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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

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Revenue (18) Department.

MISCELLAN OUS SERIES.

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G.O., No 1607.

DATED 7-7-75

[Despatch Abstract.]

To

THE HONORABLE THE COUNCIL OF THE
GOVERNOR OF FORT ST. GEORGE,
FOR MA[illegible]G LAWS AND REGULATIONS.

WE, the Committee appointed to report on the Bill "to amend and consolidate the law relating to the Court of Wards," beg to report that we have considered the Bill, in connection with the various suggestions offered by the Court of Wards, and now submit our recommendations, embodied in an amended measure.

2. We have thought it desirable to make considerable changes in the language and arrangement of the Bill. The principal of these is that a clear distinction is drawn between those parts of the Bill, I.—VII., which deal with the Court of Wards and persons subject to its jurisdiction, and the Part, VIII., which deals with cases of persons disqualified by minority, sex, or mental infirmity, from the management of their estates, but who, from the nature of their estates, do not fall within the jurisdiction of the Court. As the law at present stands, the latter class of persons is provided for in Section 20 of Regulation V. of 1804, as extended by Section 3 of Regulation X. of 1831; the arrangements provided in respect of both classes are intermingled in the same enactment in a manner calculated to produce confusion and mistake; and there is some difficulty in ascertaining, with precision, as well the class of cases intended to be included, as the course of procedure to be followed by the Civil Court in cases not within the jurisdiction of the Court of Wards. The Bill, as amended, will, we think, put this part of the law in a clearer and more intelligible light. We have, in Part VIII., borrowed largely from Act XL. of 1858 (*An Act for making better provision for the care of the persons and property of minors in the Presidency of Bengal*), which regulate the subject in Bengal. The provisions of that Act, which we recommend for adoption in the present Bill, have the effect of defining with exactness the duties, rights, and liabilities of a guardian appointed by a Civil Court for a disqualified person, and of authorizing the payment to him of a debt due to the minor's estate as a sufficient discharge. They assign the control and superintendence of the proceedings of the guardian to the District Judge, and give directions for the due rendering of accounts and the proper education of the disqualified person. No similar provisions are to be found in the law of this Presidency, and we think that the sections, as they now stand in the Bill, may with advantage be introduced.

3. Returning to the general frame of the Bill, we have defined, in Section 4, the classes of persons who are to be deemed "disqualified for the management of property." In addition to the persons who are disqualified under the present law, we have, on the recommendation of the Court of Wards, and adopting partially the provisions of Act XIX. of 1873, (Land Revenue, N.W.P.), created certain other classes of disqualified persons, *viz.*, persons who, in the opinion of Government, are rendered incapable, by physical defect or infirmity, to manage their affairs; persons who have been convicted of a non-bailable offence, and who are, in the opinion of Government, disqualified by vice or bad character; and persons declared by Govern-

ment, on their own application, to be dis alified. These provisions, if passed into law, will enable the Court to deal with estates, the owners of which are either physically incapacitated for the transaction of business, or who are under sentence for some serious offence, or who, as occasionally happens, are conscious of their own inability and anxious to transfer the management of their property to the Court. We have thought it best in each of these cases to leave the ultimate decision with the Government, so as to guard as effectually as possible against the Act being put in force in a needless or oppressive manner.

4. Having thus defined "disqualified persons," we have gone on, in Section 6, to provide that all disqualified persons who are owners of immoveable property,

(a) charged with payment of revenue to Government,

(b) or the annual rent value of which is Rupees 1,000 and upwards,

shall be deemed subject to the jurisdiction of the Court of Wards.

This enlarges the jurisdiction of the Court, which at present can deal only with estates "charged with the direct payment of rents or revenues to Government." We have thought it best that all estates paying revenue to Government, however small in extent, should be subject to the Court's jurisdiction, inasmuch as the amount of revenue is not invariably a test of the importance of the estate. In the case of other estates, we think that an annual value of Rupees 1,000 should be the point at which the jurisdiction of the Court should arise, and that estates of less value should not be brought within its scope. We have, as recommended by the Board, provided that the annual value of an estate shall be ascertained in the manner provided in the Local Funds Act. To this general rule we have, in accordance with the existing law, made two exceptions, namely, (1) members of an undivided Hindu family, some member of which is not disqualified, and (2) persons who jointly with others hold property subject to an undivided assessment of land revenue. Such persons are not to be subject to the jurisdiction of the Court of Wards.

5. In Section 8 we provide for an inquiry by the Collector into the circumstances of any person owning property within his district, whom he has reason to believe to be disqualified; and, in Section 9, for the protection of the estate, pending the orders of Government. Section 10 provides for a report to the Court of Wards of the results of the Collector's inquiry. We have deemed it advisable to enact that such reports shall be compulsory in the case of an estate charged with payment of revenue to Government to the amount of 500 Rupees and upwards, and discretionary in all other cases. We propose also that the Collector should, in his report, state his opinion whether it is desirable to take the property under control, and whether, in the case of a female, she may not be allowed to manage. We have provided, in Section 11, that where a guardian has been appointed by Will, the Collector shall report whether the appointment is a fitting one; and have, in accordance with the spirit of Section 199 of Act XIX. of 1873, given to the Court of Wards the power to substitute another guardian if it think fit.

