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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Extract from the Proceedings of the Governor of Bombay, in the Legislative Department, is published for general information :—

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Wednesday, the 31st March 1875, at noon.

PRESENT :—

His Excellency, the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding*.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable the ADVOCATE GENERAL.

The Honourable COLONEL M. K. KENNEDY.

The Honourable J. K. BYTHELL.

The Honourable RAO SAHIB VISHVANATH NARAYAN MANDLIK.

The Honourable NACODA MAHOMED ALI ROGAY.

The Honourable KHAN BAHADOOR PADAMJI PESTONJI.

The Honourable E. W. RAVENSCROFT.

Affirmation of office, &c., taken by Mr. Scoble and Mr. Ravenscroft.

The Honourable the Advocate General and the Honourable E. W. Ravenscroft took the usual affirmation of office and declaration of allegiance to Her Majesty.

Papers presented to the Council.

The following papers were presented to the Council by Mr. Nugent, Under Secretary to Government :—

1. Letter from the Secretary to the Government of India, No. 91, dated 27th January 1875, returning with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the " Bill to amend the law relating to hereditary offices."

2. The following letter from the Secretary to the Government of India, No. 123, dated 13th February 1875 :—

FROM

WHITLEY STOKES, ESQUIRE,

Secretary to the Government of India, Legislative Department,

TO

J. NUGENT, ESQUIRE,

Acting Under-Secretary to the Government of Bombay.

Fort William, the 13th February 1875.

SIR,—I am directed to acknowledge the receipt of your letters No. 366, dated 4th December 1873, and No. 31, dated 29th January last, addressed to the Secretary to the Government of India in the Department of Revenue, Agriculture and Commerce, with the former of which was forwarded for the assent of His Excellency the Viceroy, the Bill for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.

2. His Excellency the Governor General regrets that he is obliged to withhold his assent from the measure, and in accordance with the rule prescribed by the Indian Councils Act, Section 40, I am directed to signify the following reason for this course.

3. The Bill purports to repeal, so far as it affects Bombay, Act XV. of 1864 of the Governor General's Council, which was passed since the Indian Councils Act, 1861, came into operation, while the Bombay Legislative Council has only power to repeal or amend Acts of the Legislative Council of India passed before the 16th November 1861, when the Councils Act came into force.

4. Though this is a point of form yet it is a very important one, and His Excellency cannot deliberately sanction any action of the Bombay Legislative Council in excess of their lawful powers.

5. I am to state that His Excellency sees nothing objectionable in the substance of the Bill, and that an Act might be passed in the Council of the Governor General to legalize the levy of tolls in the Bombay Presidency, if that course should appear to the Government of Bombay to be more convenient than that the Bill should be re-introduced, with the necessary modification in the local Legislative Council.

6. I am in conclusion to express the Viceroy's regret that His Excellency's opinion with respect to this Bill should, through accident, not have been officially communicated to the Government of Bombay many months ago.

I have, &c.,

(Signed) WHITLEY STOKES,

Secretary to the Government of India.

The Honourable Mr. ROGERS—Your Excellency, I beg to propose the second reading of the Bill (No. 2 of 1874) to amend Bombay Act No. I of 1865.

Honourable Mr. Rogers
moves second reading of Bill
(No. 2 of 1874) to amend
Bombay Act No. I of 1865.

The general scope of the measure was explained by me when I introduced the Bill last October. The Bill has not been referred to a Select Committee, but although it has been before the public since October no objections have been raised to its general provisions. In case Honourable members should have forgotten the purport of the Bill, I may be permitted to explain that the only object of the Bill is to enable Government to postpone the date up to which land may be given up under the Survey Settlements Act in the year in which an original or revised survey settlement may have to be introduced from the 31st March to the 5th June or any date between these two dates. The object of this is to give the Survey Department more time to prepare all the detailed measurements and have all the necessary papers made out which may be required before the introduction of the survey settlement. Up to this time also it has been the custom, sanctioned by Government, that in the year in which a revised settlement was introduced the difference between the old and the new assessments should

be remitted. That custom is made plainer in the proposed Act, and practically what has been authorised hitherto by Government and has been the custom of the country will be legalized. In addition to this another boon is conferred upon the occupants of land. You will observe that in clause three of the second section of this Bill it is proposed that in the year after the revised settlements shall have been introduced, landholders, if they choose to throw up any land before the 31st March of the following year, may be at liberty to do so instead of being re-stricted, as under the present custom, to throwing it up at the introduction of the settlement. With these words I beg to move the second reading of the Bill.

