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Legislative

Educational (1899) Department.

ORDINARY MS.

G.O., No. 17

DATED 18. 2. 99

32/33

INDEXED.

[Despatch Abstract.]

Forwarding the Memberes of the Legislative Council with certain papers relating to the Bill to amend the Court of Wards Regulation V of 1880

1552/189

BACK PAPERS.

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

FURTHER PAPERS.

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

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Note for S.A.
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GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Order—No. 23, Revenue, dated 11th January 1898.

Miscellaneous.

Regulation V of 1804 as it stands at present enables the Court of Wards to take charge of only those estates the proprietors of which are incapacitated by minority, sex or natural infirmity. It is, therefore, unable to intervene in the case of encumbered estates even though the proprietors thereof may seek its intervention, so long as they are not incapacitated by any of the disabilities mentioned above.

The Government has had the question under its consideration and has arrived at the conclusion that where the proprietor of an estate makes an application to the Local Government to have his estate placed under the supervision of the Court of Wards and the Local Government is satisfied that it is expedient in the public interests that such estate should be managed by the Court, it should have the power to direct the Court to assume the management in such case also; the proprietor thereupon becoming a ward of the Court and his property but not his person becoming subject to its control.

As this power of interference will ordinarily be exercised only in the case of encumbered estates and has considerable difficulty is experienced in getting the creditors to such estates to furnish true and correct account of their claims within any reasonable time, powers similar to those contained in chapter IV of the new Court of Wards Bill for the North-West Provinces and Oudh should, the Government considers, be also conferred on the Court, these provisions being however modified with reference to paragraphs 11 and 19 of the Government of India letter (an extract from which is appended).

The Honourable the Advocate-General is requested to frame a short Bill for introduction into the Local Legislative Council as early as possible in the current session, containing the necessary provisions, with a statement of objects and reasons.

2. A copy of the Bill for North-West Provinces and Oudh referred to is forwarded for perusal and return.

(True Extract.)

(Signed) G. S. FORBES,
Ag. Secretary to Government.

To the Advocate-General (through the Government Solicitor).

Exd. S. A. S. Raghaviengar.

84 Copies

Government {1898} of Madras.

REVENUE.

Recd. } 1898. *Enclosures*

Regd. *Spare copies*

G.O., No. 23, 11th January 1898.

JANUARY.

Requesting the Honourable the Advocate-General to frame a Bill enabling Government to place an estate under the Court of Wards on the application of a proprietor.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—again letter to the Government of India, Revenue and Agricultural Department, No. 199, dated 5th April 1898.

Abstract.—Forwarding, for sanction, a draft Bill (with Statement of Objects and Reasons) to amend the Madras Court of Wards Regulation V of 1804.

Read—also letter from the Government of India, Revenue and Agricultural Department, No. 1763–133–2, dated 26th August 1898.

Abstract.—Approving, subject to certain modifications, the draft Bill to amend the Madras Court of Wards Regulation V of 1804, and requesting that the draft, as finally settled, be forwarded to the Secretary of State in the ordinary course prior to the introduction in Council of the Bill.

Order—No. 707, Revenue, dated 23rd November 1898.

The Bill will be revised generally in conformity with the suggestions of the Government of India contained in their letter of 26th August 1898 read above. As regards the provision in section 40, that the proprietor of an estate, who has been declared by Government, on his own application, to be incapacitated, and whose estate has been taken under management, should upon the estate being restored to him be declared to be incapable of creating any charge upon it, valid beyond his lifetime, His Excellency the Governor in Council considers that it should be omitted. The Bill, as redrafted, will be submitted to the Right Hon'ble the Secretary of State for India.

2. The draft Bill will also be communicated to the Honourable the Judges of the High Court, the Honourable the Advocate-General, and the Board of Revenue for favour of any remarks they may desire to make thereon.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Board of Revenue (Land Revenue).
" Hon'ble the Chief Justice, through the Judicial Department.
" Hon'ble the Advocate-General.
" Legislative Department.

Exd. A. D. Xavier.

Government {1898} of Madras.

REVENUE.

Recd. } 1898. Enclosures

Regd. Spare copies

G.O., No. 707, 23rd November 1898.

NOVEMBER.

Madras Court of Wards Regulation V of 1804.

Revising, in conformity with the suggestions of the Government of India, the Bill to amend the —; forwarding the Bill as redrafted to the Right Honourable the Secretary of State for India; and communicating the Bill to the Hon'ble the Judges of the High Court, the Hon'ble the Advocate-General and the Board of Revenue for favour of any remarks they may desire to make thereon.

1898.

File No. 133 of 1898.

Serial No. 2.

GOVERNMENT OF INDIA.

DEPARTMENT OF REVENUE AND AGRICULTURE.

LAND REVENUE.

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

No. 1763—133-2.

Dated Simla, the 26th August 1898.

SUBJECT.

Amendment of the Madras Court of Wards Regulation V of 1804.

No. 1763—133-2.

FROM

T. W. HOLDERNESS, ESQ., I.C.S., C.S.I.,
Secretary to the Government of India,

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS.

Dept. of Rev. & Agri.
Land Revenue.

Simla, the 26th August 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 199, dated the 5th April 1898, with which you forward, for sanction under section 5 of the Indian Councils Act of 1892 (55 and 56 Vict., C. 14), a draft Bill to amend the Madras Court of Wards Regulation V of 1804.

2. In reply, I am to say that if the previous sanction asked for be required in this case, the Governor-General is pleased to accord it. I am, however, to add that, while the introduction in the local Council of the draft Bill is approved, subject to the following modifications, the Government of India hope that the action now to be taken as a temporary and provisional measure will not be allowed to postpone the more complete legislation for amending and consolidating the Court of Wards Law of the Presidency, the consideration of which is already so far advanced.

3. *Clause* 5.—The wording of this section seems to require further consideration, as the effect of the additions proposed to be made in section 19 of the Regulation is not clear.

4. *Clause* 7 (*new section* 28).—The Government of India doubt the wisdom of the provision which makes the superintendence of the Court date only from the publication of the notification. They would suggest that, following the Bengal law, the control of the Court and the power of taking possession should accrue in the case of "property devolving to heirs incapacitated by minority, sex or natural infirmity from administering their own affairs" from the date of the order assuming the management, and in other cases from the date of the declaration by the Governor in Council. It is possible that delay till the notification has been published might in some cases prove disastrous.

5. *Clause* 7 (*new section* 29).—The Government of India would prefer to see this provision omitted, as it is new and without precedent in other Acts. The supply of the information in question is not a legitimate part of the work of the Civil Courts and the Collector should be responsible for obtaining it. The proceedings of the Court of Wards have (section 6 of the Regulation) to be founded on the Collector's report, and his investigations would naturally extend to suits filed and decrees outstanding against the persons who are to be incapacitated. He may, of course, find out, after he has assumed charge, that there are suits and decrees of which he had not heard before, but none the less he is the officer who should be responsible for making such investigations, and any payments for obtaining copies of papers should be charged against the estate. The section would, it is considered, be unworkable in practice, and the Civil Courts could not fairly be required to give effect to it.

6. *Clause* 7 (*new section* 36).—The Governor in Council may not be in a position, when he issues the notification under the new section, to specify each district in which the property is situated: and I am therefore to suggest the omission of the second paragraph of this clause and the insertion in the first paragraph after the word "Collector" of the words "of the district in which such immoveable property as aforesaid is situate." This, with the rule-making power taken in the third paragraph, it is thought, be found sufficient.