6. Sections 12 and 13 provide for the submission of the case by the Court of Wards with its recommendation to the Go ernment, and for the disqualified person being made, if the Government think fit, a ward of Court. The property of the ward is then said to be "under the contol of the Court."

7. In Sections 14—16 we have enabled the Court to deal with an estate subject to its jurisdiction without the preliminary report by the Collector (to take an estate under its control at any time), to retire at any time from the superintendence, and to resume the superintendence when necessary.

8. In Section 18 we have laid down, with more precision than characterises the present law, the acts which a ward of Court shall be incompetent to perform; we have provided, in accordance with the rule prevalent elsewhere, that he shall be incompetent to make a Will, or, without the consent of the Court of Wards, to adopt or authorize an adoption.

9. Sections 19 and 20 define the powers of the Board in dealing with the ward's estate, and authorize the charge of a commission on the nett collections in respect of the Court's superintendence.

10. Part II. deals with the appointment of managers and guardians, and is for the most part a re-enactment of the provisions of Regulation V. of 1804 and Act XXI. of 1855 on this subject. In Section 26 we propose to give the Court power to authorize the appointment of a male guardian for a female ward, if it appear desirable to do so.

11. Part III. details the duties of the manager, and Part IV. those of the guardian, and provides for the proper rendering of accounts by these officials.

12. Part V. in the amended Bill is new. It provides for suits by and against wards, the chief feature being that the Collector shall always be made a party, except when he himself is the adjudicating officer, in which case the manager is to be joined as a party. Provision is also made for actions against Collectors and managers by wards or their next friends in cases of dissatisfaction, provided that nothing is to affect the right of the subject to institute criminal proceedings if so advised, or to bring suits when disqualification ceases on matters not already adjudicated on.

13. In Part VI., which relates to the revenues of estates, we propose (Section 50) that no property owned by a minor subject to the jurisdiction of the Court shall be sold for arrears of land revenue or other tax accruing during minority; that no property (Section 51) shall be liable to be sold on account of arrears of land revenue or other tax accruing while the estate is under the control of the Court; but that all such arrears (Section 52) shall as far as possible be discharged out of previous accumulations, and shall remain a charge on the estate, into whosoever hands it passes. In this part also (Sections 53 and 54) we have revised the provisions for the investment of surplus in securities, stock, or land, and for the custody of the documents or title-deeds relating to the estate.

14. In revising the provisions in Part VII., relating to the education and discipline of wards, we have introduced stringent powers for the punishment of persons promoting and assisting the marriage of wards without the leave of the Court, and have extended the provision to the brothers and sisters of minors, and to the daughters of wards.

15. We have, in paragraph 2, pointed out that the amended Bill makes a clear distinction between two classes, *viz.*, (1) disqualified persons subject to the jurisdiction of the Court: and (2) disqualified persons who either are, from the character of their estates, not subject to the Court's jurisdiction, or, being thus subject, are not made wards of Court. Part VIII. deals with these two classes; its provisions extend only to cases of estates of the annual value of Rupees 1,000 or more, and in case of such an estate passing into the hands of a disqualified person and no legal provision having been made for its management, it vests the control of the person and estate in the District Judge. It provides, in accordance with the present law, for a report by the Collector, and empowers the District Judge to hold the necessary inquiry, and to appoint a guardian, subject to confirm-

Regulation V. of 1804, Section 20.

ation or disallowance by the High Court. The present law is silent as to the powers and duties of the guardian appointed in such cases: Sections 74—78, partially borrowed from Act XL. of 1858, provide for these matters, and authorize the grant by the District Judge of a certificate of administration to the guardian, who is thenceforward called the administrator. The administrator thus empowered can deal generally with the estate, and payments made to him on account of debts due to the estate are an effectual discharge of the liability. The remaining sections of this part provide for the bringing of suits by or on account of the disqualified person, for the removal of the guardian if necessary, and for the due education of minors for whom a guardian has been appointed.

16. The Committee have throughout had the advantage of the assistance of His Excellency the President, who has been good enough to attend the sittings of the Committee, and to take part in the consideration of the various questions involved in the Bill.

17. We recommend that the Bill as amended be published in the *Gazette*, and circulated to Revenue Officials and others familiar with the subject, with a view to an expression of opinion on the propriety and completeness of its provisions.

H. S. CUNNINGHAM.
D. F. CARMICHAEL.
V. RAMIENGAR.
G. N. GAJPUTEE RAO.

14*th June* 1875.

Government of Fort Saint George.

LEGISLATIVE DEPARTMENT

Report of the Select Committee on the "Bill to Amend and Consolidate the Law relating to the Court of Wards."

No. 1 of 1875.

