

Repealed by W.P. Act, 1957

SIND ACT No. VI OF 1933: 52 1958

[THE SIND VILLAGE PANCHAYATS ACT, 1933.]

[12th June, 1933]

An Act to amend and consolidate the law relating to the constitution of Village Panchayats.

WHEREAS it is expedient to amend and consolidate the law relating to the constitution of village panchayats, with a view to fostering their growth and of increasing their utility in the further development of local self-government in rural areas and in the administration of civil and criminal justice; and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and of the Governor required under section 80C of the said Act have been obtained for the passing of this Act: It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the "[Sind] Village Panchayats Act, 1933.
2. It extends to the whole of the "[Province of Sind].
3. In this Act, unless there is anything repugnant in the subject or context—

(1) "by-laws" means by-laws made by the district local board under section 104;

(2) "case" means, with reference to any judicial proceeding, a criminal proceeding in respect of any offence triable by a village bench;

(3) "chairman" means the chairman of a village bench, appointed under sub-section (4) of section 37;

(4) "district local board", used with reference to any local area, means a district local board established under the "[Sind] Local Boards Act, 1923, for the district in which such local area is situated;

Slud.
VI of
1933.

¹ For Statement of Objects and Reasons, see B. G. C., 1932, Pt. V, pp. 200-211; for Report of the Select Committee, see 1933, Pt. V, pp. 1-4 and for Proceedings in Council, see Bombay Legislative Council Debates, 1932, Vol. XXXV, 1933, Vol. XXXVII.

² Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Slud. 3 of 1955), s. 3 (6) (W. n. 1, 24th May 1951), for "Bombay".

³ Subs. *ibid.*, s. 7, Sch. III, for "Presidency of Bombay except the city of Bombay".

(5) "holder" means a holder of an alienated revenue village and includes a jagirdar or a zamindar ;

(6) "offence" means any act or omission made punishable by any law for the time being in force ;

(7) "panchayat" means a panchayat established under this Act ;

(8) "prescribed" means prescribed by rules ;

(9) "revenue village" means any local area which is recognised as a village in the revenue accounts ;

(10) "rules" means rules made by the Provincial Government under section 108 ;

(11) "sarpanch" means a sarpanch elected under section 14 ;

(12) * * * * *

(13) "suit" means a civil suit triable by a village bench under this Act ;

(14) "tax" means a tax, cess, rate, or other impost leviable under this Act ;

(15) the expression "the term of a panchayat" means the period for which the elected members thereof shall hold office under section 11 ;

(16) "village" means any local area declared to be a village under section 4 ;

(17) "village bench" means a bench constituted under sub-section (1) of section 37 for the purpose of the trial of suits and cases.

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF PANCHAYATS.

4. On a written application made—

(i) by the district local board with previous notice to the Collector,

(ii) by the Collector with previous notice to the district local board, or

Declaration of village.

* The words "a khod, a talukdar, a shirakotdar and in Sindhi," rep. by Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 3 of 1935), s. 6, Sch. II.

² Subs. by the A. O., 1937, for "Govt."

³ Cl. (12) rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 3 of 1935), s. 6, Sch. II.

(iii) by not less than twenty adult residents of any local area, the ¹[Revenue Commissioner] may, after making such inquiry as may be prescribed, by notification in the ²[*Official Gazette*], declare the local area in respect of which the application has been made to be a village, or to cease to be a village or declare that any area is included in or excluded from a village:

Provided that if there be a holder of any revenue village in any such area and if any such holder objects to a declaration being made including any such revenue village in any such area, the ¹[Revenue Commissioner] shall not make a declaration with respect to such revenue village, but shall refer the objection of such holder to ³[the Provincial Government] and thereupon ⁴[the Provincial Government] after taking the objection into consideration shall, by notification in the ²[*Official Gazette*], declare that such revenue village shall or shall not be included in the village.

5. In every village declared to be such under section 4, there shall be a panchayat.

6. (i) A panchayat shall consist of the following members namely:—

(a) such elected members, not being less than five or more than eleven in number, as the Collector after consultation with the district local board may determine:

Provided that when among such elected members there is not a member of any class of persons residing in the village, which in the opinion of the Collector, by reason of its numbers or for any other reason, should in the public interest be represented on the panchayat, the Collector shall nominate a member of such class qualified and willing to be so nominated a member of the panchayat:

Provided further that the number of members nominated by the Collector under the first proviso shall not exceed two.

“(b) (i) Village officer appointed under section 3 of the Sind Village-officers Act, 1881, or

(ii) the senior Village Officer if there be more than one village officer in a village.]

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 5 of 1935), s. 73, for “Commissioner”.

² Subs. by the A. O., 1937, for “B. G. G.”.

³ Subs. *ibid.* for “Govt.”.

⁴ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 5 of 1935), s. 7, Sch. III, for cl. (i).

(c) The holder of any revenue village and when there are more than one revenue villages in the village as defined under the Act the holder of any such revenue village and when there are more than one holder of any such revenue village, the principal among such holders, nominated by the Collector. If any such holder is unable or unwilling to serve, the Collector shall nominate a representative of such holder whom the Collector may approve.

(a) The decision of the Collector as to who is the senior [Village Officer] or the principal holder or the representative of the holder shall be final.

(3) Where the Collector in consultation with the district local board determines that the number of elected members of a panchayat shall exceed five, failure to elect more than five such members shall not affect the constitution of a panchayat.

7. (1) The election of elected members to a panchayat shall be Election. held on such date as the Collector may appoint in this behalf.

(2) All adult persons who ordinarily reside in the village * * * shall be entitled to vote at the election.

Such election shall be conducted in the prescribed manner.

(3) The Collector shall, after such enquiry as he considers necessary, decide in any case of dispute or doubt, who is qualified to vote at such election.

8. No person may be elected or nominated a member of a Disquali- panchayat or continue as such, who—
Election.

(a) is under 21 years of age, or

(b) does not ordinarily reside in the village, or

(c) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, or has been ordered to furnish security for good behaviour under the Code of Criminal Procedure, 1898, such sentence or order not having been subsequently reversed or remitted, so long as such sentence has not expired or so long as such order is in force, unless

V of
1898.

1. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 3 1955), s. 7, Sub. III, for "officiating revenue paid".

2. The words "and all adult persons who own in the village a house assessed to house tax or land assessed to cess under section 93 of the Sind Local Boards Act, 1923," rep. 242, s. 6, Sch. II.

he shall have by an order which ¹[the Provincial Government] is hereby empowered to make, been relieved from the disqualification arising on account of such sentence or order, or

(d) has been adjudged by a competent court to be of unsound mind, or

(e) has been adjudicated an insolvent and has not obtained his discharge, or

(f) has been removed from office under section 21 and five years have not elapsed from the date of such removal, unless he shall have, by an order which the district local board after the expiry of one year from the date of such removal is hereby empowered to make, been relieved from the disqualification arising on account of such removal from office, or

(g) holds any salaried office or place of profit in the gift or disposal of the panchayat, while holding such office or place, or

(h) has directly or indirectly any share or interest in any contract with, by or on behalf of the panchayat while owning such share or interest :

Provided that in cases (g) and (h) the disqualification may be removed by an order of the ²[Revenue Commissioner] in this behalf.

Explanation.—A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company or a co-operative society registered under the Co-operative Societies Act, 1912, or the ³[Sind] Co-operative Societies Act, 1925, be held to be interested in any contract entered into between the company or co-operative society and the panchayat.

Collector to
declare
election
invalid.

9. (1) If the Collector, after such enquiry as he considers necessary, is satisfied that any member has been elected in contravention of the provisions of section 8, or that any corrupt practice or irregularity has been committed in connection with such election, and that such illegality, corrupt practice or irregularity has materially affected the result of the election, the Collector may declare the election of such member to be invalid, and such declaration shall be final :

¹ Subs. by the A. O., 1937, for "Govt."

² Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 3 of 1935), s. 13, for "Commissioner."

³ Subs. *ibid.*, s. 3 (i) w. e. f. 30th May 1935, for "Bombay."

Provided that when the Collector is satisfied that a corrupt practice has been committed by a member, the Collector shall, whether such corrupt practice has or has not materially affected the result of the election, declare the election of such member to be invalid and such declaration shall be final.

(2) A person shall be deemed to have committed a corrupt practice—

(a) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(b) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Explanation 1.—A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2.—"A promise of individual profit"—

(i) does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but

(ii) subject thereto includes a promise for the benefit of the person himself or any person in whom he is interested.

10. If the Collector declares the election of any member invalid under section 9, a fresh election for the vacancy so caused shall be held in accordance with the provisions of this Act.

Fresh election, if election invalid.

11. (1) The elected members of a panchayat shall, save as otherwise provided in this Act, hold office for a term of three years.

Term of office of elected members.

(2) The Collector may, by order in writing, for reasons recorded therein, extend the said term for a period not exceeding one year. Any such order shall be notified in such manner as the Collector may approve.

12. (1) The term of office of the elected or nominated members shall be deemed to commence on the date of the first meeting after the election or nomination of such members, as the case may be.

Commencement of term of office.

(2) The term of office of the outgoing members shall be deemed to extend to and expire with the day before such meeting.

(3) The term of office of an *ex-officio* member of a panchayat shall continue so long as he holds office in virtue of which he is such a member.

(4) The term of office of a member nominated under clause (c) of sub-section (1) of section 6 shall be co-extensive with the term of office of an elected member.

Resignation
of members.

13. Any elected or nominated member may resign his office by giving notice in writing to that effect to the sarpanch and such resignation shall take effect from the date of its receipt by the sarpanch.

Election of
sarpanch and
deputy
sarpanch.

14. (1) Every panchayat shall be presided over by a sarpanch who shall be elected by the members from among their own number. The panchayat shall also elect one of its members to be deputy sarpanch.

(2) * * * * *

Term of office
of sarpanch
and deputy
sarpanch.

15. Save as otherwise provided in this Act, a sarpanch or deputy sarpanch shall hold office for a period of one year, but shall be eligible for re-election :

Provided that the term of office of such sarpanch and deputy sarpanch shall be deemed to extend to and expire with the day previous to that on which their successors respectively are elected or on the date on which the term of the panchayat expires, whichever is earlier;

Provided further that if the term of the panchayat is due to expire within six months after the expiry of the term of office of sarpanch or deputy sarpanch, the sarpanch or deputy sarpanch, as the case may be, shall continue to hold office until the date on which the term of the panchayat expires.

Sarpanch to
carry on
current duties
until his
successor is
appointed.

16. After the expiry of his term of office, the sarpanch shall continue to carry on the current duties of his office until such time as a new sarpanch shall have been elected and shall have taken over charge.

1 Sub-section (2) rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

17. (1) On the establishment of a panchayat for the first time under this Act, or on its reconstitution or establishment under section 102 or 103, a meeting shall be called by the president of the district local board who shall himself preside or appoint a person who is not a member of the panchayat to preside over the meeting. The president of the district local board or the person so appointed shall preside at such meeting but shall have no right to vote and the meeting shall then proceed to elect the sarpanch. In the case of an equality of votes the result of the election of the sarpanch shall be decided by lot to be drawn by the person presiding at the meeting in such manner as he may determine.

Election of sarpanch on establishment of panchayat, etc.

(2) On the expiry of the term of a panchayat, or on the expiry of the period of one year for which a sarpanch ordinarily holds office as provided in section 15, the sarpanch shall convene a meeting of the panchayat for the election of a new sarpanch. He shall preside at such meeting, but shall not vote thereat unless he is a member of the panchayat at that time. In the case of an equality of votes, the result of the election shall be decided by lot to be drawn by the presiding sarpanch in such manner as he may determine;

Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch within thirty days from the date of expiry of either of the aforesaid periods, the president of the district local board shall proceed to convene a meeting of the panchayat in the manners described in sub-section (1) and a new sarpanch shall be elected accordingly.

18. The deputy sarpanch may resign his office by giving notice in writing to the sarpanch.

Resignation by sarpanch or deputy sarpanch.

The sarpanch may resign his office by giving notice in writings to the president of the district local board.

Such resignations shall take effect from the date of their acceptance.

19. The time and place of sitting and the procedure at a meeting of the panchayat shall be in accordance with by-laws.

Time and place of sitting of panchayat and procedure at meetings.

20. The executive power for the purpose of carrying out the provisions of this Act and the resolutions passed by a panchayat vests in the sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the sarpanch, the powers and duties of the sarpanch shall, save as may be otherwise prescribed by by-laws, be exercised and performed by the deputy sarpanch.

Executive of Panchayat.

Removal
from office.

21. The district local board may, after giving due notice to the panchayat and after such enquiry as it thinks fit, remove from office with the previous sanction of the Collector any member, or any sarpanch or deputy sarpanch who, in its opinion, is unfit to be a member or sarpanch or deputy sarpanch, as the case may be, or is persistently remiss in the discharge of his duties. A sarpanch or deputy sarpanch so removed may, at the discretion of the district local board, and subject to the like sanction also be removed from the panchayat unless he is an *ex-officio* member of the panchayat. The panchayat may, with the previous sanction of the president of the district local board, and after due notice and inquiry remove the secretary of a panchayat from office for similar reasons.

Leave of
absence.

22. (1) Any elected or nominated member of a panchayat who, during his term of office,—

(a) is absent for more than four consecutive months from the village unless leave not exceeding six months, so to absent himself, has been granted by the panchayat; or

(b) absents himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall become vacant.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the Collector whose decision shall be final.

Filling up of
vacancies.

23. (1) Any vacancy of which notice shall have been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a sarpanch or a deputy sarpanch, or an elected or nominated member, shall be filled, by the election of a sarpanch or deputy sarpanch or the election or nomination of a member, who shall hold office so long only as the sarpanch, deputy sarpanch or member, in whose place he has been elected or nominated would have held office if the vacancy had not occurred.

(2) The meeting for the election of a sarpanch under sub-section (1) shall be convened by the president of the district local board in the manner described in sub-section (1) of section 17.

Vacancy not
to affect
proceedings
of pancha-
yat.

24. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

25. [Temporary provision pending establishment of panchayats under this Act.] Rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

CHAPTER III.

ADMINISTRATIVE POWERS AND DUTIES.

26. (1) It shall be the duty of a panchayat, so far as the village funds at its disposal will allow subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely:—

Administrative powers and duties of panchayats.

(a) the supply of water for domestic use;

(b) the cleansing of the public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works;

(c) the construction, maintenance and repair of public roads, drains, bunds and bridges;

Provided that, if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of such authority;

(d) sanitation, conservancy, and the prevention and abatement of nuisances;

(e) the preservation and improvement of the public health;

(f) the maintenance and regulation of the use of public buildings, grazing lands, forest lands (including lands assigned under section 28 of the "Forest Act, 1927), tanks and wells (other than tanks and wells used for irrigation), vesting in or under the control of the panchayat;

(g) the lighting of the village;

(h) control of fairs, bazars, slaughter-houses and cart-stands; and

(i) provision and maintenance of burning and burial grounds.

(2) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village.

XVI
of
1927.

1. The word "Indian" omitted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w. & f. 30th May 1951).

(3) A panchayat may, with the previous sanction of the district local board, also make provision for carrying out outside the village any work of the nature specified in sub-sections (1) and (2).

Powers of district local board to transfer maintenance of institutions and execution of other works.

