it is not desirable to assign the "duty of a Deputy Registrar to persons who are not public Officers, and I deem it still more "objectionable to give to District Registrars the power of nominating persons of that "class in case of the absence of any Deputy Registrar within the District Registrar's range. "The Draft Act places much authority in the hands of a Deputy Registrar, and I would care-"fully provide that this shall be exercised only by men whose position as employés already in "office, establishes a check on irregularity or impropriety of proceeding. Referring further "to Section X, it is most inadvisable, I consider, to revive by this Act, the system of remunera-"tion by fees, instead of by fixed salary, which we know is being repressed in other directions.

Proceedings of the Madras Government, Judicial Department,
30th December 1863.

"I cannot also recognize the justice of making provision (Section X) for the grant of salary to "Deputy Registrars, who may be District Moonsiffs or Tahsildars, as the Government may elect, "when no such provision is made for remuneration to the *District* Registrars, who, generally, "will be our Civil and Session Judges with more work on their hands at present than they can "conveniently discharge.

23. "Section XI does not indicate to whom should be presented the appeal which the "Section authorizes. It is obvious from what appears further on in the Draft Act, that the "District Registrar is the appellate authority contemplated, but to my mind it would be better "to declare this clearly."

24. "Section XII. I would omit this Section or declare that no person shall be appointed "to a Deputy Registrarship in a District with the language prevalent in which, he is unac-"quainted. Take for instance an Ooria document brought for registration to a Deputy "Registrar located on the eastern boundary of Jeypore in Vizagapatam. The Deputy Registrar "knows not Ooria and sends it to Chicacole, where there is a District Registrar, the Zillah "Judge, who knows less and is not likely to have at his elbow the efficient establishment of "Subordinates learned in Ooria, who would have been found in the Deputy Registrar's (the "Tahsildar) Office."

25. "Section XV. As the Act permits much to be done by the intervention of an autho-"rized Agent, I would not retain this Section as now worded. If the person desiring to make "the deposit is a female of high rank whose position and circumstances can be shown to be such "as positively prevent her own attendance at some place near the Deputy Registrar's Office to "which the latter can without inconvenience proceed, in such cases and in those only the "Deputy Registrar might, I think, go and receive the document in deposit."

26. "Section XXIX. The provisions of this Section [illegible]ch transcription labor. "I do not [illegible]he District R[illegible]puty Registrar. One "copy passed on from the one to the other of this class of Officers, ought to suffice."

27. "Section XLI. An abstract of the Court's Memorandum would be enough. There "will be much pasting and other inconvenience if "*a transcript*" thereof cannot be made in the "margin of the Book of registry."

28. "With these few exceptions I consider the Bill is justly entitled to approbation. We "have to choose between the evil of no system of registration at all and the possible evils of the "system which the Draft Act would sanction."

29. "There certainly may be some room to fear that the irregularities will occur to which "Mr. Justice Holloway has pointed, but I think a close application of the provisions of the Penal "Code will do much towards checking them and eventually putting a stop to them altogether.',

SIR ADAM BITTLESTON, J.

30. "I have no doubt that the proposed system of registration should be extended to the "local limits of the High Court's Original Civil jurisdiction; although some inconvenience to "the European mercantile community may be the result. I also think that the measure would "be improved by containing provisions to ensure publicity in all cases in which the parties to "the instrument are not personally known to the Registering Officer. In such cases notice of "the application for registration might be conspicuously exhibited in the District and published "in the Official Gazette and local Newspapers, if any."

CHIEF JUSTICE.

31. "On the subject of extending the Bill to the local jurisdiction of the Courts at the "Presidency Towns established by Royal Charter, my opinion is that in so far as its provisions "apply to the registration of deeds of gift and other instruments relating to immoveable pro-"perty, there is no good reason why the Bill should not have operation within such local juris-"diction. The great object of the Bill I take to be the prevention of forgery and fraud, and "concealment as a means thereto; and it seems to me that whilst on the one hand no doubt can "exist of the need in that respect for remedial legislative enactments at the Presidency Towns, "there are on the other hand no peculiar local considerations of such weight and importance as

"to make it objectionable or inexpedient to extend to those towns the provisions as to immove-
"able property."

32. "I am of the same opinion as regards also the provisions relating to the
"deposit and registration of Wills, Codicils or authorities to adopt; those
"tionary and attaching no disadvantage of any kind to the
"ments."

33. "With regard, however, to the other provisions relating to titles and interests in
"moveable property and to awards, deeds, bonds and contracts, I am not prepared to express
"the same opinion. In this respect registration is not made simply discretionary. Where
"is the omission to register, the remedy by action is limited to a short period. T
"will apply to all transfers, &c., of merchandize and to awards and written contracts connected
"with the daily pressing business of trade and commerce of every description, which at the Pre-
"sidency Towns is of large proportion and for the most part carried on by Europeans, and such
"will be the transactions to which in the *great majority* of instances the provision will apply.
"I think to require in every case either registration in a public office or, *as an alternative, the*
"*necessity of bringing an action within the short period of time allowed,* ve.gener
"objectionable and very inconvenient restraint in business dealings; and this without sufficient
"countervailing advantage otherwise, to warrant it. Now certainly as regards Europeans, and
"as respects Natives, I believe, it will be found that it is not in connection with transactions
"and dealings of this description that cases of forgery and perjury often arise at the Presidency
"Towns."

34. "Referring to the other provisions of the Bill, I think some provision should be
"made for the giving of public notice, in all cases at least, of the intended registration of gifts
"or instru
"The fact of registration will carry with it great weight in after disputes as to the property,
"and every reasonable precaution should be required in order to guard against false personation."

No. 244. From W. HUDLESTON, Esq., Secretary to the Board of Revenue
able A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 21st October 1863.

Referring to Government Order, dated 18th May 1863, No. 761, Judicial Department, I am directed by the Board to submit the accompanying file of replies to their Circular Order calling for opinions on the Bill for the Registration of Assurances together remarks appended to the Sections to which they refer. The replies are still, incomplete, and on a subject of so much importance, and which will directly affect the great majority of individuals, the Board were anxious to have as complete information as possible before submitting their own opinion to Government; but as this has been repeatedly called for, and the time is now drawing near for the re-consideration of the Bill, the Board are unable to defer the matter any longer.

2. On the general principle of the Bill, and on the general spirit of the pro ontained in it, the Board have no hesitation in expressing their full approval.

3. They believe that if *full* time be allowed to becon and for the bearing of these provisions on existing transactions to be appreciated and provided for, the general sense of the community will recognize in the Law an unmixed benefit. But on the necessity of ample time being allowed for this purpose, the Bo and they are decidedly of opinion that the introduction of the Law at so early a date as 1st May 1864, which is provided for in the concluding Section of the Bill, would be mischievous, if practicable, which is doubtful, seeing that the Act must be translated and published in the vernacular, and the machinery created for working it, after its enactment and publication, which will probably not take place for some time to come.

4. It appears to the Board that for the enforcement of some portion at least of the provisions, as for instance for the rejection of unregistered documents as evidence, a further period of twelve months should be allowed, and even with this interval, and with every facility in the way of easy access to a Deputy Registrar, it may be doubted whether the time will be sufficient for the mere mechanical work of registration.

5. It also appears to the Board that the Bill makes no sufficient provision for publicity, and they would suggest that a very brief notice of every registered document affecting immovable property should be posted daily in every Registry office both District and Divisional, and that in every case of a deed of transfer of landed property a Will or a Deed of adoption or authority to adopt being registered, notice for publication should be sent to the village in which the land is situated, or the parties reside; and that in the offices, and in the villages these notices should remain posted for thirty days.

6. If printed forms were used, the labor involved in such a provision would be comparatively slight, while the benefit would be immense.

7. It would only be necessary to give the names and residences of the parties, the nature of the document, and the description of the property affected. No details as to the purport or provisions of the deed would be necessary, as where the Bill provides for inspection of the registered copy of the document, it would be sufficient to call attention to the fact that a document of the nature stated was in existence.

8. The following remarks on the details of the Bill are in many instances suggested by the replies received from the Districts.

9. *Title.*—The title of the Bill appears capable of being made more intelligible, although the term "Registration" leaves little room for doubt as to its object.

10. "Registration of Assurances" is questionable *English*, and will be difficult to translate without a periphrasis. It would be better to use a longer and more exact term in the English version.

Sections I, II and III.—No remarks.

11. *Section IV.*—The Board of Revenue with their other numerous duties would certainly not be able to perform the duties assigned by the Bill to the Registrar General.

12. Whether the establishment of such an office as that of Registrar General, in which under Sections 18, 19, 21 and 37, 38 and 39 of the Bill an abstract of every registered instrument affecting immovable property must be entered, is necessary, or desirable, or calculated to secure any advantage at all commensurate with the enormous labor that will be entailed on it under these Sections appears doubtful in the extreme.

13. It is presumed from the wording of Section 37 and from its marginal heading, that an abstract of every registered instrument affecting immovable property must, *without any exception*, be entered in the books of the Registrar General.

Sections V and VI.—No remark.

Section VII.—Very general distrust appears to be felt regarding the appointment of any but public Officers to be Deputy Registrars; but, as the Section is only permissive in this respect, the Board see no need to omit the provision.

Sections VIII, IX, X.—No particular remark.

The Board with reference to the Sections regarding appointment of District and Division Registrars would urge strongly the imperative necessity of appointing a very large number of Deputy Registrars. The Collector of Kurnool expresses his opinion that every Village Moonsiff might with advantage be appointed Deputy Registrar of his village with certain limitations as to

the value involved in the transaction, and the Board see no reason why this should not be done when the Moonsiff concerned possesses the qualifications that should attach to him as such.

Seeing how serious are the penalties attaching to non-observance of the requirements of the Bill, and to what petty transactions of every day occurrence it will apply, every possible facility should be given to the public to conform to the Law without inconvenience.

The Village Moonsiff, moreover, from his knowledge of facts, would possess the best possible means of detecting fraud.

Section XI.—Unless the number of District Registrars is larger than it is likely to be, the period of thirty days for appeal from the order of a Deputy Registrar will, in many cases, be inconveniently short, as the majority of appeals will probably be made in person.

Section XII.—It is not sufficiently defined in this Section what course the District Registrar is to pursue on receipt from a Deputy Registrar of a document tendered for registration in a language which the Deputy does not understand.

It seems necessary that an abstract at least should be sent for registry in the office where it was originally presented.

Sections XIII and XIV.—No remarks.

Section XV.—It is presumed that in the case of a person, not a public Officer, being appointed a Deputy Registrar, his private residence might be deemed a public office for the purposes of this Act.

It appears desirable to empower Deputy Registrars, at their own discretion, to attend at the private residence of any party to a document desiring to register it. The necessity of obtaining the sanction of the District Registrar would render the provision as it stands useless in the most urgent cases, as for instance that of a man dying from the effects of a fatal accident, and desiring to register an authority to adopt.

Sections XVI, XVII.—No remark.

Sections XVIII and XIX, XX and XXIII.—These Sections provide that no Deed of gift of any immovable property or other document affecting immovable property of the value of Rupees 100 and upwards (except leases for one year and under) or acknowledgment of the receipt or payment of any consideration on account of the "creation, declaration transfer, or extinction" of any interest of such value in any immovable property (leases as above excepted) shall, if executed after this Act comes into force, be received as evidence or acted on by any public Officer unless registered within three months from date of execution.

Section XX.—And under Section XX the value of the property is to be decided by the stamp on the document.

It is objected to these provisions, that the total denial of justice or rights which they award as a penalty for delay is excessive; that for so sweeping an innovation, the time allowed for the community to acquaint themselves with their liabilities is far too short; that they will unnecessarily compel the registration of every lease for more than one year granted by a landlord or Zemindar, which might be numbered by thousands every year; that the provisions cannot be reconciled with the exemptions under Article 42, Schedule A of the Stamp Act X of 1862, which

that leases executed by a ryot or between landlord and tenant relative to assessed land in the Madras Presidency do not require to be stamped; that they will compel every tenant on lease for more than one year, of land worth more than Rupees 100 to register every receipt for each instalment of rent, and similarly in cases of payment of debts on mortgage, by instalment; and that Government Puttahs must be registered under these provisions.

ggested in regard to these Sections—that provision be made for the optional
e kinds of deeds affected by them whic[illegible] have been executed prior to the

passing of the Act; that the operation of their provisions be postponed for two or three years from the passing of the Act; that the registration of leases be left optional to either party; that the registration of documents to which Government is a party be left optional; that in the case of insufficiently stamped documents the value recoverable be not affected, but stamp penalty enforced; that satisfactory explanation of delay may be accepted and registration allowed on payment of a fine; that the enforcement of such registered documents should be legalized without the formality of a suit and that schedules of documents needing to be registered be appended to the Act.

The Board are of opinion that these suggestions and objections are deserving of serious consideration.

The enforced registry of leases and receipts (if the letter of the Bill would include the latter) will be productive of very great wide-spread inconvenience.

The too early enforcement of the penalty invalidating non-registered documents will injuriously affect rights in every part of the country, and seriously endanger property.

Very great allowance must be made for the ignorance of the vast majority of those who will be affected by the Act, which it is believed goes far beyond what has been even attempted in England.

Sections XXI, XXII, XXV, XXVI and LXIV.—These Sections provide for the *optional* registration

Of deeds affecting immovable property of less value than Rupees 100;
Of leases for periods not exceeding one year;
Of deeds affecting movable property;
Of Wills, Codicils, and authority to adopt;
Of private awards of arbitration;

And of any deed, bond, contract, or other obligation in any cases where such documents are executed after the passing of the Act, provided that they be presented for registration within *six weeks* after execution in every case except those *of Wills*, Codicils and authorities to adopt which may be registered to any time; but that if such documents be not so registered, no action shall lie in the case of immovable property unless brought within two years from the date on which cause of action arose; or in the case of movable property unless brought within six months from such date.

It is objected to these provisions, and the Board think with much reason, that they will be productive of considerable hardship and inconvenience, and that they will force the inclinations of the people in a manner and direction that are very undesirable.

Many causes may operate to delay registration beyond six weeks, and many reasons may exist why a creditor should not wish to enforce his claim within six months.

To drive him against his will into the Courts, when he is disposed to allow longer time to his debtor, cannot surely be productive of any good result, but rather the contrary.

The harshness of the law will be assigned as the reason for a grasping and illiberal proceeding, and the Law itself will be denounced far and wide as an instrument of oppression and an incentive to litigation.

The Board recommend that the Law of limitation be left as it stands in regard to deeds, the registration of which is left optional, but maintaining the superiority of a registered over an unregistered deed.

The question of leases has already been noticed, but is deserving of further remark.

It is presumed that one main object in view in requiring or inducing their registration, is, that intending purchasers of land may have an easy means of ascertaining all existing encumbrances on it; but as the benefit of the greatest number must be the object in view in wise legis-

lation, it appears deserving of consideration whether in this case the many will not be inconvenienced for the benefit of the comparatively very few.

The Board are disposed to think that the object in view, whether the security of landlords or of tenants, or of intending purchasers, will be sufficiently attained by the adoption of a much higher limit as to the value of the property involved, and the duration of the tenure, and they would suggest for consideration the amount of Rupees 500 for the one, and a term exceeding three years for the other.

There does not appear to be sufficient reason for the difference in the time allowed for optional and compulsory registration, and the Board are of opinion that in both cases alike, a period of three months may be allowed.

In regard to the kinds of documents of which the registry is optional, the Board would suggest for consideration that evidence of actual *possession* of immovable property be added to those specified, and that the compulsory registration of deeds conveying authority to adopt, as well as deeds of actual adoption is expedient. A very considerable amount of evil might be prevented by such a provision.

Section XXIV.—The suggestion has already been mentioned that provision be made for the optional registration of the class of documents specified in Sections XVIII and XIX executed before the passing of the Act as well as for those mentioned in Sections XXI and XXII to which at present the provision in this Section stands limited.

Before quitting this portion of the draft the Board would submit for consideration, whether it is expedient to enact that delay beyond the prescribed time shall absolutely preclude the registration of a document when no doubt a[ny] shown for the de[lay]
Board recognize the objections to allowing a discretion of this sort, but if vested in the Registrar General and accompanied with penalties in the shape of stamp duties for application, double or treble fees or even higher for registration and special precautions at the cost of the applicant against fraud, there does not seem reason to apprehend that the provision would be abused.

Sections XXVII, XXVIII, XXIX, and XXXVII, XXXVIII, and XXXIX.—The first of these Sections would be rendered more complete by a slight addition to the effect that the Deputy Registrar shall proceed to register the document as prescribed in Section XXXI *et seq.*

It is not so clear, as it should be, whether copies of the abstracts of registered documents forwarded by Deputy Registrars to District Registrars are to be transmitted by the latter for registry by the Registrar General, though the marginal heading to Section XXXVII would seem to warrant this interpretation. The point has already been touched on, in connection with Section IV. It is evident that of every registered document affecting land in more than one Deputy Registrar's Division, abstracts must be so forw[arded]

It is presumed that every District Registrar receiving from another District Registrar under Section XXIX, copy of a registered document for registry in his District, is to forward an abstract thereof to the Register General, so that in the books of the latter Officer the document will appear twice or more according to the number of Districts affected by it. It is in any case evident from the provisions that in ve[ry] instances more than one abstract will need to be made for transmission to other offices for registry, and it is submitted, with reference to Section XXXVIII, that the separate fee required to be paid for every such abstract or copy will be a hindrance to [the] operation of the Law, unless the original fee be very small.

The Board do not attach weight to the argument that the abstracts are mainly a check upon the Subordinate Officers, inasmuch as they view the provision as intended for the convenience and security of the general community, and not merely or mainly, or indeed in any but a remote degree as a departmental check. But they think it well deserving of consider[ation] whether the original fee should not be made sufficiently large to cover the expense of these copies and abstracts, and the multiplication of fees for each operation got rid of.

In a matter of such importance to the whole community, it may well be remembered that the Government is administering public revenues for the benefit of the public and that even if some charge on the general revenue should be entailed, it would be a most legitimate expenditure for the general security of property.

But it appears to the Board to be deserving of serious consideration whether any such office as that of the Registrar General *as a registering Officer*, and not as merely the supervising and guiding head of the Department is at all necessary, or will be productive of any benefit.

There does not appear to be much more reason for such a general registering office for all the immovable property in each Presidency, than for the establishment of an Imperial registering office for all India.

The question is mainly one of degree, and the Board do not think that the convenience of the community would be promoted by the existence of such an office of general registry for immovable property in any degree at all commensurate with the enormous labour and considerable expense which it cannot but entail.

It needs to be provided in Section XXIX that the District Registrar, to whom a document may be originally presented for registry, shall send an abstract for registry to those of his Deputies in whose Divisions any portion of the land may be situated.

Section XXX.—Further provision appears necessary to meet the case of parties to documents presented for registry, who may be residing out of India.

The admission or otherwise of their powers of Attorney is now left to the discretion of the District Registrar, although it is presumed that under Sections XI and XIII his d[ecision] will be open to appeal to the Registrar General. The attestation of a Notary Public, or other such authorized Officer would seem to be sufficient to guarantee its admission. It may be deemed advisable that such points should be settled by the departmental rules to be framed under Section XIV by the Registrar General, but this particular point is one on which the public will desire to have full assurance against the caprice of individual Officers.

It is further observed, in regard to this Section, that apparently any one of the parties to an instrument which needs to be registered to give it legal force and currency, can nullify the document by simply evading appearance before the registering Officer within the limited time for registration or by denying the execution of the document.

Further provisions appear necessary to guard against fraudulent evasion of liability by such conduct, for as the Bill stands there is no remedy at Law for the holder, for instance of a Bond on which he has advanced money, if the debtor refuse to appear for the registration of the Bond and admit its execution within six weeks from its date.

Section XXXI.—It appears desirable that the terms of this Section should insist more strongly on full inquiry as to the identity of the parties, the admission of execution, and *full comprehension of the effect of the instrument.*

Section XXXII.—It also appears desirable that the Deputy Registrar should have power to obtain the evidence of parties residing within the range of the District Registrar, to whom such Deputy is subordinate. It is presumed that this Section is not intended to convey power to procure the attendance of *parties* to documents presented for registry, and that it au[thorizes] the registering Officers to take evidence *on oath.*

Section XXXIII.—Provision should be made for the case of parties who are unable to write and the "parties" whose attestation is required should be defined as the parties to the document.

Sections XXXIV, XXXV.—If an instrument be not admitted to registration it will still be endorsed with the date and hour of presentation attested by the Deputy or District Registrar. It seems desirable that the reason for non-registry should also be endorsed on the instrument.

Section XXXVI.—The endorsement should show to whom the instrument is returned and the attestation of expressed assent to its enforcement without a regular [illegible] be signed by the parties affected as well as by the registering Officer.

Section XL.—No reason is apparent for restricting the provisions of this Section to documents affecting immovable property only.

Provision should be made to compel the issue of the Memorandum contemplated in this Section when the Court may neglect to issue it.

It seems desirable that the Court's Memorandum should in every case be sent to the Deputy Registrar through the District Registrar.

Section XLI.—It should be stated what the Registrar General, &c., are to do with the copy of the Memorandum sent to them.

Section XLII.—As this Section now stands, the meaning of the marginal abstract and the reason for specifying separately Bonds for Rupees 100 and under, and for sums above Rupees 100 are not apparent. If the proviso is intended to apply only to the latter case it should be so stated.

The provision for enforcement without a regular suit will, it is believed, be generally acceptable and will do away with the fictitious suits and Razinamas, now so frequently filed as part of a loan transaction.

It appears to the Board necessary that the consent of the parties to the summary enforcement of the Bond should be obtained in every case, and that no distinction is needed as to the amount of the claim, if full inquiry as to the identity of parties and appreciation of the effect of the Bond be made at the time of registry.

Section XLIII.—No remarks.

Section XLIV.—It is not apparent why Section 206 of the Civil Procedure Code should be inapplicable to these cases.

Section XLV to L.—No remarks.

Sections LI to LIII.—On these Sections the Board only remark that it [illegible]essary to provide for the withdrawal of the Will, &c., at pleasure by the depositor.

It is presumed that the provision in Section LI will enable the registering Officer to exercise in these cases the powers conferred by Section XXXII.

Sections LIV, LV.—The Board's opinion as to the imperative necessity of keeping the charge on account of fees as low as possible has already been expressed.

Sections LVI to LX.—It seems very necessary for facility of search and for the maintenance of Indexes, that some system of daily Index should be adopted. The postponement of the indexing to the end of the year will often result, in the case of Deputy Registrars, in there being no Index at all.

Copy of a form of Index suggested by the Acting Judge of Mangalore Zillah, who has had experience of its usefulness for this purpose, is appended to this letter.

The hours of examining registers should be limited to the established office hours.

Miscellaneous Provisions Sections LI to end. } It appears to the Board desirable that Registrars, Deputy and District, should take an oath to discharge their duties faithfully.

The provisions of Section LXIV have already been noticed.

Sections LXV, LXVI.—The exemption of transactions within the limits of the original jurisdiction of Courts established by Royal Charter from the operation of the Act appears to the Board most impolitic and undesirable.

The date fixed in Section LXVII for the Act to come into operation is far too short.

Proceedings of the Madras Government, Judicial Department,
30th December 1863.

A.

Vakil.	No. of Deed.	Executors' names beginning with: Vowels a, i, u, e, o; k, g, n; ch, j, n; t, d, n; t, d, n; p, b, m; y, r, l, v; s, h	No. of Executors.	See: Page.	See: Of book.	See: Of Taluk.	Magani.	Village.	Warga.	Land.	Fee collected. Rs.	Price of stamps. Rs.	Price of stamps. A.	Remarks.	Date of Registration.
		Kantu Manaf. ಕಂಟು ಮನಫ													
		Vasunaik. ವಸುನಾಯಕ													

(Signed) W. HUDLESTON, *Secretary.*

No. 245. From JOHN ROBERT BOYSON, Esq., Government Solicitor, Ma[illegible] the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Madras, dated 20th October 1863, No. 764.

1. I have the honor to acknowledge the Proceedings of Government noted in the margin, with their enclosures, relative to the proposed Bill to provide for the Registration of Assurances.

Dated 29th September 1863, No. 1563, Judicial Department.

2. Having submitted them for the consideration of the Advocate General, and also conferred with him thereon, I now forward a copy of the opinion and remarks which he has written.

3. I also return the Copy Bill.

COPY—OPINION.

I approve of the principle of this Bill as applied to this country. I think its machinery is capable of being improved.

I think that the greatest practicable amount of publicity of intended registration ought to be secured before registration. I agree therefore with Mr. Justice Holloway in respect to notification, but I scarcely think that such a minute inquiry as he appears to contemplate could be effectually carried out.

I think the Bill should be made applicable to Madras. I do not anticipate that there would be any outcry in consequence. Nor do I feel the force of the objections which appear to have weighed with the Chief Justice, because, as I read the Bill, Section XXII is not compulsory and the provision with regard to personalty, and therefore such contracts as ordinarily obtain among Merchants is merely *permissive*.

If this Bill be made applicable to Madras, Sections 61-5-6 will req[illegible]n. I think six months' limitation unreasonably short in the case of contracts, &c., not registered.

MADRAS, 19*th October* 1863. (Signed) JOHN BRUCE NORTON,
Advocate General.

(True Copy.)

(Signed) J. R. BOYSON,
Government Solicitor.

No. 246. ORDER THEREON, 30th December 1863, No. 2026.

Ordered that the following letter be despatched :—

(Signed) A. [illegible],
Chief Secretary.

No. 247. To the Secretary to the Government of India, Home Department, dated George, 30th December 1863, No. 2027.

In acknowledging the receipt of Mr. Under Secretary Wyllie's letter of the 11th March last, No. 2001, calling for the opinion of this Government on the "Bill to provide for the registration of Assurances," I am directed to submit, for the consideration of His Excellency the Governor General in Council, the papers noted in the margin, containing the observations of the Honorable the Judges of the High [illegible] the Acting Advocate General, and the Board of Revenue on the Bill in question, and to offer the following remarks.

From the Judges of the High Court, 7th August 1863, No. 88.
" Board of Revenue, 21st October 1863.
" Government Solicitor, 20th October 1863.

2. It will be seen that all the authorities who have been consulted, approve of the principle of the Bill and of the general spirit of its provisions. In this opinion the Governor in Council concurs, but at the same time he agrees with these authorities that there are several p[illegible] of importance on which the Bill should be amended before it is passed into law.

Proceedings of the Madras Government, Judicial Department,
30th December 1863.

3. *As to the Registration Establishment, Sections IV to X.*—The Governor in Council greatly doubts the expediency of enacting that the Judge of the principal Court of Original Civil Jurisdiction shall invariably be the District Registrar. In this Presidency, the Court of the Civil and Session Judge of the Zillah is the principal Court of Original Civil Jurisdiction; and in many of these Courts, the business is so heavy as to render it impossible that the Civil and Session Judge should attend to his duties as District Registrar without prejudice to the business of his Court. The Governor in Council would suggest that Section VII should be re-cast, so as to leave the appointment of the District Registrars, as well as of the Deputy Registrars, to the discretion of the local Government. This alteration, if adopted, will necessitate the omission of the latter part of Section IX.

4. The Board of Revenue object to the establishment of any Central Office of Registry at the Presidency, and, as the Government think, upon valid grounds. It seems quite sufficient that a copy of the instrument registered should be filed in the Deputy Registrar's Office, and an abstract thereof in the District Registry Office. The labor and expense of entering in a General Registry Office at the Presidency Town an abstract of every deed registered in the Divisional Registry Offices, will be very great, and more than commensurate with the advantages to be gained. But, in the opinion of His Honor in Council, there should be a Superintending Officer to superintend the working of the system, under the immediate orders of the local Government. He might be designated Superintendent of Registration, and should be required to travel and exercise a careful supervision over the work of the District and Divisional Registrars. This is a duty which cannot be assigned to the Board of Revenue. The Superintendent of Registration might exercise the functions described in Sections XIII and XIV.

5. *General Rules.*—The period of appeal to the District Registrar from an order of the Deputy Registrar should be extended to six weeks. The appellants will usually attend in person; and where the distances are considerable, the longer period will not be too much. The Governor in Council concurs in the remarks of the Board of Revenue on Section XV. It will be necessary to give the Deputy Registrars a larger discretion as to the place of registration.

6. *Instruments to be registered.*—The Governor in Council concurs generally in the remarks made by the Board of Revenue with reference to Sections XVIII, XIX, XX and XXIII, and in the objections urged by them against including leases for periods below three years, and relating to property valued at less than Rupees 500 in the list of instruments which must be registered, and also as to the inexpediency of limiting to [illegible]ths the period within which [illegible] lie, based upon an unregistered deed. Such a provision would doubtless be productive of much hardship and inconvenience. The period should be not less than two years. The Honorable the Chief Justice and the Advocate General both advert to the shortness of the time allowed in the Bill. The Government concur in the suggestion of the Board of Revenue that the registration of deeds conveying authority to adopt should be made compulsory. They also think it advisable that the registration of deed of actual adoption should be compulsory. Payments of rent under leases should not be included among the transactions, the registration of which is either compulsory or optional.

7. *Time of Registration.*—The Governor in Council is of opinion that the time specified in Section XXV for the registration of deeds, the registration of which is optional, viz. six weeks, is too short.

8. *Place of Registration, Sections XXVII to XXX.*—The Governor in Council agrees with Mr. Justice Holloway that no transfer of land should be registered in any other Registry Office than that of the Division in which the land is situate. Where land is situated in more than one Registry Division or District, separate deeds should be required for each portion. He is of opinion that all registration should take place in the Deputy Registrars' Offices, and that the District Registry Offices should be merely Offices of record in which abstracts of the instruments registered in the Division Registry Offices shall be kept; the District Registrars being likewise vested with the supervision of the Deputy Registrars and with the appellate authority which the Bill proposes to confer upon them. When it may be deemed expedient to in[illegible] District

Registrar with the functions of a Deputy Registrar as ... the two functions be kept distinct.