7. *Clause* 7 (*new section* 37).—The Government of India are disposed to think that the arrangement proposed for relieving the Collector of the management of a ward's estate when the execution of a decree against the immoveable property of the ward has been transferred to him will prove inconvenient in practice, and, by interrupting the continuity of the management, may be detrimental to the ward's interests and the welfare of the estate. I am therefore to suggest, for the consideration of the Government of Madras, that in the case contemplated the law should provide for the appointment of some other officer than the Collector to exercise the functions of a Collector in respect of the execution of the decree or decrees transferred to the district for execution.

8. *Clause* 7 (*new section* 39).—The Government of India think that some difficulty will be created by this provision as it stands. There are two cases of relinquishment of the management of the estate of a proprietor who has been declared incapacitated on his own application. In the first case, when management is virtually refused, the provisions of sub-clause (2) (*b*) are clearly right. In the second case, when management is relinquished because it has attained its object of clearing the estate and is no longer necessary, they are not so. To extinguish debts under the proposed new section 33 with only temporary effect, leaving them to revive after the estate has been cleared from all duly notified and proved debts and liabilities, would nullify the provisions of that section. Similarly in the case of a dispossessed incumbrancer, the estate will not, in the ordinary course of events, be released until the incumbrance has been discharged. In any case, as the previous sanction of the Governor in Council will be necessary before the management of an estate can be relinquished under the proposed section, a dispossessed incumbrancer will have full security that such action will not be taken to his injury. In place of the general provision of sub-clause 2 (*b*), the provision should, it is thought, be restricted to the case in which the Court of Wards within a limited period from the date of assuming superintendence of an estate decides to release it on the ground that, contrary to previous anticipations, the debts and liabilities are so extensive as to render their liquidation within any reasonable time impossible. Power to so withdraw from management without undertaking the liquidation of the liabilities of the estate should be taken by the Bill, the previous sanction of the Governor in Council to such action being required in the case of estates which are taken under management by the express order of Government. The previous sanction of the Governor in Council should also be made requisite in all cases to the withdrawal of the Court of Wards from management before liquidation has been completed and the estate set free from liabilities, should any steps have been taken towards liquidation of the debts. In this connection I am to forward, for the information of His Excellency the Governor in Council a copy of correspondence between the Government of India and the Government of the North-Western Provinces and Oudh and between the Government of India and the Chief Commissioner, Central Provinces, regarding the amendment of the Courts of Wards Acts in force in those provinces.

9. *Clause* 7 (*new section* 40).—In connection with this provision I am to forward, for the consideration of the Governor in Council, extract paragraph 3 of a letter * from the Government of the North-Western Provinces and Oudh, and to say that, in view of the fact that it has been definitely decided that the estates of spendthrift owners are not to be taken under management except on their own application and that any limitation which may be attached to the power of an owner, who has been declared incapable of management, to charge his estate after it has been returned to him free from encumbrance, must apply generally to all such owners, and not depend upon the discretion of Government, the Government of India think that Sir A. P. MacDonnell's objections possess considerable force. They are willing, however, to leave it to the Madras Government after considering those objections, to decide whether it will retain or omit the provision.

* No. 3545, dated the 11th December 1897.

10. (*Clause* 7 *new section* 41).—In regard to this section the Government of India consider that there will be a difficulty when (as not unfrequently happens in the case of possessory mortgages) the mortgage-deed specifies no rate of interest. In the Sindh Encumbered Estates Act this difficulty is met by the liquidation scheme and the summary power given to the manager. Here no such power exists, and the case seems

one which requires to be specially provided for. The provision might perhaps take the form of empowering the Collector to refer the matter to the Civil Court and ask the Court to fix a reasonable rate of interest or else to offer to the mortgagee the rate which appears to him to be reasonable, a right of appeal to the Court within a certain period being reserved to the mortgagee, failing the exercise of which he would be deemed to have accepted the offer.

11. *Clause* 7 (*new section* 42).—The Government of India would suggest the addition of the words "granted by the incapacitated proprietor" after the word "lease" in the fifth line, as it can hardly be intended to set aside leases granted just before death by, for instance, the capable father of a minor ward.

12. I am to request that the draft as finally settled may be forwarded to the Secretary of State in the ordinary course prior to the introduction in Council of the Bill, a copy of the despatch to His Lordship being submitted to the Government of India in the Legislative Department, as usual.

I have the honour to be,
Sir,
Your most obedient Servant,

T. W. HOLDERNESS,
Secretary to the Government of India.

LIST OF ENCLOSURES.

1. Letter from the Government of North-Western Provinces and Oudh, No. 829, dated the 22nd April 1898, and enclosures.

2. Letter to the Government of the North-Western Provinces and Oudh, No. 1115, dated the 9th June 1898.

3. Letter from the Government of the North-Western Provinces and Oudh, No. 1952, dated the 13th July 1898, and enclosures.

4. Letter to the Government of the North-Western Provinces and Oudh, No. 1217, dated the 19th August 1898.

5. Extract paragraph 3 from letter from the Government of the North-Western Provinces and Oudh, No. 3545, dated the 11th December 1897.

6. Letter from Chief Commissioner of the Central Provinces, No. 4763, dated the 3rd November 1897, and enclosures.

7. Letter to Chief Commissioner of the Central Provinces, No. 1631, dated the 15th August 1898, and enclosure (Bill).

EXTRACT paragraph 3 from letter from the Government of the North-Western Provinces and Oudh, No. 3545, dated the 11th December 1897.

Paragraph 3. The second question raised in paragraph 6 of your letter was whether the proprietor of an estate, the management of which had been taken over notwithstanding that he was under no legal disability, should, upon the estate being restored to him free from encumbrance, be declared to be incapable of creating any charge upon it that should be valid beyond his lifetime and whether it would deter applications by such proprietors. As might be expected, there is much difference of opinion as to whether such a measure would be supported by native public opinion; but though some officers incline to the view that it would be accepted with approval, if not at once, at any rate as time goes on, those who adopt this view speak much less confidently than the majority, who assert very positively that it would be extremely distasteful in the eyes of the natives of the country. The British Indian Association, the only large body whose opinion can be clearly ascertained, is very strongly averse to it. Again while it is thought by some that disinterested persons would approve some limitations of this nature on the credit of the proprietor, there is a general agreement that it would have a deterrent effect on proprietors who would otherwise apply to be disqualified. It is also pointed out that in some instances, the insolvent condition of an estate is due to the misconduct not of the proprietor who is in possession, when the estate is placed under the Court of Wards, but of his predecessor. This leads to the suggestion that even if such a measure was introduced, it should not be of universal application but only that it should be left with the Local Government to decide in each individual case whether it should apply or not. But if it is to be left to Government to decide whether the release of the estate should be hampered with such conditions, it may be fairly argued that the remedy lies rather in retaining the estate under the Court of Wards; there is no obligation on Government to release the estate as soon as it is cleared of debt, and a proprietor who had admitted he is disqualified, may be fairly called on to show that this disqualification no longer exists, the mere fact that the estate has been cleared of debt affording no evidence that the proprietor has become fit to manage it. This would meet the case of those whose estates have been encumbered by the extravagance of their predecessors and through no fault of their own. In such a case there would be no need to hesitate to restore the estate. But when the proprietor has by his own extravagance encumbered his own estate and is by his own admission personally incapable, the Government might well retain management in its own hands during his lifetime. The objections attaching to any such restriction on the proprietor's powers of borrowing are stated to arise from the fact that there will be many occasions on which it is absolutely necessary, either in deference to the customs of the country or for the benefit of the estate and its tenants to contract a loan; and there is a general agreement that to restrict the power of an owner to creating a life charge would, in addition to making borrowing, even for a time, onerous, act very unequally in the case of proprietors of different ages. To meet these objections it is suggested that the restriction should be limited to the prohibition of contracting loans and creating charges, except with the sanction of Government or of the Board of Revenue. From these remarks it is clear that even those who are in favour of the proposal attach many conditions to its acceptance. They are not prepared to acquiesce in the universal creation of such a disability in the case of all the proprietors to whom it would apply, or to do more than limit the power to create a charge on the estate by making it essential to obtain official sanction in some shape or other. The result would be that the obligation would be imposed on the Local Government both of deciding whether each individual proprietor whose estate is being released shall come within the operation of the law, and in case of each such proprietor whether any particular necessity exists such as to justify the estate being permanently charged with a debt on account of it. Such a task would, as pointed out in your letter, be of a very invidious character. For these reasons and more particularly in view of the deterrent effect such a measure would have on proprietors who would otherwise be glad to avail themselves of the aid of the Court of Wards, the Lieutenant-Governor and Chief Commissioner is very strongly opposed to the introduction of any such provision into the law regulating the administration of the Court of the Wards. Indeed Sir Antony MacDonnell believes that such a provision, by deterring proprietors from making use of the Court of Wards, would do very great mischief.