27. The district local board may, at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 26, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties

28. (1) The panchayat shall, —

¹(i) * * * * *

(ii) subject to by-laws to be made by the district local board in this behalf, —

(a) supervise the labour employed by local boards on works within the village ;

(b) supervise repairs to dharamshalas ;

(c) manage and maintain cattle-pounds ; and

(d) execute such works as are entrusted to it by the district local board ; and

(iii) subject to such conditions as ²[the Provincial Government] may impose and with the consent of the panchayat concerned, perform such other administrative duties including the distribution of irrigation water as may be assigned to it by ³[the Provincial Government] by notification in the ⁴[Official Gazette], after consultation with the district local board.

⁵(2) * * * * *

⁶(3) * * * * *

¹ Cl. (c) of sub-section (1) and sub-sections (1) and (3) rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4, Sch. II.

² Subs. by the A. O., 1917, for "Govt."

³ Subs. *ibid.* for "B. G. E."

CHAPTER IV.

INCORPORATION OF VILLAGE PANCHAYAT; ITS PROPERTY AND FUND.

29. Every panchayat shall be a body corporate by the name of ^{incorporation of village panchayat.} "the village panchayat of _____," and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immoveable whether within or without the limits of the village over which it has authority, to lease, sell or otherwise transfer moveable or immoveable property which may become vested in or be acquired by it, and to contract and do all other things necessary for the purposes of this Act :

Provided that no lease of immoveable property (other than property referred to in sub-section (1) of section 30) for a term exceeding seven years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Collector.

30. (1) It shall be competent to a local board from time to time ^{Property of panchayat.} to direct that any property vesting in such local board shall vest in panchayat :

Provided that no lease, sale or other transfer of any such property shall be valid without the previous sanction of such local board.

(2) Every work constructed by a panchayat out of the village fund, shall vest in such panchayat.

31. (1) There shall be in each village a fund, which shall be ^{village fund.} called the village fund.

(2) The following shall form part of, or be paid into, the village fund, namely :—

(a) the amount which may be allotted to the village fund by ^{the Provincial Government]} [the Provincial Government] under the provisions of section 191 of the ^[Sind] [Sind] District Municipal Act, 1901 ;

(b) the proceeds of any tax or fee imposed under section 89 ;

(c) all ³ * * * * sums ordered to be paid as compensation realised under sections 45 and 46 ;

Sind
III of
1907.

1 Subs. by the A. O., 1937, for " Govt. ".

2 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3 (i) (w. e. 30th May 1955), for " Bombay ".

3 The words " fines and " omitted by A. O., 1937.

(d) all other sums ordered by a court to be placed to the credit of the village fund ;

(e) the sale proceeds, except in so far as any person is entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the village servants ;

(f) sums contributed to the village fund by [the Provincial Government] or a district local board ;

(g) all sums received by way of loans from the [Provincial Government] or the district local board or by way of gift ;

(h) * * * * *

(i) the income or proceeds of any property vesting in the panchayat ; and

(j) fees levied for the institution of suits and cases under section 59.

Application
of village
fund.

32. All property vested in the panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

CHAPTER V.

ESTABLISHMENT AND ACCOUNTS.

Appoint-
ment of
secretary.

33. Every panchayat shall appoint a secretary. Such appointment shall be subject to the approval of the Standing Committee of the district local board.

Schedule of
servants.

34. Subject to the provisions of section 98, a panchayat shall determine and submit for information to the district local board a schedule of the number and salaries of its servants required for carrying out the duties imposed upon the panchayat by or under this Act.

Appoint-
ment of
servants.

35. (r) The sarpanch shall appoint the servants of the panchayat and pay their salaries from the village fund at his disposal. He may also, in cases of emergency, engage such temporary servants

1 Subs. by the A. O. 1937, for " Govt. ",

a Cl. (h) omitted *ibid.*

as he may deem necessary. The sarpanch may, from time to time, by a written order, fine, suspend or dismiss any servant appointed by him.

(s) An appeal shall lie against an order passed under sub-section (r) to the panchayat.

36. (1) A panchayat shall determine annually and shall submit to the district local board, on or before such date and in such form as may be prescribed by [the Provincial Government], a statement of—

Budget and
Accounts.
Panchayat
to submit
a statement of
resources of
village.

(a) the opening balance and estimated income of the panchayat for the following year ;

(b) the expenditure proposed on establishment and the discharge of the duties specified in sub-section (1) of section 26 ;

(c) the expenditure proposed under sub-section (2) of section 26 and sub-section (1) of section 28.

(2) The district local board shall, within three months from the date of the receipt of such statement, either approve the same or direct that the proposed expenditure on any of the duties specified in sections 26 and 28 shall be increased or decreased ;

Provided that the district local board shall not have power to direct that the total proposed expenditure shall exceed the estimated income of the village fund for the following year and the opening balance.

(3) A panchayat shall maintain its accounts in such form as may be prescribed by [the Provincial Government] and submit to the district local board annual returns thereof on or before such date and in such form as may be prescribed by [the Provincial Government].

(4) A panchayat shall convene in a manner and at a time prescribed a meeting of all adult residents of the village and shall place before the meeting the last statement of accounts together with a report on the administration of the preceding year and the programme of work proposed for the year following.

CHAPTER VI.

CONSTITUTION AND POWERS OF VILLAGE BENCHES.

Power of
Provincial
Government
to consti-
tute village
benches to
try suits
and cases.

37. (r) ¹[The Provincial Government] may, by notification in the ²[Official Gazette] from such date as may be appointed in this behalf declare that in any village where a panchayat has been established, a village bench shall be constituted to exercise in accordance with rules all or any of the judicial powers which may be conferred on a village bench under this Act.

(a) Such village bench shall consist of five or seven members as may be appointed by the Collector. When the village bench consists of five members, three members, and when the village bench consists of seven members, five members, shall be appointed by the Collector in the manner prescribed from among the members of the panchayat. The remaining members shall be appointed by the Collector in the manner prescribed from among persons not being persons in the ³(service of the Crown) or of any local authority who may or may not be members of the panchayat :

Provided that if there be a holder of any revenue village within the limits of the village in which a village bench is to be constituted, the Collector shall appoint the holder of such revenue village a member of such village bench. When there are more than one such holder in any such village, the Collector shall appoint the principal among such holders the member of the bench. If any such holder is unable or unwilling to serve on the bench, the Collector shall appoint a representative of such holder whom the Collector may approve.

The decision of the Collector as to who is the principal holder or a representative of the holder is final.

(3) In appointing the members of a village bench the Collector shall have due regard to a just and proper representation upon the village bench of all classes of persons residing in a village who are in a minority.

(4) The chairman of the village bench shall be appointed by the Collector from among the members of the bench.

¹ Subs. by the A. O., 1937, for "Govt."

² Subs. *ibid.* for "B. G. G."

³ Subs. *ibid.* for "service of Govt."

38. Every suit or case of the nature specified in section 39 or 41, pending in any court and cognizable by a village bench empowered under section 37 and all proceedings arising from and incidental to any such suit or case shall be tried, heard and determined by such court or any other court having jurisdiction to try, hear and determine the same, as if this Act had not been passed. Suits of pending proceedings.

39. (1) Save as otherwise provided in section 40, the village bench shall have power to try the following suits, namely:— Suits triable by village bench.

(a) suits for money due on contracts, not affecting any interest in immoveable property;

(b) suits for the recovery of moveable property or for the value of such property;

(c) suits for compensation for wrongfully taking and injuring moveable property;

where the amount or value of the claim does not exceed twenty-five rupees.

(2) with the written consent of both the parties, recorded in the presence of the village bench, suits of the nature described in sub-section (1), but the value of which does not exceed one hundred rupees, shall be triable by such village bench.