9. *Mode of Registration, Sections XXX to XXXII.*—The question whether parties wishing to register deeds should be allowed to appear by Agents, is one of considerable importance. Mr. Justice Holloway altogether objects to such permission being given in the case of deeds for the transfer of land, as being calculated to facilitate forgery and false personations. But, practically, the withholding of such permission would, in some cases, involve such serious hardship that it seems impossible to dispense with it. As a safeguard the Governor in Council would add to Section XXX a proviso to the effect that in those cases in which the person who shall have executed a Power of Attorney is unable to deliver the same in person to the Deputy Registrar, the Power of Attorney shall be presented either by a Vakeel of the nearest Civil Court, or by an Agent specially authorized by the District Registrar to act in such matters. The Governor in Council concurs with the Chief Justice and Mr. Justice Holloway as to the necessity of requiring that in certain cases public notice should be given beforehand of the intended Registry of deeds. He would require this in all cases, whether the instrument relates to moveable or immoveable property in which *all* the parties to the deed do not attend in person before the Deputy Registrar, and in the case of *all* deeds relating to immoveable property. He does not think it necessary or desirable that such previous public notice should be given in the case of deeds relating to moveable property, except when all the parties have not appeared before the Deputy Registrars. He would suggest, however, except in the case of deeds executed at the Presidency Town, that an abstract statement of all registered deeds, whether relating to immoveable or moveable property, should be published after registration, as proposed by Mr. Justice Holloway. At the Presidency Town as elsewhere notice should be given *before registration* in the case of all deeds relating to immoveable property, as well as in other cases when *all* the parties do not attend before the Deputy Registrars. The notices referred to should, in the case of instruments executed at the Presidency Town, be published in the Government Gazette and in the case of instruments executed in the Mofussil, in the District Gazette, in the village or town in which the parties usually reside, or in the case of immoveable property, in which the property is situated, in the nearest Cutcherry, in the nearest Civil Court, in the Collector's Cutcherry and in the Zillah Court, not less than a month before the actual registry.

10. *Decrees affecting registered instruments, Sections XL and XLI.*—The Governor in Council agrees with the Board of Revenue that the provisions of Section XL should be extended to documents affecting moveable, as well as to those affecting immoveable property.

11. *Enforcement of registered Bonds and other instruments, Sections XLII to L.*—He also agrees in the Board's remarks on Section XLII. He would require that the consent of the parties registering to the enforcement of the bond should be obtained in every case without reference to the amount of the bond.

12. *Registration of Wills, &c., Sections LI to LIII.*—As suggested by the Board of Revenue, these sections should provide for the withdrawal of the Will, &c., at the pleasure of the depositor.

13. *Registers, Sections LVI to LX.*—The indices should, if possible, be kept from day to day.

Miscellaneous provisions.—The Governor in Council is of opinion that the Act should comprise the local limits of the High Court's ordinary jurisdiction. It will be seen that Sir Adam Bittleston, Mr. Justice Phillips, the Advocate General, and the Board of Revenue are all in favor of its being so extended. The Chief Justice would extend such of its provisions as apply to the registration of deeds affecting immoveable property, but not of those relating to moveable property, on the ground of necessity, in such cases of bringing an action "within the short period of time allowed" by the Bill (Section LXIV) "would prove generally an "objectionable and inconvenient restraint in business dealings." The Governor in Council has already suggested that, in the class of cases referred to, the period within which an action may be brought, should be considerably extended; and if this be done, he sees no reason why the

Proceedings of the Madras Government, Judicial Department,
30th December 1863.

Act should not be declared applicable to the local limits of the ordinary Civil jurisdiction of the High Court, as well as to the rest of the Presidency.

15. I am to observe, in conclusion, that in the opinion of the Madras Government a period of not less than two years should be allowed to elapse after the passing of the Act before the date fixed for its coming into operation, in order that it may be carefully translated, and that the public may have full opportunity of becoming acquainted with its provisions.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. McMootry.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from W. HUDLESTON, Esq., Secretary to the Board of Revenue; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 21st October 1863.

Referring to Government Order, dated 18th May 1863, No. 751, Judicial Department, I am directed by the Board to submit the accompanying file of replies to their Circular Order calling for opinions on the Bill for the Registration of Assurances together with a precis of the remarks appended to the Sections to which they refer. The replies are still, incomplete, and on a subject of so much importance, and which will directly affect the great majority of individuals, the Board were anxious to have as complete information as possible before submitting their own opinion to Government; but as this has been repeatedly called for, and the time is now drawing near for the re-consideration of the Bill, the Board are unable to defer the matter any longer.

2. On the general principle of the Bill, and on the general spirit of the provisions contained in it, the Board have no hesitation in expressing their full approval.

3. They believe that if *full* time be allowed for its provisions to become thoroughly known, and for the bearing of these provisions on existing transactions to be appreciated and provided for, the general sense of the community will recognize in the Law an unmixed benefit. But on the necessity of ample time being allowed for this purpose, the Board would very strongly insist, and they are decidedly of opinion that the introduction of the Law at so early a date as 1st May 1864, which is provided for in the concluding Section of the Bill, would be mischievous, if practicable, which is doubtful, seeing that the Act must be translated and published in the vernacular, and the machinery created for working it, after its enactment and publication, which will probably not take place for some time to come.

4. It appears to the Board that for the enforcement of some portion at least of the provisions, as for instance for the rejection of unregistered documents as evidence, a further period of twelve months should be allowed, and even with this interval, and with every facility in the way of easy access to a Deputy Registrar, it may be doubted whether the time will be sufficient for the mere mechanical work of registration.

5. It also appears to the Board that the Bill makes no sufficient provision for publicity, and they would suggest that a very brief notice of every registered document affecting immovable property should be posted daily in every Registry office both District and Divisional, and that in every case of a deed of transfer of landed property a Will or a Deed of adoption or authority to adopt being registered, notice for publication should be sent to the village in which the land is situated, or the parties reside; and that in the offices, and in the villages these notices should remain posted for thirty days.

6. If printed forms were used, the labor involved in such a provision would be comparatively slight, while the benefit would be immense.

7. It would only be necessary to give the names and residences of the parties, the nature of the document, and the description of the property affected. No details as to the purport or provisions of the deed would be necessary, as where the Bill provides for inspection of the registered copy of the document, it would be sufficient to call attention to the fact that a document of the nature stated was in existence.

8. The following remarks on the details of the Bill are in many instances suggested by the replies received from the Districts.

9. *Title.*—The title of the Bill appears capable of being made more intelligible, although the term "Registration" leaves little room for doubt as to its object.

10. "Registration of Assurances" is questionable *English*, and will be difficult to translate without a periphrasis. It would be better to use a longer and more exact term in the English version.

Sections I, II and III.—No remarks.

11. *Section IV.*—The Board of Revenue with their other numerous duties would certainly not be able to perform the duties assigned by the Bill to the Registrar General.

2. Whether the establishment of such an office as that of Registrar General, in which under Sections 18, 19, 21 and 37, 38 and 39 of the Bill an abstra[illegible]y registered instrument affecting immovable property must be entered, is necessary, or desirable, or calculated to secure any advantage at all commensurate with the enormous labor that will be entailed on it under these Sections appears doubtful in the extreme.

13. It is presumed from the wording of Section 37 and from its marginal heading, that an abstract of every registered instrument affecting immovable property must, *without* [illegible]*n*, be entered in the books of the Registrar General.

Sections V and VI.—No remark.

Section VII.—Very general distrust appears to be felt regarding the appointment of any but public Officers to be Deputy Registrars; but, as the Section is only per[illegible] the Board see no need to omit the provision.

Sections VIII, IX, X.—No particular remark.

The Board with reference to the Sections regarding appointment of District and Division Registrars would urge strongly the imperative necessity of appointing a very large number of Deputy Registrars. The Collector of Kurnool expresses his opinion th[illegible] Village Moonsiff might with advantage be appointed Deputy Registrar of his village with certain limitations as to the value involved in the transaction, and the Board see no reason why this should not be done when the Moonsiff concerned possesses the qualifications that should att[illegible].

Seeing how serious are the penalties attachin[illegible]rvance of the requirement Bill, and to what petty transactions of every day occurrence it will apply, every possible facility should be given to the public to conform to the Law without inconvenience.

The Village Moonsiff, moreover, from his knowledge of facts, would poss[illegible] means of detecting fraud.

Section XI.—Unless the number of District Reg[illegible]an it is likely period of thirty days for appeal from the order of a Deputy Registrar will, in many *inconveniently short, as the majority of appeals will probably be made in person.*

Section XII.—It is not sufficiently defined in this Section [illegible]the District Registrar is to pursue on receipt from a Deputy Registrar of a document tendered for registrati[illegible] language which the Deputy does not understand.

It seems necessary that an abstract at least should be [illegible]in the off[illegible] was originally presented.

Sections XIII and XIV.—No remarks.

Section XV.—It is presumed that in the case of a person, not a public Officer, being appointed a Deputy Registrar, his private residence might be deemed a public office for the purposes of this Act.

It appears desirable to empower Deputy Registrars, at their own discretion, to attend at the private residence of any party to a document desiring to register it. The necessity of obtaining the sanction of the District Registrar would render the provision as it stands useless in the most urgent cases, as for instance that of a man dying from the effects of a fatal accident and desiring to register an authority to adopt.

Sections XVI, XVII.—No remark.

Sections XVIII and XIX, XX and XXIII.—These Sections provide that no Deed of gift of any immovable property or other document affecting immovable property of the value of Rupees 100 and upwards (except leases for one year and under) or acknowledgment of the receipt or payment of any consideration on account of the "creation, declaration transfer, or extinction" of any interest of such value in any immovable property (leases as abov[illegible]ed) shall, if executed after this Act comes into force, be received as evidence or acted on by any public Officer unless registered within three months from date of execution.

Section XX.—And under Section XX the value of the property [illegible]the stamp on the document.

The Board do not attach weight to the argument that the abstracts are mainly a check upon the Subordinate Officers, inasmuch as they view the provision as intended for the convenience and security of the general community, and not merely or mainly, or indeed in any but a very remote degree as a departmental check. But they think it well deserving of consideration whether the original fee should not be made sufficiently large to cover the expense of these copies and abstracts, and the multiplication of fees for each operation got rid of.

In a matter of such importance to the whole community, it may well be remembered that the Government is administering public revenues for the benefit of the public, and that even if some charge on the general revenue should be entailed, it would be a most legitimate expenditure for the general security of property.

But it appears to the Board to be deserving of serious consideration whether any such office as that of the Registrar General *as a registering Officer*, and not as merely the supervising and guiding head of the Department is at all necessary, or will be productive of any benefit.

There does not appear to be much more reason for such a general registering office for all the immovable property in each Presidency, than for the establishment of an Imperial registering office for all India.

The question is mainly one of degree, and the Board do not think that the convenience of the community would be promoted by the existence of such an office of general registry for immovable property in any degree at all commensurate with the enormous labour and considerable expense which it cannot but entail.

It needs to be provided in Section XXIX that the District Registrar, to whom a document may be originally presented for registry, shall send an abstract for registry to those of his Deputies in whose Divisions any portion of the land may be situated.

Section XXX.—Further provision appears necessary [illegible]the case of parties to documents presented for registry, who may be residing out of India.

The admission or otherwise of their powers of Attorney is now left to the discretion of the District Registrar, although it is presumed that under Sections XI and XIII his decision will be open to appeal to the Registrar General. The attestation of a Notary Public, or other such authorized Officer would seem to be sufficient to guarantee its admission. It may be deemed advisable that such points should be settled by the departmental rules to be framed under Section XIV by the Registrar General, but this particular point is one on which the public will desire to have full assurance against the caprice of individual Officers.

It is further observed, in regard to this Section, that apparently any one of the parties to an instrument which needs to be registered to give it legal force and currency, can nullify the document by simply evading appearance before the registering Officer within the limited time for registration or by denying the execution of the document.

Further provisions appear necessary to guard against fraudulent evasion of liability by such conduct, for as the Bill stands there is no remedy at Law for the holder, for instance of a Bond on which he has advanced money, if the debtor refuse to appear for the registration of the Bond and admit its execution within six weeks from its date.

Section XXXI.—It appears desirable that the terms of this Section should insist more strongly on full inquiry as to the identity of the parties, the admission of execution, and *full comprehension of the effect of the instrument.*

Section XXXII.—It also appears desirable that the Deputy Registrar should have power to obtain the evidence of parties residing within the range of the District Registrar, to whom such Deputy is subordinate. It is presumed that this Section is not intended to convey power to procure the attendance of *parties* to documents presented for registry, and that it authorizes the re[illegible]officers to take evidence *on oath*.

Section XXXIII.—Provision should be made for the case of parties who are unable to write and the "[illegible]" whose attestation is required should be defined as the parties to the document.

Sections XXXIV, XXXV.—If an instrument be not admitted to registration it will still be endorsed with the date and hour of presentation attested by the Deputy or District Registrar. It seems desirable that the reason for non-registry should also be endorsed on the instrument.

Section XXXVI.—The endorsement should show to whom the instrument is returned and the attestation of expressed assent to its enforcement without a regular suit should be signed by the parties affected as well as by the registering Officer.

Section XL.—No reason is apparent for restricting the provisions of this Section to documents affecting immovable property only.

Provision should be made to compel the issue of the Memorandum contemplated in this Section when the Court may neglect to issue it.

It seems desirable that the Court's Memorandum should in every case be sent to the Registrar through the District Registrar.

Section XLI.—It should be stated what the Registrar General, &c., are to do with the copy of the Memorandum sent to them.

Section XLII.—As this Section now stands, the meaning of the marginal abstract and the reason for specifying separately Bonds for Rupees 100 and under, and for sums above Rupees 100 are not apparent. If the provision is intended to apply only to the latter case it should be so stated.

The provision for enforcement, believed, be generally acceptable and will do away with Razinamas, now so frequently [illegible] part of a loan transaction.

It appears to the Board [illegible] to the summary enforcement of the Bond should be obtained [illegible] case, and that no distinction is needed as to the amount of the claim, if full inquiry [illegible] appreciation of the effect of the Bond be made at the time of registry.

Section XLIII.—No remarks.

Section XLIV.—It is not apparent why S[illegible] inapplicable to these cases.

Section XLV to L.—No remarks.

Sections LI to LIII.—On these Sections the Board only remark that it seems necessary to provide for the withdrawal of the Will, &c., at pleasure by the depositor.

It is presumed that the provision in Section LI will enable the registering Officer to exercise in these cases the powers conferred by Section XXXII.

Sections LIV, LV.—The Board's opinion as to the imperative necessity of keeping the charge on account of fees as low as possible has already been expressed.

Sections LVI to LX.—It seems very necessary for facility of search and for the maintenance of Indexes, that some system of daily Index should be adopted. The [illegible]ement of the indexing to the end of the year will often result, in the case of Deputy R[illegible] in there being no Index at all.

Copy of a form of Index suggested by the Acting Judge of Mangalore Zillah, who has had experience of its usefulness for this purpose, is appended to this letter.

The time for examining registers should be limited to the established office hours.

Miscellaneous Provisions Sections LI to end. It appears to the Board desirable that [illegible] District, should take an oath to discharge their [illegible]

The provisions of Section LXIV have already been noticed.

Sections LXV, LXVI.—The exemption of transactions within the limits of the original jurisdiction of Courts established by Royal Charter from the operation of the Act appears to the Board most impolitic and undesirable.

The date fixed in Section LXVII for the Act to come into operation is far too short.

MISCELLANEOUS CIRCULAR, No. XLVI.

Board No. 3,388.

From W. HUDLESTON, Esq., Secretary to the Board of Revenue,

To ALL COLLECTORS and ACTING COLLECTORS except Collector of Sea Customs.
„ W. T. BLAIR, Esq., Acting Inam Commissioner.
„ W. ROBINSON, Esq., Inspector General of Mofussil Police.
„ R. E. MASTER, Esq., Officiating Director of Revenue Settlement.

SIR,

1. Referring to the Draft Bill to provide for the Registration of Assurances published in the Supplement to the "Fort Saint George Gazette," dated 10th April 1863, I am directed by the Board of Revenue to request that you will favor them with your opinion on the general principle of the Bill, and with any remarks which your experience may dictate on its details.

2. The Board request that you will obtain and forward to them the opinions of any of your subordinates whom you may think qualified to form a sound judgment on the subject, together with those of the leading men of all classes resident in the District under your control, whom you may think fit to consult. Any vernacular papers should be accompanied by translations.

3. The subject is one of so much importance that it is scarcely necessary to commend it to your special attention.

I have the honor to be,
Sir,
Your most obedient servant,
(Signed) W. HUDLESTON,
Secretary.

REVENUE BOARD OFFICE,
Chepauk,
10th June 1863.

(True Copy.)
(Signed) W. SCHARLIEB,
First Assistant.

Exd. J. Wright.

Requesting opinion on the general principle of the Draft Bill providing for the Registration of Assurances published in Supplement to the "Fort Saint George Gazette," of 10th April 1862.

Board No. 3,388.

Dated 10*th June* 1863.

Received

From the [illegible] the Board of Revenue

To All [illegible]

Miscellaneous Circular, No. XLVI.

From G. L. MORRIS, Esq., Acting Collector of South Canara, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Mangalore, 8th August 1863, No. 152.

1. With reference to the Board's Miscellaneous Circular No. XLVI, dated 10th June 1863, I have the honor to state that I fully approve of the general principle of the Draft Bill for the Registration of Assurances, published in the Supplement to the "Fort Saint George Gazette," dated 10th April 1863.

Mr. J. G. Thompson, Officiating Civil Judge.
Mr. A. McC. Webster, Head Assistant Collector.
Mr. L. S. Rozario, Principal Sudder Ameen.
Srinivasa Row, Principal Sudder Ameen.
Mr. J. Ball, Deputy Collector.
Mr. J. F. Fernandez, Deputy Collector.
G. Narrain Row, Tahsildar of Udipi.
M. Ramapa, Tahsildar of Mangalore.
G. M. Coelho.
L. M. Coelho.

2. I beg also to forward herewith my remarks on the details of the Bill, as well as those furnished me by the persons enumerated in the margin, for the perusal of the Board.

Enclosure No. 1.

Remarks on the details of the Draft Bill for the Registration of Assurances by the Acting Collector of South Canara.

Section 7.—Objections might be raised to any persons other than Public Officers being Deputy Registrars. I think it however desirable that Government should have a discretion given them in this matter, for they certainly would not appoint such persons, unless it was found actually necessary to do so.

Section 12.—It should be stated in this Section whether the District Registrar is to return the instrument to the Deputy Registrar, and how and when he should do so, if he is required to return it at all.

Section 23.—The term of three months specified in this Section as the time within which certain instruments must be registered seems necessary when the provisions of Section 30 are considered, and should also be extended to Section 25.

Section 24.—Nothing is said regarding the time to be allowed for the registration of instruments of the descriptions mentioned in Sections 18 and 19. This should be rectified.

Section 30.—Some more particular rules ought to be laid down for the guidance of parties residing out of India.

Sections 31 and 32.—The mode of registration and inquiry required in these and the following Sections will entail so much labor, and occupy so much time, that I doubt whether Deputy Registrars in such Districts as Tanjore and Malabar, will be able to attend to much else.

Section 40.—I see no good reason for restricting the instruments referred to in this Section to immovable property.

Section 54.—All payments of every kind should be made in Stamps and not in money, such of the Registry Officers as are entitled to fees being remunerated by Government.

(Signed) G. L. MORRIS, Acting Collector.

Enclosure No. 2.

From J. G. THOMPSON, Esq., Officiating Civil Judge of Mangalore, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated 4th August 1863.

1. In reply to your letter of the 9th ultimo, No. 43, I have the honor to forward a few remarks which have occurred to me on the Bill for the Registration of Assurances: together with a letter I have received from each of the Principal Sudder Amins on the same subject. I regret that from the length of the late Sessions, I have not been able to give the Bill more than a hasty examination.

2. I quite approve of the principle of the Bill, but consider that some Sections of it are open to objection. I will notice them in turn.

Section 12.—When an instrument is referred to the District Registrar, a note should be entered in the Deputy's Office, stating what is said to be the purport of it. It is not said what the District Registrar is to do with such an instrument. When he has satisfied himself of its contents, and registered it, he should send the Deputy Registrar an abstract of the nature described in Section 37 and require him to register this abstract, and to make a reference to it in the note he has already made. This should be done whether the instrument refer to movable or immovable property.

Section 15.—How when the Deputy Registrar is not a public officer, under Section 7?

Sections 17, 58.—A book may have "Indexes," but not "Indices." The latter term is used in mathematics only.

Sections 23, 24, 25.—For "excepted" read "accepted."

Section 23.—An instrument is executed first in England by one party, and afterwards in India by another. From what time are the "three months" to be counted? How is the absentee to enforce registration within the proper time?—*See* Section 30.

Section 29.—Who is to verify the copies? and to be responsible for any errors? They may be very long: and badly written.

The Registering District Registrar should be required, like every other, to send a copy to his Deputies.

Section 30, *a*.—One of the parties is at Madras, and another at Bombay. The property lies partly in Coimbatore, partly in Salem, partly in Trichinopoly, and partly in Madura. Is each party to deliver his Power of Attorney personally to the Registrar of each District, and that every time that a trifling change is made in the interests of any party to the instrument?

b. One party may have gone to England, France, or Germany, and have left in India neither heir, assign nor representative. The party who remains out here is probably more interested than the absentee. Is he to be at the trouble and expense of bringing back the absentee every time a change occurs, or to forego the advantages of registration?

c. An instrument may be executed by one party in England. Are the witnesses to his signature to be brought out here, for the satisfaction of a Registrar? if so, at whose expense?

d. When a general Power of Attorney has been personally presented once, must the executor appear at every future change?

e. Is the presence of a heir enough during the life-time of the executor? There is nothing here to prevent such a construction. And under Hindu law it is possible that such a construction may be argued for some day.

f. "Unable to attend personally." Is the absentee to produce a sick Certificate? from a Government Surgeon? from a European Doctor not in the employ of Government? from a native doctor? from a public officer? What excuse other than sickness may be accepted? On what evidence is the District Registrar to "determine" whether he will receive an Instrument?

g. I would suggest the addition of a Section to provide that "Every instrument may be "presented to the District Registrar of any District in which any one of the parties to it resides, "or is staying, at the time of execution. And when any one of the parties is living in any place "not within the territories of the Government of India, it will be sufficient if he cause it to be "attested by any notary or other public officer who is empowered to attest documents which "are executed there."

Section 32.—Under the rules for the examination of witnesses, it will sometimes be impossible to register more than one instrument a day; and registration will always be tedious work. There are, even now, on an average, ten instruments registered daily* in the Court of the Principal Sudder Ameen of Mangalore.

* *i. e.*, 263 a month, on an average of 33 months.

Section 33.—"Unless the parties appearing...attest...." How many parties can possibly attest an interlineation, &c., especially in a closely written instrument?

Section 36, *a*.—"Without a regular Suit." This will be very useful, if due care be taken to identify the party who attends to give the assent. But the provision opens the door to much fraud.

b. The endorsement should show to whom the instrument was returned, because it may have been produced by several parties jointly.

Sections 37, 39 *a*.—If abstracts of all instruments registered by a District Registrar are to be sent to the General Registrar's office, why not also of those registered by a Deputy Registrar?

b. What is to be done with the Abstracts sent up by the Deputy Registrars?

Section 40, *a*.—What if a Court neglect to send such a Memorandum, or refuse to send one, when requested? An appeal should be provided for, as in Section 49.

b. Why should these provisions not be made applicable to instruments which relate to movable property?

Section 42.—If the marginal abstract give the true meaning of this Section, it should run thus:—"Provided *in the latter case*...; "Or, the full stop may be changed into a colon, and the word "provided" begin with a small letter.

Section 49.—Why should Section 230 of the Civil Procedure Code not be applicable?

Section 46.—For "due by him" read "due from him."

Section 53.—A Registrar must have in these cases the powers which are conferred upon him, for other purposes, in Section 32.

b. After "Court of Justice" put a full stop: and begin again with "Any."

c. For "shall be evidence" read "shall be *prima facie* evidence." To make this conclusive evidence would open the door to endless frauds.

Section, 44 &c.—All fees should be paid *in stamps*; as in the Will Office at Doctor's Commons.

Section 58.—For convenience in searching, during the year of registration, an Index should be filled up daily, in which it should be easy to find the names of every party to an instrument. Instruments should be entered in the order in which they are registered; but the Index may be made practically alphabetical, by the adoption of the enclosed form,* which I found very useful when I was in charge of the Sub-Court of Mangalore.

* Appendix A.

Section 60.—"At all times" add "within the office hours of the Registrar." Otherwise people may insist on searching in the night.

Section 64, *a*.—It will lead to much inconvenience, and much fraud where people are not familiar with Law—if the Statute of Limitations be affected by anything but a distinct Act for amending or repealing it.

b. But if it be altered as is here proposed, it should be provided that claims may be kept open by written agreements between the parties, every such agreement being considered as fresh cause of action.

ENCLOSURE No. 3.

From A. McC. WEBSTER, Esq., Head Assistant Collector of South Canara, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated Mangalore, 20th July 1863.

1. I have the honor to acknowledge the receipt of your letter of 8th instant, requesting my opinion on the general principle of the Draft Bill for the Registration of Assurances, &c.

2. As regards the advisability [illegible] nactment, there cannot, I think, be two opinions. Considering the multitudinous transactions taking place between individuals, and the [illegible] instances in which documents produced in Court by one party are denounced to be forg[illegible] the other, the institution of Registration Offices throughout the country will have a m[illegible] effect.

3. I will proceed to notic[illegible] improvement.

Section 20.— [illegible] reference to Section 20 of the Bi[illegible] ment executed on insufficiently stamped paper be produced for [illegible] have to point out to the parties the insufficiency of the stamp [illegible] tunity of drawing up a fresh deed on a proper [illegible] d to do so, the p[illegible] of this Section might be enforced. The insufficiency [illegible] stamp may, how[illegible] notice of the Registrar, and in that case, it appears to me that the full v[illegible] interest, declared by such instrument should be recoverable on [illegible] by Sections 15 and 17, [illegible] p Act.)

Section 23.—5. As regards Section 23, I think that the time is too long. Six weeks appear ample, and I would almost limit the time [illegible] be, I presume, several Registration Offices in a District, an[illegible] registered soon after their execution will greatly outwei[illegible] exceptional instances, be entailed on the people by forc[illegible]

6. I would, in conclusion suggest that a notice of all registrat[illegible] in the District Gazette, as the wider the publicity the greater the safe-guard against fraud in the Registration.

ENCLOSURE No. 4.

From Mr. L. S. ROZARIO, Principal Sudder Ameen of Manga[illegible] Esq., Officiating Civil Judge of Mangalore, dated 17th July 186[illegible]

1. With reference to your letter of the 11th instan[illegible] for my opinion on the general principle of the Draft Bill for the Registration of Assurances, I have the honor to state that I have duly considered the above Draft, and am of opinion that it is fully calculated to realise the objects for which the enactment is intended.

2. Sections 30 and 31 direct that [illegible] egistrar [illegible] y taking evidence, if necessary, of the identity of the parties to the instrument, or of the right of persons who appear as the heirs of such parties, and of the authority of [illegible] s are allowed to appear by agents. I think that these provisions wi[illegible] the frauds which are hitherto committed by personating the partie[illegible] s, and using fictitious Vakalatnamas in the names of such parties.

3. Section 23 provides for the registration of instruments d[illegible] Sections 18 and 19, which shall be executed *after* the date on [illegible] come into operation. I do not, however, see any provision made for th[illegible] nts of the same description which shall have been executed *before* the said date. A p[illegible] r to that of Section 24 appears necessary for the instruments in question, to rem[illegible] doubt as to whether they may be registered, and when they should be presented [illegible]

4. Section 38, directs that for every [illegible] to be forwarded under Section 37 the same fee shall be paid as for the reg[illegible] the original [illegible] nt. It would appear that the abstracts directed to be forwarded by Section 37 [illegible] ed to check irregularities on the part of the subordinate Officers. If so, I do not see the propriety of exacting a fee for every such abstract, in addition to that paid for the registration of the original instruments.

(True Copy.)

(Signed) J. G. THOMPSON, Officiating Civil Judge.

ENCLOSURE No. 5.

From STRINIVASA ROW, Principal Sudder Ameen of Mangalore, to J. G. THOMPSON, Esq., Officiating Civil Judge of Mangalore, dated 16th July 1863.

1. Adverting to your letter of the 11th instant, enclosing copy of one from the Acting Collector, requiring my opinion on the general principle of the Draft Bill for the Registration of Assurances, I beg to state that the law proposed in the bill is a just and beneficial one except on two points mentioned hereunder.

2. Referring to Section 7 of the Bill, I beg to observe that it cannot be expected that a person will have as much hesitation to make false statements before a private individual as before a competent public officer. Moreover, a man not in the public service will not conduct himself with such respectability as a public officer depending on Government salary, much less devote his whole time in registering deeds regularly to the satisfaction of the community. As registry ought to be free from every kind of blemish, I do not consider it safe to place the power in the hands of a person other than a public officer.

3. As regards Section 64 of the said Bill, limiting the time to institute suits on unregistered deeds of the nature specified in Sections 21 and 22 of the Bill, I consider that the time now determined is considerably shorter than that allowed by Act XIV of 1859. A creditor willing to grant his debtor a time of grace, is obliged by this rule to sue him sooner, notwithstanding a good understanding existing between them, and thereby cause him a heavy loss.

4. Moreover, the registration of such deeds being left by Section 21 at the option of the parties, I do not see any necessity of shortening the time in case of non-registration, and thus enacting a new law, as sufficient provision is already made for such documents by Act XIV of 1859, and as the existence of several enactments on one subject is capable of puzzling the mind of persons not versed in law.

(True Copy.)

(Signed) J. G. THOMSON, Officiating Civil Judge.

ENCLOSURE No. 6.

From J. BALL, Esq., Deputy Collector, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated Mangalore, 28th July 1863, No. 51.

In acknowledging the receipt of your letter, No. 46 of the 8th instant, calling for my opinion on the general principle of the Draft Bill for the Registration of Assurances, I have the honor to state that the Draft Bill appears to me to embrace all that is necessary to validate instruments executed between parties, but there are, I think, one or two points susceptible of improvement.

Section 7.—The establishment of Register Offices will doubtlessly prove beneficial to the people, but the appointment of persons not being public Officers to be Deputy Registers, will, in my humble opinion, open a door for abuse. If the several Munsiffs are appointed Deputy Registrars, there will not be a paucity of Register Offices throughout the country, and the necessity for appointing private individuals as Deputy Registrars will cease.

Section 23.—The time for registration, namely, three months, appears to be unnecessarily long; I would say six weeks, as provided in Section 25.

Section 42.—The enforcement of a Bond not exceeding 100 Rupees, without a regular suit, should be made absolute under the priviso mentioned in this and following Section.

Another improvement that I would advocate is the periodical publication (at least once a month) of all registrations in a District, through lists to be affixed [illegible] Register Offices. This will tend much towards the suppression of fraud.

ENCLOSURE No. 7.

From Mr. J. F. FERNANDEZ, Deputy Collector in charge of Treasury, South Canara, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated Mangalore, 27th July 1863.

1. With reference to your letter of the 8th instant, calling for my opinion on the general principle of the Draft Bill for the Registration of Assurances, I have the honor to state that, having carefully perused the Bill, I have come to the conclusion that the several provisions thereof are fully calculated to realize the objects for which it is intended, and are, in my opinion, a great improvement on the existing state of the Law.

