

THE



Bombay Government Gazette.

Published by Authority.

TUESDAY, 23RD DECEMBER 1884.

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 Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 15 of the Rules for the conduct of Business at Meetings of the Council of His Excellency the Governor of Bombay for making Laws and Regulations :—

Bill No. 3 of 1884.

A Bill to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs.

WHEREAS some portions of the Bombay Hereditary Offices Act are found to be unsuited to matádárs, and it is therefore expedient to amend the said Act and to enact special provisions for the regulation of the service of matádárs: It is enacted as follows :

Short title. 1. This Act may be cited as "The Matádárs Act, 1884."

Extent. It extends to the districts of Ahmedabad, Kaira, Broach and Surat; but the Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*, extend its provisions to any village in the Panch Maháls district.

It shall come into force at once:

Commencement. Provided that every appointment to any patel's office to which this Act applies, made under the provisions of the Bombay Hereditary Offices Act and still in force, shall hold good:

- (a) until the time when, if this Act had not been passed, such appointment would become vacant or until the expiry of two years from the coming of this Act into force, whichever first occurs, or
- (b) in the case of an appointment which has been made to have effect pending further orders, until such time not exceeding two years from the coming

of this Act into force as the Collector directs;

and a fresh appointment under this Act in lieu of any such appointment as aforesaid shall only be made to have effect from the time when the latter appointment ceases to hold good.

2. In this Act, unless there be something repugnant in the subject or context:

(1) "matádár" means a member of a family to which the office of village patel or some share in the discharge of the duties or in the exercise of the powers of that office belongs hereditarily;

(2) "mata" means the aggregate of the rights, privileges and responsibilities vesting in a matádár or in several matádárs jointly, as such;

(3) "representative matádár" means a "Representative matádár whose name is entered as a representative matádár in the register kept under section 5 of this Act;

(4) "registered matádár" means any "Registered matádár" matádár whose name is entered in the said register and includes a representative matádár;

(5) "senior member" and "senior heir" mean, respectively, the member or heir who first acquired membership or the right of inheritance, whether by birth, marriage or otherwise;

(6) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall have the meaning given to it by that Code.

3. In applying the Bombay Hereditary Offices Act to matádárs, the said Act shall be read subject to the following modifications (namely):

(1) sections 24 to 31, both inclusive, 36 to 62, both inclusive, 67, 69, 71 and 73, shall be deemed to be repealed;

(2) in sections 33 and 34, the words "the coming into force of this Act" shall be taken to mean, in respect of registered matádárs, the coming into force of this

present Act, and the words "registered matádárs" shall be substituted for the words "registered representative watan-dár" and "watan-dár," wherever they respectively occur.

This Act and Bombay Act III. of 1874 to be read as one.

4. This Act shall be read as one with the Bombay Hereditary Offices Act. Bo. III. of 1874.

Of the Register.

5. In the register of lands and allowances in consideration of which liability to perform service still exists, kept under section 65 of the Bombay Hereditary Offices Act, the Collector shall specify for every village in which there are matádárs:

(a) the number of distinct matás in the village separately recognized in the Collector's records;

(b) the name of the representative matádárs of each mata to which a right to hold the office of patel attaches;

(c) the name of every other matádár directed by the Collector to be entered in the register under section 7 or 9;

(d) where there are more representative matádárs than one, the order of rotation in which, failing the appointment of an officiator by election, the right to the patel's office is to vest in the said representative matádárs;

(e) the number of persons required to officiate as patels contemporaneously;

(f) a description of the service lands held by the matádárs, showing the area, survey numbers and the assessment thereof, together with the quit-rent, if any, payable and the net amount of revenue alienated by Government;

(g) the amount and nature of the cash or other allowances, if any, held by the matádárs;

(h) the watan property or profits assigned under section 23 of the Bombay Hereditary Offices Act for the emoluments of officiators; Bo. III. of 1874.

(i) such other particulars as Government from time to time direct.