(3) [The Provincial Government] may, by notification in the [Official Gazette], direct that any village bench may try any suit of the nature described in sub-section (1), up to such value as may be specified in the notification not exceeding one hundred rupees.

40. No suit shall be brought before any village bench—

(i) on a balance of partnership account;

(ii) for a share or part of a share under any intestacy, or for a legacy or part of a legacy under a will;

(iii) by or against ¹[the Crown] or any local authority or an officer or servant of ²[the Crown] or a member, officer or servant of a local authority in his official capacity;

Suits not triable by village bench.

¹ Subs. by the A. O., 1937, for "Govt.".

² Subs. *ibid.*, for "H. G. G.".

³ Subs. *ibid.*, for "The Secretary of State for India in Council".

⁴ Subs. *ibid.*, for "Govt.".

(iv) by or against a minor or a person of unsound mind; and

(v) on account of any dispute or matter in respect of which any suit or application would be cognizable by a revenue court.

Offences
cognizable
by village
benches.

41. (r) The following offences as well as abetments of or attempts to commit such offences shall be cognizable by village benches, namely:—

XLV
of
1860.

(a) Under the [Pakistan] Penal Code—

	Section.
Voluntarily causing hurt	323
Assault or use of criminal force otherwise than on grave and sudden provocation ..	352
Assault or use of criminal force on grave and sudden provocation	358
Theft, where the value of the property stolen does not exceed Rs. 10	379
Mischief when the loss or damage caused does not exceed Rs. 10 in value	426
Intentional insult, with intent to provoke a breach of the peace	504

Provided that no offence of theft shall be cognizable by any village bench, unless an accused person has been either apprehended or recognised and named.

(b) Under the Cattle Trespass Act, 1871—

	Section.	I of 1871.
Forcibly opposing the seizure of cattle or rescuing the same	24	

(c) Breaches of by-laws made punishable under this Act.

(2) [The Provincial Government] may, by notification in the [Official Gazette], empower any village bench to take cognizance

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 3 of 1955), s. 4 (w.e.f. 30th May 1955), for "Indian".

2 Subs. by the A. O., 1937, for "Govt."

3 Subs. *ibid.*, for "B. G. G."

of any or all of the following offences under the "[Pakistan] Penal Code, as well as abetments of, or attempts to, commit (any) such offences, namely :—

	Section.
Negligently doing any act known to be likely to spread the infection of any disease dangerous to life	269
Fouling the water of a public spring or reservoir.	277
Causing danger, obstruction or injury to any public way	283
Theft, where the value of the property stolen does not exceed Rs. 20	379
Mischief, when the loss or damage caused does not exceed Rs. 20 in value	426
Criminal trespass	447
House trespass	448
Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	461
Adultery	497
Enticing, or taking away, or detaining with criminal intent a married woman	498

42. No village bench shall take cognizance of any offence of theft punishable under section 379 of the "[Pakistan] Penal Code, in which the accused—

Certain persons accused of theft not to be tried by village bench.

(a) has been previously convicted of an offence punishable under Chapter XII or Chapter XVII of the "[Pakistan] Penal Code, with imprisonment or either description for a term of three years or upwards ;

(b) has been previously fined for theft by any panchayat;

(c) is a registered member of a criminal tribe under section 4 of the Criminal Tribes Act, 1924, or

VI of
1924.

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 [Sind 5 of 1955], s. 4 (w. e. f. 30th May 1955), for "Indian".

(d) has been bound over to be of good behaviour in proceedings instituted under section 109 or section 110 of the Code of Criminal Procedure, 1898.

V of
1898

Offences by
or against
Public servant
not cognizable
by village
bench.

43. No village bench shall take cognizance of any offence specified in section 41 in which either the complainant or the accused is a public servant serving in the district in which the village for which the panchayat is established is situated:

Provided, however, that a village bench shall not be debarred from taking cognizance of an offence for a breach of a by-law, not withstanding that the complainant in the case is a public servant.

Conviction
by a village
bench not a
previous
conviction.

Maximum
penalty.

44. A conviction by a village bench under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the '[Pakistan] Penal Code.

XLV
of
1860

45. (1) The following are the maximum penalties which may be inflicted by a village bench for the offences mentioned in section 41:—

(a) Under the '[Pakistan] Penal Code—

XLV
of
1860.

Fine not exceeding Rs. 10 or double the amount of the loss or damage caused up to a limit of Rs. 20 :

(b) Under section 24 of the Cattle Trespass Act, 1871—

I of
1871.

Fine not exceeding Rs. 5 : and

(c) for a breach of a by-law made punishable under this Act—

Fine not exceeding Rs. 10 or Re. 1 a day for a continuing breach as provided in sub-section (3) of section 109.

(2) No sentence of imprisonment, whether substantive or in default of fine or of whipping, shall be inflicted by a village bench.

Power of
Provincial
Government
to empower
particular
village
bench to
inflict
enhanced
penalties.

46. '[The Provincial Government] may empower, by a notification in the '[Official Gazette], a village bench to inflict the following maximum penalties:—

(a) Under the sections of the '[Pakistan] Penal Code mentioned in section 41—

XLV
of
1860.

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1953 (Sind 5 of 1955), s. 4 (w. e. f. 30th May 1955), for "Indian".

2 Subs. by the A. O., 1937, for "Govt".

3 Subs. *ibid.* for "B. G. G."

Fine not exceeding Rs. 20 or double the amount of the damage or loss caused, whichever is greater.

(b) Under section 24 of the Cattle Trespass Act, 1871—

Fine not exceeding Rs. 10.

1 of
1871.

47. In inflicting any fine under section 45 or section 46, the village bench may direct that the whole or any portion of the fine recovered shall be applied— Compensation to complainants.

(a) towards defraying the expenses properly incurred in the case by the complainant, or

(b) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

48. If a village bench is satisfied, after enquiry, that a case brought before it is false, frivolous or vexatious, such village bench may order the complainant to pay the accused such compensation, not exceeding Rs. 5, as it thinks fit. Compensation to accused for false or frivolous case.

49. Instead of passing any sentence, a village bench may discharge, after due admonition, a youthful offender who, in the opinion of such village bench, is, at the time of conviction of the offence, under the age of sixteen years. Youthful offenders.

50. No member of a village bench who is a party to, or has any interest in, any suit or case shall sit on the village bench while it is trying such suit or case. Members interested not to sit on village bench.

Any dispute as to whether a member of a village bench is a party to or interested in a suit or case shall, on a written application of a party to such suit or case, be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

51. (1) No village bench shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and decided by, a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim. Res judicata and pending suits and cases.

(2) Where an accused person has been tried for any offence, no village bench shall take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

Suits to
include
whole claim.

52. Every suit instituted before a village bench shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the village bench.

If a plaintiff omits to sue in respect of or intentionally relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation
for suits
and cases.

53. (1) No suit shall be entertained by a village bench after the expiration of one year from the time when the right to sue first accrued.

(a) No case shall be cognizable by a village bench after the expiration of one month from the date on which the offence was committed.

Village
bench
before which
suit to be
instituted.

54. Every suit under this Act shall be instituted before the village bench of the village in which the defendant or each of the defendants, where there are more than one, resides at the time of the institution of the suit, irrespective of the place where the cause of action arose.

Village
bench
before which
cases to be
instituted.

55. Every case under this Act shall be instituted before the village bench of the village in which the offence was committed.

Return of
complaints.

56. Any magistrate upon receiving a complaint of facts constituting an offence cognizable by a village bench shall, unless reason to the contrary be shown to the satisfaction of the magistrate, return the complaint for presentation to the village bench having jurisdiction to try the same.

Bar of juris-
diction of
courts in
suits and
cases.

57. Notwithstanding anything contained in any law for the time being in force, no court, subject to the provisions of section 56, shall entertain any suit specified in section 39 or take cognizance of any offence specified in section 41, unless and until the District Judge or the Collector has passed an order in writing under section 77 or 87.