2. The provisions of Sections 30 and 31 will undoubtedly operate in a great measure to check the frauds which are now said to be in many instances practised by individuals personating the parties to instruments presented for registration, and by producing fictitious [illegible]s, and I think that the means for testing the identity of persons might still be s[illegible]y the Registering Officers being empowered to enforce oaths in order to satisfy themselves of the identity of such persons, where they may not be personally known to them.

3. Section 24 provides for the registration within a certain period of instruments of the description mentioned in Sections 21 and 22, which shall have been executed prior to the date on which the Act shall come into operation, but I observe that no similar provision is made in the Bill as regards instruments of the description referred to in Section 18 or Section 19 which makes it doubtful whether such documents can be registered after the Act comes in force.

4. By Section 38 an additional fee is to be levied on every abstract of document forwarded from a subordinate to a superior Registering Office. The transmission of these abstracts is, I presume, intended merely to serve as a check against abuses on the part of the Registering officials, so that I do not see the propriety of imposing an additional fee on the parties on this account.

5. Under Section 64, actions upon unregistered instruments, such as those enumerated in Sections 21 and 22 of the Act under consideration, may be entertained, if brought in case of immovable property within two years, and in that of movable property, within six months from the date when the cause of action should arise. No provision is, however, to be found in the Bill as to how the case of two instruments, directly opposed to each other, which may be produced in an action, and one of which may be registered, and the other may not be so, is to be dealt with by a Court of justice.

6. With these few exceptions, I approve of the general principle and objects of the proposed enactment, as it affords every possible security to right, at the same time that it is calculated to diminish the amount of litigation.

ENCLOSURE No. 8.

From G. NARAIN ROW, Tahsildar of Udipi, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated 29th July 1863.

1. In acknowledging the receipt of your letter of the 8th instant, calling upon me to submit my opinion on the general principle of the Draft Bill for the Registration of A[illegible]s, I respectfully beg to state that I have carefully read the Bill, and consider it to be a de[illegible].

2. By the establishment of Divisional Register Offices in every District, the trouble and expense which a journey to the Zillah Station now entails upon parties residing in the interior, and desirous of having their documents registered, will be materially diminished; while the introduction of the new rules in respect of the inquiry for ascertaining the identity of persons executing deeds, the limitation of time for presenting instruments for registration, the creation of more authorities for the purpose of controlling the proceedings of the Deputy Registrars, &c., I hope will be found in a great measure efficacious in checking frauds which are at present of almost daily occurrence. The novel provision for the summary enforcement of bonds, for sums not exceeding 100 Rupees, in particular, is calculated to produce most beneficial results so far as it respects creditors, who cannot reasonably expect a more simplified mode of recovering their debts. In short the Bill, the general principles of which seem to me as sound and wholesome as can be, if it becomes law, will, I trust, supply many a want now felt by the community, adding much to their convenience and protection of their interests.

3. The only somewhat objectionable clause in the Bill in my humble opinion, however, is that which holds the appointment of Deputy Registrar open to persons other than public Officers. I do not think that impartiality and strictness will characterise the proceedings of such persons (at least if they are selected from this Taluk), or that they will keep people in proper awe so as to prevent or discourage imposition. Moreover, they might be tempted to look out for unlawful gains when they find the fees allowed for their services fall short of their expectation. On the contrary, if the functions of a Deputy Registrar were exercised invariably by a public Officer, already holding a responsible post, I believe there will be generally little or no occasion for such apprehensions.

1. Badkilaya Anantaya.
2. Jacob Shett.
3. Buden Saib.
4. Dasacharya.
5. Arni Ranga Row.

4. As the subject of the Bill is a matter of importance, and concerns the community at large, I thought it proper to explain its details to the principal and respectable inhabitants of this town named in the margin, who, I beg to state, fully concur with me in appreciating its general utility.

ENCLOSURE No. 9.

From M. RAMAPAH, Tahsildar, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated Mangalore, 27th July 1863.

1. In reply to your letter of the 8th instant, I most respectfully beg to offer the following few remarks on the Draft Act for the Registration of Assurances therein referred to.

2. The Draft Act will, in my opinion, work well, as it will promote the interests both of the public and Government in a great measure.

3. Under the law now in force, parties in the District, desirous of getting their deeds registered have to resort (with much inconvenience and trouble to themselves), to one single office which is situate a great many miles from the residence of a majority of them. Besides, in cases of false registration, or rather false personation, the parties affected thereby hardly get information before the offence has taken place, as registration is generally effected the same day that a deed is presented for the purpose; and subsequently they scarcely succeed in bringing the offenders to justice, the injured being pointed out to be the actual parties who attended the registration.

4. But the proposed law provides for the appointment of several Deputy Registrars, most probably within short distances from the residence of parties, which with the summoning of witnesses to prove their identity will allow ample opportunity to persons interested to obtain in time the necessary information of forgery and oppose registration. On the other hand the holders of registered bonds for money will get them enforced with less expense and loss of time than under the present rules.

5. The only points that I beg to take exception to are the following.

Section 7.—*First*. That other than public servants may be appointed Deputy Registrars.

Section 64.—*Second.* Limitations provided for the institution of actions on instruments of the nature specified in Sections 21 and 22.

6. With reference to the 1st point, I beg to observe that really respectable men in South Canara generally have their own business performed by servants, and would seldom like to undertake themselves to any work for Government even on payment of any remuneration, while others that might offer their services would do so with a view to raise their own fortune. I would therefore not recommend other than public officers to be made Deputy Registrar.

7. As regards the 2nd point, I beg to add that the provisions of limitations contained in Section 64 may be inserted in the properly so-called "Limitation Act," which will make the reference easy and convenient.

8. Lastly, I beg to remark that the Bill is defective in one respect. It does not make much difference between registered instruments and non-registered ones.* There are many instances in which parties who had *bona fide* conveyed their property to others by registered deeds of sale, mortgage, &c., did subsequently, cheat them, by transferring the whole or a part of the same property to third parties by means of un-registered bonds fabricated with a prior date. This kind of fraud has materially been checked since the enactment of Act XIX of 1843, which provides that a registered deed shall always have the preference over an unregistered one in respect to validity and priority of satisfaction. Such a provision should, in my humble opinion, be retained in the present Bill, and then its usefulness would be very great.

* Sections 21 and 22.

ENCLOSURE No. 10.

From Mr. G. M. COELHO, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated Mangalore, 28th July 1863.

1. In reply to your letter of the 8th instant, requesting my opinion and any other remarks I may have to offer on the general principle of the Draft Bill for the Registration of Assurances, I beg to offer the following as the most essential coming under my notice.

2. I consider the Act to be highly beneficial to the public at large, though grievances, the chief of which may spring from the appointed officials to superintend such Offices, would I doubt not, be the greatest matters for consideration, and consequently have to recommend to the authorities the appointment of persons already in Government employ, who may be held responsible for regularity of attendance, as well as the good management of so particular a Department of the State, and not entrust the duties to private individuals, whose cares for the safety of important transactions cannot be too confidently depended upon. A negligence to inquire into the legality of deeds or other valuable documents for registration would, I regret to say, be of very frequent occurrence, and a desire to secure justice one of the least matters for consideration. An official from a low grade would in my opinion be also highly objectionable, and in no instance can I find a more suitable class for the Office than the head Officers of Taluks to conduct under their immediate supervision, and the aid of a writer for that only purpose will not deter from discharging the duties of the Taluks, however strongly they may urge the contrary.

3. In consideration of the many instances brought to our notice of frauds being prevalent throughout the country great attention must be paid to the rules for this Establishment, in which a greater facility for dangerous transactions will be offered, unless the strictest care is given to the mode of registry by the Officer in charge. In cases of identifying parties applying at the Registration office, the higher grades of officials are not the best fitted for that purpose; many documents have heretofore appeared in Court bearing false signatures and witnesses, and this, if continued, will prove detrimental to the public. This evil will, I doubt not, be in a great measure remedied by a notice from Taluk Officers to the Officers of villages; whenever a deed is given for registration the latter, whose acquaintance with the inhabitants of their respective villages is unquestionable, will be charged to identify the applicants, and forthwith send them to the Registrar bearing a certificate as to the legality of the claims to be instituted.

ENCLOSURE No. 11.

From Mr. L. M. COELHO, to G. L. MORRIS, Esq., Acting Collector of South Canara, dated Mangalore, 31st July 1863.

1. With reference to your communication requesting my opinion in regard to the provisions of the Bill published in the Supplement to the "Fort Saint Gazette" of the 10th April 1853, I beg with your permission to offer the following remarks.

2. It is both just and expedient that documents relating to immovable property should be registered, but if this rule were made applicable also to documents referring to pecuniary transactions, it will tend greatly to incommode traders and discourage trade, and the public would also be put to much inconvenience thereby. The registration of such documents should therefore be left to the option of the parties, and I do not see the propriety of laying down any restrictions in such matters.

3. All documents presented for registration cannot be supposed to have been fairly obtained, and there are many instances in which the authorities have learnt that false documents have been registered. It would therefore be advisable that the power of registering documents should be conferred on persons who are not pressed with heavy work, and who are closely acquainted with the parties. This course will not only leave no room for fraud, but will also tend to remove many of the evils to which the public are subject.

4. The period of limitation prescribed for filing suits is very short. This will entail on the public the unnecessary expense of now and then purchasing stamp papers for renewing their documents, and though many persons would be unwilling to sue their debtors, the above provision would force them to resort to the law against their inclinations. It would therefore be advisable at least to fix the former period of limitation.

5. It appears that provision is made for the execution of certain documents relating to pecuniary dealings, without the necessity of instituting a regular suit. Many persons will have to suffer loss, and trouble by such an enactment. Of late it has been customary to pass a decision against a person simply on the ground of his having signed a document, and any receipts or other evidence which the Defendant may possess in proof of his having liquidated the amount, are of no avail to him. Many persons, especially those of the poorer class, do not obtain receipts for payments made in liquidation of documents, either from a fear of displeasing their wealthy creditors, or out of respect for, or confidence in, them; and in such cases, the person who executes the document must be subjected to a loss, simply because he, in good faith, admits his signature to the document. Besides this, there are instances in which the party executing a document for a large sum, does not pay the amount at the fixed date, because he has no means to do so at the time. Under all these circumstances, I think it is requisite that all the circumstances connected with a document should be inquired into, and decision passed on the merits of the case.

6. The purport of this Act leads me to think that it is designed to save the public from the expenses attending a Civil suit, and from frauds. If, therefore, an enactment is made that all suits of a Civil nature should be decided by Punchayets, I think that just and impartial decisions would be obtained in consequence of the Punchayetdars possessing an intimate acquaintance with the parties, and it would also put a stop to the present practice of instigating the parties from motives of self-interest to have further recourse to law on frivolous and groundless reasons, and thus ruining them.

(True Translation.)
(Signed) G. L. MORRIS, Acting Collector.

Exd. J. Tulloch.

From J. I. MINCHIN, Esq., Collector of Kurnool, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 10th August 1863, No. 127.

1. I have the honor to reply to your Miscellaneous Circular No. XLVI, Board No. 3,388, dated 10th June last, referring to the Draft Bill for the Registration of Assurances.

2. I have obtained the opinion of the Deputy Collector Ragoonadha Row on the subject, whose legal training and European education, joined to his known sympathy for the conservative tendency of his countrymen, render his views on all such questions of great value. His report is submitted, and is worthy of consideration. I will state how far I concur with the opinions he has advanced.

3. On the general principle of the Bill, all must be agreed as to the reform it must work in the Civil Judicature of the country; by the destruction of forgery and false evidence, and prevention to a great extent of litigation, by securing certainty of rights.

4. The Act will to a certain extent introduce that system of registration in force in Java, to which Mr. Money in his work attributes to a great extent the superiority of their Civil Judicature, over that then existing in this country.

5. The only point which appears to me to be open to question, is whether the proposed Act goes far enough: and whether registration ought not to be compulsory, as in Java, for all Deeds and Contracts, as well as for those which refer to immovable property, the registration of which is alone made compulsory under the Bill.

6. The Deputy Collector Ragoonadha Row considers that registration should be compulsory in all cases, and in his view I concur. There would be no hardship in this, if facilities for registration were brought home to men's doors, if in every village a Registry Office were opened for Deeds of small value, such as constitute the staple transactions of ordinary village life.

7. I beg to recommend to the earnest consideration of the Board, the scheme proposed by the Deputy Collector in paragraphs 18 to 28 of his letter, which appears to me perfectly feasible, would cost nothing to the State, and would effect every purpose intended by this Bill, while it could be carried out under its provisions with very slight modification.

8. Sections 7 and 8 give power to the local Government to appoint any person, public officers and others, to be Deputy Registers, and there is no reason that every village Munsiff should not be appointed as Deputy Register for his village, with limitations as to the value of Deeds to be registered, framed by the Board of Revenue as the General Register Office, under the authority to make rules conferred by Section 14.

9. It would be sufficient for the abstracts of these Deeds of small value, and necessarily numerous, to be sent to, and registered in the office of the Tahsildar, or Deputy Registrar of the Taluk.

10. The abstract of Deeds registered by the Tahsildars, and all other Deputy Registrars, would be forwarded to the Office of the District Registrar, but there appears to me no object in requiring abstracts of every instrument registered in District Offices to be sent to the General Register Office. Such centralization would only increase work, and multiply Register Books needlessly at the expense of the parties.

11. I would remove Sections 37 to 39 of the proposed Bill, and make the Board of Revenue merely a controlling authority, and not an Office of actual Registration.

12. I do not concur with the Deputy Collector in his objections to Sections 42 to 47, making provision for the enforcement of registered Bonds without regular suit. I have not the Deputy Collector's personal experience in the working of our Civil Courts, but it appears to me that every simplification of procedure, such as is carried out by these Sections, must be advantageous.

13. The Bill if carried out in its present form would introduce a most valuable reform. I am only anxious that so wholesome a measure should be extended to the utmost, and this can only be effected by a system of village registration.

14. It may be objected that such a system would destroy its own object, by placing the Registers in untrustworthy hands. That attempts at tampering with the Register might be made by the unscrupulous Curnums, through whom the village Munsiffs would generally perform their duty, must be allowed. But such tampering would be difficult. The act of registration would be public. All parties present would be acquainted with the facts, and deception, or personation on the part of parties to instruments would be impossible. It must be remembered that the Registers of all the landed property in the country are in the hands of these men, and the checks which suffice to give security to these, should be equally efficacious in the case of registry of instruments.

ENCLOSURE No. 1.

From R. RAGOONATHA ROW, Deputy Collector of Kurnool, to J. I. MINCHIN, Esqr., Collector of Kurnool, dated Yellur, 15th July 1863, No. 182.

1. As requested by you, I have the honor to submit my opinion on the Bill to provide for the Registration of Assurances.

2. The most heinous crimes of forgery and perjury have been rife in British territories in India, and any measure tending to check their greater growth is a great boon to the people, and is imperatively called for. Such a law as this would, I believe, greatly diminish them.

3. The Bill, however, appears to me to be peculiarly defective in clearness, and to contain too many unnecessary provisions.

4. The registration of instruments affecting movable property also should be made imperative and not optional as proposed in Section 22.

5. Section 4.—General Register Office seems not only unnecessary, but would give rise to the increase of unnecessary work.

6. Sections 5 to 10 seems also unnecessary. If there be a Section empowering Government to create as many Registry Offices, as it may think necessary, it would answer all the purposes of these Sections.

7. Section 12 contains a wholesome provision.

8. Sections 13, 14, 16, and 17 appear unnecessary.

9. Sections 18, 19, 20, 21, 22, 23, 25, and 26.—I would make all instruments registerable, and make it imperative that they should be so registered within a fortnight from their execution.

10. Section 30.—I would not allow authorized agents to present instruments for registry as a general rule, but they may be admitted on clear proof of the inability of the original parties to appear.

11. Section 34.—Time need not be specified. It has been of no practical use hitherto.

12. Section 37.—I would have copies of such Registers sent to higher authorities rather than abstracts thereof.

13. Section 38.—This Section I would omit, and fix the general fees at such rates as would cover expenses of copying these Registers.

14. Sections 42 to 50 appear to be foreign to the subject of this law. The procedure now is simple enough, and need not be encumbered by too many special rules.

15. Sections 51, 52, and 53 are unobjectionable.

16. Sections 54 and 55.—Fees must be fixed by the Act and appropriated for the purpose of the Act.

17. Sections 65 and 66 appear to be unnecessary, as the amalgamation of the Sudder and Supreme Courts has taken place.

What should be registered.

From Kurnool, 29th August, in Cons. 5th September 1863, My. No. 3,832.

18. I beg to propose that all instruments affecting immovable, and movable property to the value of more than 20 Rupees, and all leases, should be registered.

Where.

19. In villages, stations of Sub-Magistrates, those of the Tahsildars, of District Munsiffs, Revenue officers having independent charges, Principal Sudder Ameens, Sub-Judges, and of the Civil Judge, Registry Offices should be opened.

Registering Officers.

20. The officers presiding at these stations should have power of registering Deeds according to the following scale:—

Scale.	Movable.		Immovable.	
The Village Munsiff, property worth from.. ..	20 to	50	0 to	5
Sub-Magistrates...	50 to	250	5 to	25
Tahsildars..	250 to	500	25 to	50
District Munsiffs...	500 to	1,000	50 to	100
Subordinate Collectors...	1,000 to	5,000	100 to	500
Principal Sudder Ameens and Sub-Judges...	...5,000 to	20,000	500 to	2,000
Civil Judges...	... above	do.	above	do.

Local jurisdiction.

21. The local jurisdiction of these officers should be their local jurisdictions for the purposes of this Act.

22. If falling within two or more localities, the Registry should take place in all under the order of that officer who has jurisdiction in all of them.

When to be registered.

23. Once a week, these offices should be opened for registration.

Who should register.

24. The parties to the instruments, or their heirs, if the parties themselves can be proved to be incapable to attend, should produce them and get them registered and sign the books of Registry.

Fees.

25. The following rates of fees should be collected, if Registered by the Village Munsiff... ... | Rs. 0 | A. 4

	Rs.	A.
Sub-Magistrates...	1	4
Tahsildars...	2	8
And other officers....	5	0

Fees for Copies.

26. The same rate would do for obtaining copies of them.

Effect of such Registry.

27. Such instruments shall be conclusive evidence of the transactions they evidence, and shall be judicially taken notice of without any proof of their genuineness, unless a party specifically pleads them to be forgeries. They shall be binding on the parties notwithstanding any law to the contrary.

28. Unregistered documents shall be no evidence (except in Criminal Courts) before any authority.

29. The Sub-Magistrate ought to be allowed a Gumastah on 7 Rupees a month. The others need no extra establishment, at least till the necessity for its entertainment is clearly proved.

(True Copy.)

(Signed) J. I. MINCHIN, Collector.

Exd. J. Tulloch.

From C. W. READE, Esq., Collector of South Arcot, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Cuddalore, 19th August 1863, No. 233.

1. I beg to acknowledge the Board's Miscellaneous Circular No. XLVI, dated 10th June last, requesting my opinion on the subject of the Draft Registration Bill.

2. I think there can exist but one opinion on the proposed Act, and in my inquiries I have heard but one opinion expressed, strongly in advocacy of the measure.

3. In my belief, and I speak after some years' experience, this Bill supplies a want which has been very generally felt throughout the country by the more intelligent, wealthy and influential of its people, and I cannot conceive other than highly beneficial results following a measure that will at once give to titles and to transfers of property a security hitherto unknown though so universally desired.

4. My inquiries have been mostly personal and in conversational intercourse, but among the written opinions I have received, the accompanying copy of a letter* from my Treasury Deputy Collector, Devasigamany Pillay, is the only one which I think necessary to submit to the Board, as the rest merely convey approval of the measure in so many words.

* Dated 13th July 1863.

5. There are three points noticed in the Deputy Collector's letter which are worthy perhaps of attention. The first relates to Section 31 of the Act, and suggests that the precautions necessary to the identity of the parties registering should be specially provided for. The second point relates to the deposit or registry of Wills, and expresses a doubt whether under Sections 52 and 53 of the Act can a Will be demanded back by the depositor either for amendment, alteration, or destruction; and the third point mooted by Devasigamany Pillay refers to the registration of adoptions, and he recommends that such registration be rendered obligatory, and be extended to cases of adoption during the life-time of the adoptive party.

6. I think, myself that the wording of Section 31, sufficiently meets the difficulty contemplated by the Deputy Collector on the first of the points noticed; the words "if they satisfy him (the Registrar) that they are the parties they represent themselves to be," implies an obligation on the part of the Registration Officer to enter on adequate legal proofs of identity, and a separate provision prescribing what those proofs shall be hardly seems required, though the matter is undoubtedly important, and the introduction of a clause directing that the evidence of one at least of the resident Village Officers be taken would of course be a further reliable guarantee.

7. On the second point relating to the withdrawal, temporary or permanent, of Wills once registered, I am of opinion that some provision as suggested by Devasigamany is needed. The omission I presume must have been accidental, as it would seem the obvious right of every depositor of an instrument of the kind to remove it at his pleasure either for alteration or destruction.

8. On the third point relating to the registration of instruments authorizing adoption after death as prescribed by the Draft Act, I quite agree with the Deputy Collector on the advantage of extending such registration to cases of adoption during life-time, and I would strongly advocate the introduction of a clause making the necessary provision. I also concur in the opinion that registration of adoption should in every case be made obligatory to render it legally valid, and the suggestions offered by the Deputy Collector bearing on this particular head are, I think, deserving of attention.

9. I have only one other remark to make. It is that I question in this country the safety or propriety of allowing all documents registered under the Act to be accessible to the general public as provided in Section 60, but if my judgment be wrong I would at all events, with all deference, propose that some precautionary clause be inserted to guard against any tampering with registered documents, or the possibility of any abuse by the public of the privilege thus sanctioned by the proposed Bill.

ENCLOSURE No. 1.

From M. DEVASIGAMANY PILLAY, Deputy Collector of South Arcot, to C. W. READE, Esq., Collector of South Arcot, dated Cuddalore, 13th July 1863, No. 26.

1. Having been invited* to report on the general principle of the Draft Bill to provide for Registration of Assurances, I beg to avail myself of this opportunity to communicate my views on the subject of Registration.

* See Miscellaneous Circular XLVI, Board No. 3,388, dated 10th June 1863.

2. This is a subject which engaged my attention for several years, and I felt it as a want that there should have been no general law for registering deeds and instruments affecting property (movable and immovable). I believe every enlightened Hindoo would have felt this want. It is therefore my opinion that India is not in greater need of any other legislation than the one under contemplation.

3. The chief object of registration is to check fraud and illegal contracts, and encourage honest and fair dealings, to baffle, to a certain extent, attempts of forgery, and prepare a reliable and unmistakable evidence for Courts of Justice. The provisions of the Bill are fully calculated to carry out this object. The general principle of it is sound and productive of beneficial effects. The provisions are made so as to meet every contingency, and their application is quite practicable.

4. It may be thought that the idea of registration is new to India. No doubt India can put forth no pretensions to a refined and methodized system either under the sway of Hindu Rajahs or under that of the Mahomedans, but a rude mode of registration of contracts, especially those concerning land, was in practice. The functionaries under whose superintendence and management registration was performed, went by the name of Dasamookee, D[illegible] pandy, or Nattars under the Hindu Rajahs, and of Cazies under the Mahomedans. The prevalent practice of taking attestation of Village Officers as witnesses to Bonds, & [illegible]roof of the idea of registration being old to India.

5. Registration has been made in the Bill obligatory as regards certain deeds and instruments, and optional as regards other documents. This is a very convenient arrangement, as those who may not wish to disclose transactions about movables may avail themselves of it.

6. Now entering into the details of the Bill, I beg to make a few observations on those parts which I consider wanting.

7. In regard to the identification of the party said to hav[illegible]l, great care should be taken by the Registrar. As when the system of Re[illegible] brought in force, several frauds will be greatly checked, attempts of deceiving by false per[illegible] will become more frequent and prevalent. A person unconnected with a t[illegible] represented as a party in it. It is therefore necessary that eff[illegible] adopted to guard against such evil. In Section 31 it has been [illegible]ted that the Registrar should satisfy himself as to the identity of the parties ap[illegible] him. But this alone, in my opinion, is not sufficient. There should be a specific provi[illegible] how he should ascertain the reality of the parties. To prove the identity of the person, who is represented to have executed a deed, the evidence, at least, of two respectable witnesses from the village in which he resides should be taken. Of course this will not be necessary when the Registrar is personally acquainted with the parties; nor is it meant that any other evidence should not be taken to satisfy himself as to the identity of the [illegible] If the Registrar is personally acquainted with any of the parties, he should clearly r[illegible] the fact of his being acquainted with them in the Register.

8. Sections 52 and 53 provide for the entry of the deposits of Wills in Register Book, and for the opening of the packet on the death of the depositor; but the depo[illegible]y at any time after depositing the Will desire to alter, amend, or destroy it. In t[illegible] it is not clear whether he will be allowed to retake the Will he deposited. It is reasonable that every person should be allowed to withdraw the Will he deposited at any subsequent time. An express provision should therefore be made on this account.

9. The next point that draws my attention is adoption. Provision has been made in the Bill for registering instruments left by an individual giving authority to adopt after his demise. But there is the other case of adoption during the life-time of a man which equally requires a reliable evidence. Numerous are the instances where adoption has been denied [illegible] who adopted, or his kindreds, &c. Disputes regarding the adoption during the li[illegible] frequent than those regarding the adoption after decease. As reduction of litigation is equally the object of the Bill, every case of adoption during life-time should also be invariably registered.

10. Registration of adoption should be made obligatory, and unregistered adoptions should not be recognized in Courts of Justice. It will of course be the duty of the adopted, or of their parents or guardians to get the adoption registered. If any document be executed in support of adoption such a document should be registered, and entered in a book specially kept for the purpose. In the absence of any such document the performance of ceremonies of adoption, the date in which they were performed, together with the names of persons bearing evidence to their performance, should be fully entered in the book mentioned above. The Registrar will note down the admission of adoption by the adoptive father. He will make no inquiries as to the legality or otherwise of adoption, but will simply enter in the Register the fact of its performance.

(TrueCopy.)

(Signed) C. W. READE, Collector.

Exd. J.Tulloch.

From D. F. CARMICHAEL, Esq., Collector of Vizagapatam, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 28th August 1863, No. 676.

1. I have now the honor to reply to the Board's Circular of the 10th June last, Miscellaneous No. XLVI, regarding the Draft Bill providing for the Registration of Assurances.

2. About two months before the date of this Circular, immediately indeed on seeing the Bill published in the Calcutta Gazette, I took the pains to make a Summary of the chief particulars of the Bill, and printed the same in Telugu and English in the District Gazette. I send this Summary now, as many of the persons I consulted on the Bill allude to it.

3. I transmit also communications from seventeen correspondents. Only three of these reached me in English, and it has greatly impeded the current business of the Office to get the rest translated.* I may be pardoned for thinking how much better it would be to enlarge the Legislative Councils, especially the native element, than to throw this additional work (for the present reference is by no means a singular one) of eliciting, translating, and then marshalling in order the conflicting sentiments of "the leading men of all classes resident in the District" regarding the various commercial, social, and political questions of the day, on the already overtasked Collector and Collector's establishment, and ultimately on the Board. To proceed however with my reply.

* As required by the Board.

4. Two or three only of my correspondents condemn the Bill *in toto*; and two or three only approve it to the same extent. I agree with the majority that the Bill is a desirable one with some material modifications, as well of principle, as of detail.

5. It is provided by the Bill that unregistered documents of one class shall not be received in evidence at all; and that in respect of unregistered documents of another class, no action shall lie on them unless instituted within certain very limited periods.

6. I object altogether to this. The neglect to register carries with it its own penalty in the contingency of a regular Suit with all its delays, chances, and expenses in lieu of summary enforcement.

7. By all means let those who register reap the benefit of their prudence, and let those who neglect to register, be condemned to the ordinary and more circuitous method of getting their rights; but do not shut them out altogether from the portals of justice. The inference would seem to be that, in the belief of the Legislature, every man who holds an unregistered document regarding immovable property above 100 Rupees in value, must have forged it; his delaying three months to register it proves that at once. "Out with the scoundrel." Not to speak of accidents and reasonable causes for delay, will any body take upon himself to say that this construction will not fall as a measure of extreme harshness on the people of India? I apprehend that no system of registration which can be devised in this country will secure registered transactions from publicity; and are there not scores of cases daily, where money is advanced on a mortgage, in which the parties proceed with perfect good faith in each other, subject to the usual securities? Why compel them to adopt the additional security of publicity. To the land-owner in many cases it would amount to degradation, and to the lender it is some thing he has never asked for. In Mercantile contracts, of course, there are many cases where publicity would be distasteful to both parties alike.

8. Besides this, giving every credit to the Executive in their care to multiply Registrars and Deputy Registrars, has it the means, in the mere choice of selection of fit Officers (not to go any further into the question) so to parcel out the country into Registration Districts, as to leave the residents of the remotest hamlet without excuse (and there [illegible]sonable excuses for delay, even where the poor villager is not ignorant of this stringent law) if they fail to appear before the Registrar within three months, aye, and in most cases within six weeks of the execution of a registerable document?

9. True, that in the case of movable property, the penalty for an unregistered document is not exclusion of that document; but there is a penalty, viz., the contraction of the present very moderate terms of limitation to a period of six months. Now, the present Statute of Limitation (Act XIV of 1859) is only four years old. Indeed it is not as old as it looks; for on view of the sweeping changes it introduced, the Act was postponed, more than once I believe. In the non-regulation portions of the Empire, the period of its introduction was left to the Executive; and in this Agency, it took effect last February only. Yet here we are meddling with it again. No wonder that the "poor Indian with his untutored mind" is utterly bewildered, so far as he tries to understand it, by the rapid march of modern legislation.

10. It appears that the Registrars appointed by the Government will be, ordinarily, Judicial Officers, the only Officers to be found always at one place (if indeed we can say as much in these days of adjournment); and that no Registrar will be appointed, below the grade of District Munsiff. I think that the terms of Section 31 are insufficient to prevent chicanery and fraud. The Registrar is to ask the party if "he executed" the document. This is not enough; I would have the Registrar (to use a nautical expression) rake him fore and aft; and, before registering it, he should further certify that he has satisfied himself that the party thoroughly understands and admits the full force and meaning of the instrument. If this is not done, the inquiry will degenerate into the simple question, "Is this your mark?" and an affirmative reply to that, is not, of course, a sufficient security that the examinee knows what he is about. In England, no warrant of Attorney or cognovit is of any force unless there be present an Attorney of the higher Courts on behalf of the party executing the same. It is true that, by this Bill, judgment cannot be given before the debtor is called upon to appear and show cause; but in showing cause he may only plead one of two pleas, either that he is not the party, or that he has paid the Bond, so that there is the greater necessity for cautious inquiry at the time of registration. I doubt entirely the expediency of permitting the party executing the document to appear by Vakeel. Everybody should appear in person, Gosha women excepted, whom the Registrar should examine by commission.