The said register shall be amended from time to time whenever any change is made in any of the particulars therein specified in accordance with the provisions of this Act or of the Bombay Hereditary Offices Act. Bo. Act III. of 1874 s. 65.

c. V. of 1879.

Expressions defined in the Bombay Land Revenue Code.

Bo. III. of 1874.

Modifications of Bombay Act III. of 1874.

Bo. III. of 1874.

6. In every village in which there are two or more distinct matás separately recognized in the Collector's records, a right to hold the office of patel shall ordinarily be deemed to attach to each mata :

Provided that it shall be competent to the Governor in Council to declare, if, upon consideration of the past history of the tenure of the office in any village and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do, that the right to the patel's office in such village attaches exclusively to one mata, and every such declaration shall be conclusive evidence of the exclusive right thereby affirmed.

7. In the register prepared under section 5 the Collector shall enter the name of every matádár contained in any list of matádárs made under the orders of Government subsequent to the year 1866: Provided that—

(a) if, for any village, no such list exists, or if, in respect of any mata, no matádár's name has been entered in any such list, or if, at the time when this Act comes into force, there is any dispute pending as to the completeness or correctness of any such entry, the Collector shall hold a summary inquiry and shall enter in the register the name of each person who shall appear to him to have been recognized in the records previous to the year 1867 as a matádár of any mata for which such list or entry is wanting or to which such dispute relates ;

(b) if any person whose name should be entered in the register in accordance with any of the foregoing provisions is dead, the name of his nearest heir or of the senior heir, if there are two or more of equal degree, shall be entered in the register instead of his.

8. (1.) The name of one matádár shall be entered in the said register as the representative matádár of each mata to which a right to hold the office of patel attaches.

(2.) For every such mata of which there is only one registered matádár, the said registered matádár shall be the representative matádár.

(3.) If there are two or more registered matádárs of any such mata, the Collector shall, as soon as may be after the passing of this Act, by written notice require the said registered matádárs to assemble in his presence for the purpose of determining which of them shall be the representative matádár of the mata.

(4.) If a majority of the said registered matádárs present in accordance with the said notice agree to the nomination of one of their number to be the representative matádár of the mata, the Collector shall enter in the name of the person so nominated in the said register accordingly.

(5.) If a majority of the said registered matádárs do not agree as aforesaid, the Collector shall enter in the said register as representative matádár of the mata such one of the said registered matádárs as shall appear to him to be the senior male member, or, if there is no male member, the senior female member of the family or of the branch of a family to which the mata belongs.

9. On the death of a representative or other registered matádár, the fact shall be reported by the village officers to the Collector and the name of his nearest heir, if any, or of the senior heir, if there are two or more of equal degree, shall be registered in his stead.

Of Service.

10. Every registered matádár shall be bound, when so required by the Collector, to reside in the village of which he is a matádár and to perform the duties customarily discharged by matádárs, and shall have the privilege of signing the abstract of village lands and revenues and such other village records as it may be customary for matádárs to sign.

11. If within the limits of any village in which there are matádárs a new village or hamlet has been, or shall hereafter at any time be, formed, it shall be competent to the Collector, with the previous sanction of Government, to exclude the limits of such new village or hamlet from the area to which the functions of the said matádárs extend.

Bo. Act III.
of 1874, s. 36.

Do., ss. 69
and 71.

Right to patel's office to attach ordinarily to every mata ; but

two or more distinct matás separately recognized in the Collector's records, a

right to hold the office of patel shall ordinarily be deemed to attach to each mata :

Provided that it shall be competent to the Governor in Council to declare, if, upon consideration of the past history of the tenure of the office in any village and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do, that the right to the patel's office in such village attaches exclusively to one mata, and every such declaration shall be conclusive evidence of the exclusive right thereby affirmed.