No. , LEGISLATIVE, FEBRUARY 1899.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper:—

From T. W. HOLDERNESS, Esq., I.C.S., C.S.I., Secretary to the Government of India, Department of Revenue and Agriculture (Land Revenue), to the Secretary to the Government of Madras, Legislative Department, dated Simla, 26th August 1898, No. 1763—133-2.

I am directed to acknowledge the receipt of your letter, No. 199, dated the 5th April 1898, with which you forward, for sanction under section 5 of the Indian Councils Act of 1892 (55 and 56 Vict., C. 14), a draft Bill to amend the Madras Court of Wards Regulation V of 1804.

2. In reply, I am to say that if the previous sanction asked for be required in this case, the Governor-General is pleased to accord it. I am, however, to add that, while the introduction in the local Council of the draft Bill is approved, subject to the following modifications, the Government of India hope that the action now to be taken as a temporary and provisional measure will not be allowed to postpone the more complete legislation for amending and consolidating the Court of Wards Law of the Presidency, the consideration of which is already so far advanced.

3. *Clause* 5.—The wording of this section seems to require further consideration, as the effect of the additions proposed to be made in section 19 of the Regulation is not clear.

4. *Clause* 7 (*new section* 28).—The Government of India doubt the wisdom of the provision which makes the superintendence of the Court date only from the publication of the notification. They would suggest that, following the Bengal law, the control of the Court and the power of taking possession should accrue in the case of "property devolving to heirs incapacitated by minority, sex or natural infirmity from administering their own affairs" from the date of the order assuming the management, and in other cases from the date of the declaration by the Governor in Council. It is possible that delay till the notification has been published might in some cases prove disastrous.

5. *Clause* 7 (*new section* 29).—The Government of India would prefer to see this provision omitted, as it is new and without precedent in other Acts. The supply of the information in question is not a legitimate part of the work of the Civil Courts and the Collector should be responsible for obtaining it. The proceedings of the Court of Wards have (section 6 of the Regulation) to be founded on the Collector's report, and his investigations would naturally extend to suits filed and decrees outstanding against the persons who are to be incapacitated. He may, of course, find out, after he has assumed charge, that there are suits and decrees of which he had not heard before, but none the less he is the officer who should be responsible for making such investigations, and any payments for obtaining copies of papers should be charged against the estate. The section would, it is considered, be unworkable in practice, and the Civil Courts could not fairly be required to give effect to it.

6. *Clause* 7 (*new section* 36).—The Governor in Council may not be in a position, when he issues the notification under the new section, to specify each district in which the property is situated: and I am therefore to suggest the omission of the second paragraph of this clause and the insertion in the first paragraph after the word "Collector" of the words "of the district in which such immoveable property as aforesaid is situate." This, with the rule-making power taken in the third paragraph, will, it is thought, be found sufficient.

Government of Fort St. George.

LEGISLATIVE DEPARTMENT.

PAPERS

(No. 3.)

RELATIVE TO

The Bill to amend the Court of Wards Regulation V of 1804.

Letter from the Government of India,

1898.

DEPARTMENT OF REVENUE AND AGRICULTURE.

From *The Government of Fort St. George.*

Recd. } 1898. *Enclosures*

Regd. } 1898. *Spare copies*

Letter, No. 199, 5th April 1898.

APRIL.

FORWARDING, for sanction, a draft Bill (with Statement of Objects and Reasons) to amend the Madras Court of Wards Regulation V of 1804.

No. OF 1898.

A

BILL

TO

Amend Madras Regulation V of 1804.

WHEREAS it is expedient further to amend Madras Regulation V of 1804; It is hereby enacted as follows:—

1. This Act shall be read with and taken as part of the Regulation aforesaid.

Section 2, Regulation V of 1804.

2. (1) In section 2 of the said Regulation, after the words "from administering their affairs," the following shall be added, namely, "or belonging to persons as to whom the Governor in Council has declared on their own application that they are incapacitated, and that it is expedient in the public interests that their property should be managed by the Court of Wards."

Act IV of 1892, section 3.

Section 2, Regulation V of 1804.

(2) In the first proviso to section 2 of the said Regulation between the words "shall not" and "proceed," insert the following, namely, "in the case of persons incapacitated by minority, sex or natural infirmity," and in the same proviso, for the words "the persons or the property of incapacitated persons," substitute the words "such persons or their property."

3. After section 5 of the said Regulation, the following section shall be inserted:—

Act XVII of 1885, section 23 (1).
Act XX of 1896, section 9 (3).
Act IV of 1892, section 13 (60-A).

"5-A. No person whose property is under the superintendence of the Court of Wards shall, while such superintendence lasts, be competent without the sanction in writing of the Court of Wards—

"(*a*) to enter into any contract involving him in pecuniary liability;

"(*b*) to mortgage, charge, lease or alienate the property under management, or any part thereof, or enter into any agreement to do so; or

"(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom."

4. In section 15 of the said Regulation, the words "incapacitated persons" shall be substituted for the word "minors."

Regulation V of 1804, section 15.

5. In the first clause of section 19 of the said Regulation, between the words "managers" and "to" insert the following, namely, "and in the case of persons incapacitated by minority or natural infirmity also."

Regulation V of 1804, section 19.

6. For the first clause of section 23 of the said Regulation, substitute the following:—

Regulation V of 1804, section 23.

"*First.*—In every suit or other civil proceeding by or against an incapacitated person which is pending at the date of the notification published under section 28 in respect of such person, or which may be commenced thereafter, the manager of his property appointed under this Regulation, or the Collector shall, in such suit or proceeding, be joined as next friend or guardian *ad litem* as the case may be."

7. After section 27 of the said Regulation, insert the following sections:—

North-Western Provinces and Oudh Court of Wards Bill, 1896, sections 14 and 15.