11. With these precautions, I see no just cause or impediment why decree by registration should not be allowed as a matter of course up to any amount; and without these precautions, I consider that decree by registration up to 100 Rupees, as now allowed by the Bill (Sections XLII to XLIX), would often result in great injustice.

12. My native friends, whose letters I enclose, seem very generally to have misunderstood that part of the Bill which provides for the registration of documents executed before the passing of the proposed Law. They have lost sight of the fact that registration in such cases is permissive only; it will ensure the benefits of the Act, while its omission will entail no penalties.

13. There is a very general wish that agricultural leases beyond one year should be exempted from the operation of the Act. One writer, the Bobbily Vakeel, No. 7, goes so far as to say that the alternative will be that landlords and tenants will no longer enter into engagements extending beyond one year. Indeed the unanimous feeling is that registration should be entirely permissive, both as regards immovable and movable property. The benefits of registering will suffice in themselves to make it very generally resorted to; but I contend, with my native correspondents, that it will be extremely harsh to declare non-registration penal, beyond denying it the facilities granted to the other system, facilities so great that I believe that those who now hoard will learn to trade, to the immediate reduction of the present usurious rates of interest, and to the consequent development of every description of commerce and trade.

ENCLOSURE No. 1.

On review of the Registration Draft Bill, on which you request my opinion, my conviction is, that the system would result in much good, if carried out according to the prescribed Rules.

The Rule applicable to obligatory deeds, which, when registered, may be enforced summarily by a Court, will doubtless prevent needless litigation, and the practice of registration will be generally adopted as a safe-guard from fraud, if the contents of such instruments as are produced for registry be kept from the public ear and eye, and considered a matter strictly private between the party registering, and the Registrar.

With reference to the registration of a Will, Codicil, or authority to adopt a son, no two opinions, I conceive, could be advanced as to the utility of such a measure, which, while beneficial to all communities, would I think be particularly appreciated by the natives of the land.

VIZAGAPATAM, 24th June 1863. (Signed) G. H. A. MEPPEN.

ENCLOSURE No. 2.

With reference to the proposed Registration Act, I am of opinion that it is fraught with great convenience and good to the public in general, both by sending the instruments to be registered more valid, and ensuring the benefit of prompt redress on such documents. It will also afford a reference respecting papers lost, mislaid, or accidentally destroyed, besides which it will exercise a salutary check in fraud, and facilitate the ends of justice.

VIZAGAPATAM, 24th June 1863. (Signed) G. HODSON, Captain.

ENCLOSURE No. 3.

The proposed Registration, it appears from the tenor of paragraph 6, is only to make the document admissible in evidence as a genuine document. Such registration does not of course establish the validity or otherwise of the gift or transfer of the property which the document conveys, a point which upon full inquiry should be decided by a competent authority. Hence, in the registration in question, there is nothing hard to be feared by the public that their rights would be set at naught upon mere registration according to the proposed law.

(Signed) A. N. NARSING ROW,
VIZAGAPATAM, 24th June 1863. Deputy Collector.

ENCLOSURE No. 4.

Arzi submitted by V. Mallicarjunudu, Huzur Vakeel of the Maharajah of Vizianagram.

* * *

2. It appears to me that the intent of the Bill now proposed for the registration of all instruments, is to save the authorities the trouble of entering into further investigation; and to save the parties the stamp duty and other expenses, for the recovery of the money due to them; and further to provide for a prompt settlement of the case. The thanks of all communities are due to Government for this act of kindness to them. It appears to me necessary, however, to make a few observations in respect of certain documents, which I beg you will be pleased to recommend for such alterations in the Bill as may be deemed proper.

3. The present existing system of disposing summarily of Cowles and Radapas executed for Jeroyeti and Inam lands, according to Regulations XXVIII and XXX of 1802, and V of 1822, is well adapted for the convenience of all parties; but the provisions contained in the new Bill with regard to those documents do not seem to afford any greater benefit. It also appears that with the exception of a Will, Codicil, or authority to adopt, all other documents whatsoever, which were executed prior to the date of Act, are required to be registered. This rule I beg to urge, is very detrimental to the interests of the people; and in fact it is difficult to adhere to it.

All the Regulations which have been enacted by Government, invariably treated about documents executed subsequent to the passing of the Regulations. I would therefore suggest that the provisions of the new Bill should have no reference to old documents.

4. I have no objections to offer with regard to other parts of the Act, as they are fraught with justice and convenience to all parties, but as instruments will still have to be executed on stampted paper of no less value than is prescribed by Act X of 1862, it is hoped that the registration fee will be made to bear on a moderate scale.

5. I beg, in conclusion, to state that it will tend to the convenience of the people, if the Law of Limitation, as prescribed by Act XIV of 1859, for Suits brought under Acts XXIV of 1839 and VIII of 1859, for recovery of debts, be retained in force, in respect of instruments which may be executed subsequent to the passing of the new Act, but which under any circumstances may not have been registered.

26th June 1863. MALLICARJANUDU, Vakeel.

ENCLOSURE No. 5.

1. The object of the Bill appears to be that by having the various instruments registered in the manner therein prescribed, it will save the authorities the trouble of conducting further inquiry in the matter, and the parties the incurring of Stamp duty and other expenses for recovery of the amount due on such instrument; and also that the transaction will be rendered easy of disposal. However, as I have a few observations to make in respect of certain documents, I beg you will be pleased to take them into your honorable consideration, and recommend that they be attended to.

2. The existing rule which provides for a summary investigation of the Cowles and Kadapas executed for lands paying revenue to Government, is a most satisfactory one to all parties, but I do not think that the provisions of the proposed Bill in that respect, afford them greater convenience. I therefore request that necessary alterations may be made in the new Act on this head.

3. It appears that the documents executed prior to the passing of the Act should be treated in accordance with the new Act. This, I beg to say, would be extremely troublesome to the people, and cannot be conveniently brought into operation.

4. All the Regulations and Acts enacted by the Government have always provided only for instruments which are to be executed from and after the date of their publication, and I am of opinion that the same course should be pursued with reference to the provisions of this Act. I believe the Act XIV of 1859 applies to such documents as are mentioned above.

VIZAGAPATAM, 27th June 1863. (Signed) B. ODEPPA.

ENCLOSURE No.

1. It is very difficult to introduce it in the parts of the country of this District, the inhabitants are never accustomed even to use common paper, but only cadjan leaves for deeds, &c.

2. 2nd paragraph (2). The leases (excepted) which Collectors are empowered with Civil jurisdiction to dispose of summarily, if not extended to four or five years, will tenant and owner of lands to vain trouble to change their contracts every year.

3. As it is laid down in the 4th paragraph (2.) that "instruments mentioned in 1, 2, 3, "5 and 6," of the 3rd paragraph, executed before the Act, will not be admitted if presented "within 12 months of the date of this Act," and in the 6th paragraph that "nothing in this "Section shall authorize any Court to receive any unregistered deed, the registration of which "to make it admissible in evidence is required by the Act." I suppose that this gives a construction, that an unregistered document, executed before or after the Act, will not at all be admitted in evidence by any Court after the time provided for the registration is over. It is quite impossible, nor can it be expected, that every old document can be brought forth for registration by both parties as provided in the Law. So every old document should be exempted from the restrictions of this new Law.

4. 5th paragraph. For enforcement. I suggest that every Bond, or any instrument for the payment of money less or more than 100 Rupees, after having been duly registered, will suffice as evidence, and therefore that it would be just to enforce every such document without reference to the amount, or to the agreement and condition entered into.

In conclusion, I beg to state that if the suggestions above made are adhered to, this will save great trouble to the Courts, relieve parties from vain litigation, and provide already justice.

(Signed) T. SREENEVASA ROW,
30th June 1863. Vakeel for the Rajahs of Jeypoor and Bobbily.

ENCLOSURE No. 7.

Arzi addressed by Dasaraju Venkanna, District Munsiff of Vaddadi.

The registration of documents will put an end to all disputes as regards their origin. It seems therefore to be a worthy object. But Sowkars and others say that the duty on Stamps has already been heavy on them; that the obligation of having all documents registered will entail upon them additional expense attended with other inconveniences; and that therefore if the Bill should be passed, it will subject them to great hardships. I beg to state that I am of the same opinion.

CHODAVARAM, 3rd June 1863. (Signed) D. VENKANNA, District Munsiff.

ENCLOSURE No. 8.

Arzi addressed by Garuda Nilaiya.

1. I am of opinion that the scheme of registering a document, which in the event of the terms of the document not being acted upon, precludes the necessity of filing a regular suit, and undergoing the expense and trouble incidental to such a proceeding, and which renders feasible the recovery of the money due by a summary investigation, is very advantageous to the giver of the loan.

2. The restriction, that no "unregistered instrument shall be made admissible," will prove greatly detrimental to various transactions; so I would propose that no such restriction be made.

3. It is hard to require all old documents to be registered, and that is quite impossible. Such a requisition subjects many people to great loss. I would therefore be inclined to recommend that this provision be omitted.

4. As all documents for all kinds of ready money transactions not relating to immovable property will, by their being registered, become valid; and as there will be but one plea which the Defendant can make, it will be proper to enforce them whether the amount be more or less, or whether or not they contain such conditions.

25th July 1863. (Signed) GARUDA NILAIYA.

ENCLOSURE No. 9.

Arzi addressed by Mangu, Raghavaram, District Munsiff of Sitanagram.

1. The subject of the Bill being to provide against the fraudulent designs of the executors of instruments, and to secure the rights of the people, I do not think that any objections can be raised against its adoption; but I consider it necessary, however, to lengthen the time allowed for the presentation of documents for registry, as well as for the institution of suits thereafter for the following reasons.

2. Notwithstanding the restrictions contained in Act XIV of 1859, which prohibits the admission of suits when not presented within three years' time, several people have been unable to bring suits on documents executed anterior to the passing of the said Act, both from want of expenses, and from some of their debtors promising to be punctual in the liquidation of the debt, and others executing fresh documents; and at last on the debtors failing to act up to their promises, several parties have now come forward with their Bonds and returning with the expression that they are useless. I therefore beg that the matter of extending the limitation is worthy of being brought into consideration.

3. There is another point which has attracted the attention of the people.

4. There is a restriction in the Act, that instruments executed previous to the passing of the Act shall not be admitted, unless they shall have been registered within one year.

5. It is but natural that borrowers of loans would consent to have all the necessary precautions embodied in the instruments at the time of their execution; but I do not think that after the necessity is past, they would, in subjection to their creditors, appear at the Office, and agree to the registration of the instruments in acknowledgment of debt. People would mostly attempt to set their debts at naught.

6. I should therefore think that it will be well for Sowkars and others who give loans, if the documents that were executed prior to the passing of the Act, are left to be dealt with as hitherto done, viz., to be substantiated by evidence.

7. Besides this, merchants generally have occasion to give contracts for goods or to purchase them then and there, at different places, and must of course obtain documents; and I suspect that by their being obliged to go to the Office and get every instrument registered at every occasion, their trade would suffer greatly.

(Signed) MANGU RAGAVARAM, District Munsiff.

SETANAGRAM, 1st July 1863.

ENCLOSURE No. 10.

Arzi addressed by Dasarazu Narsaiya, District Munsiff of Vizianagram.

1. It is not possible to ascertain the advantages and disadvantages attending the adoption of the bill until it is actually brought into operations, and the results are experienced. However, on a deep consideration of the different rules of this bill, I beg to make the following suggestions.

2. It is ruled in the above bill that no action shall lie on the instruments mentioned in Clauses 1 and 2 of Section 2, nor shall they be received in evidence under that Section, unless they be registered within three months of execution; those mentioned in Clauses 1, 2, 3, 5, and 6, of Section 3 within six weeks of execution; and those created before the bill within 12 months of the date of Act. But there are difficulties in getting such instruments registered within the prescribed time as hereunder shown.

(1.) An executor of an instrument may have unavoidable occasion to go to another country immediately after its execution, and be unable to return within the time specified for presentation of instruments to be registered. In this case the bill does not provide for the registry of the instrument on the executor's application on his return, after obtaining satisfactory reasons.

(2.) When an instrument may be missing, and it may be impossible to present it in time for registration, the bill does not provide either to allow, on application, further time for presenting or to register it after it has been found and produced.

(3.) When an executor of an instrument dies, and his heir would be a minor, the bill contains no provision for the registration of the instrument without objection as to the lapse of time, when the guardian, who shall have been nominated some time after the death of the executor, applies for the registration of the instrument.

3. I think that the Puttahs for waste lands, and the Kadapas for Jervyeti, lands, which the Government Officers grant to Ryots, &c., as well as other documents, the auction certificates which the Court grants, are not required to be registered; but it is not clear to me in the bill whether these should be registered or not.

4. It is prescribed in Clause 4, Section 5 of the proposed bill that no pleas shall be allowed by the Courts to the executors of any of the instruments indicated in Section 3, Clause 6 of the said bill, except that they are not the parties who executed them, or that the Bonds have been paid; but it appears to me that due justice cannot be awarded unless the Court hears the pleas of the Defendant, and trace out the truth of the case, where it may be argued that the whole or a part of the consideration money was not received, or that the instrument was nominally drawn out for certain reasons. It also appears that the Registrar will have power only to take such evidence as may be necessary to prove the mere execution of an instrument, but not that he has power to investigate into the transactions which has led to the execution of the instrument. I therefore beg to say, it seems necessary that provision should be made in Clause 4 of Section 5 by which the Court may be empowered to take evidence in such arguments as stated above.

VIZIANAGRAM, 29th June 1863. (Signed) D. NARSAIYA, District Munsiff.

ENCLOSURE No. 11.

Arzi addressed by Garuda Bhavannarayudu.

1. I am of opinion that the Bill regarding registration of instruments, which the Government now propose to pass into Act, will be extremely troublesome to people.

2. The Rules for Registration, which are already, in operation are quite enough.

* * *

(Signed) G. BHAVANNARAYUDU.

ENCLOSURE No. 12.

Letter addressed by Sree Rajah Sitaramaswamy, Manager of the Minor Zemindar of Bobbily.

1. I received on the 24th your letter of the 19th instant, and understood the contents, and beg to state that the system of registration, if carried out, would certainly be productive of much good both for the validity of the transaction, and the benefit of the public. I am of opinion that it would be well, if it is made obligatory, to register all instruments involving immovable property, such as Lakraj and Malguzari lands, &c., which would yield any income to the holder; as well as the documents respecting movable property valued at 100 Rupees and more, sist alone being excepted.

2. The dealings which Zemindars and proprietors have in the Revenue line, are of a perpetual nature, and by consequence the granting of Cowels (most of which are for more than 100 Rupees) for periods above one year, is not of rare occurrence, and as the number of receipts given to Ryots, for payment of their sist money, is not small, it will necessarily tend to great expense and trouble should they be required to be registered. I am therefore of opinion that this is a most important subject for consideration. I also think that as the system of registration will now be carried out on a larger scale, it will be the wish of the people in general that the registration fee be fixed on a reduced scale.

30th June 1863. (Signed) RAJAH I. SITARAMASWAMY, Manager of the Bobbily Rajah.

ENCLOSURE No. 13.

Arzi addressed by Motumurry Narsimlu.

* * *

2. It is doubtless that registration of instruments tend to the recovery of debts without expense or trouble to the recipients of the documents, by a summary enforcement, in event of the conditions stipulated in them not being fulfilled.

3. But it seems to me that the restriction contained in the new bill, to the effect that no instrument shall be received in evidence by a Court unless it be registered, proves extremely detrimental both to the interests of the people and the progress in the commercial line as will be elucidated below.

(1.) Traffic is now carried on in a more extensive manner than it ever was in this District. Loans are commonly obtained on mortgage, as well as on credit, and contracts given, on the execution of documents in accordance with Act X of 1862, but if there be a restriction that every such document should be registered, it will not only cause great inconvenience both to the executors and recipients of documents, but also subject them to additional expense; while the trade will at the same time suffer most seriously, as the little profit gained will be counter-balanced by the expense.

(2.) The trade in this District is not carried on by means of Bank Notes and Promissory Notes, owing to the non-existence of Banks or other Corporations here as in other places, and it will not be possible under those circumstances to complete any transaction within three months as required in the 4th Rule of the proposed Bill.

(3.) As regards the Cowles or Kadapas executed between the Ryots and proprietors of Jeroyeti and Maniem lands, the cultivation of the land itself will be ample proof of the transaction It would take at least seven or eight days for the settlement of a Taluk, so it will be extremely inconvenient and troublesome to get every Cowle registered, and I see no benefit whatever conferred on the people by the new Bill. I am of opinion therefore that the present existing Rules in respect of the said documents are far preferable to the new one.

(4.) The advantages to be derived under registration system, which authorizes a registered instrument to be enforced summarily, in the event of the conditions entered in it not being fulfilled, will be quite apparent, when contrasted with a system which obliges a party to undergo all the expense and trouble attending the prosecution of a regular suit, and await for a length of time to recover his debt. So, it is natural to expect that parties obtaining documents do wish to have them registered.

(5.) But should the Bill be passed with a mitigation of the Rule, which exhibits the admission of an unregistered instrument, and the Registering Offices established, it will be very convenient to all communities.

VIZAGAPATAM, 2nd July 1863.

(Signed) MOTUMURRY NARSIMLU.

ENCLOSURE No. 14.

Arzi addressed by Upadrashta Sangamisvara Sastri, Government Pleader in the Principal Sudder Ameen's Court of the Zillah of Chicacole.

1. I have received your Circular Order No. 4, and understood its contents, together with the Summary of the Act for the registration of all kinds of instruments. I beg to state that it was only the wealthy portion of the population who have hitherto been engaged in trade, and making their fortune thereby, while the poorer classes have been beyond the means of benefitting themselves in that line of life. But should an enactment be made which would ensure the prompt liquidation of debts with interest, without inconvenience to the parties giving loans, it would enable the poorer classes to obtain loans at any time they want, and to lay the money out on traffic, and thereby attain a better position.

2. I am therefore of opinion that it is certainly very good to pass the Bill proposed for the Registration of Bonds, &c.

30th June 1863.

(Signed) U. SANGAMISVARA SASTRI.

ENCLOSURE No. 15.

Arzi submitted by Mindi Ramazogi.

1. I am of opinion that the passing of the above Bill, the object of which is to facilitate the disposal of suits without much inconvenience to the parties dealing in various money transactions, and to enable them to recover their dues within a very short period, will result in much good to all communities; and that they do wish for the Act to come into operation.

2. I also think it convenient to the people, if the receipts for payments made in part of Bonds executed for loans be also registered in the same way as the Bonds are required to be done.

3. There will, however, be some impediments for registering the agreements executed in the mercantile line (where both European and Indian merchants are concerned), as well as the documents obtained for advances made for the goods delivered, because merchants do generally maintain secrecy between one another, in the settlement of prices, and in the drawing out the agreement between the parties concerned; and in such cases if the documents are required to be registered, the rates of the goods will become public, and great difficulties will be experienced in procuring goods to the profit of the buyer. The tradesmen would, therefore, expect that the Government will take into their consideration, and make such provisions as would secure the interests of the trading class.

* * *

2nd July 1863.

(Signed) MINDI RAMAZOGI.

ENCLOSURE No. 16.

Letter addressed by G. L. Narsinga Row.

* Sic in original.

1. The different kinds of instruments indicated in paragraph of the said Gazette* are—

(1.) Any instrument respecting immovable property less than 100 Rupees in value.

(2.) Any lease for period not exceeding one year.

(3.) Any instruments respecting moveable property.

(4.) Any Will, or a Codicil.

(5.) Any private award of arbitration.

(6.) Any Deed of Contract or other obligation.

As certain limitation is provided in paragraph 6th, for the institution of suits relating to the above; mentioned instruments, though they may not have been registered, the parties holding documents will not get them registered, if they are sure of bringing an action within the prescribed time, but those who are not able to do so, will of course have them registered. I need therefore make no comment on this head.

† Sic in original.

2. It appears clearly from the 6th paragraph of the Gazette,† that no Danapatram of any immovable property, or a Cowle for a period exceeding one year, or any other instrument respecting movable property of the value of 100 Rupees or upwards, which are indicated in paragraph 2, shall be received in any Court, unless the same shall have been registered. I beg to offer a few remarks severally on these points.

First.—Trade is at present carried on much more extensively than it ever was. It is chiefly on mortgages of property; and should then every instrument be required to be registered in a Registering Office, there must be several offices throughout the District; but should there be but one, two, or three offices established, it will be very difficult to bring every instrument to the office for registration, and carry on the trade. Besides, bestower of a loan would not like to take the trouble of attending the office and getting the Bond registered, while to the borrower, who would discharge the debt in a short time, it will be a matter of unnecessary expense and trouble. I am of opinion, therefore, that this system does not tend to any advancement in the commercial line.

It may be said perhaps that there can be no impediment to the trade, as a period of three months is allowed for registry from the date of execution of an instrument; and those who demand payment within that time may get it registered; but on the other hand in allowing a period of three months for registration of an instrument from the date of execution, many inconveniences would be experienced by the parties. For instance, the people of this country do not hesitate to deny a document which was not long ago executed, if they only think that it would turn out to their advantage should a denial be pleaded before a public Court, and if an instrument were to be registered some time after the date of its execution, I do not think that the executor of the instrument would acknowledge his liability when he knows that the document could not be registered without his admission, or received in a Court without registration, unless he be a very righteous man.

Second.—In the settlement of a Taluk the transaction of the business is conducted with much despatch, that is to say, the whole settlement of a Taluk will be effected within five or six days from the time it is commenced with, during which time, all the Cowles and Kadapas will have to be executed; and if they are required to be registered, it will be i[illegible]e so, as the Registering Office will not be close to every Taluk. It will be very [illegible]is of Ryots to attend at the office with their landlords, to get all the documents registered within the prescribed period. Moreover, if we look to the nature of the Ryots of now-a-days, we find that they very readily execute the Kadapas at the time of settlement, and very easily deny the execution thereof at the time of registration. I am of opinion, therefore, that the system now proposed, if carried out, will prove very detrimental to the Revenue administration as well, and is totally unsuited for this country for the present.

3. If the restriction that instruments shall not be received in any Court unless they be registered, be substituted by a provision, that it shall be optional with the parties either to register their instruments or not, and the Registering Courts established, some persons will, and some will not at first, bring their documents for registration. But seeing the advantages derived by those who, having got their instruments registered, have recovered their debts by a summary enforcement of the deed, and in contrasting with this the very troublesome and expensive process which the others who have not registered their instruments have undergone for the recovery of their debts, people will gradually of their own accord get their documents registered. I therefore beg to suggest that this will be the best course by which the proposed Bill of Registration can be brought into operation.

VIZAGAPATAM, 30th June 1863.

(Signed) G. L. NARSING ROW,

ENCLOSURE No. 17.

Letter addressed by Penumaccha Jagannadharaj, Mana[illegible] of the Rajah of Vizianagram.

* * * *

2. On a consideration of the nature of the various documents requiring registration, which are indicated in paragraphs 2nd and 3rd of the Bill published in the said Gazette as becoming a Law from the 1st May 1864; the limitation of time prescribed in the 4th paragraph, for ther egistration of instruments executed both prior to, and after the passing of the Act; the system to be pursued with regard to the disposal of such registered instruments, as ruled in 5th paragraph; and the restrictions contained in the 6th paragraph, respecting the instruments liable to registration, I have come to the conclusion that the enactment of such a Bill as is now proposed by Government who, in doing so, always look to the good and welfare of their subjects, will be highly beneficial to all such classes who have money transactions, and enable them to recover their debts and property by a prompt settlement of their suits under the new Act. The Stamp duty payable for an amount of Rupees 1,000 was formerly only 2 Rupees, whereas the duty payable under the Stamp Act now in force is double on a common Bond, and five times greater on a Mortgage Bond, and it is very hard upon the people. Nevertheless as I suppose that the registration fee under the new Bill will not in all probability be more than the present one, all communities should wish for the passing of the Bill; but from the general custom and disposition of the people of this country I have certain doubts which I beg to state as follows.

First.—Under the present existing system arrears of revenue are realized and lands are made over to proper parties, in virtue of the Cowles and Kadapas, on a summary investigation. This has been very convenient to parties. By fixing quit-rent on all lands of all description, the Lakraj lands have become Malguzari, and I do not see any good to be derived by getting the Cowles and Kadapas registered as prescribed in Clause 2 of paragraph 3. Besides, unless landlords possessing extensive landed property give Cowles to Ryots fox a period exceeding one year, the latter would not improve the land, and render it fit for proper cultivation. So, if a landlord is required to have several thousand Cowles registered, and the poor Ryots to get all their Kadapas registered, both the landlord and Ryots will not only find it to be hard upon them, but will also be subjected to very many inconveniences and expense.

Second.—It appears from Clauses 1, 3, 4, 5 and 6, of paragraph 3rd that none of the documents therein indicated, will be received by a Court unless they be duly registered. It has heretofore been customary that Sowcars and others giving loans on the mortgage of both immovable and movable property, keep the transaction strictly secret from the eye and ear of a third party, lest their circumstances, and the necessity which has compelled them to seek for loans, become exposed; but hereafter should it become a law that no document shall hold good unless it be registered, doubts would arise between the giver and taker of the loan: with the first that he would lose his money, and with the latter that his circumstances would become exposed, and that he would be subjected to loss by not receiving the loan in time, and the necessity passing off. The result of this would inevitably be ruin of trade in general.

Third.—It appears also that none of the documents indicated in the 1st and 2nd Clauses of the 2nd, and in the 1st, 2nd, 3rd, 5th and 6th Clauses of the 3rd paragraph, can be registered unless presented within the time prescribed in the 4th paragraph.

In that case, one investigation will have to be made, where parties obtaining loans might plead at the time of registering the document, that they have not executed the document, or that the money was not paid, and another investigation will have to be made in cases where parties come to plead, that they were not the parties who executed the document, or that they have liquidated the debt. As, when such cases happen, two investigations will be necessary, people will be subjected to much expense and inconvenience.

3. As regards the registration of documents which have been executed previous to the passing of the Bill under consideration, I beg to state that some would be unwilling to attend the Registering Office, and undergo the expense and trouble of getting the documents registered; and others would wish to nullify the documents knowing that they would be useless unless they are registered, and that it is a sure plan of evading liquidation of their debt. I would therefore consider this rule to be very detrimental to the interests of parties giving loans.

4. Under all these circumstances, I opine that it will be convenient to the people if the Bill be passed with the following alterations:—The Cowles and Kadapas should be exempted from registration, documents executed for less than 100 should be enforced summarily, without reference to to its conditions, and those exceeding 100 Rupees should be enforced with reference to the conditions they contain. Documents which are not registered should not be rejected but admitted on Stamps of such value as is necessary under the existing rules, and a full investigation he made for its enforcement. It should be provided that documents may be registered whether the executor of the document presents it, or the party giving the loan presents it for registration.

* * * *

VIZIANAGRAM, 10th June 1863.

(Signed) P. JAGANNADHARAJ, Acting Manager.

ENCLOSURE No. 18.

PROPOSED NEW LAW ABOUT REGISTRATION.

The following summary of the chief particulars of a Bill now before the Legislative Council of the Governor General, is published for general information :—

It is proposed that the Bill shall become Law on 1st May 1864.

First.—There are to be Registrars and Deputy Registrars in every District, appointed by Government.

Second—As to Instruments to be registered.

(1.) No Danapatram of any immovable property, executed after the Act, shall be received in evidence in any Court, unless the same be registered within three months of execution.

(2.) The same with all other instruments respecting immovable property of the value of 100 Rupees or upwards, except leases for a period not exceeding one year.

From the above it will be seen that it will be in the highest degree imprudent to omit registration of any kind of instrument, regarding immovable property, of a hundred Rupees and upwards in value.

Third.—Any of the following Instruments may be registered :—

(1.) Instruments respecting immovable property less than 100 Rupees in value.
(2.) Any lease for a period not exceeding one year.
(3.) Any instrument respecting movable property.
(4.) Any Will, Codicil or authority to adopt a son.
(5.) Any private award of arbitration.
(6.) Any Deed, Bond, Contract, or other obligation.

Fourth.—Time of Registration.

(1.) Instruments described in (1) and (2) of the 2*nd* paragraph above will not be registered unless presented within three months from execution, if executed after date of Act.

(2.) Instruments indicated in (1) (2) (3) (5) (6) of the 3*rd* paragraph above, executed before the Act, will not be registered unless presented within 12 months of the date of the Act ; nor if executed after the Act, shall they be registered unless presented within six weeks of execution.

(3.) Any Will, Codicil, or authority to adopt, will be registered at any time by the person executing the same.

Fifth.—Enforcement of registered Bonds, &c.

(1.) A Bond or other written obligation for payment of money not more than 100 Rupees being regularly registered, may be enforced summarily by a Court.

(2.) So may a registered Bond for more than 100 Rupees, if the parties so agree and insert such agreement therein.

(3.) But in both cases, application for such summary enforcement must be made within 12 months of default.

(4.) No pleas shall be allowed by the Court to the Defendant, except that he is not the party, or that the Bond has been paid.

Sixth.—No action shall lie on any unregistered instrument of the kind indicated in the 3*rd* paragraph above, if executed after the Act, unless such action, if it relate to immovable property be brought within two years, or if it relate to movable property within six months from the date when the cause of action arose—Provided that nothing in this Section shall authorize any Court to receive any unregistered deed, the registration of which, to make it admissible in evidence, is required by the Act. This Section shall not apply to any Will, Codicil or Instrument giving authority to adopt a son.

(Signed) D. F. CARMICHAEL,
Acting Agent to the Governor.

Exd. J. Tulloch.

From J. I. MINCHIN, Esq., Collector of Kurnool, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 29th August 1863, No. 140.

With reference to your Official Memorandum of the 18th instant, No. 621, I have the honor to forward copy of paragraph 18 of the Deputy Collector R. Ragoonatha Row's letter, dated 15th ultimo, No. 182, and to report that by immovable property worth 5 Rupees, he means the value of such property calculated in the manner prescribed in the Notes C, D, and E appended to Article 11 of Schedule B, annexed to Act X of 1862.

ENCLOSURE No. 1.

EXTRACT of a letter from the Deputy Collector R. Ragoonatha Row, dated 15th July 1863, No. 182.

* * *

What should be registered.

Paragraph 18. I beg to propose that all instruments affecting immovable and movable property, to the value of more than 20 Rupees, and all leases, should be registered.

* * *

(Signed) R. RAGOONATHA ROW,
Deputy Collector.

(True Extract.)

(Signed) J. I MINCHIN, Collector.

Exd. J. Tulloch.

From J. FRASER, Esq., Acting Collector of North Arcot, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Chittoor, 29th August 1863, No. 172.

* No. XLVI, Board No. 3,388.