7. In the register prepared under section 5 the Collector shall enter the name of every matádár contained in any list of matádárs made under the orders of Government subsequent to the year 1866: Provided that—

(a) if, for any village, no such list exists, or if, in respect of any mata, no matádár's name has been entered in any such list, or if, at the time when this Act comes into force, there is any dispute pending as to the completeness or correctness of any such entry, the Collector shall hold a summary inquiry and shall enter in the register the name of each person who shall appear to him to have been recognized in the records previous to the year 1867 as a matádár of any mata for which such list or entry is wanting or to which such dispute relates ;

(b) if any person whose name should be entered in the register in accordance with any of the foregoing provisions is dead, the name of his nearest heir or of the senior heir, if there are two or more of equal degree, shall be entered in the register instead of his.

8. (1.) The name of one matádár shall be entered in the said register as the representative matádár of each mata to which a right to hold the office of patel attaches.

(2.) For every such mata of which there is only one registered matádár, the said registered matádár shall be the representative matádár.

(3.) If there are two or more registered matádárs of any such mata, the Collector shall, as soon as may be after the passing of this Act, by written notice require the said registered matádárs to assemble in his presence for the purpose of determining which of them shall be the representative matádár of the mata.

(4.) If a majority of the said registered matádárs present in accordance with the said notice agree to the nomination of one of their number to be the representative matádár of the mata, the Collector shall enter in the name of the person so nominated in the said register accordingly.

(5.) If a majority of the said registered matádárs do not agree as aforesaid, the Collector shall enter in the said register as representative matádár of the mata such one of the said registered matádárs as shall appear to him to be the senior male member, or, if there is no male member, the senior female member of the family or of the branch of a family to which the mata belongs.

9. On the death of a representative or other registered matádár, the fact shall be reported by the village officers to the Collector and the name of his nearest heir, if any, or of the senior heir, if there are two or more of equal degree, shall be registered in his stead.

Of Service.

10. Every registered matádár shall be bound, when so required by the Collector, to reside in the village of which he is a matádár and to perform the duties customarily discharged by matádárs, and shall have the privilege of signing the abstract of village lands and revenues and such other village records as it may be customary for matádárs to sign.

11. If within the limits of any village in which there are matádárs a new village or hamlet has been, or shall hereafter at any time be, formed, it shall be competent to the Collector, with the previous sanction of Government, to exclude the limits of such new village or hamlet from the area to which the functions of the said matádárs extend.

Bo. Act III.
of 1874, s. 36.

Do., ss. 69
and 71.

12. The Collector may fix at his discretion, from time to time, the number of officers requisite for the due discharge of the duties of every patel's office.

13. In every village in which the Governor in Council declares, under section 6, that the right to the patel's office attaches exclusively to one mata, the said right shall vest in the representative matádár of that mata alone.

14. In every other village the registered matádárs may, on or in anticipation of the occurrence of a vacancy in the office of patel, elect a matádár of the village to fill the vacancy.

If a majority of the registered matádárs, consisting, when the registered matádárs belong to two or more different castes, of not less than two-thirds of the whole number, fail, within such reasonable period as shall be prescribed by the Collector in this behalf, to nominate some matádár for the vacancy, or if the person nominated is not a matádár of the village, or is disqualified for office, the right of office shall vest in the representative matádár, or in one of the representative matádárs if there are more than one.

15. Elections under the last preceding section shall be held in accordance with such rules as the Governor in Council, by notification in the *Bombay Government Gazette*, from time to time, prescribes in this behalf :

Provided that if registered matádárs of two or more matás are entitled to vote and the numbers of registered matádárs of the several matás are unequal, provision shall be made in such rules for a number of votes equal to the maximum number of registered matádárs of any one of the matás being assigned to each mata.

16. If there are two or more representative matádárs in a village the right to the patel's office shall, subject to the provisions hereinafter contained, vest in

each of them in rotation, whenever the registered matádárs fail to elect an officiator in the manner provided in section 14.