"28. Whenever the Court of Wards assumes under this Regulation the superintendence of the property of an incapacitated person, the fact of such assumption shall be notified in the *Fort St. George Gazette*, and also in the gazette of the district in which such property or any portion thereof is situate; and on the publication of such notification, the incapacitated person shall be deemed to have become a ward under the Court of Wards, and the whole of the moveable and immoveable property belonging to such person shall be deemed to have come under the superintendence of the Court of Wards.

"If the property of an incapacitated person is situate in more districts than one, the notification shall also specify the district the Collector of which shall in respect of such person and property discharge the duties imposed upon a Collector by this Regulation.

New section.

"29. On the publication of a notification under section 28, every Civil Court in which any suit against the incapacitated person for the recovery of money is pending, shall within one month from the date of such notification, forward a copy of the plaint to the Collector of the district in which the property of the incapacitated person is situate, or to the

Collector specified in such notification as the case may be, and shall also within the said period furnish the Collector with a statement showing approximately the amounts, if any, due under decrees, the execution of which against the said person is then pending in such court whether applications for the execution of such decrees had been made or not.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 17.

"30. (1) On the publication of a notification under section 28, the Collector of the district in which the property of the incapacitated person is situate, or the Collector of the district specified in such notification as the case may be, or any other Collector whom the Court of Wards may appoint in this behalf shall publish in the gazette of the district or districts in which such property may be situate, a notice in the English and in the vernacular languages calling upon all persons having pecuniary claims against the ward or his property to notify the same in writing to such Collector within six months from the date of such notification.

"(2) The notice shall also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct."

(3) The Local Government may at any stage of the Proceedings under sections 30—35 inclusive invest any person with the powers of a Collector for any or all of the purposes of these sections.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 18.

"31. (1) Every claimant shall together with his statement of claims, present full particulars thereof.

"(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Collector with the statement of claim.

"(3) Every such document shall be accompanied by a true copy of the same. The Collector shall mark the original document for the purpose of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 19.

"32. The Collector shall decide which claims, in whole or in part, are to be admitted and which are to be disallowed, and, on his decision being confirmed by the Court of Wards, shall give written notice of the same to the claimants.

"33. Every debt or liability to which the ward is subject, or with which his immoveable property or any part thereof is charged other than debts due, or liabilities incurred, to Government and which is not duly notified to the Collector within the time and in the manner hereinbefore mentioned, shall be extinguished.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 20.

"Provided that if the claimant can show that he was unable to comply with the provisions of sections 30 and 31, the Collector may admit his claim within a further period of six months from the date of the expiry of the aforesaid period of six months.

"34. If any document in the possession or under the control of the claimant is not produced by him as required by section 31, such document shall not be admissible in evidence against such ward in any suit brought by the claimant, or any person claiming under him.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 21.

"35. Nothing contained in section 32 shall be construed to prevent any claimant from suing in any court in respect of any claim which, within the time and in the manner hereinbefore prescribed, has been duly notified to the Collector.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 22.

"36. In the case of any specified incapacitated person who has become a ward under the Court of Wards, the Governor in Council may, with the previous sanction of the Governor-General in Council, declare by notification in the official gazette that execution of decrees ordering the sale of immoveable property of such ward, or in execution of which a Civil Court has ordered any such immoveable property to be sold, be transferred to the Collector and rescind any such notification.

Act XIV of 1882 (Civil Procedure Code), section 320.

"If such property be situate in more districts than one, the Governor in Council shall specify in the notification the district to the Collector of which the execution of the decrees is to be transferred under this section.

"The Governor in Council may also from time to time prescribe rules for the transmission of the decree from the Civil Court to the Collector, and for regulating the procedure of the Collector in executing the same, and for retransmitting the decree from the Collector to the Civil Court.

"In executing a decree transferred to the Collector under this section, the Collector shall be deemed to be acting judicially within the meaning of Act XVIII of 1850.

New section.

"37. When the Collector, to whom the execution of any decree has been transferred under section 36, is also the Collector who has to discharge the functions of a Collector under this Regulation in respect of the ward against whom such decree has to be executed, such Collector shall cease to discharge such functions from the date of such transfer, and the Governor in Council shall appoint some other officer to exercise such functions.

New section.

"38. The provisions of sections 321, 322, 322-A, 322 B, 322-C, 322-D, 323, 324, 324-A, 325, 325-A, 325-C, of the Code of Civil Procedure shall, as far as practicable, be applicable to the execution of decrees transferred to the Collector under section 36.

Act XX of 1896, section 19.
North-Western Provinces and Oudh Court of Wards Bill, 1896, section 44.
Act XVII of 1885, section 26.

"39. (1) At any time after a person, who on his own application has been declared as incapacitated by the Governor in Council, has become a ward under the Court of Wards, the Court of Wards may, with the previous sanction of the Governor in Council, by an order published in the official gazette, direct, that on a date fixed by such order he shall cease to be a ward under the Court of Wards, and the superintendence of his property by the Court of Wards shall be relinquished.

"(2) On the date so fixed,

"(*a*) the incapacitated person shall cease to be a ward, and the management of his property under the superintendence of the Court of Wards shall terminate,

"(*b*) the debts and liabilities extinguished by section 33 shall revive and any incumbrancer dispossessed under section 41 shall be replaced in possession.

"(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the superintendence of the Court of Wards has continued shall be excluded.

Act XV of 1896, section 29.

"40. When a person who, on his own application, has been declared as incapacitated by the Governor in Council, has

been restored to the possession of any property after his debts and liabilities have been paid and discharged, no mortgage, charge or lease or alienation of such property or of any part thereof which may thereafter be made or granted by such incapacitated person shall be valid as to any time beyond his natural life.

Act XX of 1896, section 21.

"41. (1) If the property under the superintendence of the Court of Wards or any part thereof is in the possession of a mortgagee or conditional vendee, or any person claiming under such mortgagee or conditional vendee, the Collector may, with the previous sanction of the Court of Wards by an order in writing, require such incumbrancer to deliver up possession of the same to the Manager at the end of the then current revenue year.

"(2) If such incumbrancer refuses or neglects to obey such order, the Manager may, without resorting to a Civil Court, enter upon the property, and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

"(3) Nothing in this section shall be held to affect the liability of the property to sale for the realisation of the amount due to the incumbrancer.

Act XX of 1896, section 22.

"42. If the property under the superintendence of the Court of Wards or any part thereof is in the possession of any person claiming to hold under a lease dated within the 3 years immediately preceding the commencement of the superintendence, the Collector may, with the previous sanction of the Court of Wards, enquire into the sufficiency of the consideration for which the lease was granted; and if such consideration appears to him insufficient he may by written order either set aside the lease or require the person in possession to pay such consideration for the said lease as the Collector thinks fit and in default of such payment the lease shall be cancelled."

STATEMENT OF OBJECTS AND REASONS.