1. In reply to the Miscellaneous Circular* of the Board, asking my opinion and those of such of my subordinates as I may think qualified to form a sound judgment on the subject of the Draft Bill to provide for the Registration of Assurances, I have the honor to state that I addressed the Acting Sub-Collector and Head Assistant, and requested their opinion and those of certain of their subordinates. To these letters I have as yet received no replies. I therefore forward my own answer, and the written opinion of one official, the Tahsildar of Wallajah Taluk, whom I consulted.

2. I approve of the principle of the Bill generally, and also of its details; only I would include among the instrument that must be registered to make them valid, those entered under heads 1 and 2 in Section 22 of the Act. I think it of great importance that the registration of these documents should be compulsory.

3. In a few days more, I hope to be able to send the opinion of a few more of my subordinates, and other competent parties.

ENCLOSURE No. 1.

Opinion of V. Lutchmiah Naidu, Tahsildar of Wallajah Taluk, on the Registration Bill.

1. I have received a Takid dated 24th July 1863, No. 45, from the Acting Collector, directing me to state my opinion on the subject of the "Bill to provide for the Registration of Assurances."

2. I am of opinion that the Bill, if passed into law, and brought into operation, will undoubtedly confer a blessing on the people. That which was left optional with the parties by Regulation XVII of 1802, is now made compulsory on them by this Bill, and besides it opens some new benefits, such as enforcing a demand without a regular Suit, &c. I have not the slight doubt that the registration of all instruments of any kind, and of any value above Rupees 10 (Suits of which amount are cognizable by the village Munsiffs under Regulation IV of 1816), will prevent or diminish litigation as regards the authenticity of these instruments, and put down, in a great measure, forgery, perjury, and subornation of perjury. I have heard from parties unconnected with each other, that these detestable crimes are on the increase, since the establishment of Small Cause Courts in the Districts, and that several innocent Ryots and others have been ruined. I am inclined to believe that there is some truth in this, and therefore it is the more desirable that all instruments should be duly registered. I readily admit that the people will have to experience some inconvenience and delay in their transactions with each other, if they are compelled to get their instruments registered; but when we take into consideration the security which it would certainly afford to their titles and rights, and the safe-guard against fraud and deception, we cannot give way to them. No doubt there would be a general dissatisfaction among the people if the registration fee is high, and consequently it should be fixed as small as possible; and it ought not to be even the distant object of the Legislature to open another source of revenue to Government in passing this Bill into law; but of course it should be self-supporting its own establishments. It is also to be hoped that if the Bill is passed into law, its operation should be deferred till the expiration of the "Income Tax Act."

AUMMANOOR, 31st July 1863. (Signed) V. LUTCHMIAH NAIDU, Tahsildar.

ENCLOSURE No. 2.

From R. W. BARLOW, Esq., Acting Sub-Collector of North Arcot, to J. FRASER, Esq., Acting Collector of North Arcot, dated Palmanair, 12th September 1863, No. 175.

1. In reply to your letter, No. 186, dated the 25th of July, I beg to state that I think the provisions of the Act for the Registration of Assurances, so far as they go, are very useful, and will have a beneficial effect in checking frauds.

2. With reference to compulsory registration being extended to some at all events, of the transactions mentioned in Sections 21 and 22 of the Act, I beg to draw your attention to the remarks of the Sub-division Serishtadar, herewith forwarded; he is apparently of opinion that if all bonds were obliged to be registered, such an enactment would be received favorably by the Native community generally. On this point I am unable to give an opinion further than that respectable natives have on several occasions spoken very strongly to me of the injustice often done, by judgments being given in the Civil Courts on forged bonds.

ENCLOSURE No. 3.

Opinion of P. T. Chittambalam, Serishtadar, Sub-division.

The proposed Bill for the Registration of Assurances requires all documents, relating to immovable property of the value of one hundred Rupees and upwards, to be registered under the penalty of their being refused as evidence in Courts of Law. Such a rule as this is very much wanted for preventing frauds and checking litigation, and as far as I know, it is not disagreeable to the natives. But the usefulness of the proposed Bill is very greatly contracted by the option given in regard to the registry of bonds and other written obligations specified in Sections 21 and 22. It is in the case of this sort of documents that there is greater room for the practice of fraud and forgery. It is a notorious fact that thousands of people suffer awfully from false suits and fabricated claims. The fact is not sufficiently known to the European authorities. Wherever there is a Small Cause Court, it is a common thing there to prefer false claims, to prove them by false witnesses so cheap in this country, and to get decrees against the defendants. In some cases in all Courts incredible acts of fraud are practised; false suits are filed, summonses are caused to be served on an accomplice, and while the defendant really intended is carefully kept ignorant of the action against him, imposters appear before the Court and admit the claim, or no one appears, and the Court decides the case *ex parte*, and judgment is given for the Plaintiff which one or two years afterwards are executed, leaving the real defendant then to know for the first time the institution of the suit against him and to struggle in vain. If the object of the proposed Bill is to protect the people against such malpractices and injustice as the above, it should make the registry of bonds and other written obligations compulsory, which none but the dishonest would dislike. I believe the natives will not be averse to a provision to this effect being made in the proposed law. The inconvenience which the operation of this rule will cause may be in a great measure lessened, by permitting parties to forward their documents to the Registrar for registry through the Tahsildar of the Taluk, accompanied by a certificate of their genuineness from a Committee appointed for that purpose in each village.

(Signed) P. T. CHITTAMBALAM, Serishtadar, Sub-division.

Exd. J. Tulloch.

From Honorable D. ARBUTHNOTT, Collector of Salem, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Nameul, 3rd September 1863, No. 161.

1. With reference to the Board's Circular calling for remarks on "a Bill to provide for the Registration of Assurances," I have the honor to submit copies of remarks thereon by Head Assistant Collector, Mr. Hathaway, and by Deputy Collector Ramiengar, and Mr. G. Fischer.

2. The former appears to me to have lost sight of the object of the Bill, which is only intended to deal with certain documents, and not with claims to property by inheritance or relationship.

3. The chief difficulty appears to be in the meaning of Section 19, and to this difficulty both Mr. Hathaway and Ramiengar allude in their remarks. Must all leases for more than one year and for 100 Rupees and upwards be registered?

4. According to the wording of a Government Puttah it is a lease for one year, or for any period till a fresh Puttah is issued to the holder, but supposing that Government Puttahs need not be registered, I agree with Ramiengar in thinking that the Act would fall heavily on landholders and their Ryots.

5. I do not concur with Ramiengar in his remarks in paragraph 5 of his letter, nor do I think there is any want of clearness in Section 24.

6. Section 50 is attacked by Ramiengar on the ground that a rich creditor could, by bringing a regular suit, ruin his debtor by litigation. It is not, however, necessary for a debtor to deny his debt, and by at once acknowledging it he would incur very little more expense than if Section 12 were put in force.

7. Mr. Fischer makes no particular remarks on the Act, and thinks its provisions well calculated to gain the object aimed at.

8. There is no doubt that the Bill will effect much good if sufficient time before its operation is allowed to enable all persons to understand its provisions, and the Registration Offices are so situated as to be conveniently accessible to the people.

ENCLOSURE No. 1.

From W. F. HATHAWAY, Esq., Head Assistant Collector of Salem, to the Honorable D. ARBUTHNOTT, Collector of Salem, dated Tripatore, 10th July 1863 No. 76.

1. I have the honor to acknowledge the receipt of your letter, No. 334 of the 25th ultimo.

2. The principle of the bill seems to me to be good, and one that if thoroughly carried out would save a great amount of litigation in suits for land grounded upon Deeds of Transfer. But besides these there is an equal, or perhaps greater amount of litigation, where the parties claim not by transfer and documentary evidence, but by inheritance and relationship, about the registration of which no mention is made. In order, therefore, to have any large effect in diminishing and simplifying Civil suits for land, the principle should be extended to this, and proprietors of land should be obliged to register, not merely the deeds from time to time executed, but also the births, deaths, and marriages, which could influence the succession to the estate; especially since it seems to be the intention of the Legislature and the Government that estates should be treated as much as possible as entails, and not be alienated except on necessity.

3. Indeed before deciding on a bill of this sort, it would be best to settle what *are* the powers of proprietors of land with regard to their estates, as this is by no means a clear point. Thus by Section 8, Regulation XXV of 1802 it is laid down, that a proprietor can only alienate his land in accordance with Hindoo Law. Is this to be observed, or not; for the transfer of ancestral property by Hindoo Law is hampered with many conditions, which also tend towards making the property of the nature of an entail? The present practice seems rather to be, that a Muttadar sells his land as he likes, without any regard for instance to such a rule as the followings:— "No alienation of property is valid unless sufficiency be left for the maintenance of those entitled

to support, and for providing for the marriages of daughters, these being fixe[illegible]s on the estates."—Strange's Manual of Hindoo Law, page 28. So again, the Hindoo Law requires that an estate should be most strictly divided amongst the different heirs and co-[illegible] but this is seldom carried out in its integrity.

4. Further, it is by no means decided what powers a Muttadar has in the [illegible]ub-renting villages or lands in his estate. Can a Muttadar sub-rent a village for any rent or has the sub-renter a right to demand that the rate shall not be higher [illegible] beriz of that village, that is, the total revenue of the lands assessed at the se[illegible]or, as it is termed in Clause 2, Section 8, Regulation V of 1822, "the just rate [illegible]?" Undoubtedly a *Ryot* has this power, and [illegible]rietor of land ca[illegible] against his will any more than this assessment fixed on his field. In the same way is the aggregate of all these assessed fields in a village the maximum which can be [illegible] the sub-farmer, or has the Muttadar the power, in consideration of the waste given over a[illegible] assessed land, to charge what rent he likes?

Again, of what nat[illegible]rmanency? The High Court decided 19th January 1865, in Special Appeal 15 of 1862, that a Muttadar cann[illegible] manent Puttah for a village, and that such a lease expires wi[illegible]lf, and has no [illegible] against his successor. But yet it seems that if the rate of th[illegible] correct, it is to all intents and purposes permanent. For, as before, in the case of a Ryot and a single field, it undoubtedly is so, and even on the succession of a new proprietor, a Ryot cannot be [illegible]om his field, if the rate of his Puttah is correct, and be punctual in paying it. If therefore a man with one field, wh[illegible] not another man with a number of fields, that is, a whole village, or, as in the case quoted, villages? And yet the High Court decide that no lease of the kind is permanent.

5. I mention these points to show the doubtful nature [illegible]nsfer of landed property at present, and the tendency of the character of such property towards the nature of an entail, or, in other words, of such property passing usually by inheritance, and not by Deeds of Transfer. If therefore such deeds are usually invalid, they are equally invalid whether registered or not, and if the succession usually goes by inheritance, that is the more material matter to reg[illegible]sides registration of the births, deaths, and marriages, there would also be of course all family ch[illegible] such as especially the act of a family becoming divided, on which point alone an enormous nu[illegible] of disputes hang.

6. As to the wording of the Bill, there is some slight doubt about what is included in Section 19. Would it extend to receipts given for the payment of mortgage instalments? Occasionally a mortgager anxious to prevent foreclosing might wish to pay up instalments every three months. The receipts which the mortgagee would give him would certainly be "instruments operating to extinguish right in property." Is the mortgagee therefore unable to grant such receipts except before the Registrar; for he would continually have to be attending, and if it were inconvenient, or he wished to foreclose, repeated applications would have to be made by the mortgager to enforce his attendance.

7. In introducing the plan, I think it would be advisable to serve a personal notice on each large land-holder, so as to prevent the plea of ignorance.

(True Copy.)

(Signed) D. ARBUTHNOTT, Collector.

ENCLOSURE [illegible]

From V. RAMIENGAR, Deputy Collector of Namkal Division, to Honorable D. ARBUTHNOTT, Collector of Salem, dated 18th July 1863, No. 51.

1. I have the honor to reply to your letter of the 25th ultimo, No. 335, giving cover to a Circular from the Board of Revenue, and calling for my opinion on the Draft Bill to provide for the Registration of Assurances.

2. The general principle of the Bill appears to me to be sound and well calculated to secure the objects in view. The details also seem to have been carefully considered, and to be a great improvement, as far as I can recollect, on the measure brought forward in 1860, in the Legislative Council at Calcutta. A very few remarks only, suggest themselves on some parts of the Bill, and I give them below.

Section 15.

3. The "special cause" contemplated in the proviso in this Section would, I imagine, most frequently be such as a person being on his death-bed, when he would be naturally anxious to deliver personally to the Registrar his last Will, or authority to adopt a son. To require the Deputy Registrar to write and obtain the previous permission of the District Registrar in each such case, would be to nullify the concession intended by the proviso. But I presume that it would be within the meaning of the Section for the Deputy Registrar to give a general sanction for his Deputies going out of their public offices, in such exceptional cases as are above referred to.

Section 19.

4. This Section is comprehensive in its terms, and must, taken in connection with Section 21, include all leases and other engagements ordinarily entered into by the owners of lands with under-tenants and cultivators, for cultivation purposes. In all Districts where land is of any value, and where there are any considerable land-holders, such stipulations for cultivating the land and paying rent, whether in money or grain, are entered into for varying terms; and to require such instruments, where they are for more than one year, to be registered would seriously interfere with the convenience of landed proprietors and cultivators, and, after all, answer no useful end. In Tanjore, for instance, thousands of such engagements are entered into at the beginning of each cultivation season between Mirasidars and Poracoodies, and the engaging parties would consider it a hardship to leave their proper avocations, for however short a time, to go through all the formalities necessary to the registration of the leases, on every occasion of their fresh execution or renew[illegible] I see the necessity of requiring such instruments to be registered, as the parties to such transactions act in good faith, and no litigation in connection with them generally reaches the established Courts.

Section 20.

But the next Section 20 would seem to run counter, in some measure, to the provisions of Section 19 for; it is therein stated that, for the purposes of registration, the value of the right, title, or interest in any immovable property, affected by instruments required under Section 19 to be registered, shall be determined by the stamp affixed to such instruments under the Stamp Act (X of 1862); and according to this last mentioned enactment, "every lease or "other engagement executed between landlord "and tenant, relative to land in the Presidency "of Madras, subject to the payment of revenue to Government," is exempted from stamp duty. Therefore, inferentially, all leases or other engagements of the description already referred to, are not among "instruments to be registered;" but that such is the meaning of the framers of the Bill may be doubted; for if the argument above deduced from Section 20 hold good, then "no deed, instrument or writing of any kind executed by or on behalf of the Government" could be registered, as they are also exempt from stamp duty, and yet the Bill would seem to contemplate, and properly so, the registry of such documents, Sections 19 and 20 seem to me, therefore, to require re-consideration.

See Schedule A exemption under Article 12.

See general exemption at the end of Schedule A.
See Section 62 of the Bill.

Section 21.

5. This Section also is not clear. It states that "no instrument of the description men-"tioned in Section 21 or Section 22 (other than a Will, Codicil to a Will or authority to "adopt a son), which shall have been executed *before* the date on which the Act shall come into "operation, shall be accepted for registration, unless prasented within 12 months from such date." The registry of documents of the description in question, executed *before* the commencement of

the operation of the Act, would thus seem to be contemplated; whereas Sections 21 and 22 refer clearly to documents executed *after* the said date, and there is not any part of that portion of the Bill headed "Instruments to be registered," which requires the registration of any document executed prior to the Act coming into operation. If, as the wording of Section 21 goes to imply, it is intended that instruments of the character specified in Sections 22, executed prior to the Act coming into force, may also be registered, not apparent why the same rule is not extended to the far more important class of instruments referred to in Sections 18 and 19; but I question the advisability of allowing the Act to apply to any documents executed prior to its coming into effect.

Section 36.

6. It would perhaps be an additional security, and more satisfactory to all the concerned, to require the asse the instrument, to be attested by the party affected, that is, by the assenting par the seal and signature of the Registering Officer.

It would appear by Section 42 which follows, t Section 36 is needed only in cases where the amount of the bond or other obligation for the payment of money is above 100 Rupees, as it is declared that, where the amount does not exceed that sum, and the instrument shall ha registered, it may be l without a regular suit, irrespective apparently of the assent of the party corded or not at the time of registry. The reason for making this distinction between bonds for sums above and below 100 Rupees is not obvious, where otherwise precisely the same rules are applicable to their registry. It seems to me prefe able be made applicable to all bonds whether under or above 100 Rupees.

Section 50.

7. This is an im and requires attentive co mind the vast importance will be affected by the proposed measure, great caution is doub on the subject; but I confess that, after reading the various provisions laid o 49, under the head "Enforcement of registered bonds and other instruments

Sections 22 and 64.
Section 36.

for what is contain far to nullify the bonds duly registered, with debtor for the enforcement of the obligation, without a regular suit given and rec of registry; with th

Sections 42 to 47.
Section 45.

enjoined as regards the subsequent enforcement; with the opportunity given to the party, against whom execution is claimed, to show cause why execution should not issue; with the discretion

Section 48.

allowed to the Courts of directing, for any sufficient reason, the institution of a regular suit,

Section 49.

instead of proceeding to enforce the bond on application; and finally, with the opening which is left for appeals, from all orders passed for issuing execution or refusing to issue execution on any bond, under the same rules as are applicable to decisions passed in regular suits; I say that with these sufficient safe-guards against any fraud or wrong, I do not see why the holder of the bond should have the discretion of going into Court and worrying his opponent with a regular suit, merely for the love of litigation. In the Mofussil, all large land-holders are less money-lenders; and I have known even the best of them to be actuated, in their dealings, by a desire to seize every possible opportunity, fair or foul, of adding to their landed property; and the most favorite way with them of effecting this is by volunteering loans in the first instance to Ryots possessing lands near their own estates, then allowing interest to accumulate, not only by abstaining from dunning the debtor for the money, but even by evading to receive payment when offered; and when the debtor is known to be sufficiently overwhelmed, then harassing him by a regular suit, and eventually seizing his lands and annexing them to their own. I can point to many a magnificent estate in Tanjore and elsewhere which has reached its present dimensions by such process of absorption, and such money-lenders would be glad of the opening left them by the Section under notice. If the object of the bill is to check forgery and unnecessary and vexatious litigation, and the consequent tendency to the multiplication of Law Courts, I think that Section 50 might be safely omitted. With it, the Bill does not go far enough. I believe that in French Territories, money obligations are enforced summarily on applications founded on registered bonds without any regular suit, and, as far as I have had opportunities of ascertaining, without any evil resulting, but, on the contrary, with good effect.

8. I think provision should be made in the Bill for requiring the Registrars to bind themselves by an oath on entering office.

9. In conclusion, I should add that I offer the above remarks with great diffidence, seeing that the Bill bears marks of having undergone close and attentive consideration, and of its details having been carefully matured. However opinions may differ as to particular Sections of the Bill, there can, I think, be no question about the importance of the measure itself, the necessity for which, in lieu of the present nugatory law, has more than ever strikingly freed itself upon my mind by the bold and unscrupulous manner in which, while I am writing a most important document, purporting to have been executed some years ago, is said to have been fabricated, brought forward and successfully made to answer the purpose for which it was intended.

(True Copy.)

(Signed) D. ARBUTHNOTT, Collector.

ENCLOSURE No. 3.

From G. F. FISCHER, Esq., to Honorable D. ARBUTHNOTT, Collector of Salem, dated 9th August 1863.

1. I had the honor duly to receive both your letters of the 25th June and 4th instant.

2. I did not reply to your first letter, because I had nothing to suggest in respect to the Bill sent me. In my opinion, it is as perfect an enactment as can be, and meets the wants of the community. It will save an immense deal of litigation, and give greater security to property.

(True Copy.)

(Signed) D. ARBUTHNOTT, Collector.

Exd. J. Tulloch.

From H. MORRIS, Esq., Acting Collector of the Godavery District, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Cocanada, 11th September 1863, No. 289 :—

1. In reply to the Board's Miscellaneous Circular, No. XLVI of the 10th June 1863, I have the honor to state that I have carefully studied the Draft Bill for the Registration of Assurances, published in the Supplement to the "Fort Saint George Gazette," dated the 10th April 1863. I fully agree with the general principle of the Bill, and shall be glad to see it carried into effect, although I think it might be improved by modification in the details.

2. I have endeavored to ascertain the opinion of the Hindu community regarding it, and I do not think it is altogether consonant with their tastes and feelings. The principal thing which they dread is publicity in transactions which ought to be entirely private; and they imagine that such an enactment would be a death-blow to the transfer of land, to petty loans, and transactions of a similar nature.

3. I think this apprehension is illusory. The Act is intended to prevent litigation; and, therefore, if the dread of publicity induces men to conduct their negotiations in such a manner as to preclude recourse to law, the Act will be the means of infusing an amount of good faith into business transactions which will go far towards accomplishing that end. The registration of documents is intended, in the majority of instances, to be optional, and those who dread publicity need not have recourse to it against their inclination.

4. I would strongly advocate the extension of Section 42 which seems to provide a most satisfactory prevention to litigation, and encouragement to registration in order that it may be prevented [illegible] that the registration of a document will of itself be sufficient evidence of the transaction to which it refers, and it is made evident that law suits will be avoided in such a simple, easy manner, the community at large will not be slow in availing themselves of it, and in shielding themselves behind so admirable a safe-guard from the vexations of a Civil suit. No means certainly should be left untried for alleviating the great evil of litigation, and this seems sure and simple.

5. Section 19, as it stands, will interfere with the working of our revenue system. Transfers of land for more than one year are constantly made by the Revenue authorities, and it is not stated whether such transactions are to be exempted from registration; and the same inconvenience will be felt by all Zemindars, Inamdars, and other landed proprietors. The time for leases and rents might be advantageously increased.

6. I think that the period for registration mentioned in Sections 23 and 25 should be extended, and that all documents should be registered after the expiration of the prescribed period, if it can be proved to the satisfaction of the Registrar that the delay has been unavoidable. I observe that no time at all is to be allowed in Section 23 for the registration of instruments described in Sections 18 or 19, which shall have been executed before the date on which the Act shall come into operation.

7. I think also that, if the provisions of Section 42 are to be enforced, the Registrar ought to be empowered to make inquiries regarding the right of the parties who may appear before them to negotiate the documents which they may be about to register.

8. I would urge the necessity of many Deputy Registrars being appointed, for the convenience of all parties, and for facilitating the working of the Act. There should be one at least to each Taluk.

9. I have the honor to enclose the opinions of several persons whom I have consulted on the subject which are in general favorable to the principle of the Act, or likely to afford facility for the recovery of debts, certainty in the transaction of business, decrease in the number of Law Suits and prevention of forgery and fraud.

ENCLOSURE N

Opinion of L C.

1. It seems to me that the Act (Draft) for the Registra *generally* excellent one. I should think, however, that it would be found necessary, as in the case of Act XIV of 1859, to two or three years the date at which the Act is to come into operation as regards instr admission in evidenc

2. The object of Sections 40 and 41 is not apparent. The ents brought before it on public record, and so a doubt th were in exi But why the Registry concern itself the subsequent opini registered, I cannot see. If, however, it be thought should n of the Civil Court as to the forgery or invalidity of any also note the con- trary opinion (in cases where such contrary opinion is c rt passing the final decision. If thi Though I think the proposed Act calcula depend upon the way in which it is carried out whether it answers the intended. If there is gistrar to each Taluk, it is futile to expect any the provisions of Sections 21 a have to come from distant

Deputy R

Mr. CHASE, the Acting Sub-Collector, states that he thinks necessary one.

of R. H. D.

In reference lauses f nderstand them rightly), I am of opinion that the registratio portance, except Wills, would be on the general principle of the C all people who may have to operate in transactions requ imagine be a protection, and detect fraud, should be optional; most people I think only known to themselves. If the new Act probabl ase intestate deaths

Treasury.

3. But the provisions appear ne cases more stringent than necessary, and in other respects susceptible of improvemen erality of the people, a few modifications and additions deemed beneficial are mentioned below.

1st. Section 18 provides for the registration of endowments of real prop Under Sec. tion 19, registration is necessary only when the value of the property is Rupees two and upwards, but under Section 18 registration is compulsory, whatever may be the value. It would be well, I think, to introduce into Section 18 the same provision s that contain ction 19. Gifts of lands and houses of small value below 100 Rupees are very frequently made among Hindus, to relatives as well as to religious and charitable institutions. Most of them will not be worth the cost and trouble of registration. Such cases rarely come before Cour

2nd. Section 19 provides for the registration of Bi nditional Sale, and Mortgage Bonds of real property of the value of 100 Rupees and upwards. Leases for periods above a year come under this Section. Leases represent the annual rent payable but not the value. This provision affects a very numerous class of people, Inamdars, Ryots and house-holders. Relying on good faith, and looking to the f the lease and to the cost of registration, they will not have recourse to registry in most cases. It would be a hard case to deny them access to law. Of course, when the rent is a considerable sum, parties are sure to go to the Registry Office. I think it would be advisable to make registration optional up to the annual rent of Rupees 200, or more.

3rd. There is no exemption in regard to leases for more than one year granted by Government. Government will never be under the necessity of going to Law Courts for enforcing their rights against renters. There should be an exemption to this effect. Leases granted by Zemindars do not claim the same consideration. They, as a matter of necessity, under certain circumstances, are compelled to go to Courts for the recovery of their dues.

4th. It is also a question for consideration whether Bills of Sale and transfers of Ryotwar lands should be at all registered. In Government Taluks, public Officers keep a Register of transfers of land between Government Ryots, and issue Puttahs. The assent of the person relinquishing land in favor of another is taken in writing. All other claims are investigated into and disposed of. Registry confers no benefits which are not enjoyed. Further, under the Board's Standing Circular dated 7th August 1862, No. 5,155, the production of Bills of Sale is not necessary to effect the transfers. Registry seems to be uncalled for.

5th. Mortgage Bonds are of various kinds. Loans are made on the security of real and personal property, and also without any such security. It seems to me that all bonds for Rupees 100 and upwards, which expressly state to hold in mortgage real property, come under Section 19. Bonds which declare personal property of any value to be held in security, as well as bonds, &c., without any pledge, appear to fall under Section 22. A bond is for the recovery of money lent. It does not matter much whether the pledge is real or personal property, or neither. Registry in one case be obligatory, and in the other, optional. The advantages derived by all these descriptions of bonds are the same. It is not seen why the rule of registration should not be same. Special provision is made in Section 42 in regard to the enforcement of these claims. Such bonds, whether there is any pledge or not, when the sum of the loan exceeds Rupees 1,000, may be required to be registered within three months.

6th. The time allowed for the registration of the documents mentioned in Sections 18 and 19 is three months. If a person by mistake, or accident, would neglect to do so, there is no remedy for it. Mistakes will often arise from ignorance of law, which, under the peculiar circumstances of India, must be treated with forbearance. Circumstances beyond one's control sometimes prevent registry in time. When the neglect is satisfactorily accounted for, it is fair and proper to allow registration even beyond three months. A penalty may be imposed for the neglect. There is a provision of the kind in the Stamp Act. Decision in such matters might be left with the Registrar of the District.

7th. Provision may be made for admitting to the benefits of registration those documents which might have been executed prior to the introduction of the Act, and falling under Sections 18 and 19, if presented within a fixed time after the Act comes into force. Some might wish to do so. I observe there is a provision of the kind in Section 24 in regard to the documents mentioned in Sections 21 and 22.

8th. The time of six weeks in Section 25 may be extended to three months, as it would otherwise press hard.

9th. I would propose that the documents falling under Section 19 be enumerated in a Schedule to be attached to the Act, as otherwise there will be much misconception.

10th. There should be a general exemption that purchases made by Government of real property, as well as sales of Government lands (I mean lands exclusively in the possession of Government, and not occupied by Ryots or others) effected by Government Officers, do not require to be registered Registry is unnecessary.

11th. Section 20 says that the value of the right or title in a ...ed by any instrument required to be registered under Section 19. shall be ...d by the Stamp. I suppose the Section has refere... expressed. Where the value is plainly expressed ... is not of the proper value, the document will ... is of a higher value, it requires no notice.

Under Article 47 of Schedule A of the Stamp ... given for the security of an annuity for an indefinite p... he annu... For instance: a land paying an annual rent of Rupees ...e manner mentioned in the Article. In such a case will it be consi... it is obligatory to register the mortgage bond because the St...

The public woul... contracts which, though ... in the end. A merchant enters into an agreement with ... sown, and makes an advance on the understandi... that stipulated price. The Ryot ... self to p... agreement. Registratio... and a great deal of litigation and bad faith put a ... summary way. If the Section as it stands now ... explicitly declared.

13th. Section 42 seems to me to make a distinction bet... ...s 100 "Bonds, &c., for sums b... ...he enforced under this Act without regular Suit; also abstrac... ...at for sums above that limit in certain cases." length in ... ...n, that an expression of the assent of the persons at the time of ... Rupees 100, is not necessary. The wording in ... The public view this provision with much favor. Its s...

14th. I beg to say in conclusio... The public do not demur to registration in ...rty when the value is something consid... ...ng registration obligatory in regard ...et their wishes and ensure the en... ...be nience of going to long distances ...iously more Registry offices than there ...e con- Cost should not be a considerati... venience and interests of the public ... the consequences may be, and in co...

C...

Sections 6, 7, 8, 9 and 12. 1. In every District a n... Offices should be established, t... ...n proper ...are to be fixed. Those who understand the vernacular langu... ...sh, should be selected for the office of Deputy Re... being public servants on sufficient commission and on salaries respectiv... ...stablish- ments; by which 1st, the parties concerned in the registration o... ...put to much expense and trouble in travelling, and at the same time ...lt task to have their documents registered.

2nd. The parties will not be required to go to the Distr... are written in a language which the Deputy Registrar does not u... ..., because almost all the instruments are written in the vernacular language of the D...

3rd. A good number of Deputy Registrars with sufficient establishments will relieve partie... ...nvenience which they experience in accumulating and waiting for the Pregi... ...ments.

2. A Deed of Gift of any immovable property, and a Deed of Transfer Sections 18 ... &c. of the right, &c. of the value of 100 Rupees and upwards, should be registered under this Act ...is, the parties seem to derive no benefit Every case is liable to Civil action and subject to all the expenses of the Suit. The Deputy Registrar if satisfied that the ... was really executed between the very two parties will register it; but he takes no notice ... the party transferring, has any right to do so; especially many ... ...y the Irwindars cannot be alienated, because they were not e... ...oner and for other causes, and the Proprietors have no ... ...and the like objections with regard to other immovable ... troubles.

...ithout a... ...ration of the amount of ... (of whatever amount it may be) for more than ... ... is always for more than one year, an... the a... ...any very trif... ...ot take for cultivation unless it is given for ... ...e year, espe... &c. which pay little revenue. So every Inamdar although his incom... ... the expense and t ouble so in ... Rupees and upwards for more ...

registration.