58. [Bom Act VIII of 1867, section 14 not to apply to village which has village bench.] Rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

CHAPTER VII.

PROCEDURE OF PANCHAYATS IN SUITS AND CASES.

59. Any person who wishes to institute a suit or case under this Act before a village bench shall make an application orally or in writing to the Chairman or during his absence from the village to such other member of the village bench as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees.

Suits and cases: how instituted.

60. The substance of the application shall be recorded without delay in the prescribed register and the signature or thumb-impression of the applicant shall be taken on the register and the register shall be signed by the Chairman or, in his absence, by any member authorised under section 59.

Substance of application to be recorded.

61. Every suit or case instituted in accordance with the provisions of section 59 shall be brought before the village bench at its next sitting and the plaintiff or complainant, as the case may be, shall, at the time of making the application, be informed of the time and place fixed for such sitting and directed to attend at that time and place.

Plaintiff or complainant to attend next sitting of village bench.

62. The village bench after hearing the application, shall cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time, and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place:

Summons to be issued to defendant or accused.

Provided that the village bench may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, refuse to issue a summons and dismiss the suit or complaint.

63. Such summons shall ordinarily be caused to be served by the [Village Officer]:

Summons by whom served.

Provided, however, that a village bench may cause the summons to be served through any other person.

1. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 7, Sch. III, for "patel or village head man. Where there are two patel in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit and by the police patel if it relates to a case".

Mode of
service of
summons.

64. The summons shall be in duplicate, signed by the presiding member of the village bench and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused cannot be found and the village bench is satisfied that he is evading service or if he refuses to take the summons, the village bench may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of
service
outside
village.

65. If a defendant or accused is, at the time of the issue of the summons, outside the village of the panchayat, the summons may be forwarded by the village bench to the Collector or to any officer not below the rank of a ¹[Mukhtiarkar], who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons to be served as if it were a summons from his own court.

Exemption
of certain
persons
from
appearance
in suits.

66. (1) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempt from personal appearance before a village bench in any suit.

(2) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall also be exempt from personal appearance before a village bench in any suit.

v of
1908.

Issue of
summons to
witnesses.

67. (1) A village bench may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

(2) A village bench may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

¹ Subs. by the Sind Laws (Adnotation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 5 of 1935), s. 13, for "mamlukdar".

(3) No village bench shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the village bench as appears to the village bench to be sufficient to defray his reasonable expenses and if in the opinion of the Collector or officer empowered under section 65, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Collector or Officer shall return the summons to the village bench with his endorsement accordingly.

(4) No village bench shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the ^{1 of 1872} Evidence Act, 1872, or under any other law for the time being in force.

68. No pleader, vakil, or mulchtyar, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any suit or case before a village bench or in any inquiry under section 87 : Pleaders, etc., excluded from appearance.

Provided that any party to any such suit or case may be permitted, on reasonable cause being shown to the satisfaction of the village bench, or the District Judge or Collector to employ any relation, servant, dependant, or friend who is not and who has not previously been a pleader, vakil, or mulchtyar or an advocate or attorney of a High Court, to appear either conjointly with or in lieu of such party.

When a relation, servant, dependant, or friend appears in lieu of a party, he shall be furnished by such party with a written authority defining the extent to which he is empowered to act.

69. (1) It shall be the duty of a village bench to ascertain the facts of a suit or case before it after holding an inquiry in accordance with the provisions of this Act and the rules. Decision of suit or case on facts ascertained.

(2) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a village bench to hold such inquiry.

(3) After holding such inquiry, a village bench may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable.

¹ The word "Indian" omitted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1932 (Sind 3 of 1932), s. 4 (W. o. L. 30th May 1932).

Decision of the village bench.

70. The decision of the village bench shall be in accordance with the opinion of the members of the village bench who are present at the sitting or of the majority of such members. If the members are equally divided, the person presiding shall have a second or casting vote.

Adjournment.

71. The village bench may, from time to time, adjourn the hearing of any suit or case :

Provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case.

Disposal of suits and cases in absence of party concerned.

72. (1) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the village bench may hear and decide the suit or case in his absence.

(2) The village bench may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner hereinbefore prescribed, or if he has been informed of the time and place fixed for hearing :

Provided that no sentence shall be passed by a village bench on any accused, unless he has appeared, either in person or by a representative, before the village bench and the substance of his statement has been recorded in the prescribed register.

(3) If, after the service of summons upon him, an accused fails to appear, either in person or by a representative, the village bench may apply to the District Magistrate or to any officer not below the rank of a second class magistrate authorised by the District Magistrate in this behalf, and such District Magistrate or officer shall compel the accused to appear in person or by his representative before the village bench as if he were a court trying the case.

(4) Where an accused person has, under sub-section (3), been compelled to appear before the village bench, the village bench shall forthwith take his statement, and thereafter his attendance at the hearing of the case shall not be compulsory.

Compromise.

73. Notwithstanding anything contained in this Act or in any other law for the time being in force, a village bench may decide any suit or case within its jurisdiction in accordance with any settlement, compromise or oath agreed to by the parties.

74. When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action, and the period during which the suit was pending shall be excluded in computing the period of limitation prescribed under section 53 for the fresh suit. Death of parties.

75. (r) Except as provided in sub-section (2), a village bench shall not have power to cancel, revise or alter any decree or order passed by it. Village bench not to revise or alter its decision.

(2) On application made within one month from the date of the decree or order of a village bench, the village bench may, for reasons to be recorded in writing, restore any suit which has been dismissed for default or in which an *ex-parte* decree has been passed against the defendant.

76. In suits for money, a village bench may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceeding six per cent. per annum, from the date of the decree until the date of payment and of any fees which may be prescribed. Interest and instalments.

When a village bench decrees the payment of a sum of money in a suit, it may direct that it be paid by instalments, without interest, or with interest not exceeding the above rate.

77. (r) When any village bench is of opinion that any suit or case before it is of such a nature, or of such intricacy or importance that it ought to be tried by a court, it shall stay proceedings and refer the suit to the District Judge or any officer not below the rank of Subordinate Judge who may be authorised by the District Judge in that behalf or the case to the Collector or any officer not below the rank of [Mikhtiarkar] who may be authorised by the Collector in this behalf, for his orders. Reference by village bench to Collector.

(2) If the District Judge or Collector or such authorised officer is of the opinion that the suit or case is of such nature, intricacy or importance that it ought not to be tried by the village bench, he shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(3) If the District Judge or Collector or the authorised officer is of opinion that the suit or case is not of such nature, intricacy or

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 13, for "naamlatar".

importance that it ought to be tried by a Court, he shall return the suit or case to the village bench, which made the reference, for disposal.

Village
bench's
decree
and orders
not to be
questioned.

78. Except as provided in section 87, no decree or order of a village bench shall be called in question in any court on the ground that it was passed without jurisdiction.

Finality of
decree and
orders.

79. Every decree or order passed by a village bench in any suit or case under this Act shall be final, and, save as provided in section 87, shall not be subject to any appeal, revision or review.

CHAPTER VIII.

EXECUTION.

Satisfaction
in whole
or in part
of decree to be
recorded.

80. If, on the application of a decree-holder or judgment-debtor, the village bench, after enquiry, finds that the decree has been satisfied or adjusted, wholly or in part, the village bench shall record the fact in the prescribed register.

Execution
through
Collector.

81. (1) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may, within one year of the date of the decree, apply to the village bench for execution.