A

BILL

TO

Amend and Consolidate the Law relating to the Court of Wards, and to disqualified persons.

(As amended by the Select Committee.)

Short title. 1. This Act may be called "The Court of Wards Act, 1875."

Extent. It extends to the territories subject to the Governor of Fort St. George in Council, but not so as to interfere with the original jurisdiction of the High Court.

Commencement. And it shall come into force on the passing thereof.

Laws repealed. 2. The enactments mentioned in the Schedule hereto, are repealed to the extent mentioned in the third column thereof.

Reg. V. of 1804, s. 2.

,, ,,

Act XIX. of 1873, Sec. 194.

Constitution of Court of Wards. 3. The Court of Wards shall consist of the Members of the Board of Revenue for the time being.

What persons are disqualified for the management of property. 4. For the purposes of this Act, the following persons shall be deemed disqualified for the management of property:—

(*a.*) Females.

(*b.*) Minors.

(*c.*) Persons found to be lunatics under Act XXXV. of 1858.

(*d.*) Persons who are, in the opinion of the Governor in Council, rendered incapable, by physical defect or infirmity, of managing their own estates;

(*e.*) Persons convicted of a non-bailable offence and disqualified, in the opinion of the Governor in Council, by vice or bad character, for the management of property.

(*f*.) Persons declared by the Governor in Council, on their application, to be disqualified for the management of property.

Such persons are hereinafter described as "disqualified."

5. In this Act, unless there be something repugnant in the subject or context—

Gender.

words importing the masculine gender shall be taken to include females.

Collector.

"The Collector" means the Collector in charge of the estate to which reference is being made.

"The Court" means the Court of Wards.

"Ward" means a person who has been made a Ward of Court under Section 13.

"Manager" means a person appointed to be Manager of a Ward's estate under Section 21.

"Guardian" means a person appointed to be Guardian of a Ward under Section 23.

PART I.

Disqualified Persons subject to the Jurisdiction of the Court of Wards.

Reg. V. of 1804, s. 2.

6. Whenever a disqualified person

Jurisdiction of Court of Wards.

is the owner of immoveable property,

(*a*) charged with payment of revenue to Government, or

(*b*) the annual rent value whereof is Rupees one thousand and upwards,

the Court of Wards may control and superintend such person and property.

Every such person is said to be "subject to the jurisdiction of the Court."

For the purpose of this Section, the rent value of property shall be determined by the Collector in the manner prescribed in Section 38 of the "Local Funds Act," or in any enactment by which that Section is replaced.

Exceptions.

(1.) No person who is a member of an undivided Hindu family, some member of which is not disqualified within the meaning of Section 4, is subject to the jurisdiction of the Court: but if all the members of any such family are disqualified, they are all subject to the jurisdiction of the Court until one of them ceases to be disqualified.

Member of undivided family not subject.

(2.) No person who owns, jointly or in common with one other person or more, property subject to an undivided assessment of land-revenue, is subject to the jurisdiction of the Court, if any one of such persons is not disqualified within the meaning of Section 4; but if all the persons so owning are disqualified, they are subject to the jurisdiction of the Court until one of them ceases to be disqualified.

Joint owners not subject.

7. A disqualified person, over whom the Court exercises its powers of control and superintendence, is said to be a "Ward of Court."

"Ward of Court."

The property of such Ward of Court is said to be "under the control of the Court."

"Under the control of the Court."

8. The Collector may, for the purposes of this Act, hold an inquiry into the age, sex, capacity, and circumstances of any person, who owns property within his district, and whom he has reason to believe to be disqualified, and may summon any such person before him; and, in conducting such inquiry, may exercise all or any of the powers of summoning and examining witnesses and calling for the production of documents which are conferred on a Civil Court by any law regulating Civil Procedure for the time being.

Collector may hold inquiry, &c., as to age, &c.

9. The Collector may, in any case in which he is empowered to hold an inquiry as to any person under the last preceding Section, forthwith take such measures as he considers necessary for the protection of the estate of such person, either by appointing a Receiver and Manager, or by causing a statement of such person's moveable and immoveable property to be prepared, or books to be examined, or otherwise.

Collector may take immediate steps to protect property.

10. If, either upon such inquiry or otherwise, the Collector has reason to believe that any person in his district has become subject to the jurisdiction of the Court, he

Reg. V. of 1804, s. 3.

Collector to report when disqualified person becomes owner of property.

shall forthwith, in the case of an estate charged with payment of revenue to the Government to the amount of Rupees 500 or upwards,

and may, in the case of all other estates,

forward a report of the case to the Court. Such report shall set forth all the circumstances of the case, specifying—

What such report is to contain.

(*a*) the age and sex of such person,

(*b*) the nature and value of the property of which such person is owner,

(*c*) whether it is, in the Collector's opinion, desirable for the Court to take the property under its control;

(*d*) whether, in the case of a female, she may be permitted to have the management of the property, and,

(*e*) the name of the person most proper, in the judgment of the Collector, to be appointed guardian of the disqualified person.