4. Bonds made to the paym... of mone... Transfer, &c., of the movable property under the value of 10... registered. In th... parties derive great ...forced without a Civil action, and no doubt the ... because the money is safe, and they are ...hose attendance is under the juri... ...puty Registrar, are residents and apply ... ...r even... ...ne District, the party is to go troublesom... the at... ...f such witnesses. It is very ... ...ry Deputy Registrar should through u... ...er divisions in the same District with regar... ...s. This Section may be applied Registrar who... ...s is poste... ...than that in which the Deputy

... requir... ...emark exce... ...hole th... ...t very convenient l... ...have questioned on

Row, Head Vernacular Clerk.

The plan of registering such deeds has, to some extent, been hitherto adopted in matters of Law, and their operation is carried on by the Collector and his Assistants. ...lan may, however, supersede the existing one.

Section 19. The registry of the documents referred to in this Section appears to be generally favorable to the payer, but also in some ...ive to the prospects of the creditor. For instance: if a man wishes to contract a ... pledging his immovable property for the purpose of ...ng on trade by s... ...assessment of such a person as is always the

case in the
effected owing to the
remain at the place where he
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a s al or cultivator
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It should ther distant from

tice to men of other countries and of poverty, and ordinary qualifications in matters of business. A period of three years should, therefore, be allowed.

Section 25. A period of six, or at least three months should be allowed for reasons given in my opinion on Section 23.

Section 33. The erasures cannot be expected to be attested by the parties executing the instruments, if they are illiterate or those that could hardly write well, the initials of the Registering Officer may in consequence be considered sufficient.

The period of three years allowed in Clause 9, Section I of Act XIV of 1859 may also be given es of this nature.

If notices of the description referred to in this Section be issued in each case, it is certain that the ill again create a dispute. It will therefore appear issue of ld be restricted only to cases in which enforcement tions is claimed after the lapse of a year from specified in the obligation, as stated in Section

Section fees should be prepared with reference to the value of the instrument.

A period of one year should be allowed in cases of movable property.

ANAPA, District Munsiff of Narsapoor.

sent Bill it appears that in case of any dispute arising in urt should inquire into the origin of the document, b be received i e, merely by reason of its having been registered. If such be the case, many fraudulent do will come into existence.

Some native substantial merchants receive loans of money from people of ordinary rank in life. Both carry on the transactions in private, the former deem degradation, and injurious to their profession if t they will

In case of bringing bonds, &c., to the llages, travelling expenses and charges attending the registra d be tro y so for persons a small am or these stem is just, and nience which is likely to on of t

Jaganadapuram.

not favorable

ed to in Sections 18, 19, 20 and 21 are registered, the en- be ordered without bringing a suit touching the matter of the instrument. If s founded upon such registered instruments, the registry will traders.

Deputy Registra stationed in several places in a Zillah near the residences of parties, b strar be appointed for one entire District, and stationed at one place, it will be hard to go to a Deputy Registrar at a distant place, the journey being attended with much expenditure, bodily trouble, and loss of profits.

Opinion of K. SHESHAYA, T.

Sections 19 and 21.

It will
transfer any right,
immovable property, are re
small am
100 Rupees, or below the same
the poorer classes of Ryots
relinquish their holdings entirely or give away portions of the
fee, &c., for the registration of docum
It therefore appears proper to orde
or extinguishing right or title
well as proprietary estates without
of any
provisions of Sections from 31 to 3
yet this enactment may be acted up
also should be re
entail much labor and
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1st.
be their value.

2nd. That those grante
to Rupees 500 or below
be registered.

3rd. That those amounting in value
are to be in force, and those the v
three years should be registered.

Section 22.

any consideration for any trifling amou
The indigent class of people probably
to a limited extent. Although the fee
sions may be small, yet the expenses for
Office, will nearly be the same as that incurred in ca
Men giving loans and contracts will therefo
up contracts to undergo the said expenses. Co
specified in Clause 4 of Section 22, should be
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Section 42. The regis
objecti

Section 31.

admitted by those who execute them, and in
the Registering Officer that they are the parties
in this Section, and it therefore appears necessa
the documents should be rejected with reasons for th

On receipt of an application for the registry of an
ed by means of a notice from the Registering Officer of th
attend before him, and they should accordingly present t
parties are to attend for registry whenever they like, when
another duty, they will have to wait till
expense.

[redacted]

Section 33.

This Section provides that interlineations, erasures or alterations which shall appear on instruments, presented for registry should be attested with the signatures of the parties appearing to register the same. Whether the signatures of the parties by, and to whom the documents are executed will be sufficient, and those of the witnesses also must be obtained, should be clearly stated in the Section.

ENCLOSURES Nos. 2 to 4.

ABSTRACT.—Vernacular papers containing the opinion on the general principle of the Draft Bill for the Registration of assurances.

Exd. J. Tulloch.

From the Honorable D. ARBUTHNOTT, Collector of Salem, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 14th September 1863, No. 173.

With reference to my letter to you dated the 3rd instant, No. 161, making certain observations on the Bill to provide for the Registration of Assurances, I have the honor to forward copy of a letter since received from the Acting Sub-Collector, Mr. Thomas, giving his opinion on the subject.

From H. S. THOMAS, Esq., Acting Sub-Collector of Salem, to the Honorable D. ARBUTHNOTT, Collector of Salem, dated Omssoor, 9th September 1863, No. 302.

1. I have the honor to reply to your letter, No. 412, dated 4th August 1863, calling for my opinion on the Bill to provide for the Registration of Assurances. The few remarks I shall offer, I have placed in the order of the Sections to which they apply.

2. Sections 18, 19, 23, 24 and 25—I do not think sufficient allowance is made for ignorance. I would grant extended periods subject to fine and penalty, and subject also to the consideration and remission of the District Registrar as in Sections 15 and 16 of Act X of 1862, the Stamp Act. Though delay is dangerous, still it will be only when the District Registrar is satisfied as to the nature and causes of the delay, that the exceptional period will be allowed.

3. Sections 23, 24 and 25.—I presume "accepted" should be read for "excepted for registration."

4. Section 30 Is not lucid to my mind.

5. Section 57.—I conceive it will not be necessary that the instrument should be entered in full in each of these books, but that it will be sufficient if in only one it is entered in full, and that in each of the others, be entered only the other particulars set forth in Section 35, together with a reference to the book in which the instrument is entered in full.

6. Section 63.—Are such depositions and declarations to be given on simple or solemn affirmation and oath ?

7. No provision is made for the description of paper of which the books are to be made ; nor for erasures or alterations therein.

(True Copy.

(Signed) D. ARBUTHNOTT, Collector.

Ed. J. Tulloch.

From M. J. WALHOUSE, Esq., Acting Collector of Trichinopoly, to W. HUDLESTON, Esq. Secretary to the Board of Revenue, dated 21st September 1863, No. 182.

1. In furnishing my opinion on the Draft Bill to provide for the Registration of Assurances as directed in Board's Miscellaneous Circular No. XLVI dated 10th June 1863, I beg to explain that my delay in replying has arisen from my desire to obtain a body of intelligent, especially extra official, native opinion upon a matter of such high importance to native interests.

2. I circulated translations of the Bill to 30 landholders and wealthy men, requesting their opinions, but regret to say that only two have thought it worth their while to reply. Both entirely approve of the provisions of the Bill, but one of them, referring apparently to Section 43, thinks that the restrictions should not extend to cases in which Mirasidars and owners of Salt Pans make advances to tenants or under-renters; loans and discharges being of frequent occurrence between such parties on mutually understood terms.

3. The experienced Native Revenue Officials in this District concur in highly commending the Bill. Some, with reference to Section 31, think that as the Revenue Officials have the best means of becoming acquainted with the identity and personal appearance of the people in their ranges that they would be best invested with the power of registering deeds.

4. For myself I think the Bill admirably calculated to lessen and abridge litigation, and diminish the chances of fraud and forgery. I should therefore be glad to see it passed into law. With respect, however, to the enforcement of registered bonds and other instruments, I should be inclined to disallow the option granted in Section 48, and declare the plain unobjectionable summary process provided by Section 42 the only legal course.

Rxd. J. Wright.

…mber 1863, N…

…ions conveyed in the Board's Mi…
…16th June 18… on me for my opinion, and that …
…e general principl… Draft Bill to provide for the Re…
…o make the f… ries.

Copies of all the communications containing the opinions of their vari…
…ded is directed.

…eneral principles … they are admirable. Their Enforcement will give stability and protection to property and tend to repress forgery and litigation. One … guarded against at first will be the too-sudden introduction of the Bill after … , otherwise much injury might be inflicted on the ignorant portion of the popul…

Section 67, it is stated that the Act shall come into operation on the 1st May 18… …ld be extended. Might not the Local Government be empowered to introduce it … of univers…

…nted that the … take ti… … directed to … but it … … by the evils which w… …e avoid… … th… an… in…

…S, Esq., Sub… …dated 30th June 1863, No.

…I would only remark with r… my opinion, rarely be advisable (*vide* latter part of Section 7… …rtain position as Registrars in divisions.

…he general principle of the Act, though most admir… …ubt if the people of this country are sufficiently advanced to render such legislat… …ble, and especially so as, to the best of my recollection, the proposed Act goes far beyond … the Lord Chancellor … carry during … with regard to landed property in England.

ENCLOSURE NO. 2.

…. COOPPA ROW, …y Collector of Coimbatore, dated 3rd July 1863, No. 439.

…. ***. I have carefully read over the Draft Bill, and find that it generally answers the purpose for which it is intend… …nstances, however, it appears to me to require comment.

By Section 19 the registry of … …ing one year is rendered … In Zemindary Districts such as Vizagapatam, Ganjam, and portions … the Zemindars will, under this enactment, … …her to issue leases to their Ryots for … lease, … …er all leases exceeding that period; … of considera… …o them, to say nothing of the expense which …uld involve.

… is allowed in the Draft Bill in favor of instruments affecting property … the local limits of the ordinary Civil … …ion of any Court Section LXV … stablished by Royal Charte… and the pres… …to the late Supre… …f Bengal, Madras, and Bombay. Such an ex…

…ny the peop…

…acquir…

not, in my opi…

to attend …
men) wil…

7. It …
…suffering loss …

Sections 7 and 10. …for …

for the post.

Section 20. …on …

11. For the regis…

Section 23.

registry of the above kin…

…d be made for registering instruments, provided satisfactory reason …e given why they were not produced for registration within the …24, and 2… prescribed …

13. Instances have occurred, in which people having sold their Puttah lands and executed the … bond for the same, had, subsequently, evidently with a view to get some… thing more from the purchasers, made objections and refused to give the usual Razinamahs in the Tahsildar's Cutcherry, for transferring the Puttahs in the purchasers, names. In the same manner, if a man, who executes a deed of …ther instrument, refuses to go to the Registrar, provision should be mad… cure his attendance (Section 32, appearing to be applicable only to witnesses). If he abse… a notice should be published for his appearance within a specific time. If he still fail, or if having made his appearance deny having executed registered on sufficient proof of its having been executed.

…have as their … subsistence, a small extent of landed property. When such persons on account of their necessity, are obliged to mort… … for more than one year, their only land of the value of one …nds, as they would not otherwise be …stances will not, on such occasions' permit them to go out of their houses, they feel … able to go to the place where Stamp …ld to get one for executing the necessary …, and though they go and buy one, they …alue paid, as a great loss to them. In such cases the value of the paper and hire to …lls on the bor… hile such … borrower and lender, leaving …attend in the Registrar's Office, situated in a distant town from …gether with the witnesses if they take them along with them, …nvenience to … attended with …pense. In case of non-appearance of the executor of the deed and witnesses, the batta for the Peon, who serves summonses on them, and that of witnesses, if not paid by Government, should be paid by the party. This is a further loss to them. In addition to these expenses, as well as the fee to be paid for registration, the party is to pay fees for copy … abstract sent by Deputy Registrar to District Registrar, and by the latter to Register General, &c.

In considering all these charges, a large portion of the money borrowed will be spent for the registration of the deed. The same remark is applicable with regard to purchasers of immoveable property, who will incur the above expenses.

…rsons sell and mortgage lands to which they have no claim at all, and execute Deeds for the same. Deeds will also be registered on the only proof of their having been executed, but as no inquiry is made in the Registrar's Office as to the right of the person on the property, the man affected by it is left to seek redress in the Court.

Besides undergoing the above-mentioned many difficulties, expenses and loss in the registration of his deeds, the party is still obliged to apply to Court for its enforcement, (Sections 42 to 50). If the Court refuse enforcement or order him to bring a Suit, the party is not exempted from the usual inconvenience arising from liti…

Under all these circumstances, it appears reasonable to fix a moderate general fee once for …ch instrument that may be brought for registration, the other expenses being borne by Govern…

No. 4.

…AINA … adar, dated 11th July 1863.

1. ** … to expect that if persons not holding public offices be nomin… puty Registrars, they will conduct their duty … that respect which is due to the position, Govern… to that post.

averting such evil consequences by giving proper publicity to the Law, which can be effected by freely distributing copies of its vernaculur translation in every village, by fixing the time of its operation to a more distant period, and by erecting many Deputy Registrars' Offices in each District, in order to render them nearer their homes and easy of access. Education, which is making tolerably good progress now, will also have its share of influence in removing the apprehensions of any injurious effects from its operation.

5. Under these circumstances I am of opinion that the evils arising from the operation of the proposed Law appear few and temporary, while the good resulting therefrom promises to be permanent and greater in extent. Thus premising on the general principle of the Bill, I beg to offer a very few remarks on its details.

Registration Establishment, Section 7.

6. Tahsildars or District Munsiffs can be made Deputy Registrars under this Section, and their appointment as such is indispensable considering the distance between the villages and the Subordinate Courts. If such provision is not made the evil consequences will multiply, and the Law will greatly injure the people.

7. No sanction of the District Registrar should be made requisite to enable a Deputy Registrar to proceed to the place of residence of any party to an instrument where special cause in shown for such an act on his part. Cases may occur in which no time can safely be lost in attending at his place. The giver or receiver of a deed may be dangerously ill with no certainty of his surviving the time to be spent in applying for, and obtaining the sanction of, the District Registrar, which will in no case happen to be less than three days. The phrase "with the sanction of the District Registrar" ought, therefore I think, to be omitted from this Section (15).

General Rules. Section 15.

8. Puttahs, Grants, Istimirar Sanads, Inam title deeds, and their renewals and transfers passed by the Collector and other Revenue Officers, I do not think require to be registered. They are deeds which can be treated as having been already registered. To render them liable to a second registration will greatly enhance the duties of the Registrars; and the expense attendant on the registration will operate as an additional tax upon the cultivating class with no equivalent benefit to them: Section 20 may lead to an inference that the Bill refers only to those instruments which are required to be stamped under Act X of 1862, but no express provision is made any where to that effect. The wording of the Sections noted in the margin should therefore be rendered more explicit in respect of such documents, or a clause of exceptions should be added thereto.

Instruments to be registered. Section 19 and 21.

9. Value of right affected by instruments liable to registration should not be always determined by the stamp affixed thereto, but by the sum specified therein. A deed of sale of a land value at Rupees 90 will be written on the same Stamp as is required for one of 100 Rupees worth. The latter deed is not admissible in evidence if not registered within three months; *vide* Section 23; the former even when not registered can be used for a suit until two years after the cause of action arose, *vide* Section 64; but this difference in value, the distinction drawn between Sections 19 and 65, and the option accorded by Section 21 will be rendered by Section 20 as it now stands, useless and inoperative in many cases.

Section 20.

No 23. Schedule A, Act X of 1862.

10. Promissory Notes of public loans, currency notes, their renewals and transfers; Kabuliyats and Muchilkahs from landlords; receipts for payment of Government revenue; all these and the like documents do not, I believe, fall under the category of instruments contemplated by this Section, the wording of which should be rendered more explicit, or a clause of exceptions added thereto, for reasons shown in paragraph 8 regarding Sections 19 and 21. Suppose a case, that one-half of a currency note is lost by A who wishes therefore to have the other half to be cashed. The Commissioner refuses to pay the value for certain reasons which render the refusal expedient; A goes to Court and presents,

Section 22.

for admission in evidence on his side, the half note in his possession six months afterwards. According to the present wording of the Sections 22 and 64, the Judge will be justified in refusing to admit on the ground that it was not registered.

Time of Registration, Section 23.

11. The term of three months will not be found sufficient for procuring the registry of some instruments of the class, and six months seem to answer all cases; A in this country sells his house to B and dies after a month, but before the deed of sale is registered. His heirs C and D [illegible] be in some part of England or France. To settle the matter with the [illegible] procure their appearance either in person or by an agent, before a Registrar, B will cer[illegible]quire more than three months. To suit such cases the term should in my opinion be increased to six months.

Section 24.

12. This Section refers to documents already in [illegible]ce for lands below 100 Rupees, and for any sums of money [illegible] no penalty is attached to an omission to register such documents, yet injurious consequences may arise from the omission. This can be easily illust[illegible]

the time fixed for it. He was absent in some distant c[illegible] and returns home two years after the proposed law came into operation, the son of B in the meanwhile executes a deed of sale to C for the same property, and has it registered at the time. When a suit comes before the Court in the matter, the deed of A which is not registered will not hold good in preference to the registered one produced by C; other cases may happen in which the family of t[illegible] of the property may have become extinct, and the holder of the deed is precluded from [illegible] his deed registered on the present occasion. In order to avoid such mishaps, I would suggest that a clause be added to the effect that such deeds when put in evidence or filed in any proceeding shall be decided on their own merits, and under the provisions of the Registration Law in force at the time of their execution.

Section 25.

13. For reasons similar to those in paragraph 11, the limit of registration given in this Section will not answer all cases of the class therein mentioned, and I think two or three months may be a good time.

Miscellaneous provisions, Section 64.

14. The limit of action given here for cases of moveable property is six months, which I consider ought to be increased to a lon[illegible]riod of one year. The cause of action arises when the money [illegible] payable; circumstances such as absence from home, sickness, expectation of a[illegible] ment of the debt, kindly motives, may prevent the holder of the deed from having recourse to the Courts within six months, and he will be at a loss if he was not assisted by law in the exercise of patience and the like qualities which are requisite in a respectable member of society.

15. The time fixed for putting the proposed law into operation is too short to enable the generality of the people to understand its provisions so fully as is requisite to guard themselves against incurring penalties for breaches of the same. It is therefore proper to appoint the middle or closing part of 1865 for commencing its enforcement; [illegible] at the same time every p[illegible] measure for its due publicity, such as proclaiming it fr[illegible]y beat of tom-tom, and [illegible] distributing copies of its vernacular translation in every village as already said.

16. In conclusion I would beg to add that the law proposed is one of general importance and affects the whole property in circulation in India, and that its enactment is as necessary as it is to prevent any injurious consequences [illegible] forcing it without proper precautions, or previous preparation.

Exd. J. Wright.

From R. E. MASTER, Esq., Officiating Director of Revenue Settlement, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 22nd September 1863, No. 1,137-87:—

1. In reply to the Board's Miscellaneous Circular No. XLVI of the 10th June last, requesting my opinion on the Draft Bill to provide for the Registration of Assurances, now under the consideration of the Legislative Council of the Governor General, I have the honor to state that having carefully read over the draft, I believe that the principle of the Bill is sound and that its enactment will be beneficial.

2. One or two observations only occur to me. The first is that unless the registration of the instruments mentioned in Section 21 is made compulsory, equally with that of the instruments alluded to in Section 19, parties to the former, voluntarily bringing them for registry, will be deprived of the security which otherwise would be afforded to them by an examination of the Register book, that no prior instrument regarding the same property existed.

3. Sections 42 *et seq* providing for the enforcement of registered bonds without a regular suit are especially desirable, as they will tend to do away with the fictitious Suits and Razeenamahs now so frequently filed, and without which it is often impossible for a person to raise money.

4. In the Sections relating to Wills, Codicils, &c., I observe no provision for the withdrawal from the official custody of the Registrar, of the sealed cover containing the Will or Codicil, should the person executing it afterwards wish to cancel it. Unless some provision is made for this purpose, the Registrar will have no authority to give up such original Will or Codicil, though its author will of course be at liberty to lodge and register another Will or Codicil formally cancelling the original.

5. Considering the great inconvenience and loss which may be sustained by those who in ignorance of the requirements of the new law may execute, without registering them, instruments, the registration of which will be compulsory, I think that more than ordinary care should be taken to ensure due publicity for the Act on its being passed.

6. I enclose copies of letters received from Messrs. R. K. Puckle* and F. W. Morris,† Deputy Directors of Revenue Settlement, whose opinion on the Draft Bill I thought it desirable to obtain.

* Dated 30th July 1863, No. 85.
† Dated 27th June 1863, „ 582.

ENCLOSURE No. 1.

From F. W. MORRIS, Esq., Deputy Director of Revenue Settlement, Kistna and Kurnool Districts, to R. E. MASTER, Esq., Officiating Director of Revenue Settlement, dated 27th June 1863, No. 582-204.

1. I have the honor to acknowledge the receipt of your Proceedings of the 15th instant, No. 727-198, requesting me, at the instance of the Board of Revenue, to give you my opinion regarding the Draft Bill to provide for the Registration of Assurances.

2. The subject is a most difficult one, and the most celebrated lawyers at home are found enlisted on different sides. You will not be surprised therefore that I express an opinion on it with the greatest diffidence.

3. As the tenures of land in India are at present comparatively simple, perhaps the Act may be introduced with advantage. It is obvious that every year that the passing of the Act is delayed, adds to the difficulties of its introduction. No doubt that at first, the Act will cause some inconvenience and perhaps hardship to the people, but as the time rolls on, and the people get accustomed to its provisions, these objections will be obviated, and it will prove a protection against litigation and forgery.

From R. K. PUCKLE, Esq., Deputy Director of Revenue Settlemen E. MASTER, Esq
Officiating Director of Revenue Settle 30th July 5.

1. With reference to your Proceed 727-139 d for an expression of my opinion on the principle of the draft Act for the r I have the honor to inform you that I am of opinion that the institution of l the registry of deeds relating to the sale or transfer of required, but is likely to be accepted as a boon by the people, if the scale of ch and if free permission to inspect the Registers, and to pu 3 of any document, be accorded to all persons alike.

2. As I have had some opportun of conveying landed property, and as I have but little exp surance enumerated in ll confine my observations to th ns* that refer to the ry of dee or mortg *land*, and the enforcement of the provisions that these deeds may contain.

* 18, 19, 21, 23, and 27.

Sections 42 and 43.

3. At present the possession of a duly executed bond full security to the holder, for attesting witnesses may die, or be b over to deny their signature; apparently authentic documents, cancelling the original, ma duced by the other side; and very often the entire conditions of the sale are unfulfilled, though the deed may have been entrusted to the purchaser. This latter may have omitted to make some further payment, or to fulfil some petty obligation entered into at the time of purchase; and perhaps he dies before the Vendor's claim is satisfied. His property is then divided according to Hindu Law, and his heirs dispute any claim upon the land, and produce the deed of sale as evidence; the matter is then b Civil Court, and the suit may last for years, and be the ruin of all concerned. Cons er Ryots feel more confidence in a promise made before the village elders, than in a written doc and I have never yet found a claim disputed, when the sale has been effected by verbal agre

4. The enforced registration of the instruments described in Section 21, is a as that of those of larger value. For $\frac{2}{3}$ths of the transfer of the property in a Ryotwari , are in consideration of petty sums of 20, 30 or 50 Rupees, and disputes arise more frequently from these minor transfers, than from the more important, and consequently more public sales.

5. The time, and place of registration, mentioned in the draft, are alike unobjectionable; and the enforcement of the conditions of the registered documents, in the mode pr in Sections 22 to 29, seems equally well adapted both to check litigation and to ensure spe e.

(True Copies.)

(Signed) R. E. MASTER,
Officiating Director of Revenue Settlement.

Exd. J. Wright.

From H. G. SMITH, Esq., Acting Collector of Cuddapah, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Cuddalore, 22nd September 1863, No. 149.

1. With reference to the Draft Bill to provide for the Registration of Assurances published in the Supplement to the "Fort Saint George Gazette" dated 10th April 1863, I have the honor to inform you that as far as I can judge there seems nothing objectionable in the Act in question.

2. I am not able to comply with that part of the Circular* which requires the opinion of my native officers, as none of them understand English sufficiently well to offer an opinion, and the Bill in question, I find, has not been translated into Telugu.

* Board's Miscellaneous Circular No. XLVI, Board No. 3,388, dated 10th June 1863.

Exd. J. Wright.

From W. T. BLAIR, Esq , Acting Inam Commissioner, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Coimbatore, 25th September 1863, No. 23.

1. With reference to your letter dated the 10th June 1863, No. 3,388, I have the honor to submit the following observations on such parts of the Draft Bill to provide for the Registration of Assurances as appear to me to call for remark.

2. *Sections* 18 *and* 19. I approve of the provisions of these Sections, except so far as they make the registration of leases for periods exceeding one year compulsory. This condition appears to me calculated to cause much inconvenience to Zemindars and Poligars, who, I am informed, generally lease out their villages for terms of two or three years. It will also, I think, have the effect of encouraging generally a system of short leases, under which capital will not be invested in the improvement of land.

Section 64. I am not in favor of reducing the period of limitation for the institution of suits to six months in cases of non-registered instruments relating to moveable property. I think that such a rule would put both borrowers and lenders of money to great inconvenience, without, as far as I can see, any counter-balancing advantages. It would render it necessary that all bonds for money lent on any other security than that of immoveable property should either be registered or renewed every six months.

3. I beg to enclose remarks on the Bill by my Special Assistant, A. Sashiah, Sastriyar; and my Acting Special Assistant, P. Chentsal Row.

ENCLOSURE No. 1.

On the Bill to provide for the Registration of Assurances.

1. Generally speaking, this Bill provides for the compulsory registration of all transactions connected with real property and optional registration of all those relating to moveable property, the only exemptions under the former head being where the value of the property is below 100 Rupees, regarding which the parties have the option of not registering, cases of absolute gift being however excepted, or where the transaction is a lease of one year's duration.

Sections 18 and 19.
Sections 21 and 22.

2. To those, who choose to register Bonds for payment of money, is held out the advantage of having them enforced summarily, and absolutely in all cases below 100 Rupees, and only where such course had been previously agreed to by both parties, where the sum exceeds 100 Rupees. This course, however, is not guaranteed in all cases, as the Court may, for sufficient reason, reject applications for such summary execution in satisfaction of claims.

Sections 47 and 48.

3. To those on whom registration is compulsory, no advantage is held out by the Act.

4. There is a punitory clause in the miscellaneous provisions of the Act, by which actions on deeds, the registration of which is optional under the Act, are bound to be brought within two years or six months according as the property may be immoveable or moveable.

Section 61.

5. To that part of the Act, which provides for the optional registration of deeds, no objection can be offered.

6. On general grounds, I am opposed to the principle of compulsory registration of deeds relating to transactions in real property, which by far form the bulk of the dealings of the people.

7. The general effect of the proposed law would be to bring under the operation of Registration Courts, an incalculable number and variety of transactions, which at present, in the ordinary course of things, are not under the necessity of being known to, or brought before, any but those concerned.

8. The number of deeds connected with houses or lands, which are brought into Courts in evidence, are as nothing when compared with those which hourly spring up in relation to such property, and which fulfil their objects in the quiet ordinary relations of man to man, without ever seeing a Court or public officer. It would be idle to suppose otherwise, for society could not hold together a day, if dishonesty predominated.

9. I shall only instance a few fac[illegible]e appalli[illegible] the interference, which would be occasioned by a system of compulsory regist[illegible]

10. Hardly a moment passes away without there occurring hundreds and thousands of sales and mortgages of houses and lands throughout the country. In th[illegible]lated and prosperous Districts, it is not too much to say that such transactions [illegible]. At the present moment, more than three-fourths of the entire extent of l[illegible]he Western Coast Districts are believed to be held on mortgages and other incumbrances peculiar to the country. So also in the rich and litigious District of Tanjore. While time daily brings to termination a thousand such transactions, [illegible] in their stead. The same may be said of large Zemindaris, the reve[illegible] system of long leases. I need scarcely allude to the [illegible]s of Inam property, hitherto inalienable, but now enfranchised and freed from a[illegible]strictions as to their sale and transfer.

11. To note down and keep a faithful register of every transaction connected with the ownership or lien upon real property, is, in my opinion, a work, impossible of achievement without inflicting upon th[illegible]gree of vexation and annoyance, which would virtually defeat the end of legislation.

12. In the Madras Presiden[illegible]elsewhere, a law has been in force for more than half a century for the registry [illegible]d deeds for the transfer or mortgage of real property: the preamble of which set forth the objects to be gained by registration, in such clear and concise terms, that I think it would not be out of place to quote them here:—

"To give security to the titles and rights of persons purchasing rea property or receiving such property in gift, or advancing money on the mo[illegible]of it, or taking it on lease or other limited assignment; to prevent individuals Lein[illegible]aded by buying or receiving in gift, or lending money on mortgage, or taking on lease, any such property that may have been so previously disposed of or pledged; to afford persons the means of obviating, as far as may be practicable, litigation respecting the authenticity of their wills, or any written authority they may grant to their wives to adopt sons after their death, and that individuals may be a[illegible] provide against any injury to their rights or property by the loss or destruction of d[illegible] relating to transactions of the nature of those above sp[illegible] the following rules have b[illegible] enacted."

That a law framed with such good objects, should have remained a d[illegible] an instructive lesson, that, however good in itself, the law was unsuited to t[illegible] circumstances of the people; and these, in my opinion, have not perceptibly [illegible] date of the passing of Regulation XVII of [illegible]

13. Legislation of late years has done its best to reduce, as far as practical[illegible] vexation, and expense attending litigation. The improvement of the Law of Li[illegible] the establishment of Small Cause Courts, added to the amendment of the law of [illegible] the simplification of Civil Procedure, have materially contri[illegible]nderjustice [illegible] cheap and speedy. But I doubt how far a law of compulsory registra[illegible]all deeds connected with real property would promote the same [illegible] evils far out-weighing the good intended to be ach[illegible]

14. I think the Bill is susceptib[illegible]one or two points. I [illegible]eady remarked that no compensating advan[illegible]ld out to th[illegible]gistration is made compulsory. This may be supplied by declaring that all regis[illegible]uments shall be received in the Courts as already proved, so as to ob[illegible] their genuineness again before the Courts of tria[illegible]

15. Again, I find no pro[illegible]ision made for registration of gifts [illegible]nsfer of real property, where both the parties to the transact on are, at the [illegible] where the property is situate. Thus, houses and lands are made from motives of religion [illegible] on pilgrimage on the banks of the Ganges or other

Section 27.

16. Sufficient provision is not made to facilitate registration of deeds by females of respectability, who, by the customs of the country, cannot appear in public offices. The only Section, which bears on the subject, meets only cases of depositing wills, codicils, or authority to adopt; and the power of attorney, to which parties unable to attend in person must have recourse under another Section, is apt to be abused as is too often the case at present.