(2) On such application for execution, the village bench shall certify to the Collector that the decree remains unsatisfied or unadjusted, in whole or in part and on receipt of such certification the Collector shall, provided that the village bench shall have certified to the Collector within one year from the date of the application for execution,—

(a) if the decree is for money, proceed to recover it as if it were an arrear of land revenue; or

(b) if the decree is for any specific moveable property, cause the decree to be executed as if it were a decree of a civil court, and in so acting may exercise all the powers of a civil court.

Execution of
instalment
decree
through
Collector.

82. (1) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a village bench under section 76, an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the village bench.

(2) On such application for execution, the village bench shall certify to the Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Collector shall, provided the village bench shall have certified to the Collector within one year from the date of the application for execution, proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

83. If, after the issue of the certificate to the Collector under section 81 or 82, but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 80, the village bench shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

Satisfaction of decree or instalment after certificate.

84. (1) Every sum ordered to be paid as compensation and every fine imposed under sections 45, 46, 47 and 48 by a village bench shall be payable at once :

Fine and compensation when payable.

Provided that the village bench may allow any person ordered by it to pay compensation or fine to pay the same within such time, not exceeding fifteen days, as it may think proper and on such terms as to security as it shall seem to the village bench necessary to impose.

(2) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the village bench shall recover the same by distraint and sale of the defaulter's moveable property.

Mode of recovery.

(3) If the amount of fine or compensation is not fully recovered, the village bench shall certify accordingly to the Collector, and on receipt of such certification the Collector shall, provided the panchayat shall have certified to the Collector within a period of one year from the date when the amount became recoverable by the village bench under sub-section (2), proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the village bench.

85. As soon as the amount of fine or compensation referred to in section 84 is realised by the village bench whether directly or

Fine or compensation, when realised, to be recorded.

through the Collector, the amount so realised shall be entered in the prescribed register * * * * *

Payment of compensation out of village fund.

86. Any money which has been ordered by the village bench, under section 47 or section 48, to be paid as expenses or compensation, shall be paid by it out of the amount realised under sections 45 and 46 * * * * *

District Judge or Collector may cancel jurisdiction or quash proceedings.

87. (1) The District Judge in any suit and the Collector in any case may, at any time, either of his own motion or on the application of an aggrieved party or on a reference made by a village bench under section 77 by order in writing, cancel the jurisdiction of a village bench or quash any proceedings of a village bench at any stage, or cancel any decree or order passed by a village bench.

(2) When an order has been passed by the District Judge under sub-section (1) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a civil court, and the period from the date of the institution of the suit before the village bench to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(3) Where an order has been passed by the Collector under sub-section (1) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

Bar to arrest and imprisonment in execution of decree.

88. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act.

CHAPTER IX.

TAXATION AND RECOVERY OF CLAIMS.

Levy of taxes and fees by panchayat.

89. (1) Every panchayat shall levy in such manner and at such rates as may be prescribed, such of the taxes or fees specified in sub-section (2) as may be necessary for the proper discharge by the panchayat of its duties under this Act.

1. The words "and shall be credited by the village bench to the village fund" omitted by the A. O., 1937.

2. The words "and the payment so made shall be debited to the village fund" omitted *ibid*.

(2) Taxes or fees which are leviable by a panchayat under sub-section (1) are :—

(i) a tax upon the owners or occupiers of houses and lands within the limits of the village ;

(ii) a pilgrim tax ;

(iii) a tax on fairs and festivals ;

(iv) a tax on sales of goods ;

(v) octroi ;

(vi) a tax on marriages, adoptions and feasts ;

(vii) any other tax (not being a toll on motor vehicles or trailers, save as provided by ²section 3 of the Sind Motor Vehicles Tax Act, 1939) which the Provincial Legislature has, under the Government of India Act, 1935, power to impose in the Province and which has been approved by the district local board and sanctioned by the Provincial Government.

Sind
XV of
1939

(3) Any person aggrieved by the assessment, levy or imposition of any such tax or fee may appeal to the district local board. The decision of the district local board in the matter shall be final.

(4) ³[The Provincial Government] may suspend the levy or imposition of any tax or fee referred to in sub-section (1) and may at any time rescind such suspension.

⁴(5) * * * * *

90. (1) If in the opinion of the district local board the regular income of a panchayat falls below what is necessary for the proper discharge of the duties specified in sections 26 and 28, the district local board may require the panchayat to take steps, within six months, to increase its income to such extent as the district local board considers necessary. If the panchayat fails to take adequate steps to increase its income to the required extent, the district local board may require it to levy or increase any of the taxes or fees specified in section 89 :

Power of
district local
board to
increase
taxation of
panchayat.

¹ Subs. by the A. O., 1937, for the original cl. (194).
² Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 5 of 1935), s. 7, Sch. III, for "section 14 of the Bombay Motor Vehicles Tax Act, 1933".
³ Subs. by the A. O., 1937, for "Govt."
⁴ Sub-section (5) which was in force by the A. O., 1937, rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind 5 of 1935), s. 6, Sch. II.

Provided that the district local board shall not compel the panchayat to levy or increase any tax or fee beyond the maximum rate to be prescribed in this behalf.

(2) Any panchayat may appeal to the '[Revenue Commissioner]' against an order made under sub-section (1) and the '[Revenue Commissioner]' may stay the execution of such order until he has decided the appeal.

Recovery of
taxes and
other dues.

91. (1) When any tax or fee has become due, a panchayat shall with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.

(2) If any person fails to pay any tax or any other sum due from him to a panchayat under this Act or the rules or by-laws on or before the specified date of payment, the panchayat shall cause a writ of demand to be served on the defaulter.

(3) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the moveable property of the defaulter.

(4) For every writ of demand issued under sub-section (2) a fee shall be chargeable at such rate as may be prescribed by by-laws.

(5) If a panchayat is unable to recover a tax or other sum due to it as aforesaid, it may furnish to the '[Mukhtiarkar]' or mahalkari a statement of the arrears due, with a request for the recovery of the same through the village officers, and on receipt of such statement of arrears, the '[Mukhtiarkar]' or mahalkari may, provided such statement of arrears shall have been furnished by the panchayat to the '[Mukhtiarkar]' or mahalkari within one year from the date specified in the bill presented under sub-section (1), proceed to recover the same as an arrear of land revenue through the village officers. For the recovery of such sums, the village officers shall be remunerated by the panchayat in such manner as may be prescribed by by-laws.

(6) If a panchayat fails to recover any tax, fine or other sum due to it, or neglects to take action under sub-sections (2) and (3)

1. Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 13, for "Commissioner".

2. Subs. *ibid.* for "mamlatdar".

of section 84 or (2) and (3) of this section, the district local board may apply to the Collector to recover the same as an arrear of land revenue :

Provided that no such application shall be made to the Collector after the expiry of one year from the date when the amount became certifiable under sub-section (3) of section 84 or from the date specified in the bill presented under sub-section (1) of this section, as the case may be.

On receipt of such application from the district local board, the Collector may, after holding such enquiry as he thinks fit, proceed to recover the sum as an arrears of land revenue.

92. The Collector may direct—

(a) any sum certified by a panchayat and recoverable by him under sections 81, 82 and 84 and sub-section (6) of section 91;

(b) any arrear of a tax or any other sum due to a panchayat and recoverable, through a ¹(Mukhtiar) or mahalkari under sub-section (5) of section 91 ;

to be written off if, in the opinion of the Collector, such sum or arrears are irrecoverable.

Collector's power to direct irrecoverable sums to be written off.

CHAPTER X.

FINANCIAL ASSISTANCE TO PANCHAYATS.

93. (1) Notwithstanding anything contained in the ²[Sind] Local Boards Act, 1923, the district local board—

Sind VI of 1923.

(a) shall assign to every panchayat within the district not less than one-fifth of the local fund cess realised within the limits of the village, and

(b) may, subject to rules, grant a loan to such panchayats, for the purposes of this Act.

Contributions and loans by district local boards.

