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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 Poona on Saturday the 6th September, 1879, at noon.

PRESENT:

His Excellency the Honourable Sir RICHARD TEMPLE, Bart., G.C.S.I., C.I.E., Governor of Bombay, *Presiding*.

His Excellency the Honourable Lieutenant-General HENRY JAMES WARRE, C.B.

The Honourable L. R. ASHBURNER, C.S.I.

The Honourable E. W. RAVENSCROFT, C.S.I.

The Honourable the ADVOCATE-GENERAL.

The Honourable Colonel W. C. ANDERSON.

The Honourable M. BALFOUR.

The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.

The Honourable M. MOWAT.

The following paper was presented to the Council :—

The telegram from the Secretary to the Government of India, Legislative Department, dated the 28th August 1879, stating that His Excellency the Viceroy assented to the Bombay Port Trust Bill (No. 2 of 1879) on the 27th idem.

Papers presented to the Council.

The Honourable M. BALFOUR asked if it was permissible to inquire when the purchase of the private foreshore properties under the New Port Trust Act was likely to be completed. People in Bombay were very anxious to know, and if His Excellency the President could give him any information on the point, he should be very much obliged.

The Port Trust Act.

His Excellency the PRESIDENT:—We have telegraphed to the Government of India to ask if we may at once proceed with the purchase, and have asked for a reply by telegram. Honourable Members may be sure that there will not be a moment's avoidable delay.

The Honourable Mr. ASHBURNER moved for leave to introduce a Bill to amend the

law relating to the settlement of villages held by Khots. The Honourable Member said:—For the last 60 years the anxious attention of Government has been directed to the unsatisfactory state of those ryots of the Konkan who pay their revenue to Government through the agency of the Khots. The Konkan may be called the nursery of the Bombay Army, and supplies a very large proportion of its recruits, and it is very necessary that it should be kept in a loyal state, and should be deprived of any grievances, whether real or imaginary. In order to understand the relations of the Khots with Government and the ryots, it is necessary to consider their origin and position under the Peishwa. The country was in a very disturbed state, and it was absolutely necessary that there should be in each village of an outlying district like the Konkan an official representative of the Poona Government to collect the revenue and to organize measures of protection against the bands of marauders which infested the rural districts. The Peishwa therefore delegated certain of his powers to Court favourites, usually Brahmins, sometimes by formal *sanad*, but more often by a mere verbal order, to go to a certain village, take measures for its defence and cultivation, protect the ryots, collect the revenue, and remit the money to head-quarters at Poona—for this was by far the most important part of their functions. Much valuable time has been wasted in endeavouring to show that *sanadi* Khots held office on a more favourable and stronger tenure than those who had received no *sanads*; but the fact is there was no real difference between them. Both held office only during good conduct, or so long as they gave satisfaction, and were liable to ejection, and were frequently ejected, on very frivolous pretexts. The issue of a *sanad*, indeed, was very often merely the authority to dispossess some previous incumbent who had fallen into disgrace. The theory that a *sanadi* Khot could not be ejected is quite untenable. Is it likely that when powerful Chiefs like the Vinchurker or the Kuddum Bandy were deprived of their *jagirs*, the Darbar would hesitate for a moment to eject a humble Izardar of a single village? The fact is that under a despotic Government no man, whether jagirdar or ryot, had any rights whatever, except what he could hold at the point of the sword or secure by intrigue with the Darbar officials. Rights, presuppose Courts of Justice to enforce them and we know there were no courts of justice under the Peishwas. It is very necessary to bear this fact in mind, for with our superstitious regard for constitutional forms we are apt to overlook it, and to give an undue importance to rights and claims which have no real existence except in the imagination of sedition-mongers who wish to impose on the ryots, more ignorant than themselves, and to make out that they are very hardly treated by the British Government. It is true that a Khot who had held office in the same village for many years would acquire a local influence and power which would be of great use to Government. The son was therefore often allowed to succeed the father, and in this way a quasi-hereditary right grew up, but an hereditary proprietary right, as we understand that term, never existed, and would not have been tolerated by the Peishwa for a moment. This quasi-hereditary right under the Peishwa has, however, become matured under our Government, and we now propose to declare and legalize it, subject to certain conditions, so that the Khot will obtain nearly all that he asks for in this respect. We have never made any distinction between *sanadi* and non-*sanadi*, *mirasi* or *watandari* Khots, and we do not propose to make any now; all Khots will be treated alike, as hereditary farmers of the revenue with certain defined rights over their subordinate ryots. So much for the Khots; I will now turn to the Darakeris, the next most important class in the Konkan. From a period of the remotest antiquity the lands of the Konkan have been held by a class of Maratha *kunbis*, called Darakeris—a word derived from the incidents of their tenure. There is evidence of the existence of village communities of this class from a period long prior to the rise of the Peishwa and his Brahmin Khots and even prior to Sivaji. They were probably the original inhabitants of the Konkan. Where they were sufficiently strong, and could hold their own, they formed themselves into pure Darakeri villages, paying revenue direct to Government; and many hundreds of these villages exist to this day, they pay their revenue to Government without any intervention of the Khots. But wherever the Darakeris were threatened with extinction by the anarchy of the times, a Brahmin Khot was deputed from Poona to protect them and to encourage immigration and cultivation. So long as land