17. For the purpose of determining the order in which the said representative matádárs, the Collector shall, as soon as may be after this Act comes into force, by written notice, require the said representative matádárs to assemble in his presence.

If a majority of the representative matádárs present in accordance with the said notice do not agree to some order of rotation, the order shall be forthwith determined by the Collector by lot, in the presence of the assembled representative matádárs, in such manner as he shall think fit :

Provided that if in the course of any proceeding held under the Bombay Hereditary Offices Act an order of rotation for service of the same representative matádárs, or of their predecessors in title, has been already settled by lot or by agreement of the parties, the order so settled shall be deemed to have been determined under this section.

18. Every representative matádár in whom the right of office vests under section 13 or sections 14, 16 and 17 shall, ordinarily, be required by the Collector, if he is not disqualified for office, to officiate in person, but the Collector may, if he thinks fit, dispense with his personal service.

If there are two or more representative matádárs, and the one whose turn it is to enjoy the right of office declines, when so required by the Collector, to officiate in person, the turn to enjoy the said right shall pass to the next in the settled order of rotation.

A representative matádár who declines, whilst officiating, to forsake some other employment which, in the opinion of the Collector, is incompatible with the due discharge of the duties of the patel's office, shall be deemed to decline to officiate in person.

19. A deputy may be appointed at any time :

- (a) by a representative matádár who is or who, whilst officiating in person, becomes disqualified for office ; and
- (b) with the Collector's permission, by a representative matádár who does not wish to officiate or to continue to officiate in person, although not disqualified for office ; and
- (c) by a sole representative matádár, who proposes to officiate or is already officiating in person, when one or more other officiators are necessary.

20. When an appointment of a deputy has to be made by a representative matádár, the Collector shall, by written notice, require him to nominate a fit person to be his deputy within twenty days from the date of service of the said notice.

Should the representative matádár fail, within the said period, to nominate any person, or if the person he nominates is not a matádár of the same village or is disqualified for office, the Collector may, in his discretion, extend the period of nomination for a further term of ten days.

If within the prescribed period of twenty days, or, when the Collector extends the period, within the extended term, no person is nominated by the representative matádár, or the person nominated by him is not a matádár of the same village, or is disqualified for office, the turn to enjoy the right of office shall, where there are two or more representative matádárs, pass to the next in the settled order of rotation.

21. If a sole representative matádár, or where there are two or more representative matádárs, each of them in turn, declines, when so required by the Collector, to officiate in person, or fails to appoint a fit person to be his deputy in accordance with the provisions of the last preceding section, the Collector shall appoint a deputy.

A deputy so appointed by the Collector shall ordinarily be a matádár of the village for which he is appointed, but, with the previous sanction of Government, may be any other person.

22. If a registered matádár is under eighteen years of age or is of unsound mind, or an idiot, the guardian or other

legal curator of his person may act in his behalf in any of the matters provided for in sections 14, 17, 19 and 20.

Term of office of a sole representative matádár; and

The term of office of an elected officiator; and

as a majority of the registered matádárs, consisting, when the registered matádárs belong to two or more different castes, of not less than two-thirds of the whole number, shall, at the time of election, desire, if the person elected shall not in the meantime die or become disqualified for office.

The term of office of one of two or more representative matádárs, in whom the right of office vests in rotation, shall be :

- (a) five years, when the number of representative matádárs exceeds nine ;
- (b) seven years, when the number of representative matádárs exceeds four but does not exceed nine ;
- (c) ten years, when the number of representative matádárs does not exceed four.

