No. 186. Read the following Proceedings of the Board of Revenue, dated 30th September 1873, No. 1,975 :—

Read the following letter from the Hon. D. ARBUTHNOTT, Collector of Tanjore, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated Combaconum, 9th September 1873, No. 328 :—

FROM the Proceedings of the High Court, appended to the Registrar's letter to the District Judge of South Tanjore, dated 16th ultimo, No. 1,513, and of which a copy has been transmitted to them, the Board will have observed that, in the opinion of the Chief Justice, the duty of the Court of Wards, with respect to taking charge of the estates of disqualified heirs, can only be avoided by an express order of Government in each case.

2. With reference, therefore, to the order of Government, dated 22nd May 1871, which gives Collectors, subject to certain reservations, a general discretional authority to abstain from reporting, I have the honour to request instructions as to whether, in consequence of these Proceedings of the High Court, it becomes necessary that in the case of every ryotwary holding, however small, of which the inheritance devolves on disqualified heirs, a report should be made to the Court of Wards in view to its being laid before Government.

3. The present number of such holdings in seven out of the nine taluqs of the district, from which alone returns have been yet received (estates under the management of the Court of Wards being, of course, excepted) is 510; and if it is merely to elicit an order from Government in each case that the Court of Wards need not interfere, the end to be gained is obviously not worth the labour involved in going through the process.

4. On the whole, it appears to me that, if these Proceedings of the High Court are to be regarded as conveying an authoritative enunciation of the existing law on the subject, it is high time to modify the law, and to define in unmistakable terms the relative duties of the ordinary Courts of law and the Court of Wards in this respect.

5. I enclose, for the Board's information, a copy of the letter* which my predecessor addressed to both the District Judges of South and North Tanjore, and which led to the reference made by the Judge of South Tanjore to the High Court.

* Dated 17th March 1873.

ENCLOSURE No. 1.

From W. M. CADELL, Esq., Collector of Tanjore, to the District Judge of South Tanjore, dated 17th March 1873, No. 267.

UNDER Section 20, Regulation V. of 1804, as extended by Section 3, Regulation X. of 1831, I have the honour to forward herewith a list of landed proprietors in the four taluqs of Tanjore Zillah, of which the inheritance has devolved on incapacitated heirs.

2. The total number of such properties, you will observe, is no less than 449, and the circumstances under which it has been found necessary to place this long list before you are these—

In the month of June 1871, the then Acting Head Assistant Collector Mr. Bird brought to my notice the doubtful legality of Revenue Proceedings which recognized private guardians for minor heirs to ryotwary holdings who, under Section 4 of the Regulation above quoted, were not competent to take charge of, or to administer their own affairs during the period of their minority, and pointed out that where the Court of Wards had not chosen to take such properties under their charge, it was necessary that guardians and managers should be appointed by the Civil Court, under Section 20 of the said Regulation, in order that they might be held legally responsible for the administration of the affairs of minor heirs.

3. I at once saw that this view of the state of the law was correct, and that the enactment quoted at the head of this letter rendered it incumbent on the Collector to report to the Civil Court all cases of the above description in which the deceased proprietors had not themselves nominated guardians to their heirs. I accordingly called for complete lists of all cases in which heirs to landed properties were disqualified by minority or other causes, and directed that, in future, each such case as it arose be specially reported.

4. In pursuance of this Circular, lists of unwieldy dimensions in which, upon the erroneous assumption that the being of the female sex necessarily constitutes a disqualification, all cases of female heirs have been included, have, in the course of the last twelve months, been received from the four taluqs comprising the Tanjore Zillah. I have, however, excluded cases of the description last given, and confining myself to those only in which the heirs are disqualified by minority, as also to a few isolated ones of insanity, have had the accompanying list made out. I beg to request that should you agree with me in thinking that the appointment by the District Court of a guardian in each of these cases is a proceeding enjoined by law, and therefore unavoidable, you will take the necessary steps towards that end. It is, of course, out of the question that the Court of Wards would undertake the management of all or any of these numerous small properties.

5. Considering the extent to which, under the Hindu law of partition, sub-division of landed property is carried on in this country, the course of procedure above indicated with regard to every separate holding, however minute, of which the inheritance devolves on a minor heir, must doubtless be attended with much inconvenience; but, so far as I can see, the law as it now stands leaves no alternative. On this point, I would beg also to call your attention to the Proceedings of the late Sadr Court, dated 30th April 1853.

6. It was perhaps not the intention of the legislature in framing Regulation V. of 1804 to impose upon the Courts of law the task of providing for the administration of a mass of petty ryotwary holdings; but the wording of Section 20 and of the subsequent enactment by which its scope has been enlarged, seems to admit of but one construction.

(True Copy.)

(Signed) D. ARBUTHNOTT,
Collector.

THE letter of the Collector of Tanjore is submitted for the information of Government, with reference to G. O., dated 4th March 1873, No. 254.

Proceedings of the Madras Government, Revenue Department, 22nd October 1873.

No. 187. ORDER THEREON, 22nd October 1873, No. 1,142.

Miscellaneous.

COMMUNICATED to the Legislative Department, with reference to the Proceedings quoted by the Board of Revenue.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Legislative Department.
,, the Board of Revenue.

Exd. F. R. Bantleman.

Pro: Board of Revenue

Modification of the law relating to Registered Estates devolving on incapacitated proprietors.

30 Sept 73. N° 1575

N° 1142.

C.d to the Legislative Dept with reference to the Prop: quoted by the Board of Revenue

22 Oct 73

Dft

5 To the Legislative Dept 14 - 15 of Revenue — dtd 29 Oct/73.

L O

Request of the pet. & Lan[illegible]
that the Law relating to Life Ten-
ancy Estates devising no more
frivolous pretences should be
made -

How Wm Dun
&c

c. 17 Oct 73 R 22 Oct