The Honourable Rao Sahib VISHVANATH NARAYAN MANDLIK said he would not oppose the Bill at this stage, because since its introduction to the Council in October last the Revenue Officers' Code Bill had been introduced, which dealt more exhaustively with the matters contained in the Bill before the Council. After what the Honourable Mr. Rogers had stated he still thought that the objection he had taken to the Code Bill remained as regards the Bill before the Council, namely, whether in trying to remedy a defect other evils might not be introduced. As to the case cited in the Statement of Objects and Reasons he begged to observe that the suit arose before the High Court because old customs had not been carried out. A new survey had been introduced in April, and the old occupant was sued for not having relinquished his land on the 31st March preceding.

The Bill read a second time. The Honourable Mr. ROGERS' motion was agreed to, and the Bill read a second time.

Honourable Mr. Rogers moves that the Bill be read in detail in full Committee of the Council.

The Honourable Mr. ROGERS then proposed that the Bill be read in detail in full Committee of the Council.

The Honourable Khan Bahadoor PADAMJI PESTONJI thought with reference to section I. that the 1st August would prove an exceedingly awkward date for the incoming of a new occupant, and he suggested that an earlier date—say, the 1st June—should be agreed upon. Under the section as it stood, an old occupant's lease would not expire until the 31st July and he might be disposed to keep possession until the very last day, so that the new occupier would have very little time left to enter upon possession if he determined to do so upon the 1st August.

The Honourable Mr. ROGERS—The reason for adopting this year (from the 1st August to the 31st July) was that that was the year for which all the revenue accounts were made up. The dates mentioned in the section have nothing whatever to do with the relinquishment of land or otherwise.

The Honourable Mr. GIBBS considered that the section had nothing to do with the question of occupancy.

The Honourable Rao Sahib VISHVANATH NARAYAN MANDLIK understood the first clause to be simply a statement of what the revenue year is to be.

His Excellency the PRESIDENT thought that as the section was almost an interpretation of what a 'year' should be, the Honourable Khan Bahadoor's objections, if he had any, could more appropriately be discussed in connection with the following sections.

Section II., clause 1, was then read.

The Honourable Mr. GIBBS—This is an improvement upon the law as it stands at present, when, supposing, in the event of the introduction of a new settlement, the papers could only be got ready and published on the 1st March, the occupiers would only have till the 31st March to think over the matter and decide whether they would give up their lands or continue to hold it under the new settlement. That was a hardship, and in order to obviate it I understand this clause has been framed.

His Excellency the PRESIDENT—Supposing a new settlement was introduced in a village on the 20th July, I apprehend that under this section a man might not have to give notice of his intention to relinquish till the following June? If, however, the settlement were not introduced till the 4th June, a man might have barely a day left to give a decision about keeping on his land.

The Honourable Mr. ROGERS—That might be the effect in the case cited, but settlements are rarely introduced so late as June.

The Honourable Mr. RAVENSCROFT—Settlements are generally introduced in February or the early part of March.

His Excellency the PRESIDENT thought that this might be made clear in the Bill.

The Honourable Rao SAHIB concurred.

The Honourable Mr. ROGERS—The object of this Bill is to give more time to the ryots instead of to abridge it.

The Honourable Mr. GIBBS—It was found under the present law that there really was not time for the landholders to make themselves acquainted with the terms of the new settlement before they were called upon to decide upon accepting them, and therefore this Bill was introduced with the object of giving them more time for consideration.

His Excellency the PRESIDENT—Look to the disputes regarding settlements which have recently occurred. Was it possible that a man could be called upon in half an hour to decide upon retaining or giving up his land ?

The Honourable Mr. RAVENSCROFT—That was the law as it formerly stood. To-day (31st March) five revised assessments are to be introduced throughout the country, in some of which a considerable enhancement of revenue has taken place. In many instances landholders have not had more than a week's time to decide as to whether or not they would throw up their holdings. If this Bill had been in existence they would have had up to the 5th June to consider their decision instead of being obliged to give their decision by the 31st March.

His Excellency the PRESIDENT—Then a man might be asked on the last day whether he would give up his land or accept the new settlement rates ?

The Honourable Mr. RAVENSCROFT—Yes, but practically he would have plenty of time to consider his decision.

The Honourable Mr. GIBBS—By the present Bill, however, the time may be extended to the 5th June, so that Government would always have it in its power to see that the people got fair notice.

The Honourable Mr. RAVENSCROFT—In point of fact this Bill may shortly be described as a Bill to give tenants two months and five days more time in which to make up their minds than they now have.

His Excellency the PRESIDENT—That is what is now said will be given, but there does not appear to me to be any guarantee in this Bill that a man shall have due notice of proposed alterations in the rates of assessment.

The Honourable Mr. GIBBS—The extension of time rests with Government, who will surely see that the ryots are allowed plenty of time.

The Honourable Mr. BYTHIELL asked whether it could not be stated in the Bill that a certain time of notice must be given to landholders.