(*f*) whether any guardian of the disqualified person has been appointed by Will or otherwise.

11. In any case in which a guardian has been appointed by the Will of any person authorized by law to make such

Bengal Act IV. of 1870, s. 31.

When guardian appointed by Will.

N. W. P. Act XIX. of 1873, s. 199.

appointment, the Collector's report shall state whether the appointment is, in his opinion, a fitting one.

The Court may, if it see fit, appoint any other guardian than the guardian so appointed.

Reg. V. of 1804, s. 3.

12. The Court shall submit the case, with its recommendation, for the orders of the Governor in Council; but, pending such orders, all instructions, issued by the Court on the Collector's report for the protection of the property and its owner, shall be binding.

Court of Wards to transmit the case with recommendation to Government.

13. If the Governor in Council so directs, the disqualified person shall become a Ward of Court; and the Court shall thereupon give such orders as it thinks fit for the maintenance of the Ward and of such members of his family as are entitled to maintenance at his expense.

When disqualified person to become a Ward.

Court to make orders for maintenance of Ward.

Reg. X. of 1831, s. 2, cl. 2.

14. The Court may, at any time, with the previous sanction of the Governor in Council, make any person, who is subject to its jurisdiction, a Ward of Court, notwithstanding that no report has been transmitted by the Collector, or notwithstanding that the Court did not, when such person first became subject to the Court's jurisdiction, make him a Ward of Court.

Court may make a Ward of Court, notwithstanding no report from Collector.

15. The Court may at any time, with the like sanction, withdraw from the control and superintendence of any person and property; and such person shall thereupon cease to be a Ward of Court.

Court may withdraw from management.

16. The Court may, with the like sanction, resume the control and management of any such person and property

Court may resume management.

at any time, so long as such person remains subject to the jurisdiction of the Court.

Reg. V. of 1804, s. 3, cl. 2.

17. Whenever a Ward of Court owns property in more districts than one, the Court may direct that the whole estate of such person shall be under the management of one of the Collectors of such districts, in like manner as though the whole estate were situate in his district.

Management of property situated in more districts than one.

,, s. 25.

18. No Ward of Court shall administer his own affairs; or take part in the management of his estate; or alienate, lease, mortgage, or in any manner incumber his estate; or make a contract, or will; or, without the written consent of the Court of Wards previously obtained, either adopt a son or authorize any person to adopt a son on his behalf.

Ward incapable of dealing with his estate or of contracting.

Any such alienation, lease, mortgage, incumbrance, will, contract, adoption or authority to adopt, shall be void for all purposes whatsoever.

19. The Court may charge commission at the rate of one-and-a-half per cent. on the net collections of every estate of a Ward of Court, after deducting all charges except the Government Revenue. This commission shall be carried to the credit of Government.

Rate of commission chargeable on collections of estate.

Act XIX. of 1873 s. 203.

20. The Court may give leases or farms of the whole or part of any property of a Ward; and may mortgage any part of such property, or, with the sanction of the Governor in Council, sell any part of such property; and may do all such other acts as it judges to be most for the benefit of the Ward and his estate.

Court may lease, mortgage, or sell.

PART II.

Appointment of Managers and Guardians.

Reg. V. of 1804, s. 8.

21. The Court shall appoint a Manager for the property of every Ward, and may at any time remove any such Manager and appoint a new Manager in his place.

Court to appoint Manager of property under its control.

22. The Court shall assign to the Manager such salary as it deems fit.

,, s. 9, cl. 1.

23. The Court may appoint one guardian, or more, for every Ward, and may remove any such guardian and appoint a new guardian in his place.

Appointment of Guardians.

24. The Court may, when it thinks fit, assign to such guardian or guardians such salary as it deems fit.

,, s. 20, cl. 2.

25. In no case shall the next legal heir of a Ward, or any person who appears to have a direct or indirect advantage in the death or continued disqualification of such Ward, be appointed guardian of such Ward. Provided that the mother of a Ward, or the guardian appointed by the Will of a person authorized to make such appointment, shall be eligible for the office of guardian at the discretion of the Court.

Who not to be appointed Guardians.

,, s. 19, cl. 2 and 3.

Bengal Act IV. of 1870, s. 55.

Reg. V. of 1804, s. 19, cl. 4.

26. If the Ward be a female, her guardian shall also be female, unless for special reasons the Court directs otherwise.

Guardians of female minors to be also females.

Act XXI. of 1855, s. 7.

27. The right to the custody of the person of a Ward is vested in the guardian appointed by the Court or, in the absence of any such guardian, in the Collector.

The right to the custody of the person of a Ward vested in Guardian appointed by the Court of Wards, or, failing him, in the Collector.

Reg. V. of 1804, s. 10.

28. Every Manager and Guardian shall, if the Court so direct, before entering upon his duties, execute a bond in the form specified in Schedule II.

Execution of bond by Manager before entering upon his duties.

29. The sum conditioned in such bond shall be of such amount as the Court directs.

Penalty for breach of conditions of bond.