The absence of a law in this Presidency under which it would be competent to a responsible public authority to assume the management of estates, the proprietors of which are not disqualified under the Court of Wards Regulation, has been felt for some years. Instances are not wanting in which certain ancient and extensive zamindaris have become heavily encumbered, owing either to the improvidence of their present proprietors or to the improvidence of their predecessors. In such cases the proprietors themselves feeling their incompetency to manage their estates with any reasonable prospect of discharging their debts and preserving their ancient patrimony, or a substantial portion thereof, are often anxious to transfer the management of the zamindaris to some public authority under the sanction of Government. In the case of certain ancient families and zamindaris, it would under such circumstances be distinctly expedient in the public interests that the estates should be managed by some public authority. It has been deemed inexpedient to attain this object in this Presidency by enacting a law on the drastic lines of the Incumbered Estates Acts which are in force in some other provinces. It is considered that the requirements of this province can be sufficiently met by enlarging the scope of the Court of Wards Regulation and bringing within its purview persons as to whom the Governor in Council has declared, on their own application, that they are incapacitated, and that it is expedient in the public interests that their estates should be managed by the Court of Wards. Such a provision finds a place in the Court of Wards Regulations in force in the Central Provinces and in Bengal, and has been proposed in the North-West Provinces and Oudh Court of Wards Bill. Following these precedents, it is proposed to amend the Court of Wards Regulation in this Province in so far as it is necessary to carry out the above object. In order, however, to carry out this object effectually, it is found necessary that the provisions of the Bill should proceed beyond the corresponding provisions contained in the North-West Provinces and Oudh Court of Wards Bill, the Bengal Court of Wards Act (Bengal Act IX of 1879 as amended by India Act IV of 1892) and the Central Provinces Government Wards Act XVII of 1885. Several of the provisions contained in the Bill, such as those proposed in new section 5-A and new section 40, which do not exist in the Court of Wards Regulations in force in the other Provinces, have been approved by the Government of India as being appropriate in a Court of Wards Regulation.

2. The provisions contained in the North-West Provinces and Oudh Court of Wards Bill compelling creditors to register their claims before the Collector, and to produce before that officer all documents in their possession in support of their claim, are incorporated in the Bill. But a new section, No. 29, is also added in view to the Collectors getting reliable information as to the extent of debts due under decrees which are in course of execution, and of debts which are claimed in pending suits.

3. Provisions corresponding to new sections 36, 37 and 38 do not find a place in any of the other Court of Wards Regulations. They are, however, on the lines of sections 320 to 325-C of the Code of Civil Procedure. They provide for the transfer to the Collector of execution of decrees passed by Civil Courts which are sought to be executed against an incapacitated proprietor by sale of his immoveable property, or any portion thereof. Unlike Incumbered Estates Acts, the Bill in no way affects the jurisdiction of Civil Courts to adjudicate upon all claims against the incapacitated proprietor or his estate, provided such claims have been registered before the Collector; but following the principle recognised by the Legislature in the Code of Civil Procedure that the Local Government may, with the sanction of the Governor-General in Council, transfer in any local area to the Collector the execution of decrees passed by Civil Courts in cases in which such decrees are sought to be enforced by the sale of any immoveable property, it is proposed in the new section 36 that the Governor in Council may, with the previous sanction of the Governor-General in Council, transfer to the Collector the execution of decrees which have been or may be passed against a particular incapacitated proprietor.

4. New section 38 extends sections 321, 322, 322-A, 322-B, 322-C, 322-D, 323, 324, 324-A, 325, 325-A and 325-C of the Civil Procedure Code to the execution of the decrees passed against a particular incapacitated proprietor which have been transferred to the Collector. As the Collector, in executing such decrees, will be acting in a judicial or *quasi*-judicial capacity, he should be relieved of his position as the Agent of the Court of Wards representing the interests of the particular incapacitated person against whom such decrees have to be executed. New section 37 is accordingly inserted, empowering the Local Government to appoint some other officer in the district as the Agent of the Court of Wards in relation to the particular ward.

5. New section 39 empowers the Court of Wards, with the previous sanction of Government, to withdraw at any time from the management of the estate of a proprietor who has been declared incapacitated on his own application.

6. New section 41, which is intended to enable the Court of Wards to bring under the direct management of its officers, properties which are in the possession of mortgagees, is on the lines of the Incumbered Estates Acts, with this material difference, viz., that under the Incumbered Estates Acts the mortgagee will be entitled only to the amount awarded to him under the liquidation scheme, whereas under this section he will be at liberty to enforce the payment of the full amount due to him by sale of the property mortgaged. In the absence of such a section and of the sections relating to transfer of execution of decrees to the Collector, no substantial relief will be given to indebted proprietors in this Presidency as to whom the Governor in Council is likely to declare, on their own application, that they are incapacitated, and that it is expedient in the public interests that their property should be managed by the Court of Wards.

7. New section 42, which follows section 22 of the Sindh Incumbered Estates Act, empowers the Court of Wards to inquire into the sufficiency of the consideration for leases granted within three years preceding the commencement of the superintendence and in the event of his being satisfied of the insufficiency of the consideration either to cancel them or to require the payment of an adequate consideration.

8. The provisions of the Bill relating to registration of claims by creditors, the transfer to the Collector of execution of decrees passed by Civil Courts against an incapacitated proprietor will be applicable not only to persons now proposed to be brought under the purview of the Court of Wards Regulation, but also to the disqualified proprietors already under the jurisdiction of the Court of Wards.

Government of Fort St. George.

LEGISLATIVE DEPARTMENT.

A

BILL

TO

Amend Madras Regulation V of 1804.

(Introduced March 1898.)

1898.

DEPARTMENT OF REVENUE AND AGRICULTURE.

From

The Government of Fort St. George.

Recd. } 1898. *Enclosures*

Regd. } *Spare copies*

Letter, No. 199, 5th April 1898.

APRIL.

FORWARDING, for sanction, a draft Bill (with Statement of Objects and Reason.) to amend the Madras Court of Wards Regulation V of 1804.

REVENUE DEPARTMENT.

From

The Hon'ble Mr. G. S. FORBES, I.C.S.,
Acting Secretary to the Government of Madras,

To

The SECRETARY to the GOVERNMENT of INDIA,
Department of Revenue and Agriculture,

Dated Fort St. George, 5th April 1898.

Sir,

Miscellaneous.

Adverting to the correspondence ending with Mr. Denzil Ibbetson's letter No. 1229/193-2, dated 4th June 1897, I am directed to submit, for the sanction of His Excellency the Governor-General in Council, under section 5 of the Indian Councils Act, 1892, the accompanying draft of a Bill for amending the Madras Court of Wards Regulation V of 1804. A Statement of Objects and Reasons is appended to the draft Bill.

2. His Excellency the Governor in Council intended in the first instance to embody the provisions of this Bill in the larger Bill for amending and consolidating the law on the subject in this Presidency which is now under consideration and which is referred to in paragraph 3 of the letter quoted above. But the amending and consolidating Bill contains so many contentious points besides numerous alterations and amendments that its early passage through the legislature cannot be anticipated. In the meanwhile, the necessity for affording relief to encumbered proprietors in this Presidency is becoming urgent, and His Excellency the Governor in Council is anxious that the Bill, of which a copy is now transmitted, should be passed into law with the least practicable delay.

3. The nature and the necessity of the various provisions of the Bill are fully explained in the Statement of Objects and Reasons. It will be seen that the Bill occupies an intermediate position between the Court of Wards Regulations and the several Incumbered Estates Acts. Its distinguishing features are—

(*a*) the insertion of a section (section 29) requiring the civil courts to furnish to the Collector all needful information as to the extent of debts due under decrees which are in course of execution and of debts which are claimed in pending suits;

(*b*) the addition of provisions (sections 36, 37, and 38) on the lines of sections 320—325 (*c*) of the Code of Civil Procedure enabling the Governor in Council, with the previous sanction of the Governor-General in Council, to transfer to the Collector the execution of decrees passed by civil courts against an incapacitated proprietor when such decrees are sought to be executed by the sale of his immoveable property or any portion thereof;

(*c*) the insertion of a new provision (section 41) enabling the Court of Wards to bring under direct management property which may be in the possession of a mortgagee; and

(*d*) the insertion of a new provision (section 42) following section 22 of the Sindh Incumbered Estates Act XX of 1896, and empowering the Court of Wards to direct inquiry into the sufficiency of the consideration of recent leases, and either to cancel them or to require the payment of an adequate consideration.