3(2) * * * * *

¹ Subst. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1935 (Sind. G. O. 1935), s. 13, for "mamlatdar".

² Sindh. 1923, s. 3 (1) (w. e. 1. 30th May 1931), for "Bombay".

³ Sub-section (2) rep. 1934, s. 6, Sch. II.

CHAPTER XI.

CONTROL.

Power to
call for
proceedings,
etc.

94. (1) The Collector or the district local board shall have power—

(a) to call for any extract from the proceedings of a panchayat, any book or document in the possession or under the control of a panchayat, and any return, statement, account or report which the Collector or the district local board may think fit to require such panchayat to furnish; and

(b) to require a panchayat to take into consideration—

(i) any objection which appears to the Collector or the district local board to exist to the doing of anything which is about to be done or is being done by such panchayat, or

(ii) any information which the Collector or the district local board is able to furnish, and which appears to the Collector or the district local board to necessitate the doing of a certain thing by the panchayat.

and to make a written reply to the Collector or the district local board, as the case may be, within a reasonable time, stating its reasons for not desisting from doing or for not doing such things.

(2) All or any of the powers given to the district local board under sub-section (1) may be delegated by it to its president, vice-president, chief officer, public health officer or executive engineer.

Delegation
of duties,
appoint-
ment of
officers,
utilization
of honorary
agencies for
encouraging
the estab-
lishment
and foster-
ing the
growth of
panchayats.

95. (1) The district local board may delegate to the President, Vice-President, the Chief Officer, Public Health Officer or any other officer specially appointed by the district local board in this behalf the duties of encouraging the establishment and fostering the growth of panchayats and of assisting panchayats in the proper exercise of their powers and performance of their duties under this Act.

(2) It shall be competent to the district local board to accept and utilise in an honorary capacity in the performance of any of the duties which may be delegated under sub-section (1) the services of any person who in the opinion of such Board is specially fitted to assist in this behalf.

(3) It shall be competent to ¹[the Provincial Government] to appoint an officer to exercise such of the powers and perform such of the duties of a Collector under this Act as ²[the Provincial Government] may prescribe. Such officer shall also perform such other duties and exercise such other powers as ³[the Provincial Government] may prescribe for the purpose of encouraging the establishment and fostering the growth of panchayats and village benches and of assisting and advising panchayats and village benches in the proper exercise of their powers and performance of their duties under this Act.

96. The district local board may authorise its president, vice-president, or any of its officers to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any panchayat or any work in progress under its direction. Power for entry.

97. The audit of the accounts of a panchayat shall, unless provision is otherwise made by ¹[the Provincial Government] in that behalf, be carried out each year by the district local board, and such board shall, within one month of the completion of the audit, forward a copy of the audit note to the Collector. Audit of accounts.

98. (1) If, in the opinion of the Collector or the district local board, the number of persons maintained or proposed to be maintained by a panchayat as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat, shall, on the requirement of the Collector or the district local board, as the case may be, reduce such number or remuneration. Reduction of establishment.

(2) If there is a difference between the requirement of the Collector or of the district local board under sub-section (1), the panchayat shall refer the matter in difference to the ²[Revenue Commissioner] whose decision shall be final.

(3) The panchayat may appeal to the ²[Revenue Commissioner] against any requirement made under sub-section (1), and the decision of the ²[Revenue Commissioner] in the matter shall be final.

99. (1) If in the opinion of the Collector, the execution of any order or resolution of a panchayat, or the doing of anything which is about to be done or is being done by or on behalf of a panchayat, Suspension of execution of order.

¹ Subs. by the A. O., 1937, for "Govt."

² Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 3 of 1955) s. 13, for "Commissioner".

is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof.

(2) When the Collector makes an order under sub-section (1), he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons for making it.

(3) The Collector shall forthwith submit to the [Revenue Commissioner] a report of every case occurring under this section, and the [Revenue Commissioner] may revise or modify any order made therein and make in respect thereof any other order which the Collector could have made.

100. (1) In cases of emergency the Collector may provide for the execution of any work or the doing of any act which a panchayat is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(2) If the expense is not so paid, the Collector may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

(3) The Collector shall forthwith report to the [Revenue Commissioner] every case in which he exercises the powers under sub-section (1).

101. (1) If at any time it appears to the district local board that a panchayat has made default in the performance of any duty specified in section 26, it may order the duty to be performed within a specified period, and, if the duty is not performed within the period specified, the district local board may appoint some person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat, within such period as the district local board may fix.

(2) If the expense is not so paid, the district local board may direct the person in custody of the village fund to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 2 of 1955), s. 13, for "Commissioner".

Execution
of work in
case of
emergency.

Default in
performance
of duty.

(3) The district local board shall forthwith report to the ¹[Revenue Commissioner] every case occurring under this section and the ²[Revenue Commissioner] may revise or modify any order made therein and make in respect thereof any other order which the district local board could have made.

102. (1) If, in the opinion of ³[the Provincial Government] a panchayat exceeds or abuses its powers, or makes persistent default in the performance of the duties imposed on it under section 26 or any other law for the time being in force, ⁴[the Provincial Government] may, after consultation with the district local board by an order in the ⁵[Official Gazette]—

Dissolution or suspension of panchayat for default.

(i) dissolve such panchayat, or

(ii) supersede such panchayat for the period specified in the order.

(2) When a panchayat is dissolved or superseded, all members of the panchayat shall, from the date specified in the order, vacate their offices as such members.

(3) When a panchayat is dissolved, it shall be reconstituted in the manner provided in this Act.

(4) If a panchayat is superseded—

(a) all the powers and duties of the panchayat shall, during the period of supersession, be exercised and performed by such person or persons as ⁶[the Provincial Government] may, from time to time, appoint in that behalf; and

(b) all property vested in the panchayat shall during the period of supersession, vest in ⁷[the Provincial Government]; and

(c) on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election or re-nomination.

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance 1933, (Sind. 2 of 1933, s. 13, for "Commissioner."

² Subs. by the A. O., 1931, for "Govt."

³ Subs. *ibid.* for "B. G. O."

Dissolution and reconstitution of panchayat on alteration of limits of village.

103. (1) When, during the term of the panchayat the limits of a village are altered, the [Revenue Commissioner] may, by order in writing dissolve such panchayat and direct a panchayat—

(i) to be reconstituted for the village of which the panchayat has been dissolved, or

(ii) to be established for a village which has been newly declared.

The members of the panchayat which has been dissolved shall vacate their office from the date specified in the order.

(2) The panchayat reconstituted or established under the provisions of sub-section (1) shall consist of such members, either elected, nominated or appointed in such manner as the [Revenue Commissioner] shall, by order in writing, direct.

The sarpanch and deputy sarpanch of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(3) The term of the panchayat so reconstituted or established shall be for such period, not exceeding one year, as the [Revenue Commissioner] shall, by order in writing, specify.

(4) On the expiry of the term of the panchayat in accordance with the provisions of sub-section (3), the panchayat shall be constituted in the manner provided by this Act.

Vesting of property, etc., of panchayat which has been dissolved in reconstituted or established panchayat.

104. (1) When a panchayat has been dissolved and reconstituted or established under section 103, so much of the village fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the reconstituted or established panchayat, as the [Revenue Commissioner] may, by order in writing, direct.

(2) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat, shall vest in such panchayat.

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1933 (Sind. 5 of 1933), s. 13, for "Commissioner".

(3) Any notice, tax, order, licence, permission, rule or by-law made, issued or imposed in respect of any part of the area subject to the authority of the reconstituted or established panchayat shall be deemed to have been made, issued or imposed by or in respect of such panchayat, unless and until it is superseded by any notice, tax, order, licence, permission, rule or by-law made, issued or imposed by or in respect of such panchayat.