Reg V. of 1804, s. 11, cl. 3.

30. All sums recovered from a Manager or Guardian or the representatives of a Manager or Guardian in a suit on any such bond, shall, after payment of all expenses connected therewith, be carried to the credit of the estate of which such Manager or Guardian was in charge.

Appropriation of the penalty.

,, s. 11, cl. 3.

31. Every Manager and Guardian and other person employed in the management of, or upon the estate of any Ward, or in his service, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

Manager and Guardians to be deemed public servants.

PART III.

Duties of the Manager.

32. The Manager shall report to the Collector what subordinate officers and servants are necessary for the due management and administration of the Ward's estate, and what salaries should be paid to such officers and servants.

Managers to report what establishment necessary.

,, s. 11, cl. 5.

33. All such appointments shall be made and all such salaries shall be fixed by the Collector, subject to revision by the Court; and the Court may cancel any such appointment, or alter any such salary, as it thinks fit.

Appointments to be made and salaries fixed by Collector.

34. The Manager shall have the entire charge of the property, moveable and immoveable, of the Ward; but the Collector may set aside such portion of the Ward's property as he thinks necessary for the Ward's maintenance,

Manager to have charge of all property.

Exception.

,, s. 12.

use, and comfort. The portion of the property so set aside shall be in the exclusive charge of the guardian.

Reg. V. of 1804, s. 12, cl. 2.

35. The Manager shall, as soon as may be after his appointment, draw up an exact statement of the property committed to his custody. Such statement shall be signed by the Manager and shall be presented to and filed by the Collector.

Manager on receiving charge to furnish statement of property under seal and signature.

,, s. 12, cl. 3.

36. At the expiration of every year, the Manager shall deliver to the Collector an exact statement of his receipts and disbursements for that year on account of the Ward's estate.

Manager to furnish an annual account of receipts and disbursements.

37. The Manager is authorized to collect, get in, and recover all moneys due to the Ward's estate, together with such interest as may have accrued thereon.

Manager to receive moneys.

,, s. 14.

38. All moneys received by the Manager from the Ward's estate, shall be paid monthly to the Collector. The Collector shall defray the authorized expenses of the management of the Ward's estate, and shall dispose of the surplus income of the estate in the manner hereinafter provided.

Moneys received by Manager to be paid monthly to Collector, who shall defray expense of management.

,, s. 15.

39. No Manager shall grant a lease of the whole or any part of the Ward's estate for any period exceeding one year, without the sanction, in writing, of the Collector; nor shall he sell, mortgage, or permanently alienate any part of such estate without the sanction, in writing, of the Court.

Manager not to grant leases for more than a year without consent of Collector, nor dispose of property without permission of Court.

Any lease, sale, mortgage or alienation made in contravention of this section shall be void.

PART IV.

Duties of the Guardian.

Allowance to be granted to guardians.

40. The guardian shall receive the allowance set aside under Section 34 for the Ward, and shall, subject to the inspection and control of the Collector and the Court, employ such allowance as he thinks best for such Ward's interest.

Reg. V. of 1804, s. 21, cl. 3.

Powers of guardians to be the same, however they may be appointed.

41. Every guardian appointed under this Act shall, except as otherwise provided in this Act, have the same powers as other guardians.

" s. 21, cl. 4.

Duration of office of guardian.

42. The guardianship of a male minor, who is not disqualified otherwise than by minority, shall terminate on his attaining majority.

" s. 21, cl. 6.

Selection and payment of servants by guardian.

43. The guardian shall choose proper servants to be employed in the service of the Ward, subject to the approval of the Collector and of the Court. The wages and expenses of such servants shall be defrayed from the allowance set aside under Section 34 for the Ward.

" s. 21, cl. 6.

Guardians to furnish monthly account to Collector.

44. The guardian shall deliver to the Collector monthly accounts of his receipts and disbursements; and such accounts shall be liable to revision and retrenchment by the Collector.

" s. 21, cl. 7.

Guardian to authenticate papers by his own seal and signature.

45. The guardian shall authenticate all papers relating to such guardianship by his own seal and signature.

" s. 22.

Seal of disqualified person to be deposited in the treasury.

If any Ward has, or if any previous owner of the Ward's estate during his lifetime had, a seal, such seal shall, if it be discoverable, be delivered to the Collector and lodged by him in the Treasury.

Reg. V. of 1804, s. 21, cl. 8.

Guardian to furnish annual accounts to Collector supported by vouchers.

46. The guardian shall furnish complete annual accounts to the Collector, supported by proper vouchers; and shall append to such accounts a declaration that the same are, to the best of his belief, correct.

Act XXI. of 1855, s. 6.

Continued liability of guardian removed.

47. A guardian removed under this Act shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship.

PART V.

Suits by and against Wards.

Collector to be joined as party.

48. In all suits brought by or against a Ward of Court, the Collector shall be joined as a party with such Ward.

In suits before Collector, Manager to be substituted.