4. To some extent the provision last mentioned goes beyond the scheme of the Bill, which contemplates that liabilities and rights shall be determined in the ordinary way by the established legal tribunals, but the Government believes that the provision will be of great value and will not really prejudice the first claims of any parties interested in the estate even in the event of the relinquishment of the estate during the currency of the leases.

5. With regard to new section 41, it is so far on the lines of the Incumbered Estates Acts, but there is this difference that while, under the latter, the mortgagee will be entitled only to the amount awarded to him under the *liquidation scheme* prescribed by those Acts, he will, under the provisions of this Bill, be able to enforce the payment of the *full* amount due to him, by the sale of the property mortgaged. The effect of the provision is to empower the Court of Wards to convert a usufructuary mortgage into a simple mortgage or hypothecation, the interest being the same as that which would accrue to the mortgagee under the mortgage deed. His Excellency the Governor in Council is of opinion that in the absence of this section and of the sections relating to the transfer of execution of decrees to the Collector, no substantial relief can be afforded to indebted proprietors in this Presidency. I am accordingly directed to express the hope that His Excellency the Governor-General in Council will see fit to accord his sanction to the retention of these provisions in the Bill.

I have honour to be,
Sir,
Your most obedient servant,

(Signed) G. S. FORBES,
Ag. Secretary to Government.

Ext. S. A., S. Raghaviengar.

34 Copies.

No. OF 1898.

A

BILL

TO

Amend Madras Regulation V of 1804.

WHEREAS it is expedient further to amend Madras Regulation V of 1804; It is hereby enacted as follows:—

1. This Act shall be read with and taken as part of the Regulation aforesaid.

Section 2, Regulation V of 1804.

2. (1) In section 2 of the said Regulation, after the words "from administering their affairs," the following shall be added, namely, "or belonging to persons as to whom the Governor in Council has declared on their own application that they are incapacitated, and that it is expedient in the public interests that their property should be managed by the Court of Wards."

Act IV of 1892, section 3.

Section 2, Regulation V of 1804.

(2) In the first proviso to section 2 of the said Regulation between the words "shall not" and "proceed," insert the following, namely, "in the case of persons incapacitated by minority, sex or natural infirmity," and in the same proviso, for the words "the persons or the property of incapacitated persons," substitute the words "such persons or their property."

3. After section 5 of the said Regulation, the following section shall be inserted:—

Act XVII of 1885, section 23 (1).
Act XX of 1896, section 9 (3).
Act IV of 1892, section 13 (60-A).

"5-A. No person whose property is under the superintendence of the Court of Wards shall, while such superintendence lasts, be competent without the sanction in writing of the Court of Wards—

"(*a*) to enter into any contract involving him in pecuniary liability;

"(*b*) to mortgage, charge, lease or alienate the property under management, or any part thereof, or enter into any agreement to do so; or

"(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom."

4. In section 15 of the said Regulation, the words "incapacitated persons" shall be substituted for the word "minors."

Regulation V of 1804, section 15.

5. In the first clause of section 19 of the said Regulation, between the words "managers" and "to" insert the following, namely, "and in the case of persons incapacitated by minority or natural infirmity also."

Regulation V of 1804, section 19.

6. For the first clause of section 23 of the said Regulation, substitute the following:—

Regulation V of 1804, section 23.

"*First.*—In every suit or other civil proceeding by or against an incapacitated person which is pending at the date of the notification published under section 28 in respect of such person, or which may be commenced thereafter, the manager of his property appointed under this Regulation, or the Collector shall, in such suit or proceeding, be joined as next friend or guardian *ad litem* as the case may be."

7. After section 27 of the said Regulation, insert the following sections:—

North-Western Provinces and Oudh Court of Wards Bill, 1896, sections 14 and 15.

"28. Whenever the Court of Wards assumes under this Regulation the superintendence of the property of an incapacitated person, the fact of such assumption shall be notified in the *Fort St. George Gazette*, and also in the gazette of the district in which such property or any portion thereof is situate; and on the publication of such notification, the incapacitated person shall be deemed to have become a ward under the Court of Wards, and the whole of the moveable and immoveable property belonging to such person shall be deemed to have come under the superintendence of the Court of Wards.

"If the property of an incapacitated person is situate in more districts than one, the notification shall also specify the district the Collector of which shall in respect of such person and property discharge the duties imposed upon a Collector by this Regulation.

"29. On the publication of a notification under section 28, every Civil Court in which any suit against the incapacitated person for the recovery of money is pending, shall within one month from the date of such notification, forward a copy of the plaint to the Collector of the district in which the property of the incapacitated person is situate, or to the

New section.

Collector specified in such notification as the case may be, and shall also within the said period furnish the Collector with a statement showing approximately the amounts, if any, due under decrees, the execution of which against the said person is then pending in such court whether applications for the execution of such decrees had been made or not.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 17.

"30. (1) On the publication of a notification under section 28, the Collector of the district in which the property of the incapacitated person is situate, or the Collector of the district specified in such notification as the case may be, or any other Collector whom the Court of Wards may appoint in this behalf shall publish in the gazette of the district or districts in which such property may be situate, a notice in the English and in the vernacular languages calling upon all persons having pecuniary claims against the ward or his property to notify the same in writing to such Collector within six months from the date of such notification.

"(2) The notice shall also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct."

(3) The Local Government may at any stage of the Proceedings under sections 30—35 inclusive invest any person with the powers of a Collector for any or all of the purposes of these sections.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 18.

"31. (1) Every claimant shall together with his statement of claims, present full particulars thereof.

"(2) Every document (including entries in books of account) on which the claimant founds his claim, or on which he relies in support thereof, shall be produced before the Collector with the statement of claim.

"(3) Every such document shall be accompanied by a true copy of the same. The Collector shall mark the original document for the purpose of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 19.

"32. The Collector shall decide which claims, in whole or in part, are to be admitted and which are to be disallowed, and, on his decision being confirmed by the Court of Wards, shall give written notice of the same to the claimants.

"33. Every debt or liability to which the ward is subject, or with which his immoveable property or any part thereof is charged other than debts due, or liabilities incurred, to Government and which is not duly notified to the Collector within the time and in the manner hereinbefore mentioned, shall be extinguished.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 20.

"Provided that if the claimant can show that he was unable to comply with the provisions of sections 30 and 31, the Collector may admit his claim within a further period of six months from the date of the expiry of the aforesaid period of six months.

"34. If any document in the possession or under the control of the claimant is not produced by him as required by section 31, such document shall not be admissible in evidence against such ward in any suit brought by the claimant, or any person claiming under him.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 21.

"35. Nothing contained in section 32 shall be construed to prevent any claimant from suing in any court in respect of any claim which, within the time and in the manner hereinbefore prescribed, has been duly notified to the Collector.

North-Western Provinces and Oudh Court of Wards Bill, 1896, section 22.

"36. In the case of any specified incapacitated person who has become a ward under the Court of Wards, the Governor in Council may, with the previous sanction of the Governor-General in Council, declare by notification in the official gazette that execution of decrees ordering the sale of immoveable property of such ward, or in execution of which a Civil Court has ordered any such immoveable property to be sold, be transferred to the Collector and rescind any such notification.