was abundant and the population scanty, the Khots could not oppress their tenants; but as population increased all the available land was occupied, and the demands of the Khots then became more extortionate. They gradually encroached on the rights of the Darakeris and reduced them to the position of inferior tenants of various denominations as Ardilis, Tirdilis, Daspatkaris, Dopotkaris, and so on, according to the proportion of produce which they paid as rent, while the terms exacted from the inferior tenants left them a bare subsistence. From that period a very bitter contest commenced, which has been a subject of anxiety to Government ever since. Our present task is to reconcile these differences, to pour sweet oil on the troubled waters, to define and regulate the relations of the Khots with the several classes of tenants which the growth of population has created in the Koukan, and, if possible, to satisfy all parties. Many expedients have been devised to protect the tenants from extortion; and if they have not been successful it has not been for want of careful inquiry and research as I know to my cost, for I have read lately through a mass of correspondence which would fill a small library. However, in 1851, the operations of the Survey had effected great improvements in the condition of the agricultural classes, and the Survey Settlement came to be looked upon as the panacea for all the abuses to which they were liable. Accordingly an experimental Survey was undertaken in a few villages, but it met with so much opposition from the Khots that it was abandoned in 1857 till an Act could be passed giving legal sanction to its operations. It was resumed in 1859, but it failed to satisfy either party, and gave rise to so much litigation and ill-feeling, that it was again suspended. I need not here follow the whole vicissitudes of the Survey; it is sufficient to say matters remained in this unsatisfactory state until Mr. Arthur Crawford was deputed to this district as Collector, two years ago. He, by his tact, ability, and personal influence, has succeeded in effecting a compromise which has given so much satisfaction to all parties that litigation has ceased, and land which has been unsaleable for the last twenty years, owing to uncertainty of title, is now freely bought and sold, and mortgaged at 5 or 6 per cent. interest. I may here give some details to show how unanimously the settlement has been accepted by all classes. In 407 villages the holdings of 47,024 ryots have been surveyed, the boundaries defined on the map and in the field, the rental of each field fixed, and the relations of the occupants to Government and the Khots defined to the satisfaction of all but 164 ryots, whose appeals having been patiently heard, in only one case was the decision reversed. The new settlement has been in operation for one year in 210 of the above villages, and there have been only 22 instances of revenue defaulters. In 187 villages in which the Survey had been introduced the ryots have petitioned to be allowed to relinquish the Survey guarantee and to accept the new settlement. The Khots of about 500 villages who had rejected the Survey Settlement, and whose villages were accordingly under direct Government management, have now resumed their duties, only 24 remain non-content owing to disputes among the co-sharers. All the suits, 80 in number, which had been filed against Government, have been withdrawn. In the great majority of cases the dispute between Khot and Darakeri have been amicably settled, and tenant rights have been voluntarily granted to ryots who were not strictly entitled to that privilege. Only 5 per cent. of the ryots are now tenants-at-will. These details will, I think, show how satisfactory the settlement is to all parties, and that we may proceed with confidence to give it legal sanction in the Bill which is now before the Council. It will, in the hands of the Select Committee, no doubt, undergo considerable changes in detail, but its principles will, I feel confident, meet with the approval of this Council. Its main provisions are—(1) To confirm the Khots in the hereditary enjoyment of their khoti rights on payment of the amount to be fixed from time to time by the Survey; (2) to secure tenant rights to all who can prove occupation previous to 1845; (3) to declare what classes of tenants have a heretible and transferable right to their lands and those who have only a heretible but not a transferable right; (4) to vest in the Khots the right of creating *daras*, that is, granting the conditions of the Darakeri tenure to inferior tenants; (5) to provide a procedure for the recovery of rents, and their commutation into cash when payable in kind; (6) to vest the Settlement Officer with the power to adjudicate in disputes connected with the preparation of survey records; (7) to fix the rents payable by the Khots and all classes of tenants; (8) to abolish all irregular cesses, which have been a fruitful source of oppression and dispute; (9) to confirm past settlements with the option of relinquishing them and accepting the settlement under the present Act. I request permission with these remarks to introduce the Bill.

His Excellency the PRESIDENT then put the question to the vote, and permission of the Council having been duly accorded,

The standing orders suspended, and the Bill read a first time and referred to a Select Committee.

The Honourable Mr. ASHBURNER asked that the standing rules might be suspended to allow of the Bill being read a first time, so that it might be referred at once to a Select Committee.

The standing rules were accordingly suspended, and on the motion of the Honourable Mr. Ashburner, the Bill was read a first time and referred to a Select Committee consisting of the Honourable Mr. Ravenscroft, the Honourable Colonel Anderson, the Honourable Morarjee Goculdass, and the Honourable Mover, with instructions to report in a fortnight. The Bill to be translated into the Marathi language.

His Excellency the PRESIDENT then adjourned the Council *sine die*.

By order of His Excellency the Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Poona, 6th September 1879.