Provided that in suits or proceedings under Madras Act VIII. of 1865, or other Act under the provisions of which suits may be heard by or proceedings had before the Collector, the Manager shall be joined in such suits or proceedings in lieu of the Collector.

Ward or next friend may petition Court.

49. Any Ward who considers himself, or the next friend of any Ward who considers him, to have been aggrieved by the conduct of the Collector, Manager, or Guardian, in the management of his estate, may petition the Court of Wards; and the Court shall pass such orders as it thinks fit; and if required by such Ward, or his next friend, the Court shall submit such petition, together with its orders thereon, to the Governor in Council, whose decision thereon shall be final. Provided that,

Reg. V. of 1804, s. 23, cl. 2.

Actions against Collector, &c., by Wards.

(1.) Any person who has been made, or who has reason to believe that he is about to be made, a Ward of Court, may file a suit against the Collector for a declaration that he is not subject to the jurisdiction of the Court of Wards:

Ward may bring suit by next friend.

(2.) Any Ward may, with the permission of the Court, bring a suit, by his next friend, against the Collector, Manager, Guardian or any other person by whom he considers himself to have been injured:

Nothing to prevent criminal proceedings or suits not adjudicated upon.

(3.) Nothing herein contained shall affect the right of any Ward to institute criminal proceedings; or of any person who has ceased to be disqualified, to bring a suit in respect of any matter which occurred while he was disqualified, and which has not been adjudicated in a suit brought on his behalf.

PART VI.

Revenues of Estates.

Minor's property not to be sold for arrears.

50. No property, owned by a minor subject to the jurisdiction of the Court, shall be sold for arrears of land revenue or other tax accruing during his minority.

No property under management to be sold.

51. No property shall be liable to sale on account of arrears of land revenue or other tax accruing whilst such estate is under the control of the Court.

All arrears to form charge on estate.

52. All arrears of land revenue or other tax accruing on an estate, the sale of which is prohibited under the two last preceding sections, shall, as far as possible, be discharged from the surplus income of

Surplus to be devoted to liquidating arrears.

Arrears to follow estate.

the estate in previous years; or by the sale of any securities or other property in which such surplus may have been invested: and in case there be no sufficient surplus or securities or other property, the arrears shall be discharged from any surplus which may subsequently accrue. In case the estate is sold or taken from the Ward by a decree of Civil Court, any arrears of land revenue or other tax then due shall continue to form a charge against such estate.

Reg. V. of 1804, s. 16.

Surplus receipts how to be appropriated.

53. Whenever an estate under the control of the Court yields a surplus after payment of the public revenue, the charges of management and the expense of maintaining the owner and the persons entitled to be maintained at his expense, the Court, or the Collector with the sanction of the Court, may employ such surplus for the purpose of improving such estate, or in the purchase of land, or in loans secured on the mortgage of land, or in the purchase of Government securities, or such other securities, stocks, or shares, guaranteed by the Government of India, as are approved by the Court.

" s. 16, cl. 2.

Collectors to transmit title-deeds to the Court for deposit in the Public Treasury.

54. Whenever a Collector invests any surplus under the last preceding section, he shall transmit the title-deeds and every other document relating to such investment to the Court, and the Court shall deposit them in the Public Treasury on behalf of the Ward.

" s. 16, cl. 4.

Granting of receipts.

55. The Collector shall give to the Manager a receipt for such title-deeds or other documents.

Interest accruing on investments and debts shall be received by Collector who shall grant a discharge for the same.

56. The interest accruing on all investments made under Section 53, and on all debts owing to a Ward, shall be receivable by the Court, or by

the Collector; and receipts signed by the Collector, or by a Secretary on behalf of the Court shall be a sufficient discharge to any person paying the same.

Reg. V of 1804, s. 17.

57. Debts due to private creditors from an estate under the control of the Court may be paid by the Collector out of the assets of such estate. No such payment shall take precedence of, or interfere with, the regular payment of land revenue or other taxes or dues payable to Government on account of such estate; nor shall any such debt be so paid unless previous permission has been given in writing by the Court.

Private debts to be liquidated by Collector.

Discharge of private debts not to interfere with payment of public revenue.

PART VII.

Education and Discipline of Wards.

Act XXI. of 1855, s. 1.

58. The Collector shall superintend the education of the Ward.

Collector to superintend education.

Reg. V. of 1804, s. 21, cl. 9.

59. No male Ward shall be left in the charge of female relations after he has completed his seventh year. At that age proper teachers shall be appointed by the Collector, subject to the approval of the Court.

Appointment of teachers.

Act XXI. of 1855, s. 2.

60. The Collector may, with the sanction of the Court, direct that a Ward shall reside, either with, or without, his guardian, at the head station of the district, or at any other place within the Presidency of Fort St. George, and that such Ward shall attend for the purpose of education such school or college as to the Collector seems expedient.

Collectors to have power to cause male minor Wards to be educated at any school or college.

The Collector may, with the like sanction, make such provision as is necessary for the proper care and suitable

Collector to make provision for maintenance.

