

CONVICTS' ESTATES.

55. By virtue of the powers vested in him by section 55 of the Prisons Act, 1908, on the 30th November, 1921, the Governor-General executed a general appointment appointing the Public Trustee administrator of the estates of all convicts other than Natives within the meaning of the Native Land Act, 1909. By section 52 of the Prisons Act a convict is defined as "any person sentenced by any Court of competent jurisdiction to death or penal servitude upon any charge of treason or felony, and includes every person who after the coming into operation of the Criminal Code Act, 1893, is sentenced under that Act or the Crimes Act, 1908, to imprisonment for a term of three years or upwards with or without hard labour." In addition to the persons covered by this section the term now includes persons sentenced to reformatory detention, for section 24 of the Crimes Amendment Act, 1910, provides that such persons shall be deemed to be convicts within the meaning of Part III of the Prisons Act, 1908 (relating to the administration of convicts' estates).

A good deal of difficulty is frequently experienced in the administration of convicts' estates, for they are often involved and present unsatisfactory features. Section 58 of the Prisons Act gives the administrator absolute power to let, mortgage, sell, convey, and transfer any part of a convict's property as he thinks fit. The powers of the administrator are not fully defined, but, where necessary, arrangements are made to consult convicts, through the prison authorities, before any realization or any important step in the administration is taken. Frequently the administration is rendered more difficult through claims for damages by way of satisfaction or compensation out of the estate of the convict for loss of property or through injury alleged to have been suffered by criminal or fraudulent action on the part of the convict.

The administrator is empowered to provide for the maintenance of the wife, child, or reputed child of the convict, or any other relative dependent on him for support.

In cases where a convict has been sentenced to imprisonment for a period of three years or over, and before the expiry of his sentence has been released on probation, the question arises whether the administrator's duties cease. Under Part III of the Prisons Act, 1908, it is provided that the duties of the administrator continue until the convict dies, or is made bankrupt, or "has undergone the full term of imprisonment for which judgment has been pronounced or recorded against him, or such other punishment as by competent authority has been substituted for such full term, or has received from His Majesty or the Governor on behalf of His Majesty a pardon for the offence for which he has been convicted."

Under the Crimes Amendment Act, 1910, dealing with the establishment of a Prisons Board in the treatment of habitual criminals and persons sentenced to reformatory treatment, it is laid down in the proviso to section 24—"Provided that so long as any probationary license under this Act or any order of discharge granted under section 32 of the principal Act before the commencement of this Act remains in force with respect to any such person he shall be deemed to have ceased to be subject to Part III of the Prisons Act." It would seem that by virtue of this provision habitual criminals and persons sentenced to reformatory treatment who have been released on probation are entitled to resume control of their estates, but there is no such provision with regard to the ordinary convict sentenced to hard labour.

In extending the functions of the Prisons Board and in enlarging generally the scope of probation the Crimes Amendment Act, 1920, apparently makes no provision for a convict who has been allowed out on probation being freed from the provisions of Part III of the Prisons Act, 1908. It is considered that the position should be made clear and the apparent anomaly removed by introducing amending legislation in respect to the Crimes Amendment Act, 1920, so that there may be included in its scope a proviso on the lines of that appended to section 24 of the 1910 Act.