Section 15.

Section 39.

(Signed) A. SASHIAH,
Special Assistant to the Inam Commissioner.

COIMBATORE, 23rd September 1863.

ENCLOSURE No. 2.

Memorandum:

Observations on the Draft Act to provide for the Registration of Assurances.

There are two points on which we have to discuss, viz.,

1. On the necessity and object of the Bill.
2. On the good or evil it is likely to produce when passed into law.

First point. The registration of documents has been hitherto entirely optional, and that is the cause why the existing regulations on the registry remain a dead letter. Therefore the necessity for a better regulation is clear. The object of the Bill under notice is to check litigation, prevent fraud, and make redress easy of access.

The object of the Bill is so good, and the necessity for it so great, that I have nothing to say against it.

As regards the second point. I apprehend that if the Bill is passed into law without any modification it will be unpopular, and create much inconvenience to the public without any counter-balancing advantage to the State.

The Statute under notice is intended to make the registration compulsory almost in every case. It is to be entirely compulsory in the case of documents relating to real property of the value of more than hundred Rupees (registration of *deeds of gift* even below the sum being made compulsory), and virtually compulsory in the case of documents relating to moveable property. The option given for registering documents relating to moveable property is but nominal, and will be *nil* in practice, for, unregistered documents will not be admitted in the Courts (see Section 64) unless filed within six months after the date when the cause of action arose. In the case of documents relating to real property, I foresee no difficulties, but as regards other documents, how far it will be possible for every one, especially for those who deal largely, to have them executed within *six* months after the date its enforcement becomes due, I do not understand. It some times becomes impossible to answer every letter a Collector receives within six months after the date the answer becomes due; and much less can large dealers like Messrs. Arbuthnot and Co. enforce their agreements and bonds in their multifarious dealings in an extensive country. I feel almost certain that the result of giving this but nominal option in the case of documents relating to moveable property will be actually to compel every man to get every one of his documents registered, or run the risk of standing at the mercy of his debtors. I am not so much apprehensive of the inconvenience which a measure like this will produce to the public in their daily transactions, as I am at its tendency to expose the dealings of Merchants. Nothing can be more injurious and detrimental to the interests of a trader, than the effect of compelling him to expose all his dealings and transactions. Registration of documents is not so much directly to the interests of the State, as it is to the interests of the parties concerned. Therefore, the more reasonable and desirable way of compelling them to register their documents is by holding out some advantage as an inducement, for registering, than by threatening them with penalties and putting them to inconvenience in the event of their omitting to register their documents. Section 42 holds out some such inducement. It provides that the registered documents can be enforced without the necessity of the dilatory and expensive process of a Civil suit, provided the consent of the parties to such a course is given in writing on the back of the document. A better inducement to register all the important documents can hardly be devised. But in my opinion, the inducement would be stronger if the necessity for the consent of the parties is removed, and every registered document is made enforceable without the necessity of a suit, as if the consent of the parties has been given, of course subject to all the other restrictions contained in the Act. The object of

the tedious process of a Civil suit is to ascertain the validity of the docume: the transaction, and when that is established by the registration, and when it is not pleaded that the Defendant is not the party to the registration, there is no reason why it should not be treated like an application for execution of a decree, whether the parties against whom the same is to have it so enforced or not.

This measure will shorten the work of the Courts, and will doubtless tend to give a stronger inducement to register all doc. ments of any importance.

Another inducement can also be given to the public, by observing the rule of priority in favor of registered documents in every point, *i. e.*, in the order of their being examined, in the order of making the property responsible for the debs, and so on.

Under the foregoing observations, I would altogether cancel Section 55 and modify Section 42, so as to admit every case of a registered document being disposed simple appl. tion without the necessity of a regular suit, and add an additional clause giving priority to registered documents over those not registered.

There is one point more in the Act on which I have my doubts. Section 17 makes it compulsory to register leases for more than a year not clear to me whether these include the leases granted by the Zemindars or other landlords to their tenants for their land revenue. If it does, I am fully apprehensive of the vexation it is likely to give to the Zemindars. In large Zemindaris, such as Venkatagiri and Vizianagram, I understand that leases to hold village are usually given for more than one year. This system is observed almost throughout the whole Zemindary, and they seldom go up to Courts for enforcing their documents, the land and the prosperity of the country being their best security. In the event of compelling the Zemindars to register all their leases, they will have to repeat almost the whole settlement of their land revenue before the Registrar, or take the alternative of reducing the period of stipulation to one year. Either of the two courses will be highly inconvenient. In the case of such leases, I would entirely leave it to the option of the parties as in the case of documents relating to moveable property.

The remaining provisions of the Act call for no remark. I must however mention that the restriction laid in Section 55 seems to be no longer necessary, because at the pr[illegible] there is no distinction whatever between a Court in the Mofussil and the High Court in [illegible]residency, both being established under the same Royal Charter. There are no places where the enforcement of the Act is more necessary and desirable than the Presidency Towns, where the people have a better knowledge of the world, and are able to appreciate the advantages of an Act like this.

COIMBATORE, 23rd September 1863.

(Signed) P. CHENTSAL ROW,
Acting Special Assistant
Inam Commissioner.

Exd. J. Wright.

[redacted]

From G. S. FORBES, Esq., Collector of Ganjam, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Chetterpoor, 30th September 1863, No. 196.

1. With reference to Board's Miscellaneous Circular of 10th June 1863, No. XLVI, calling for the opinions of the Collectors on a Bill to provide for the Registration of Assurances, I have the honor to state that the general opinion appears to be decidedly favorable to the Bill, which will, it is expected afford valuable security to holders of property.

2. It has been suggested to me that the time allowed in Section 25 might with advantage be extended from six weeks to three months, in which opinion I concur.

Exd. J. Wright,

From A. WEDDERBURN, Esq., Acting Collector of Bellary, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 30th September 1863, No. 137.

1. In reply to the Miscellaneous Circular No. XLVI, No. 3,388, dated 10th June 1863, I have the honor to state that my opinion is in favor of the principle of a Public Office for the registration of Deeds.

2. I would however suggest that when the Bill is passed, a considerable interval (at least six months before it comes into force), after its translation into the vernacular, should be allowed for all people to become acquainted with its provisions.

3. The security against fraud, and for the peaceable possession of property, which is effected by a system of public registration of Deeds, is so obvious that no arguments are required in its support.

4. Moreover, as regards the Government Stamp revenue, a considerable augmentation may be expected from its operation.

5. As regards its effect on litigation, it will doubtless reduce the number of fictitious and fraudulent suits which are brought, and thus tend to the general advantage.

6. The native opinion, which I have consulted, is in accordance with the above remarks.

Exd. J. Wright.

From V. H. LEVINGE, Esq., Collector of Madura, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 30th September 1863, No. 207.

Sub-Collector's letter dated 20th August.
Deputy do. Seshaca Row's, 8th "
Huzur Serishtadar's 17th Sept.

I have the honor to forward the opinions of certain parties regarding the Registration of Assurances as directed in paragraph 2 of the Miscellaneous Circular, No. XLVI of the Board of Revenue, No. 3,388, dated 10th June 1863, and to report that I believe the Act would be beneficial as regards Wills, but that it would be considered an intolerable burden and expense to compel all parties to bonds, agreements, leases, &c., to proceed long distances to and fro to have such registered, and that the publicity to persons' affairs thus given would be distasteful, and that the enforcement of registered bonds would probably be prejudicial to the rights of parties who have joint right with one of the parties who registers the bond, &c., which rights could be concealed by such a party when registering as the head of a Hindoo undivided family.

ENCLOSURE No. 1.

From G. VANS AGNEW, Esq., Acting Sub-Collector, to V. H. LEVINGE, Esq., Collector of Madura, dated Dindigul, 20th August 1863, No. 181.

1. Adverting to your communication of the 18th June, I have the honor to state that the general principle of the Bill for the Registration of Assurances has my cordial approval, and as far as I can ascertain that of the native public.

2. Objections have been taken to the compulsory registration of leases for periods exceeding one year, and it has been suggested that cultivation leases might be exempted. My opinion is that both Landholders and their Ryots would consider it a hardship to be obliged to undergo the trouble and expense of registering such leases.

3. Another suggestion that has reached me is that, in the case, so common among natives, of a money loan upon the security of some moveable property, the bond should not be admitted for registration, unless the exact money value of such moveable property has been agreed upon by the parties and entered in the bond.

4. It has also been objected that the Act is not clear as regards instruments of the descriptions mentioned in Sections 18 and 19 executed before the Act. If, as the context seems to show, no provision for their registration has been made, it should be distinctly stated what their value is intended to be.

5. Strong objection has been taken to the payment of fees rendered compulsory by Section 38 for abstracts sent under Section 37 from the Subordinate to the General Register Office. It is argued that the party having paid the prescribed fee for registration, Government should bear the cost of what is only intended as a check on its own Officers.

ENCLOSURE No. 2.

From T. SESHAGERI ROW, Deputy Collector, to V. H. LEVINGE, Esq., Collector of Madura, dated 8th August 1863, No. 25.

With reference to the Board's Miscellaneous Circular, No. XLVI, copy of which was furnished to me, I have the honor to inform you that the provisions of the proposed Registration Act seem to be sound. The necessity for such an enactment as having a tendency to cause a diminution in litigation, forgery, and perjury, and as possessing the advantage of ensuring speedy justice in some cases is beyond doubt a fact. The objection at the same time to the scheme will be the increase of expense to parties, but a reduction in the present high Stamp duty for plaints will, I think, overcome the objection. I have no suggestion or remarks to make on the subject.

Enclosure No. 3.

From STREENEVASIAH, Huzur Serishtadar, to V. H. LEVING[illegible], Esq., Collector of Madura, dated 17th September 1863.

1. Agreeably to your Honor's instructions on the Board's [illegible]aneous Circular, No. 46, I beg most respectfully to offer my views of the Bill for the Registration of As[illegible]er that it is generally sound in principle, and would be of great benefit to the [illegible] practice, inasmuch as it has a tendency to remove to a degree the preventive ob[illegible]ties, *viz.*, vexation, delay, and expense, and thus ensures a prompt ju[illegible] in litigation.

2. But if Section 19 contemplates the compulsory registration [illegible]e cultivation agreements entered into by the landholders and their tenants for pe[illegible]eding ye[illegible] reason to fear that such registration will subject them to muc[illegible] consequently be felt by them as a great hardship. I would the[illegible] be exempted.

3. I would, with permission, strongly protest against the rule laid [illegible] giving restropective effe[illegible] Bill Act as regards the instrum[illegible] in Sections 21 and 22 [illegible] before the date on which this Act shall [illegible] as this circumstance will per[illegible] considered by the people as a [illegible]vy blow on their purse, and will also [illegible]d hardship.

Section 42 provides that bonds, &c., for sums below 100 Rupe[illegible] it may be enforced without a regular suit, provided the parties to suc[illegible], at the time of their registration, their assent to such bonds h[illegible] shall have been recorded at the foot of the Memoran[illegible]gistratio[illegible] the provision, instead of being of any advantage to the people will, I app[illegible] their interests frequently in cases in which suc[illegible]ng party is one of the several members a family compose, for events so happen gene[illegible]er by extravagancy on the part of such member, or by other circumstances, that he may be disposed to incur debts w[illegible] and concurrence of the other members even to their utter ruin, who are n[illegible] seem from Section 47 any opportunity of repr[illegible] the Bonds, &c.

In conclusion I cannot help submitting that [illegible] 38 for abstracts sent under Section 37 from [illegible] Office, and also for every abstract or copy required u[illegible]ions 28 hard on the people whose pockets are already su[illegible] the [illegible] Stamp Act. I therefore think it just that the party sho[illegible] fee for registration, and the Government should bear the cost of what is only check on its own Officers.

Exd. J. Wright.

From G. A. BALLARD, Esq., Collector of Malabar, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated Calicut, 3rd October 1863, No. 218.

* Dated 10th June 1863, calling for opinions on the Draft bill to provide for the Registration of Assurances.
† 1. Letter from Acting Sub-Collector, dated 23rd June 1863, No. 156.
2. Do. from Deputy Collector, Wynad, dated 10th July 1863, No. 97.
3. Do. from Cochin Chamber of Commerce, dated 9th July 1863.
4. [illegible]m from Principal Sudder Amin of Calicut, [illegible] August 1863.
5. Letter from F. C. Brown, Esq., dated 28th July 1863.

1. In reply to the Board's Miscellaneous Circular No. XLVI,* I have the honor to submit the enclosures noted†. They are the only answers to my inquiries that I have received, though I sought an expression of opinion from several other sources. As the Board are desirous of having replies on the question before them immediately, I must delay submitting mine no longer.

2. That more effectual provision for securing protection to rights of property by registration at present obtains is much required is allowed by all.

[illegible]siderable danger attends investing registered deeds with such force as the Act under consideration gives them, if that Act in its present form becomes law, is the opinion of not a few.

3. It will be seen by reference to the Memorandum of the Principal Sudder Amin of Calicut, a native gentleman of much experience, that in his opinion the enforcement of deeds registered under the Act will be "very dangerous and highly objectionable until a change for the better "takes place in the moral tone of the people of the country or until the registering officer is per- "sonally acquainted with, or has means to identify the parties who come before him to register."

He considers that the provisions of the Act are quite insufficient to prevent fraud, and that fraudulent practices will be attempted successfully in all descriptions of cases, but especially in the smaller transactions in which registered bonds may be enforced without regular suit.

4. Mr. Brown strongly advocates the principle of registration. He alludes to a draft Act prepared by the late Sudder Court, which in his opinion was more plain in its language and complete in its provisions than the present.

I have not this draft on my records, but I must express my concurrence with Mr. Brown's opinion that the wording and arrangement of the present draft are often obscure, and occasionally render it a matter of some difficulty to make out the meaning and bearing of the Sections.

5. In my opinion it is impossible to exaggerate the advantages of a well-regulated system of registration, and they entirely justify refusal to admit unregistered documents as evidence in Courts.

But unless the fullest publicity is given to transactions in the Registration Courts, the Register Books will be very dangerous engines in the hands of designing parties.

[illegible] not see that the draft recognizes the necessity of publicity, and before it becomes law I think it of vital importance that the general principle that the utmost publicity should be given to all transactions in the Registration Offices should be expressly recognized, and that distinct provision for particular cases should be made.

For instance I would insert a section requiring that in all land transfers notice of the transfer [illegible]nature; and the land, and the parties concerned; should be exposed at the Registry [illegible] for a certain period after registration. The amount of purchase or mortgage money should [illegible] be specified, as the publication of such items might be reasonably objected to; but the publication of the other particulars could only be generally objectionable to the fraudulent. The few special cases in which reasonable objection might arise cannot affect the overwhelming advantages of publicity.

A few concise principles should be laid down as to the procedure when, on the notices here proposed, objections were taken by others to registered transfers.

7. So I thi… …ry undesirable. Unchecked ins… …ut it should be encouraged rather th… …re the objects sought.

A charge for a cert… …ly be made.

8. The wording of Section … …ciently full inquiry at the time of registration.

I think that the attend… …l be always required when such document is regist…

9. I think it also well worthy of … and invite registration of *possession*, as well as of transfer o…

Facility for registration of possession, under due prec… …valuable boon. It might be conveniently provided for in the present Act, … enactment.

10. The draft leaves the establishment of Register Offi… Very much of the usefulness of the measure will depend on t… Offices.

If officers who have already enough on their hands are made … and have the work of registration added to their other duties, more harm than good w… …ably result from the arrangement.

If efficient registration is to be carried out, and more especially if registration of possession as well as of transfer, as regards real property, is introduced, the work will often be very heav… enough to employ the undivided attention of many a good Officer.

But the advantages to be gained would well re-pay the labor.

I presume however that after an Act has been passed the executive det… and subsidiary rules will receive due consideration before being brought into practice.

ENCLOSURE No. 1.

ABSTRACT.—Making the suggestions with reference to the … the Assurances Registration Bill.

ENCLOSURE No. 2.

ABSTRACT.—Letter from the Deputy Collector, to the Collect… No. 97.

ENCLOSURE No. 3.

From the Honorary Secretary and Treasurer, Chamber of Commerce, Cochin, dated 9th July 1863.

I have the honor to acknowledge the receipt of your letter of 25th ultim… … reply … inform you that this Chamber entirely approves of the principles of the Bill for the Registration of Assurances therein alluded to,

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ENCLOSURE No. 4.

Memorandum.

1. To extend the Register Regulation XVII of 1802 t… … is advisable it will somewhat lessen the litigation of the country, and I … …, some the same to Sir Fredrick Adam, the Governor, while I had been with h… … half on the Neilgerry Hills, at his request. At the same time I humbly beg to state from my knowledge of the state of my country, as well as of some other countries under the Madra…

Government, that the enforcement of deeds registered under the present draft Act is, in my opinion, very dangerous, and therefore highly objectionable until a change for the better takes place in the moral tone of the people of the country, or until the Registering Officer is personally acquainted with, or until he has some means to identify the parties who come before him to register their Deeds. All the provisions contained in Sections 42 to 50, or any other which we may make, cannot, in my opinion, stand against the temptation. The mode of registration, as contained in Sections 31 to 38, will also not sufficiently remedy this evil.

2. All that we want now is some enactment to extend the provisions of Regulation XVII of 1802 to all kinds of deeds, and also a few simple rules to carry them out.

CALICUT, 3rd August 1863. (Signed) K. KELLOO NAIR, Principal Sudder Amin.

ENCLOSURE No. 5.—Letter.

Exd. J. Wright.

From J. SILVER, Esq., Collector of Tinnevelly, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 7th October 1863, No. 384.

With reference to the Board's Miscellaneous Circular No. XLVI, dated the 10th June 1863, Board No. 3,388, I have the honor to forward copies of two letters from the Deputy Collectors T. Vencat Row and C. Ramiah, on the subject of the Draft Bill to provide for the Registration of Assurances. The opinion given by them, is the same that has been expressed by several of the merchants and respectable inhabitants, and public servants in this District, who have been personally questioned, and who apprehend inconveniences from the enactment. The general principle of the Bill is good, it would tend to diminish litigation, but the people are not inclined to it, some of the details such as the limitation of six months from the date of the cause of action, in the case of an instrument, relating to moveable property, not having been registered, being too stringent, and which might be modified.

ENCLOSURE No. 1.

From T. VENTCAT ROW, Deputy Collector, to J. SILVER, Esq., Collector of Tinnevelly, dated 30th July 1863, No. 1,139.

1. With reference to your letter of the 11th ultimo, requiring my opinion on the Draft Bill for the registration of assurances, I have the honor to state that such an enactment will be productive of much inconvenience to people and impedient to money dealings.

2. The Bill provides for the compulsory registry of deeds of gift, and of all instruments relating to immoveable property of the value of Rupees 100 and upwards, leaving the registration of latter instruments under that value, and of documents relating to money dealings, &c., to option, but with the penalty in the case of non-registry that the period of limitation of action with regard to money dealings is to be reduced to the short space of six months. Now such a provision as this will induce the money lender to insist on the registration of his document lest the lapse of the brief period of limitation, without instituting a Suit, may expose him to the loss of his money. As the principle of the Bill is the registration of all instruments there is no doubt but that if it passed into law, the great majority of them will be presented for registration.

3. It is not possible to estimate the delay which may happen in the registration of so many documents. There will be a necessity for perhaps as many Registry Offices as there are Stamp vending stations, otherwise parties will be exposed to much detention.

4. Instruments coming under litigation may not bear even one-tenth proportion to the number daily executed, and yet a rule which provides for compulsory registry, or otherwise forces parties to resort to it will necessarily oblige many to attend before public authority against their inclination however satisfied they may be with each other's integrity, and may not otherwise desire registry.

5. The enhanced stamp duties under the new Stamp law, already bear heavily upon the borrower, and the registry fee with its attendant expences will greatly add to the burden.

6. There is however an excellent provision in the Draft Bill which enables a registered money bond being enforced summarily within 12 months from the date of cause of action, and which if it were to become rule, will operate most beneficially. On the other hand, the provision which declares an unregistered bond not actionable after six months from the date of cause of action will if enforced work most injuriously; for there may be several causes to prevent a man from suing within this short period.

While therefor
of documents should be left to option
es entering into them, I th
s should be afforded to people than those
xisting by the establishment of additional Registry Offices to enable them to get their documents registered cheaply; that the great advantage which a registered money bond should possess over an unregistered one should be its summary enforcement without the expense and trouble of a regular suit, and that the period of limitation now allowed by Act XIV of 1859, to actions founded on unregistered bonds, should not be disturbed at all.

From C. RAMIAH, Deputy Collector, to J. SILVER, Esq., Collector of Tinnevelly, dated Trichendoor, 26th September 1863, No. 46.

1. Agreeably to your requisition conveyed to me in your letter of the 19th June last, No. 599, calling for my opinion on the Bill for the Registration of Assurances now under consideration of the Imperial Council, I beg to state for the following reasons that it is not desirable that the Bill should be passed into law:—

1st. To make the parties to an instrument of whatsoever nature proceed from all parts of the District to the Registration Office would be a great hardship unless there be such an Office at every Stamp vending station, and even then there would be much confusion and room for extensive fraud.

2nd. The period of six months as the limitation time for action in all monetary transactions where instruments may not be registered is too short, and no creditor would be willing to lend his money with the prospect of losing it if from causes unavoidable, as is frequently the case, he may not be able to sue his debtor within the time above referred to.

3rd. Registration of instruments of all kinds would disclose the financial condition of one of the parties concerned, which it is the utmost [illegible]ry person to keep as sacredly secret as possible.

4th. The great delay that would take place in getting the instruments registered.

5th. The imposition of a fee on all deeds registered would oppress the money borrower heavily, as this would be in addition to the value of the stamp with which he is already saddled.

6th. The compulsory appearance of parties to an instrument before some public officer against their inclination.

(True Copies.)

(Signed) J. SILVER, Collector.

Ed. J. Wright.

A Bill to provide for the Re[illegible] of Assurances.

Regulation XXXVI. 1793.
[illegible]ishing a Regis[illegible]
[illegible]y for Wills and Deeds,
[illegible] the transfer or [illegible]
property)

XXVIII.

[illegible]y [illegible]
[illegible]nances, Regulation XXXVI.
1793, entitled a
[illegible]

[illegible]

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the

XVII

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[illegible]ded for the inter-
[illegible]overnment of the
[illegible]Provinces ceded by the

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India Company,
have not been already
extended to those Terri-
tories
and amending certain
parts of the said Laws
and Regulations,) so far
as to Regula-
tion XVII. 1805, Section
XXXII Regulation XII.
1805) for the settle-
ment of the
Pergunnah of Cuttack,
including the Pergunnahs
of Puttesporee Kummar-
cherra and Bograe,
at present included
in the Zillah of Midnapore,)
Regulation XX 1817 (for
modifying some of the
provisions
in the existing Regula-
tions respecting the
Registry of Deeds and
for establishing Register
of engagements of
delivery of Indigo) and Re-
gulation IX. 1824 (for
providing more
effectual
Register
of Deeds
and

1802 (for establishing
a Registry for Wills and
Deeds for the transfer
or mortgage of real pro-
perty, and Regulation
XI. 1831 (to provide more
effectually for the office
of Register of Deeds),
of the Madras Code,
and Regulation IX 1827,
for establishing a Re-
gister of Title Deeds
and a General Register
of Deeds, Obligations,
and other Instruments in
each Zillah subordi-
nate to the Presidency
of Bombay), of the Bom-
bay Code, and Regula-
tion XIII. 1828 (for esta-
blishing Assistant Judges
when expedient to keep
the Registers prescribed
by Regulation II of 1827
(when established in the
Districts) of the Bombay
Code, and act XXX of 1838
Act I of 1842 (for amend-
ing the Law concerning
the Registration of written
conveyances and other
instruments affecting
titles and other interests
to land) Act XIX of 1843
(for amending the law
respecting

Registration
Deeds) Act IV
the law
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Deeds, Act XVIII of 1843
curing the invalidity
the Registration of Deeds
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persons not duly ap-
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his Act shall come into
peration, except
such Regulation
scind other Regulations or
Acts and except as regards
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re the date on which this
Act shall come into operation,
y of the said Regu-
lations & Acts then in force,
and from and after such date,
the Territories not Sub-
to the General Regula-
Regulations
ating to the Registra-
Instruments in force
such Territories at such
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ch date under any
Regula-

II
of this Act, unless the
contrary appear from the
context, the words "Local
Government" shall denote
the person or persons au-
thorized by law to admin-
ister the Executive Go-
vernment in any part
of British India; the
words "District Registrar"
shall include the Regis-
trar of every Presidency
Town; the words "year"
and "month" shall denote
a year or month respec-
tively by the British
Calendar; and words im-
porting the singular
number shall include
the plural number, and
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Territories as defined

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which he is appointed.

Provided that the local

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of Revenue, where there

is a Board of Revenue,

or any other Public Office

to be such General

Register Office, and all

the provisions of this Act

which apply to such

Registrar General shall

apply to such Board or

other Office so declared

and constituted.

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... Deputy Registrars of ... for his Village with limitations as ... to value
... such Divisions. In ... of deeds to be registered.
... registered by the Tahsildars and all other Deputy
... the Presidenc... Registrars would be forwarded to the ... of
... aforesaid the ... District Registrar, but there ...
... ...
... shall ... to the Ge... ... unt

Section ... city

... han ... ument
... ction ... strars
... ubts the genera...

... icials shoul...
... gistrars.

... Government Officials
... Deputy Registrars.

District Munsiffs
... Registrars.

... Masses th... necessity, for convenience of parties.
... of a Deputy Registrar in each

Would appoint a Deputy
... Registrar to each Talook.

Divisional Deputy
Registrars two in each taluk in proper
localities should be established for the
convenience of the public.

Deputy Registrars should be stationed
Several places for the convenience of the
public.

IX

Seem… ecessary… of the…
to create … any Registry
…ecessar… ould
… of this Section.

Divisional Deputy
cases shall … proper
ould be established … the con-
…ience of the … Di-

Route … District Registrar
to take charge of his

K

det

Sect

It shall

for the local

election, to allow

establishm for

the fork

petrars

e

Provided

D.

pre

thirty days

x

XII. any Instru
ment rendered for re-
gistration be in a lan-
guage
the Registrar does not
understand, such I
ment shall be
shall Registrar

should be stated
whether the
Instrument to the Deputy Regr, & thereupon he
should do so, if he is required to return it to all
When an Instru-
ment is referred to the District Regr a note shall
be entered in the Deputy's Office,
of it. It should be stated
is to do with such an Inst
of its contents & register
Dy Regr an abstract of the
Sec. 37, & require him to register the same & attach, and
make a reference to it in the note already made
to be done whether the Instrument refer to
moveable or immoveable property.

Deputy Re
proper localities
for the convenience of the Public.

Meaning clear.

XIII The Registra
General superintendence
all the Register offices
within this jurisdiction,
such Re
General shall have the
power, for
reason, on the appli-
cation of a
any Instrument & the
registration of
refused by
District Registrar,
either
appeal from a Deputy
Registrar
same to be Registered.

appears unnecessary

The G
neral shall, for
idance of the
a Reg
trars, ha
me
me Rules not mi
rasion me
ons of this Ac
so fr
bmitted
Gover
they shall have
been approved by the
cal Government, they
shall be published
the official Gazette
shall have the
force as if they
re inserted in this
Act.

XV. The registration of all instruments under this Act shall be made only at the Public Office or Court of the Officer whose duty it shall be to Register the same. Provided that any District Registrar or any Deputy Registrar with the Sanction of the District Registrar may, on Special cause being shown, attend at the place of residence of any party to any Instrument or of any person desiring to deposit a Will, Codicil or an Instrument to adopt a son.

How when the Depty Regr is not a public officer under Section 7.

Thinks that require the Deputy Registrar to write and obtain the previous permission of the District Registrar in cases wherein persons on their death bed are anxious to deliver personally their last Wills or authority to adopt a son would be to nullify the concession intended by the proviso; and presumes that it would be within the meaning of the section for the District Registrar to give a general sanction to Notaries going out of their public office in such Exceptional cases.

That the phrase "with the sanction of the District Registrar" be omitted.

XVI

XII

XVII

"xes" but not "Indices"

XVIII

ment

of any

le Prope shall

cept as provided

Section LXV of this Act)

e received in evidence

Court of Justice

shall be acted on

any Public

Such Instrument

shall have been exe

uted after the date on

this Act shall

come into operation,

unless the same be

registered within the

time prescribed by

this Act.

not

as aforesaid and that

mentioned documents

shall be

within certain very limited periods as

to shut out parties

within a longer

Would be a

make it imperative that

registered within a fort

Does not think

made for ignorance. Would

subject to fine and penalty, and subject also

consideration and remission of

as Sections 15 and 16 of Act

delays as aforesaid

District Registrar is satisfied

causes of the delay that

will be allowed.

Would be accepted

boon by the people if the scale of

charges be adopted to their means and

free permission

registers and

increase authenticated copies

of documents.

Would frost thore for 2 or

at last

regard

entry

admission in evidence.

Section XVIII
Continued -

transferring immovable

mortgages as property established

Bonds

Deeds of Transfer &

£100

mortgages under the

registered.

registry of

Section

referred to

this

arrears necessary.

4 & 20

Law

the Re

XIX. Continued.

500

XIX

XXV

Section XXI (Contd)

XXI

...nsiders the
enforced registration of instruments
in this Section important as those of
larger value.

Would not register Sultans grants, Sanads
Title Deeds, and their renewals and transfers.

No result can be expected from the provisions of
this unless a Deputy Registrar is appointed to each Taluk.

Remarks on Section 19 applicable to 1st and 2d Clauses
of this Section.

Leases granted by Govern
be exempted from Regist... whatever their value
those granted by Zemindars Inamdars
value to Rupees 500 ...ceive that amount and for periods
not exceeding 3 years. Those amoun... alue to Rupees
500 for who... time th... e to be
below that amoun... d for periods exceeding 3 years should
be registered.

...ould be hard on parties who have
small transactions to register instrum...ts below 100
Rupees.

XXII

Section XXII

No result can be expected from the provisions of the
[illegible] pointed to ear[illegible]

[illegible] Section 19 applicable [illegible]

to [illegible] readily [illegible]

tion XXIII - Mon

of

No mention wh
18 [illegible] documents specified
rior to the Act [illegible] ed

to 6

Months -

Would fix the period for the sale
s XIII asked XIX excep
Act.