Act XXI. of 1855, s. 3.

maintenance of the Ward whilst attending such school or college.

61. If it appears to the Collector inexpedient to place the Ward at a school or college, he may cause him to be educated by a private tutor, either at the family residence of the Ward or at the head station, or elsewhere within the said Presidency; and the Collector may determine from time to time the place of residence of such Ward, and may make such provision as he considers necessary for his proper tuition and maintenance during the period of his education.

Or, in certain cases to cause such Wards to be educated by a private tutor.

,, s. 4.

62. All expenses, so incurred on account of any such Ward for college or school fees, or for other charges of education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate, in the same manner as other expenses incurred under the authority of the Court.

Charges and expenses incurred under this Act to be paid out of the profits of the Ward's estate.

Reg. V. of 1804, s. 21, cl. 10.

63. The guardians of female Wards shall provide for their proper education, subject to the control and direction of the Collector and of the Court.

Education of female Wards.

Act XXI. of 1855, s. 8.

64. Whenever a Ward has a child or younger brother entitled to maintenance at the charge of his estate, all the provisions of this Act as to the education of Wards shall be applicable to such child or brother.

The foregoing sections applicable also to the younger brothers of Wards.

,, s. 9.

65. Whoever promotes or assists in the marriage of

Penalty for abetting marriage of Ward without leave of Collector.

(*a*) any minor subject to the jurisdiction of the Court,

(*b*) any younger brother or sister of such minor,

(*c*) any daughter of a Ward of Court,

unless the leave of the Court to such marriage has been first obtained, shall, on conviction before a Court of Session, be punished with a fine not exceeding two thousand Rupees, or with imprisonment of either description, as provided by the Indian Penal Code, not exceeding the term of six months.

PART VIII.

DISQUALIFIED PERSONS NOT SUBJECT TO THE JURISDICTION OF COURT, OR NOT WARDS OF COURT.

66. Whenever a disqualified person is the owner of property of the annual value of Rupees 1,000 or upwards, and

District Judge to control person and property of disqualified persons not subject to jurisdiction.

(*a*) is not subject to the jurisdiction of the Court, or

(*b*) has not been made a Ward of Court,

and no legal provision has been made for the management and administration of such person's estate and guardianship of his person,

the District Judge may control the person and property of such disqualified person.

67. The exceptions provided in Section 6 shall be applicable to persons who would otherwise be liable to the control of the District Judge under this Section.

68. The Collector of the District in which such person's property is situate, shall submit to the District Judge a report similar to that provided in Section 10; and may, for the purposes of such report, exercise all or any of the powers conferred in Section 8.

Collector to submit report to District Judge.

69. Upon the receipt of such report, the District Judge shall hold an enquiry into the circumstances of the case, and shall

District Judge to hold enquiry and nominate guardian.

nominate forthwith a proper guardian for such person. Such nomination shall be subject on appeal to the confirmation or rejection of the High Court.

70. The District Judge may, at any time, hold an inquiry and appoint such guardian, notwithstanding that no report has been submitted by the Collector,

District Judge may hold inquiry without report,

or may at any time call on the Collector to submit such report.

or may call on Collector for report.

71. If the High Court disallows the nomination, the District Judge shall forthwith nominate another person as such guardian. Such nomination and any further nomination which the orders of the High Court may necessitate, shall be subject to the confirmation or rejection of the High Court.

Power of renominating guardian.

Act XL. of 1858, s. 5.

72. If the property of any such person as is referred to in Section 66 be situate in more districts than one, the District Judge therein referred to shall be the District Judge of the district in which such person has his usual residence, unless the Governor in Council shall otherwise direct.

Who shall be the Judge if property be situate in more districts than one.

" s. 6.

73. The District Judge may remove any guardian appointed by him, and appoint a new guardian in his place.

District Judge may remove and reappoint guardians.

Every such substituted appointment shall be subject to the confirmation or rejection of the High Court.

74. Any person claiming a right to have charge of the property of such person, or any relative or friend of such person, may petition the District Judge to hold an inquiry under Section 66: and the District Judge shall thereupon issue notice of the petition and fix a day

Inquiry to be made by Judge.

for hearing the same. On the day so fixed, or as soon after as may be convenient, the District Judge shall inquire into the circumstances and shall pass orders in the case.

Act XL. of 1858, s. 7.

District Judge to give guardian certificate of administration.

75. The guardian appointed under Section 69 shall have charge of the person and estate of the disqualified owner: and the District Judge shall grant to him a certificate of administration of the estate. A guardian, to whom such certificate is granted for any estate, may be called the administrator of such estate, and is hereinafter called "the Administrator."

" s. 17.

Surplus funds to be paid into the Treasury, and invested in public securities.

76. All sums received by an administrator, appointed under Section 75, on account of any estate, in excess of what may be required for the current expenses of the disqualified person or of the estate, shall be paid into the Public Treasury on account of the estate, and shall be invested from time to time in the public securities.

" s. 22.