Act XIV of 1882 (Civil Procedure Code), section 320.

"If such property be situate in more districts than one, the Governor in Council shall specify in the notification the district to the Collector of which the execution of the decrees is to be transferred under this section.

"The Governor in Council may also from time to time prescribe rules for the transmission of the decree from the Civil Court to the Collector, and for regulating the procedure of the Collector in executing the same, and for retransmitting the decree from the Collector to the Civil Court.

"In executing a decree transferred to the Collector under this section, the

Collector shall be deemed to be acting judicially within the meaning of Act XVIII of 1850.

New section.

"37. When the Collector, to whom the execution of any decree has been transferred under section 36, is also the Collector who has to discharge the functions of a Collector under this Regulation in respect of the ward against whom such decree has to be executed, such Collector shall cease to discharge such functions from the date of such transfer, and the Governor in Council shall appoint some other officer to exercise such functions.

New section.

"38. The provisions of sections 321, 322, 322-A, 322 B, 322-C, 322-D, 323, 324, 324-A, 325, 325-A, 325-C, of the Code of Civil Procedure shall, as far as practicable, be applicable to the execution of decrees transferred to the Collector under section 36.

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"(2) On the date so fixed,

"(*a*) the incapacitated person shall cease to be a ward, and the management of his property under the superintendence of the Court of Wards shall terminate,

"(*b*) the debts and liabilities extinguished by section 33 shall revive and any incumbrancer dispossessed under section 41 shall be replaced in possession.

"(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the superintendence of the Court of Wards has continued shall be excluded.

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been restored to the possession of any property after his debts and liabilities have been paid and discharged, no mortgage, charge or lease or alienation of such property or of any part thereof which may thereafter be made or granted by such incapacitated person shall be valid as to any time beyond his natural life.

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4. New section 38 extends sections 321, 322, 322-A, 322-B, 322-C, 322-D, 323, 324, 324-A, 325, 325-A and 325-C of the Civil Procedure Code to the execution of the decrees passed against a particular incapacitated proprietor which have been transferred to the Collector. As the Collector, in executing such decrees, will be acting in a judicial or *quasi*-judicial capacity, he should be relieved of his position as the Agent of the Court of Wards representing the interests of the particular incapacitated person against whom such decrees have to be executed. New section 37 is accordingly inserted, empowering the Local Government to appoint some other officer in the district as the Agent of the Court of Wards in relation to the particular ward.

5. New section 39 empowers the Court of Wards, with the previous sanction of Government, to withdraw at any time from the management of the estate of a proprietor who has been declared incapacitated on his own application.

6. New section 41, which is intended to enable the Court of Wards to bring under the direct management of its officers, properties which are in the possession of mortgagees, is on the lines of the Incumbered Estates Acts, with this material difference, viz., that under the Incumbered Estates Acts the mortgagee will be entitled only to the amount awarded to him under the liquidation scheme, whereas under this section he will be at liberty to enforce the payment of the full amount due to him by sale of the property mortgaged. In the absence of such a section and of the sections relating to transfer of execution of decrees to the Collector, no substantial relief will be given to indebted proprietors in this Presidency as to whom the Governor in Council is likely to declare, on their own application, that they are incapacitated, and that it is expedient in the public interests that their property should be managed by the Court of Wards.

7. New section 42, which follows section 22 of the Sindh Incumbered Estates Act, empowers the Court of Wards to inquire into the sufficiency of the consideration for leases granted within three years preceding the commencement of the superintendence and in the event of his being satisfied of the insufficiency of the consideration either to cancel them or to require the payment of an adequate consideration.

8. The provisions of the Bill relating to registration of claims by creditors, the transfer to the Collector of execution of decrees passed by Civil Courts against an incapacitated proprietor will be applicable not only to persons now proposed to be brought under the purview of the Court of Wards Regulation, but also to the disqualified proprietors already under the jurisdiction of the Court of Wards.

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

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BILL

TO

Amend Madras Regulation V of 1804.

(Introduced March 1898.)

O
12 4,000-12-10-98.

Revenue (189) Department.

CURRENT No. 803-

Telegram.
From
The Govt. of India.

Order

No.

File this with R.D. 13 Legve 1899

Dated 31/1
Received 1/2
Registered 1/2
Enclosures
Spare copies.

SUBJECT.

Informing that Circulars relating to the Court of Wards Bill have not been published yet & that such publication might be inconvenience other Govts & stating that in the absence of special reasons Govt. of India prefer not publishing them.

Key 1/2/99

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Code Class. D.S. INDIAN TELEGRAPHS. 7637 Monthly Number.

To (Office) Madras From (Office) Calcutta.

Words 34/7 Day 31. Hour. 14 Minute. 15 Official Instructions Dfd.

To (Person) Revenue Madras. From (Person) Revenue.

260 your telegram of the 28th instant court of wards bill. Circulars not yet published publication might inconvenience other governments. In absence of special reasons india prefer not.

64 Word Form.

F.C 2.

Government of Madras ... Department 99

MADRAS 31-1-99

Recd. from I.N Sent to I.N.

At Hrs. Mts. by At Hrs. Mts. by Telegraph Master.

G C P-O No. 192 T-10 9 97-

Revenue Department

To the Under Secretary.

There seems to be no objection to the publication of the Bill as it stands.

The Legislative Deptt desires to be furnished with a list of the papers that can be furnished to the Members of the Legislative Council in connexion with the Bill. The papers connected with the subject are:-

(1) G.O. Nos 645-646 d/ 24-9-95

(2) G.O. Nos 479-480 d/ 21-9-96.

(3) G.O. No 4788 d/ 25-11-96.

(4) G.O. Nos 312-313 d/ 11-5-97

(5) G.O. No 3065 d/ 16-6-97

(6) B.P. No 249 d/ 21-7-97.

(7) G.O. No 23 d/ 11-1-98.

(8) Letter to the Govt. of India No 199 d/ 5-4-98

(9) Letter from the Govt. of India No 1763-1332 d/ 26-8-98

(10) G.O. No 707 d/ 23-11-98.

(11) G.O. No 67 d/ 24-1-99-

Items 2 to 5 relate to the Karvetnagar Zamindari and are confidential - The other papers may it is submitted be furnished to the Members of the Legislative Council.

no

C.R.
27/1/99.

Secy

There seems no need to communicate item (1) G.O. 645-6 d 24-9-95 but items (6) to (11) inclusive may go.
27-1-99

Telegraph to Govt of India R & A

"Is there any objection to three your letters 24 Ap 97 circular 6-174 & same date 894-174 being made public in connection with Bill amending Court of Wards Regulation approved in your 1763 dated 26 Augt. 98"

10 May 95 Circ. no. 9-174

Telegram despatched [illegible] 28.1.99.

G.R.
28/1/9

Secy

India has not yet replied. The draft order proposed by Legislation below need not however be delayed on this account as it is desirable that the Bill shd be published soon. Legislation will be informed of India's reply when that is received.

[illegible]
30/1/99

Yes: return meantime to Leg. for publication of Bill

[illegible] 30/1/99

D/2 1,000—7-9-93.

REVENUE DEPARTMENT.

Current No. 803

Telegram From the Govt. of India.

No 260 Dated 31st Jany 1899.

FOR ORDERS.