XXIII As to

The terms of 3 mo
seen to provisions of Sec XXX
to be extended to Sec XXI

XVIII

For "excepted"
[illegible] cept [illegible] is executed
first fine Ireland & [illegible] party &, wards
in India [illegible] what time are
the three months [illegible] counted? How is the
[illegible] force registrations within the
two months time? See Sec 30 -

Time allowed for
registrar [illegible] six weeks appear ample -
Resumes [illegible] there will be several Registration
Offices in a District & suggests that a notice of all
registrations be published weekly -

provision Sec. 24 for registering
[illegible] ed in executed before
com to operation, seems necessary -

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istrar

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ably bring
Section 25 -

Section XXIV
Continued -

Provision should be made for registering instruments if reason be given for not producing them within the prescribed time -

Would add a clause to the effect that the deeds when put in evidence or filed in any proceeding be decided on their own merits and under the provisions of the Registration Law in force at the time of their execution -

No mention whether documents specified in Sections 18 and 19 executed prior to the Act shall be registered -

Period should be

extended to 3 years -

Strongly objects to giving retrospective effect to the Bill as regards instruments of the description mentioned in Sections 21 and 22 Executed before the Act comes into operation -

Time to be

allowed

for registration

XXIX -

descriptions mention

Section XXV. Continued -

Would extend to 3 Months the time of 6 Weeks -

Period of 6 or at least 3 Months should be allowed -

Would extend the term from six weeks to three Months

Time for registration ... sufficient -

XXV. No Instrument of any of the descriptions mentioned in Section XXI or Section XXII of this Act (other than a Will or Codicil to a Will, or authority to adopt a son) which shall be executed after the date when this Act shall come into operation, shall be excepted for registration unless presented within six Months from the date of the execution thereof -

"excepted" read "accepted" -

Would make all instruments registerable, and make it imperative that they should be so registered within a fortnight from their execution

Does not think that sufficient allowance has been made for ignorance - Power granted extended periods subject to fine and penalty and subject also to the consideration and remission of the District Registrar Sections 15 and 16 of Act X of 1862 - and thought delay is dangerous still it will be only when the District Registrar is satisfied as to the nature and causes of the delay that the exceptional period will be allowed -

Presumes that "accepted" should be read for "excepted".

...vision should be made for registering instruments if reason be given for not producing them within the prescribed time -

That t... registration be increased to 2 or 3 Months

Period for Registration should be extended Documents, where unavoidable delay has been proved, should ...gistered even after the ...piration of the prescribed period -

Observes with reference to Section 23 that ... is provided for the Registration of instruments described in Sections 18 or 19 -

XXVI. [redacted] Will to [redacted] into [redacted]

[redacted] gister [redacted] with [redacted]

to adopt [redacted]

[redacted] or [redacted]

[redacted] provided,

XXVII. Every Instrument which purports or professes to create, declare, transfer, or extinguish any right, title or interest in any immoveable property, and any Instrument acknowledging the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest in any immoveable property, or any lease shall be presented for registration in the Office of the Deputy Registrar within whose Division the property is situate. Every Instrument mentioned in Section XXII of this Act (not being a Will, Codicil to a Will, or Authority to adopt a son) shall be presented for registration in the office of the Deputy Registrar within whose jurisdiction such Instrument is executed [redacted] any Registry office under the same local Government at which all the parties to any such Instrument shall desire the same to be registered.

[illegible] every instrume-
able fine, the whole
which is not situate
Division of a
may be present.
registration to
Registrar
such District, within
Division any part
property is situ-
It shall be the
of such Deputy
after register-
the Instrument
thereof, to make and
forward a copy thereof
endorsed with the manner
hereinafter provided to
the District Registrar,
shall register the
same and forward an
Extract of such Instru-
ment, showing the par-
ties and the date
and Attestance thereof.
every Deputy Registrar
his District in whose
Division any part of such
property is situated, other-
than the Deputy Regis-
in whose office the
same shall have been
originally registered, and
Registrar
every
so shall receive such
shall forth.

That some one be nominated the responsible
for any arrears, & that the registering District
Registrar be required to send a copy of this Despatch

[redacted]

[illegible]

[illegible] Registrar

[illegible] Despatch

[illegible] to proceeded

more parties
guidance of

be laid down for
of India

side
to
to
is staying
and one
ses
ites

is the added
every Instrument
the District Registrar
one of the par-
which at the time of execution
parties is
territories of
sufficient if he
notary
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executed th

by all the par
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names of

of Attorney
shall be recognised for the
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who shall
have exercised a power of
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power
Registra
ssment
whether
If such power
ired
Registrar sha
he

XXXI. On the parties to any
instrument
administrators or assigns, or
the authorized Agents of such
parties, as provided by the
last preceding section appear-
ing before the Deputy or Dis-
trict Registrar for the pur-
pose of obtaining the registra-
tion of such instrument, he
shall proceed to enquire whether
such instrument was executed
All the parties there-
to. If all the parties to the
instrument appear personally
or
by
Registrar, and are personally
known to him
they are not personally known
to him, if they satisfy him
that they the parties they
represent themselves to be,
and if they all admit the
execution of the instrument, or
in the case of any party ap-
pearing by authorized Agent,
if such Agent shall admit
the execution of the inst.
the Deputy or District Re-
gistrar shall register the same
in the manner hereinafter pro-
vided. It shall be the duty
of the District or Deputy Re-
gistrar to satisfy himself of
the identity of any person to
appear

That the precautions necessary
to the identity of the
parties registering should be specially
provided for.

Mode of registration.

An enquiry will entail much labour & occupy
much time & doubts whether Deputy Registrars
be able to attend to much else.

In cases
of identifying parties the higher grades of
officials are not the best fitted for that purpose.
Those who
thinks that Village officers should
identify applicants.

Thinks that the means of testing the identity
of persons might still be strengthened.

Is of opinion that the terms of this section are
insufficient to prevent chicanery and fraud.
It ought to be provided that before Registration
the Registrar should satisfy himself that the par-
thoroughly understands and admits the full
force and meaning of the instrument.

States that some of the Native Revenue
Officers think that the Native Officials
have the best means of becoming acquainted
with the identity and personal appearance
of the people in their ranges that they would
be best selected with the power of register-
ing deeds.

Thinks that parties registering instru-
ments will not be disposed to bear the
expense of paying batta to witnesses
others during their stay in the Registry
Office.

Provision to be made to procure the atte-
dance of parties to instruments who refuse
to go to the Registrar.

Mode of registration

XXXII. If any party to an instrument shall require assistance to procure the attendance of any whose testimony is necessary for the registration of such instrument by a [illegible] Registrar, such Deputy Regist[illegible] shall have power, if he be satisfied that such assistance is necessary, and if such person shall be within the Division of such Deputy Registrar, to issue a summons requiring such person to attend at the Office of such Deputy Registrar at a time to be named in such summons. If the person whose attendance is required is not in such Division, the party to the instrument shall apply to the District Registrar, who, if he be satisfied that his assistance is required, shall issue a like summons for attendance at the Office of such Deputy Registrar. If the instrument be presented for registration to a District Registrar he shall have the like powers of summoning persons to appear at his own Office, which are herein provided in respect of persons whose attendance is required at the Office of a Deputy Registrar [illegible] provisions of the Regulations and acts for procuring the

Mode of registration

Enquiry will entail much labor & occupy much time, & doubt whether the Depy Regrs in Tanjore & Malabar will be attended to much else.

In case of identifying parties, the higher grades of officials are not the best suited for that purpose and things that Village Officers know.

Thinks that parties registering instruments will not be disposed to bear the expense of paying batta to witnesses and others during their stay in the Registry Office.

Provision to be made to procure the attendance of parties to instruments who refuse to go to the Registrar.

This Section may be applied with regard to witnesses residing the district other than that in which the Deputy Registrar who want such witnesses is posted.

Mode of registration is objectionable.

Asks how many parties can possibly attest an interlineation &c especially in a closely written document

XXXIII. No Instrument shall be accepted for registration, if any interlineation, erasure, or alteration shall appear on such instrument, unless the parties appearing to register the same shall attest with their signatures such interlineation, erasure, or alteration, and it shall be the duty of the District, or Deputy Registrar, at the time of registering such instrument to make a note to Register, of such interlineation, erasure, or alteration.

Erasures cannot be attested by Registering Officer if the party be illiterate or cannot write. Rule of Regulation Office ... Rule sufficient.

Whether the signature to erasures &c of the parties by any to whom the executed will be sufficient, or whether the witnesses also must be obtained stated.

Mode of registration is objectionable.

XXVI. The instrument shall

[illegible] party [illegible] provision with such request

[illegible] are presented the contain much fraud.

for registration, with should show by such

endorsements thereon, shewing the date returned.

tration the number

the book which such Considers that

registry shall have been and more

made, and the page of the the parties concerned to

which such entry endorsed on the instrument

will appear, and if the in- rity affected

strument be a Bond and signature

(or written obligation

for the payment of money,

the party liable

to payment shall,

in presence of the Dis-

trict Registrar,

have declared his assent

to be bound instead

with the regular suit,

such affidavit shall in like

manner be indorsed

on the instrument. The

endorsement of the execution

shall be certified

by the seal and signature

of the District or Deputy

Registrar, and the instru-

ment shall

[illegible] proof, on

the

That

agreement

Mode of registration

d. wis.

to of instruments registered by Depy. Registrar's Offices shall be also sent. Deputy Regrs.

tenty regis

ty the

shall, be forwarded, with Would copies of higher authorities rather

date which

and its number of Revenue merely a controlling not an office of actual regis

Dis-

trar, and not think that the abstract should fall on the parties concerned but should

abstract of every,

the of any District Registrar, whether original by Mode of registration is objectionable.

Deputy Registrar, shall from time frequently than weekly, be forwarded, with

that it was

registered and its number in Register Book of such District Registrar, to the General Re-

gi

XXVIII. For every abstract forwarded under preceding section, and for every copy under Sections XXVIII and XXIX of this Act the same fee shall be paid as for the registration of the original instrument.

the propriety of exacting a fee for every

see the propriety of any additional fee.

Would omit this Section general fees at such rates as would cover expenses of copying these Registers.

Would remove the Section and make the Board of Revenue merely a controlling authority, and not an Office of actual registration.

Would fix a moderate general fee once for all instruments brought for registration and have the other expenses borne by Government.

Strong objections to the payment of fees rendered compulsory by this Section for abstracts sent under Section 37 from the Subordinate to the General Register Office which should be borne by Government as the arrangement is intended as a check on its own officers.

Objects to the payments of fees rendered compulsory by this Section for abstracts sent under Section 37 from Subordinate to the General Registrar Office which should be borne by Government, as the arrangement is intended as a check on its own Officers.

Mode of registration is objectionable.

visitor

shall

At W. I. 3

In.

XL. When, Civil [illegible] the [illegible] Court, in the exercise of its [illegible] appellate jurisdiction shall, by decree, declare any instrument before it relating to immoveable property, which shall have been registered under this Act, to be invalid or a forgery, or when such [illegible] such jurisdiction, shall have any decree, order, relating any instrument before it [illegible] immoveable property which shall have been registered under this Act, which decree, or order shall create, declare, transfer, limit, or extinguish any right, title or interest in, or charge upon, such instrument of any freehold immoveable property, such Court shall cause a memorandum of such decree to be sent to the District or Deputy Registrar in whose District or Division such instrument shall have been originally registered

Sees no good reason for restricting the instruments referred to in this Section to immoveable property — do — Also appealable provided for, as in Sec. 49, where a Court neglects to send such a Memo, or refuses to, and mea-

The object of this section not apparent, and should be more plainly declared.

XLII (Cont'd)

... d. at

... for ... regu... ABO ...

Advocates ... of ...

... ms of

to be enforced - the ... ed to
enquiries regardi... right of
... ted by ...

... the provisi...
be extended to contracts - and it ... should be more fully
explained -

W... ... Section
... docu... ... g de...
... cation ... out a regu...
cla... priority to registered doc...
not ... istered -

Is of opinion that the enforcement of Bond
... loan 160 ... d
above that limit - provided the parties ...
assen... time of Registration to such ...
... nt will injurio... affect certain ... rest...

Is of ... that the enforcem... of ... gistered
under the Act is very dangerous ... ge for the
latter takes place in the moral tone ... e, or
until ... Registering Officer ... requa...
with or can identify the parties -

... inal abstract give the true meaning
of the Section it should run - Provided in the las...

Act, may ... d with ... with ...

... of a Bond ... ding 100 ...
... Sect; Should be made at ...
... will requ... ... d be permi...

... that

... d decision passed

... uggested ... remar...
... siders that dec...
... llowed by
... reating ...

the subj...

... especially desirable as

... so fr...

... to ... speed...

... break
justice -

[redacted]

XLIV

[redacted]

[redacted]

Why shou
not be applicabl

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the Deputy Collector

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Proceed

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ring
the town

[redacted]

For "due by fire"

"due from name"

to reference to

agent

Land.

shall

Land.

registered

Limited

Victoria Office

Without the knowl
which application is
made [illegible] knowledge
of a [illegible]

the foregoing Sections [illegible] to be foreign to the subject of the
[illegible] any sufficient
[illegible] instead of
granting such applica-
tion, order that a suit
shall be [illegible]

None [illegible] Section [illegible]
[illegible] and declare the pla[illegible]
process provided by section 12
legall course.

said. [illegible] Section [illegible] desirable
[illegible] Sections
Caveats now so frequently filed.

If by the Bill so as to,
the double expedition
favor the instrument
suit.

Is of opinion that the enforcement of deeds
registered under the Act [illegible] any daing
[illegible] a change for the better takes place
the moral tone of the people until the
Registering Officer is personally acquainted
[illegible] or can [illegible]

[illegible] mied

[illegible] mind

[illegible]

4.

Is of opinion
[illegible] under the Act
dangerous [illegible] to bor
[illegible] tone
[illegible] or [illegible] [illegible]
[illegible] for principal is personally acquainted
[illegible] dent
[illegible] demic
[illegible] character
[illegible] of [illegible] executor
[illegible]

[redacted]

L. Nothing in the foregoing Section shall be held to prevent the holder of any [illegible] aforesaid, for the payment of money, from instituting regular suits subject to the Rules of Limitation for the time instead of applying for enforcement of the same under Section XLIV of Act.

Appear to be foreign to the subject of this law.

Thinks [illegible] essary for a debtor his debt and by a tender acknowledgment [illegible] force. than if Section

Is of opinion that the Bill ought much good y sufficient time be allowed before its operation to enable [illegible] understand its provisions, and the Registrar community situated.

Attacks this Section on the ground that rich creditor could by bringing a regular suit, ruin his debtor by litigation. and thinks that [illegible] should be [illegible] requiring the matter [illegible] to be [illegible] settled on entering office.

Is of opinion that the enforcement of deeds registered under the Act is very dangerous until a change for the better takes place in the moral tone of the people, or until the Registering Officer is personally acquainted with or can identify the parties.

[illegible] Par 4 [illegible] ch 45.
[illegible] 11 h.

shall

be void

provision be made f
[illegible] Intercourse of Wills

LII. (C
sealed

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testar, of the
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and the Trespn

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depositor, shall there
sealed

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purpose

shall,

such Wills

Agent,

death of any depositor
of any such seal
application may
be made to the
District Registrar where
such sealed packet
deposited to open
packet, such Dis.
trict Registrar, after
satisfying himself that
such depositor is dead,
shall, the presence
of the person making
such application, open
such sealed packet, and
shall enter a copy there
at the
expense of the applicant,
in a Register of Wills,
Codicils, and instruments
giving authority to adopt
District
Registrar shall thereupon
re-deposit the original
Will, Codicil or instru-
ment, until required
to produce it in
a Court of justice, any
copy made under the
provisions of this Section,
of the
District

That registration of adoptions
be rendered obligatory and
be extended to cases of adoption during the
life time of the adoptive party—

registrars
which are
must have in these cases the power
conferred upon them for other purposes in Sec. 32—
"Justice" a full stop & the
14 "Any"
For "shall be evi-
dence" "be prima
facie" evidence"—

Would provide for the withdrawal from the
official custody of the Registrar of the sealed
cover containing the Will or Codicil
the persons executing it afterwards wishes to
cancel it—

Subject [illegible] of
[illegible] of the Governor Ge-
neral in Council, the Board
shall prepare
a Table of fees which shall
be payable for the registra-
tion of instruments under
this Act, and may from
time, subject to the
like approval, alter such
Table. A Table of fees
so payable shall be exposed
to public
established for the registra-
tion of instruments under
this Act, and no instrument
shall be accepted for
registration until the fee
prescribed for registra-
tion of such instrument
shall have been paid.

[illegible] payments of
every kind to be made
money, [illegible] Officers of the Registry Offices, as
are entitled to fees being re[illegible] by Gov-

Fees must be fixed [illegible] the Act
[illegible] for the purpose of the Act.

Fees for registration should be as low
as possible.

Section [illegible] to be determined with
to the value of the [illegible]

IV. All fees received
[illegible] the provisions of
this Act (not being fees
payable under Section
X of this Act to Officers
who are paid by fees)
shall be remitted to the
Collectors' Treasury, or to
such other Treasury as
the local Govern-
shall direct, under such
rules as the local Govern-
ment shall from time
to time issue, and be credit
ed to Government.

Fees must be fixed by the Act and appropriated
for the purpose of the Act.

VI. The

Registrar of

the Office of every Dis-

-trict Deputy Re-

-gistrar, four Books

to be which shall

1 Register of absolute transfers of immoveable property

1 Register of transfers of property

3 Register of awards of Arbitrations

4 Register of all other instruments for the registration of which provision made in the

and the entry of which is not required to be made in other Registers as after provided.

Conceives it will be unnecessary to
to enter the insc[illegible] such
of these books.

XVII. All entries made
such books shall be numbered
in a consecutive numerical
series, which shall commence
and terminate with the year,
a fresh series being com-
[illegible] at the beginning
of each year. Whenever any
instrument for the registra-
tion of which application
[illegible] made, refers to im-
moveable and also to mo-
veable property, it shall be
entered in Book No 4 and
also in Book No [illegible]
as the case may be.

A book may have "Indexes," but not "Indices"
That an Index should be filled up daily,
and that instruments should be entered
in the order which they are registered;
and that the Index may be made practi-
cally alphabetical by the adoption of the
form sent.

XVIII At the close of
each year, two Indices
shall be prepared for each
Register one containing
the [illegible] of every party
to every instrument re-
gistered, and the other
in the case of immove-
able property, contain-
ing the name of the
Village or place where
the property is situate,
together with a des-
cription of the property
and its name, and such
other particulars and
such form as the
Registrar-General
shall from time to time
prescribe under Section
XIV of this Act.

LIX

Copies

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LVI

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Section LII.

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s III.

LX. The Registers in the General Register Offices, and in the Offices of the D. I. t and Deputy Registrar, shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry Registers shall be given to all persons applying for such copies. A fee, to be prescribed in the Table of fees prepared under Section LIII of this Act shall be paid by any person applying to inspect any Register, before such Register is opened for his inspection, and a fee of one Rupee over and above the charge of making the transcript shall be paid by every person requiring a

That a precautionary clause be inserted to guard against tampering with registered documents or any abuse by the public of the privileges sanctioned in this Section—

"At all times" add "within the office hours of the Registrar"

Fees for registration should be as low as possible

t. General Register
vide[d] that
Regt. to be
sup[er]sed under
ion Shall be
th[e] Register
specified
LVI, and
Register specified
ction LIII.

XI Reg
for
d to operate
if
istration had
made
in

necessary for any
Officer of Government
to appear in person
the purpose
of registering any
ment, but when
any Instrument is ex-
cuted by or on behalf
of Government, or by any
Board, Commission,
Court, or Public Office
on behalf of Government,
the Deputy or District
Registrar to whom such
Instrument is presented
for registration may
if he deem it necessary,
refer to the Head Office
Board, Commission,
Court or Office on whose
behalf such Instru-
ment was executed,
for information re-
specting the same,
and on being satisfied
execution thereof
shall register the
same.

Would make an exception as re
instruments to which Government

XLV of 1860

XXV No action on an
instrument of the nature
of the Instruments specified
in Sections XXI,
and XXII of this Act
which shall have been
executed after this
Act Comes into operation,
shall, though it
should have been Regis-
tered in the manner
provided by this Act,
shall not have been &c.
and, shall be
entertained, unless such
action, if it relate to
immoveable property,
shall be brought within
two years, or, if it re-
late to moveable proper-
ty, within six months
from the date when
the cause of action arose:
Provided that nothing
in this Section shall
authorize the Court to
receive any presump-

Com. That this Section will lead
to much inconvenience and fra-
people are not familiar with Law-

stitute Suits
is shorter than that
XIV of 1859.

Does not find provision made
case of two instruments
each other, which
ment, and one of which may be registered,
and the other may not be
with by a Court of Justice

for cases of moveable property should be
to a longer period of one year

Not
of limitation for
Suits to six

for bringing Suits

very short-

Will,
Codicil, or Instru-

shall not
apply

reducing the period
stitution of
in the case
to relative

should be allowed
perty-

respect to

lxv. No Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any immoveable property situate within the local limits of the Ordinary Original Civil Jurisdiction of any Court established by Royal Charter shall be deemed invalid, nor shall any such Court or any other Court of Justice or Public Office refuse to receive such Instrument in evidence, or to act thereon, by reason of such Instrument not having been registered under this Act. nor

Appear to be unnecessary as the amalgamation of the Sudder and Supreme Courts has taken place.

Objects of exception allowed in this Section.

allow[illegible]

Restriction laid [illegible] this Section [illegible] long[illegible] any.

shall the provisions of Section [illegible] of this Act apply to any decree [illegible] passed by any Court of Royal Charter [illegible] sheet of any [illegible] but to [illegible] property [illegible] ly situated as aforesaid.

LXVI. XVII Vi. pro

pi Section LXIV of
to This Act shall not
l ply to any suit
an brought in any Court
es tablished by Royal
= al Charter in the
Su exercise of its Ordi=
Lo nary Original Civil
Jurisdiction, or to
any appeal from
any decision pass=
ed in any such
Co suit, nor shall the
provisions of the
said Section apply
to any suit brought
in any Court of
Small Causes situ=
= ate within the local
limits of the Ordina=
= ry Original Civil
Jurisdiction of any
Court established
by Royal Charter.

Appear to be unnecessary as the amalgamation of the Supreme & Sudder Courts has taken place.

LXVII. This Act shall come into ope= =ration on the 1st day of May 1864.

Would extend the period for certain rea= =sons.

Would appoint the middle or closing par= of 1865. for bringing the law into operation.

Villages

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defend

Ptions

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200 to 100

5000 £ 20000.

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[redacted]

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Shareholders owning related

if registered

Taxes

at any

registration

extra

establ

Objects to the principle of compulsory regis.

relating to transactions in real prop

would have the effect of registered documents

as to obviate the necessity of establishing their

genuineness would provide for gain-

ing gifts or deeds of trans.

fer of land property where both the parties to the

transaction are the

from the district

where the property is.

Would have sufficient provision made to facilitate registra.

tion of deeds by females of respectability or

cannot appear in public offices.

Objects to the compulsory registration of deeds

relating to real property.

Sh that there

objection

free

mple the le

introduced with advantage.

of it

be left optional

pulsorily it would tend to increase intem

ation.

No income

nuence is likely to result from the operation of the

Bill.

Approves of the Bill.
Approves of the Bill.

Suggests that the provisions of the Bi
would have no reference to old doc
uments.

ora greater
ting Rule
Kuda has executed for

Iron

Lucia
Tolled to

oote

Trial be made-

Offices

ued.

Vote

Bill-

N.

Trial town

Lands offered
sale of
Letter

Would register the receipts for pay de
in part of Bond executed for Grant
difficulties that will be experienced in registering
the agreem the mercan

Parties holding the documents referred to in the Bill
will get them registered if they save of bringing
an action within the prescribed time. Registration
difficulties that will be experienced in registering Da
Sanderson and Bowles and considers that the sy
detrimental to the Revenue

Proposes the following alterations to the Bill.
& Con Cada exer ted from re
gra documents executed for less than
Rupees be enforced rarely without reference
to its condi and those exceeding
ced limes stations they
such are no stand not to
ads. due
rules,
vestigation gover
do whether the ex tor of
the rants a the loan
pres

In favor of the ciple of a public to
equen Deeds.
Would suggest that when the Bill is passed
Six months be allowed be
ration.

She

fee

Rupees ren

Bill

registere

Cadahe

Refers to records shortly after 1792 when the correspondence relative to a Registry for the province of Malabar begins.

To a paper drawn up by Mr Strange in 1834 Assistant Judge of Tellicherry "On a Registry of deeds in Malabar."

Forwards a passage from Mr Money's work on Java, illustrative of the great benefit of Registration on that Island greatly to lessen the necessity for Suits, & certainty of Rights. Suggests the Java System for trial in India.

Do. Also copy of the Minute given in 1858 by the late Sudder Adalut Draft Act prepared by the [illegible] "providing protection to rights of property". The Draft Act of 1855 [illegible] to the present Bill. as containing every provision required efficiently and fully to carry out its objects. in language plain and simple. so as to be intelligible to the public. and more brief than the present Bill.

The general principle of the Bill is good, it would tend to diminish litigation, but the people are not inclined to it. Some of the details, such as the limitation of six months from the date of the cause of action in the case of an instrument, relating to moveable property, not having been registered, might be modified.

Apprehends that the enactment will be productive of much inconvenience to the [illegible] & people money dealings. Is of opinion

[illegible] leases & proceed to [illegible]

[illegible] of leases for periods

[illegible] Landholde[illegible] Vols.

[illegible] moveable property than [illegible] has been agreed upon in the Bond.

Approves of Bill. but is of opinion that it will be attended with [illegible] of expense to, [illegible] which may be remedied by a reduction in the present high Stamp duty for plaint.

that the

from greater

registered should possess over an

unregistered one should carry

with the expense and trouble of a regular suit;

and that the period of limitation now allowed by Act

XII of 1859 to actions founded on unregistered

should not be curtailed.

That it is not desirable for certain that

the Bill should be passed into law -

Jud.ᵗᵉ Fort. 30ᵗʰ December 63
C. N.ᵒ 2026-7.

Enclosure N.ᵒ 2 to a letter from the Secretary to the Board of Revenue to the Chief Secretary to Govᵗ. of 21ˢᵗ Oct. 63.

Remarks of Collr and others on sections of the Bill for the Registration of Assurances.

Judicial 1863 Dec. 22ⁿᵈ
N.ᵒ

From
The Deputy Registrar of the High Court of Judicature at Madras

To
The Chief Secretary to Government

Dated 7ᵗʰ August 1863.
Received 8ᵗʰ August 1863.

No. 85
A.ᵒ 1728

Transmitting the observations recorded by the Chief Justice and Judges on the provisions of the Bill to provide for the Registration of assurances, which accompanied the order of Government dated the 18ᵗʰ May last.

S.O. N.ᵒ 2026
S.L. N.ᵒ 2027

From 18ᵗʰ May 1863 to N.ᵒ 14 & 15.
" 25ᵗʰ May 1863 — N.ᵒ 26-27
" 13ᵗʰ Nov.ᵇʳ 58 — N.ᵒ 45 46
" 19ᵗʰ May — N.ᵒ 45 46
" 18ᵗʰ July 57 — N.ᵒ 52-53.

243.

c 22ⁿᵈ Dec.ʳ

104

Judicial Department.

PROCEEDINGS of the **MADRAS GOVERNMENT.**

Read the following letters:

From the Judges of the High Court — } Rec'd 7th Sept. 1863 No. 88

" the Board of Revenue — do — 21st Oct. 1863

" the Gov't Solicitor — do — 20th — No. 764

Order thereon 30th Dec. 1863 No. 2026.

Ordered that the following letter be despatched.

To the Secretary to the Gov't of India Home Deptt } Rec'd 1863 Dec.

Judicial 1863. Department.

No. 2026

PROCEEDINGS OF GOVERNMENT.

Dated 30 December 1863.

243 to 247.

Civil and Session Judge
Kullapa [illegible] Prince
[illegible] final [illegible]
jurisdiction; And in many
of these Courts, the Stamp
so heavy as to render it
possible that the Civil
Judge should
to his duties Dis
Registrar without
prejudice to the business of
[illegible]. The Governor
in Council would suffer
[illegible] Act VII
be repealed, so as to leave
appointment of
District Registrars, vested
as of the Deputy Registrars,
to the discretion of the
Government
Station, if adopted, would
necessitate the em
of a Clerk part of his
The duties of the
[illegible]

[illegible] Superintendent
and Should [illegible] your [illegible] travel

[illegible] ork [illegible]
[illegible] riginal Reg [illegible] s. This is
duty which Can [illegible] ghed
[illegible] Board of Revenue The
[illegible] [illegible] Bank A Rees
[illegible] ok Exercise the functions
described in Section [illegible] XIV

[illegible] ter the period of
appeal to the District Registrar
from an order of the Deputy

[illegible] appellants
[illegible] Atten[illegible]

[illegible] wa
[illegible] nper[illegible]

[illegible] e no
[illegible] vernor in Counc
[illegible] th [illegible] Ks & the Board
in decision
[illegible] no
[illegible] spully Regrets
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[illegible] uite sufficient
[illegible] instrument
[illegible] [illegible] would be file[illegible]

[illegible] ll a [illegible] Treg[illegible]
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[illegible] [illegible] [illegible] Au
[illegible] [illegible] [illegible] ct.
[illegible] Cont [illegible] ll

[illegible] ry Office at [illegible]

Every deed [illegible]
[illegible] rsonal [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] Com[illegible]
[illegible] Commencement [illegible]
the advan [illegible] be [illegible] d
[illegible] t, in [illegible] [illegible] A Bi[illegible]
[illegible] [illegible] in Comm[illegible] [illegible]
[illegible] [illegible] Suspen[illegible] t. any [illegible]
[illegible] Superintend the [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] Date

[illegible] nt.

[illegible] Sidney, June 10
Superintendent

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Town

local

[illegible] no registration should take place in the Deputy Registrar's offices and that the District Registry offices should be merely offices of record in which abstracts of the instruments registered in the Division Registry offices shall be kept; the District Registrars being likewise vested with the supervision of the Deputy Registrars & with the appellate authority which the Bill proposes to confer upon them. Where it may be deemed expedient to invest the District Registrars with the functions of a Deputy Registrar as well, care should be taken that the two functions be kept distinct.

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liable to the

13. Mercer Asylum

Memorandum

Col

Mary Child

Esq

Kitty

The Asylum

Board

favor of ... [illegible] ... extend

The Lunacy ... [illegible] ... would extend

to ... [illegible] ... apply

... [illegible] ... deeds

... [illegible] ... able property

... [illegible] ... more necessary

... [illegible] ... proper

that the necessary

... [illegible] ... bringing ... [illegible]

short period ... [illegible] ... allowed

the Bill (Section IXIV) would

generally ... [illegible] ... objectionable

and inconvenient ... [illegible]

business dealings. The Governor

in Council has already ... [illegible]

that in ... [illegible] cases, the period

within ... [illegible]

brought

=de ... [illegible] ded.

... [illegible] he sees no reason

... [illegible] should not

cured as ... [illegible] to the

13.

Presidency, 1

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1866 Depm.

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to the Govt
India

30 December 1865

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