Administrator to give in accounts,

77. The administrator shall be bound to give in his accounts of receipts and expenditure of all moneys received by him at such time or times as the District Judge may direct, under a penalty of 500 Rupees for failing to do so.

and to execute bond.

78. Such administrator shall also execute a bond similar to that required by Section 28 of this Act.

" s. 18.

Powers of the holder of a certificate.

79. Every person to whom a certificate shall have been granted under Section 75, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a disqualified person, and may collect and pay all just claims, debts, and liabilities due to, or by, the estate of the disqualified person. But

no such person shall have power to sell or mortgage any immoveable property or grant a lease thereof for any period exceeding five years, without an order of the District Judge previously obtained.

Act XL. of 1858, s. 19.

Right to sue for an account.

80. It shall be lawful for any relative or friend of a disqualified person, at any time during the continuance of the disqualification, to sue for an account from any person to whom a certificate shall have been granted under Section 75 or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

" s. 20.

Continuance of suit after disqualification shall have ceased.

81. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the suit on his own behalf.

" s. 21.

Revocation of certificate. Removal of guardian.

82. The District Judge may, for any sufficient cause, recall any certificate granted under this Act, and may direct the Collector or any other person to take charge of the estate, and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all moneys received and disbursed by him.

" s. 25.

Guardians of minors to provide for their education.

83. Every guardian appointed by the District Judge, who shall have charge of any male minor shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such minors shall be vested in the District Judge; and the provisions of Part VII. of this Act shall,

so far as is possible, be applicable to the District Judge in respect to such minors, and to every such guardian.

Act XL. of 1858, s. 27.

Guardians not to be appointed if husbands or fathers of minors are not minors. Guardianship to cease on majority of father or husband. Guardian of female minor to be a female.

84. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor. If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband, as the case may be, shall attain the age of majority.

" s. 28.

Appeals.

85. Every order passed by the District Judge under this Act shall be open to appeal as if it were a decree of a Civil Court.

Act not to have retrospective effect.

86. Nothing in this Act shall affect the validity of any proceeding, act, or order had, done, or made, previous to the passing of this Act.

Schedule I. referred to in Section 2.

Year and Number.	Title.	Extent of Repeal.
Regulation V. of 1804.	A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the Rules under which those powers are to be exercised.	The whole.
Regulation X. of 1831.	A Regulation to prohibit the sale of estates belonging to minors not under the charge of the Court of Wards, and to extend the provisions of Section 20, Regulation V. of 1804, to property of every description not subject to the jurisdiction of that Court.	Do.
Act XXI. of 1855 ...	An Act for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.	Do.

Schedule II. referred to in Section 28.

Form.

I, A B, having been appointed Manager of the Estate of ———, declare that, in consideration of such appointment, I am bound to the Collector of ——— for the time being in the sum of Rupees ———, and that I or my representatives will, on demand, pay that sum to the Collector of ——— for the time being. The condition of this bond is that if, at all times during my continuance in the said appointment, I faithfully discharge all duties connected therewith or incidental thereto, and properly account for all moneys and effects of such estate which at any time may come into my hands or under my control, and duly carry out all orders of the Court of Wards or the Collector, and furnish all such accounts and returns as are required from me by the Court of Wards, the Collector, or other competent authority, then this bond shall be void; but in any other case it shall remain in full force.

Government of Fort St. George.

LEGISLATIVE DEPARTMENT.

A

BILL

TO

Amend and Consolidate the Law relating to the Court of Wards, *and to disqualified persons.*

Rev-836/75

Rev 2/2969/75

Issued 30 July/75-

& 1607-

(As amended by the Select Committee.)

30/7/75- No 1607- allow

Proceedings of the Madras Government, Legislative Department,
21st July 1875.

Court of Wards Bill.

No. 2. Proceedings of Government, 21st July 1875, No. 39.

Copies of the Report of the Select Committee on the Bill to amend and consolidate the Law relating to the Court of Wards, and of the Bill as amended by the Committee, will be forwarded to the Board of Revenue, with the request that they will submit their opinions on the propriety and completeness of the provisions of the Bill, after communication with such Revenue officials and other persons familiar with the subject as they may deem proper to consult.

(True Extract.)

F Haultain

Officiating Chief Secretary.

To the Board of Revenue.

The Rev. Dept. (for information) with a copy of Report & amended Bill

Rev. 1875: Dept.
No 830 to 2969

Govt. of {1875} Madras.

LEGISLATIVE.

To

THE BOARD OF REVENUE.

Dated July, 21st. Mes

Issued

Recd. 29th Encl. 2

G.O., 21st July 1875, No. 39.

JULY.
No. 2.

Mes 4.6 30 July/75
No 1607

Court of Wards Bill.—Forwarding to the Revenue Board copies of the Report of the Select Committee on the — and the Bill as amended by them, and requesting their opinions on the provisions of the Bill after consulting Revenue officials.

No 1607
Lodged-
30 July/75

7 Cr 9/76.

29.6.95
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28-5-92
24-6-94