24. A deputy appointed by a representative matádár or by the Collector in his stead shall be appointed for the term or for the residue of the term of office of the representative matádár by or for whom he is so appointed; and if a deputy dies or resigns or becomes disqualified for office during the said term, another deputy may be appointed for the residue of the said term in accordance with the provisions of sections 20 and 21 :

Provided that :

- (a) if a representative matádár who has appointed a deputy because he himself was disqualified for office or because he did not wish to officiate in person, subsequently at any time during his term of office wishes to officiate in person, he may, if he is not then disqualified for office, be permitted so to do by the Collector ;
- (b) if a representative matádár dies during his term of office, the deputy, if any, officiating in his stead shall cease to officiate and the successor of the registered representative matádár shall,

23. The term of office of a sole representative matádár shall be for life.

under section 14 shall be for five years or for such longer period

registered matádárs, of the whole number, desire, if the person elected shall not in the meantime die or become disqualified for office.

representative matádárs, in whom the right of office vests in rotation, shall be :

- (a) five years, when the number of representative matádárs exceeds nine ;
- (b) seven years, when the number of representative matádárs exceeds four but does not exceed nine ;
- (c) ten years, when the number of representative matádárs does not exceed four.

Deputies to be appointed for the period of their principals' term of office.

pointed for the term or for the residue of the term of office of the representative matádár by or for whom he is so appointed; and if a deputy dies or resigns or becomes disqualified for office during the said term, another deputy may be appointed for the residue of the said term in accordance with the provisions of sections 20 and 21 :

Provided that :

- (a) if a representative matádár who has appointed a deputy because he himself was disqualified for office or because he did not wish to officiate in person, subsequently at any time during his term of office wishes to officiate in person, he may, if he is not then disqualified for office, be permitted so to do by the Collector ;
- (b) if a representative matádár dies during his term of office, the deputy, if any, officiating in his stead shall cease to officiate and the successor of the registered representative matádár shall,

Bo. Act III. of 1874, s. 44.

Do., s. 37.

Deputy appointed by the Collector may with consent of Government be some person other than a matádár of the village.

Guardian may act on behalf of a registered matádár legally incompetent.

subject to the provisions of section 18, officiate in person for the residue of the said term, or a deputy shall be appointed by him or by the Collector in his stead for the said period, according to the provisions of sections 19, 20 and 21.

25. Notwithstanding anything herein-

No change of officiator to be permitted during the last year of a representative matádár's term of office.

before contained to the contrary, no representative matádár in any village to which the provisions of section 14 apply, shall be permitted to commence to officiate in person, and no new deputy shall be appointed by or for a representative matádár, during the last year of the term of office of such representative matádár.

If occasion arises during any such year for any change of an officiator in any such village, there shall be deemed to be a vacancy in the office.

26. During any interval between the occurrence of a vacancy in a patel's office and its being filled up in accordance with the foregoing provisions and during the time that any officiator is suspended, the Collector may appoint such person as he thinks fit, whether a matádár of the same village or not, to officiate temporarily.

27. If an officiator is temporarily absent from his village or is temporarily prevented by illness from discharging the duties of his office, he may depute some other fit person to perform the said duties, but shall be responsible for the acts and omissions of the person so deputed as if they were his own acts and omissions.

Of the Disqualifications for the Patel's Office.

28. The following persons shall be deemed to be disqualified for the patel's office (namely):

- (a) females;
- (b) persons under eighteen years of age;
- (c) any person who has not passed such educational test, if any, as Government think fit, from time to time, to prescribe in this behalf;

(d) any person who has attained fifty-five years of age, except when such person's appointment or further continuance in office is specially permitted by the Collector;

(e) any person who is of unsound mind or an idiot, or is, in the opinion of the Collector, by reason of disease or deformity, physically unfit for office;

(f) any person who is adjudged by the Collector, after a summary inquiry, to be of general bad character;

(g) any person removed from office under section 29, except when such person's re-employment is expressly sanctioned by Government.

Any officiator who during his term of office becomes disqualified for any of the above reasons shall cease to officiate.

Of Penalties.

29. Any registered matádár who shall neglect or refuse to comply with any order made by the Collector under section 10, and any officiator who shall be careless or negligent in the discharge of his duties may be punished by the Collector for each such offence by fine, which may extend to one-fourth part of the annual emoluments of such registered matádár or officiator.