	The Govt. of India was asked whether there is any objection to making public ~~[illegible]~~
in G O 645 d/ 24.9.95. H O	circ. no 9-174-1 d/ 10th May '95
in B.P 249 d/ 21-7.97. H P	circ no 6-174-20 d/ 24. April 97,
— — do — — H Q	letter no 894-174-21 d/ 24. April 97
	in connection with the Bill amending the Court of Wards Regulation. The Govt. of India now replies that the circulars were not yet published, and that the publication might inconvenience other Governments. "In the absence of special reasons," India would prefer them not published.
	The papers, that may ~~[illegible]~~ be furnished to the Members of the Legislative Council are

are ~~shown~~ [illegible] below*. Submitted that the Legislative Dept may be informed accordingly.

*(1) G.O. No 23 d/11-1-98
(2) Letter to the Govt of India No 199 / 5-4-98
(3) Letter from the G. of I. No 1763-133-2 d/26-8-98
(4) G.O. No 707 d/23-11-98
~~(5) G.O. 67 d/24-1-99~~

V.K.m. 1-2-99

[signature] 1/2/99.

[signature] 2/2/99

[signature] 2/2/9

~~[illegible]~~ Not [illegible] at present

Please see the list of papers below.

[signature] 2/2/99.

Yes return file ~~dept~~ now

[signature] 3/2/99

These notes may now be returned to the Revenue Department

To Revenue Dept U.O.

FOR ORDERS.

Papers relating to the Court of Wards Bill

From N. W. P. to India No 829 d 22-4-98
From India to N. W. P. & Oudh No 1115 d 9-6-98
From N.W.P. to India No 1952 d 13-7-98
Extract para 3 of letter from N.W.P. to India No 3545 d 11-12-97.
Central Provinces to India No 4763 d 3-11-97.
Fr India to Central Provinces 1631-347-2 d 19-8-98.
From India to Madras 1763-133-2 d 26-8-98.
G.O. 67. Rev d 24-1-99.
" 707 " 23-11-98.
" 199 " 5-4-98.
" 23 " 11-1-98
Board's Procs 249 (L.R.) d 21-7-97.
G.O. 646 Rev d 24-9-95.
" 645 " 24-9-95
" 3065 " 16-6-97.
" 312-13 " 11-5-97
" 4788 " 25-11-96
" 479-80 d 21-9-96

(the last five) Confidential.

Legve Dept

Will the Revenue department kindly furnish a list of the papers that can be furnished to the members of the Legislative Council in connection with the Bill to amend the Court of Wards Regulation V of 1804 forwarded with G.O. No 67 Revenue dated 24 January 1899.

[signature] 27/1/99.

The Revenue Dept. U.O.

CRO 26/1/99. [initials] 26/1/99

Revenue Department

The following papers may be furnished:—

(1) G.O. No 23 d/11-1-98
(2) Letter to the Govt of India No 199 / 5-4
(3) Letter from the G. of I. No 1763-133 d/26-8-98.
(4) G.O. No 707 d/23-11-98

[signature] 3/2/99

To the Legislative Dept U.O.

P.T.O.

Recd 4/2/99. [signature] 2/2/99.

Note for a.s.

The papers referred to by the Revenue Department will be printed as papers (1) to (6) relating to the Bill in question & furnished to members along with copies of the Bill & Statement of Objects & Reasons.

4/2/99

[E. 3]
250—11-1-99.

Legl Department.

C. No.....

SUBJECT.

Papers to be furnished to members of the Legislative Council in regard to the Court of Wards Bill

FOR ORDERS.

Hg A.

Please see copy of letter from the Government of India No. 1763-133-2 dy 26 August 1898 obtained from the Revenue Department.

A list of enclosures is appended to the letter, & those enclosures are referred to in paras 8 & 9 of the letter.

Orders are solicited as to whether the letter may be furnished to members of the Legislative Council as it is, or whether the list & references quoted above should be expunged & asterisks put in instead & enclosures have not been furnished by the Revenue Depart & their circulation among the members may be considered open to objection

4/2/99 6/2/99

To Rev. for remarks.
HT
6-2-99

To the Revenue Dept. (2)

a. No A t

Revenue Depart

Leg. Dept. No. Ref d/6.2.

fl. A

To the Under Secretary

With its letter no 1763—133-2 d/ 26th Aug. 98, the Govt. of India forwarded to this Govt. copies of the correspondence noted below between that Govt and the Govt of the N. W. P. and Oudh, and the Chief Commr. for Central Provinces on the subject of the amendment of the Court of Wards Acts in force in those Provinces.

1. Letter from the Govt of N. W. P. and Oudh No $\frac{829}{22.4.98}$ & enclosures.

2. Letter to the Govt. of N. W. P & Oudh. No $\frac{1115}{9.6.98}$

3. Letter from the Govt. of the N. W. P and Oudh No $\frac{1952}{13.7.98}$ and enclosures

4. Letter to the Govt of N W P & Oudh No $\frac{1217}{19.8.98}$

5. Extract para 3 from letter from the Govt of N W P & Oudh No $\frac{3545}{11-12-97}$

6. Letter from Chief Commr. for Central Provs: No $\frac{4763}{3-11-97}$ & encls

7. Letter to Chief Commr. for Central Provs. No $\frac{1631}{15-8-98}$ & encl. (Bill)

Please see file of spare copies submitted.

3 Spare copies of & the revised bill (enclosure to this) are not available.

4 & 5 spare copies not available.

The copies available are stitched with No $\frac{1107}{23-11-98}$, which is put up for another current.

a. N.
The papers are referred to in paras 8 & 9 of the letter No 1763–133–2 / 26-8-98, which it has been ~~proposed~~ to communicate to the Members of the Leg. Council in connection with the Court of Wards Bill. The Leg. Dept. now wants to know whether the letter may be furnished to the Members as it is, i.e. with the references, or whether the list and references should be expunged and asterisks put in instead.

The correspondence, as above stated, was conducted between the Govt of India and the other local Govts. and the G. of I has recently said in answer to an enquiry about certain other papers, that their publication would probably "inconvenience other Govts." The same reason would, it is thought, hold good in the present case; submits

therefore

Tel. d/31-1-99. (C.No 803 / 7-99)

therefore that neither enclosures nor the letter with the references therein need be furnished to the Members. The suggestion of the Leg. Dept that the list and references should be expunged and asterisks put in in their places may be approved.

Secy
[signature]
7/2/99

[initials]
7/2/99

Inquiring the letter of 26 Augt 98 the "list of enclosures" may be omitted & I wd leave out the last sentence of para 8 – "In this connection &c"
But I wd retain the reference in para 9 & give a copy of the enclosure (extract para. 3 of N.W.P letter) which is a detached enclosure or of an extract.
[signature] 8/2/99

Leg Dept No

Sent / at
10/2/99

P.T.O.

A.S.
Please act accd.
[initials]
10 2 99.

R. 9-2-99.

Read again G.O.
189 .

a the

Order No. 17 d/18.2.99
mis The papers ~~mentioned~~ specified by the Revenue Dept will now be furnished to the members of the Legislative Council.

AT
17 2 99.

furnished
18/2/99.

AS

To The Revenue Dept - (P of notes + O) Please check with copies of papers ~~there~~ before issue

ade
17/2/99

Fd
14/2/99

Despatched
22.2.99.

checked
ade.
cop.

808
(79)

When given for copying 18/2
When copied
When examined 21/2
When signed
} 189 .

Read again G.O., No 189 . Dated

Current No.

Enclosures to C. No.

Order of Government. .. .. .. A A A A A A A

Letter of Government.

Statement with ditto

Papers not filed up, being meant for despatch in original.

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