The Honourable Mr. ROGERS—By the next clause you will perceive that each man will have practically till March in the subsequent year to consider whether or not he will retain his land at the new rates of assessment ; for if at the end of that period he does not wish to retain his land the difference between the old and the new rate of enhancement will be returned to him, and he may vacate by giving due notice of his intention to do so.

His Excellency the PRESIDENT thought that to the end of the clause some such words as the following should be added—"Provided that not less than fifteen days' notice of the date so fixed shall be given in the village."

The Honourable Mr. GIBBS thought there was no necessity for these words unless Government meant to declare its distrust in itself. It would be the fault of Government if the ryots were ever left without due notice.

His Excellency the PRESIDENT, referring to what the Honourable Mr. Rogers had said about the powers of the second clause, said that they certainly gave some advantage to a man who considered he had made a bad bargain in taking the land at the new rate of assessment ; but in the case of men hastily throwing up their land without having had time to consider the effects of the new settlement rates, there would be no redress. A man might be disgusted at the old rates being interfered with, and say hastily he would not pay the

enhanced rates, although if he had leisure to look at the matter he might come to a different decision.

The Honourable Mr. GIBBS—A man never willingly gives up a bit of land even though retaining it ruin may him.

The Honourable RAO SAHIB thought that would be rather an unsafe principle to guide the Council.

The Honourable Mr. ROGERS—As a matter of practical experience, I may say that I myself have given out perhaps 100,000 fields in this way—namely, the two assessments, old and new, being read out to the people, and the people being asked what they would decide upon—and I have never seen the people show the slightest hesitation in expressing their opinion, yes or no.

The Honourable Mr. RAVENSCROFT suggested the addition to the section of the words “provided that no orders for introducing revised assessment shall be issued by Government later than the 31st March.”

The Honourable Mr. ROGERS—I do not think it would be advisable to restrict Government in this way. Even if a settlement were not introduced until the 3rd or 4th June, there would be no occasion for an occupant to decide there and then whether he would throw up, because he has practically till the end of the following March to experiment with his field under the new terms of settlement, and he may then give it up if he chooses.

The Honourable Mr. BYTHELL remarked that the proposed alteration would not tie the Government down to a later period than it was tied to at present.

The Honourable Mr. ROGERS—The object of this Bill is also to enable Government to introduce settlements later than the 31st March.

After some further conversation, it was agreed to amend the clause by deleting “later” in the fifth line, and substituting “earlier than the 31st March or later than” for the words “subsequent to” in the same line.

On clause 2 being read, the Honourable Mr. ROGERS called attention to the wording of the clause, which showed that it would not be optional with the authorities to remit, but that they must remit according to the expression “shall.”

The clause was agreed to.

Clause 3 was agreed to.

Section III. was amended as follows :—This Act shall be read with and taken and construed as part of Bombay Act No. I. of 1865.

The section was then agreed to.

The Honourable Mr. ROGERS then moved that the standing orders be suspended and the Bill read a third time and passed. His chief reason in desiring that the Bill should be passed as quickly as possible was because of sundry revisions of settlement for which the orders had just been issued, as there really had been no time to introduce them before that day (the 31st March).

The Honourable Mr. GIBBS and the Honourable the ADVOCATE GENERAL thought there was no occasion for the suspension of the standing orders, as no alteration upon the principle of the Bill had been made.

His Excellency the PRESIDENT suggested a slight alteration in the second clause of Section II. which was amended as follows :—“not be payable” was substituted for “be remitted” in the sixth line of the clause, and in the following line “shall be” was inserted before the word “levied.”

The Honourable Mr. ROGERS suggested that the clause might be further altered so as to make it in accord with the actual custom which went beyond what was stated in the clause, and which custom was that where a new assessment was less than the old one only the new should be taken.

His Excellency the PRESIDENT did not think this alteration was necessary, as the people would not be likely to make any objection to the clause as it stood.

On the motion of His Excellency the President, the Bill read a third time and passed. Bill was then read a third time and passed.

Mr. Ravenscroft substituted for Mr. Chapman on the Select Committee appointed to consider the Revenue Code Bill.

The Honourable Mr. Ravenscroft was placed on the Select Committee on the Revenue Code Bill in place of the Honourable Mr. Chapman.

The Honourable Mr. RAVENSCROFT brought to the notice of the Council that many revenue officers had represented to him that they had not had time to give that consideration to the Revenue Code Bill which a Bill of such importance required.

His Excellency the PRESIDENT explained the course regarding the means of giving publicity to the Bill which had been adopted at the last meeting of Council on his suggestion.

The Honourable Mr. RAVENSCROFT thereupon expressed himself satisfied that heads of departments would have an opportunity of considering the Bill.

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Under Secretary to Government.

Bombay, 31st March 1875.