If an officiator shall be accused of any misconduct which of officers by suspension or removal from office shall seem to the Collector to require a severer punishment than that aforesaid, the Collector may suspend him from office during investigation into such accusation, and, after holding a summary inquiry, may, if he consider the officiator guilty of misconduct meriting such punishment, suspend him from office for a further period not exceeding six months, or, if fraud or wilful framing of incorrect records or other grave misconduct or offence is proved against him, may, with the previous sanction of Government, remove him from office.

When an officiator has been so removed from office, he, if he is a representative matádár, or the representative matádár who appointed him, if he is a deputy so appointed, shall, if Government so direct, be deprived for the rest of his life of any

Bo. Act III. of 1874, s. 52.

Do., s. 55.

Do., s. 57.

Bo. Act I. of 1876, s. 2.

Bo. Act III. of 1874, s. 58.

Do., ss. 50 and 59.

right which he would otherwise have of voting at an election of an officiator or of appointing a deputy to officiate; and if any representative matádár so deprived is a sole representative matádár, a deputy shall be appointed by the Collector, subject to the provision of paragraph two of section 21, to officiate in his stead during his lifetime.

Bo. Act I. of 1876, s. 3.

30. Nothing in the last preceding section shall affect the suspension of an officiator under trial for an offence. Liability of an officiator to a criminal prosecution for any offence which he may be accused of having committed; and the Collector may suspend any officiator subjected to any such prosecution pending the inquiry and trial, and at its close may take the proceedings and the finding of the criminal court into his consideration for the purpose of dealing with the case under the last preceding section.

31. If a matádár elected to officiate under section 14, or an officiating representative matádár or any deputy appointed by a representative matádár, is convicted by a Court of Sessions of an offence committed by him as village patel and such conviction is not subsequently reversed or quashed, the Governor in Council may direct the forfeiture of the matás or of any mata or of any part, or of any of the profits of any mata in the village.

Bo. Act III. of 1874, s. 60.

If any representative matádár or deputy is removed from office under section 29, the Governor in Council may direct the forfeiture of the life interest as matádár of the representative matádár so removed from office or of the representative matádár by whom the deputy so removed from office was appointed, as the case may be.

Do., s. 61.

STATEMENT OF OBJECTS AND REASONS.

The provisions of the Bombay Hereditary Offices Act III. of 1874 are unsuitable to the case of the matádári village watans in Gujarát, because that Act restricts the recognition of watandárs as "representative watandárs" entitled to office in their own right to those who are recorded as heads of families which have actually served, whereas it is admitted to be the custom of matádár watans that all registered matádárs have the right of service, whether they or their ancestors have actually served or not. This Bill has, therefore, been drafted to extend to all registered matádárs the rights secured to representative watandárs by Section 40 of Act III. Under Section 14 of the Bill the registered matádárs will exercise the right of election confined to representative watandárs by Section 40 of Act III., but the nomination will be by a majority and not unanimous. On failure of election or nomination, the right to officiate vests in the representative matádár whose turn it is. The representative matádárs are determined by the vote of a majority of registered matádárs in favour of one of their number, failing which the senior male member of the family to which the mata belongs will be registered as representative matádár. If there are two or more representative matádárs in a village, their order of rotation as officiators may be determined by vote of a majority of the representative matádárs, failing which it will be determined by the Collector by lot and not by his own discretion. By Section 6 power is given to the Governor in Council to deal with cases, known to exist, in which though there are two or more matás in a village, the right to the patel's office is found to attach exclusively to one mata. The Bill also makes suitable provision for the term of office, regulates the appointment of deputies, gives a full definition of the disqualifications for the patel's office, and generally substitutes clearer provisions for those sections of Bombay Act III. of 1874 which are repealed so far as affects matádárs.

Section 24.

(Signed) J. B. PEILE.

20th December 1884.

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

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

Bombay Castle, 20th December 1884.