105. On any area ceasing to be a village, by virtue of any notification under section 4, Effect of area ceasing to be a village.

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification ;

(b) the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the district local board, to be utilised for the benefit of the inhabitants of the area as the district local board may think fit.

106. (1) When a panchayat is dissolved or superseded under section 102, 103 or 105, the village bench constituted in the village for which the panchayat was established shall be deemed to have been dissolved and all members of the village bench shall vacate office as from the date of dissolution or supersession as the case may be. Effect of dissolution or supersession of panchayats on village benches and proceedings pending before them.

(2) On the dissolution of the village bench under sub-section (1)

(i) the provisions of sub-sections (2) and (3) of section 87 shall be deemed to apply in respect of any suits or cases pending before the village bench as if the District Judge or the Collector, as the case may be, had passed an order under sub-section (1) of section 87 quashing such suits or cases ; and

(ii) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of the Subordinate Judge or the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the village bench had not been constituted and such Subordinate Judge or Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard, and decided by such Subordinate Judge or Magistrate.

Authority
of Provin-
cial Gov-
ernment.

107. In all matters connected with this Act, '[the Provincial Government] shall have and exercise the same authority and control over the district local boards as it has and exercises over them under the '[Sind] Local Boards Act, 1923.

Sind
VI of
1923.

CHAPTER XII.

RULES AND BY-LAWS.

Rules.

108. (1) '[The Provincial Government] may, by notification in the '[Official Gazette], make rules—

(a) under section 4, regulating the manner in which the '[Revenue Commissioner] may hold an inquiry ;

(b) under section 6, regulating the manner in which the Collector shall nominate the holder or his representative ;

(c) under section 7, prescribing the manner in which the election of members shall be held ;

(d) under section 23, regulating the manner in which notice of a vacancy in the office of a sarpanch, deputy sarpanch or members of a panchayat shall be given ;

(e) under section 32, prescribing the custody in which all funds received by and all sums accruing to a panchayat shall be kept ;

(f) under section 36, prescribing the date of submission and form of annual budgets, returns and accounts and the manner in and the time at which the meeting of the residents of the village shall be convened ;

(g) under section 37, prescribing the time and place of sitting of village benches, their constitution for the conduct of trials of suits or cases, the mode of settling differences of opinion which may arise amongst their members regulating the manner in which the Collector shall nominate the holder or his representative on the village bench and any other matter which '[the Provincial Government] may consider necessary for the proper conduct of proceedings before such benches ;

1 Subs. by the A. O., 1927, for "Govt."

2 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3 (i) (w. s. 1, 30th May, 1951), for "Bannay".

3 Subs. by the A. O., 1927, for "B. G. G."

4 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 13, for "Commissioner".

(h) under section 59, prescribing the fees payable on the institution of suits and cases ;

(i) under sections 60, 72, 80 and 85 prescribing the particulars to be entered in registers for suits and cases ;

(j) under section 62, prescribing the form of summons ;

(k) under section 69, regulating the manner in which an inquiry shall be held by a village bench ;

(l) under section 76, prescribing the scale of fees which a village bench may direct to be paid in a suit or case ;

(m) under section 89, prescribing the rate and the manner in which taxes and fees specified in the section shall be leviable ;

(n) under section 90, prescribing the maximum rate for the levy of taxes or fees specified in section 89 ;

(o) under sub-section (5) of section 91, prescribing the remuneration of village officers for the recovery of taxes and other sums due to a panchayat and the manner in which such remuneration shall be paid ;

(p) under section 93, prescribing the terms on which loans may be granted to a panchayat by the district local board ;

(q) under section 95, prescribing the powers and duties which may be delegated to or exercised or performed by an officer or person appointed ; and

(r) under sub-sections (3) and (4) of section 112, regulating the delegation by the District Judge or the Collector of the powers therein referred to.

(2) The rules to be made under sub-section (r) shall be subject to the condition of previous publication.

(3) Rules made under sub-section (r) shall be laid ¹[before the Sind Legislative Assembly] at the session ²[thereof] next following and shall be liable to be modified or rescinded by a resolution ³[of the said Assembly] and such rule shall, after notification in the ⁴[Official Gazette], be deemed to have been modified or rescinded accordingly.

¹ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 3 of 1955), s. 7, Sub. III, for "before each of the Chambers of the Provincial Legislature". These words were previously subs. by the A. O., 1937, for "upon the table of the Bombay Legislative Council".

² Subs. by the A. O., 1937, for "of the said Council".

³ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 3 of 1955), s. 7, Sub. III, for "in which both chambers concur". These words were previously subs. by the A. O., 1937, for "of the said Council".

⁴ Subs. by the A. O., 1937, for "B. G. G.".

By-law.

109. (1) The district local board may, with the previous sanction of the [Revenue Commissioner], make by-laws generally for the carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the district local board may make by-laws—

(a) under section 19, prescribing the time and place of the sittings and regulating the procedure at meetings of a panchayat, and fixing a quorum ;

(b) under section 20, prescribing the powers and duties of a sarpanch which may be exercised and performed by a deputy sarpanch ;

(c) under section 26—

(i) for the purification and protection from pollution of all sources of water used for drinking purposes ;

(ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease to injury to health, and the prevention of such removal or use by the filling in or covering over of such tank or well, or by any other method which may be considered advisable ;

(iii) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience ;

(iv) for the regulation of offensive callings or trades ;

(v) for the disposal of corpses by burning or burial ;

(vi) for the excavation of earth and the filling up of excavations and depressions injurious to health or offensive to the neighbourhood ;

(vii) for the removal of noxious vegetation ;

1. Proviso rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1933 (Sind 3 of 1933), s. 6, Sch. II.
2. Subn. *ibid.*, s. 13, for "Commissioner".

(viii) for the repair and removal of dangerous or ruinous buildings ;

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation, or the laying out and location of streets ;

(x) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart-stands ;

(xi) for the inspection and destruction of unfit food and drink exposed for sale ; and

(xii) for the general regulation of sanitation and conservancy ;

(d) under section 28, for the supervision of labourers employed by local boards, and of repairs to dharamsalas, the management and maintenance of cattle-pounds, execution of works entrusted by the district local board, distribution of irrigation water and performance of other duties assigned by [the Provincial Government].

(3) Any by-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable—

(a) with a fine, which may extend to Rs. 10, or

(b) in the case of a continuing contravention, with a fine, which may extend to Re. 1 per day after conviction for the first contravention during the period within which such contravention continues.

CHAPTER XIII.

MISCELLANEOUS.

110. (1) Every member of a panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the panchayat, to which he has been a party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member. Liability of members for loss, waste or misapplication.

1 Subs. by the A. O., 1937, for "Govt.".

(2) If, after giving the member concerned a sufficient opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector may, by order in writing, direct such member to pay to the panchayat, before a fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(3) If the amount is not so paid, the Collector shall recover it as an arrear of land revenue and credit it to the village fund.

(4) The decision of the Collector shall be final as to the liability of a member under sub-section (2) and as to the amount to be recovered from him.

Bar of action against panchayats, village benches, etc., and provision of notice before institution.

III. (1) No action shall lie against any member, officer, servant or agent of a panchayat or a village bench acting under its direction, in respect of anything done in good faith under this Act or any rule or by-law.

(2) No action shall be brought against any panchayat or village bench, or any member, officer, servant or agent of such panchayat or village bench acting under its direction for anything done or purporting to have been done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat or village bench, and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

(4) If any panchayat or village bench or person, to whom a notice under sub-section (2) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

112. (1) ¹[The Provincial Government] may, by notification in the ²[Official Gazette], authorise the ³[Revenue Commissioner] or any officer specially empowered under sub-section (3) of section 95 to exercise in respect of panchayats and village benches any of the powers which may be exercised by ⁴[the Provincial Government] under this Act. Delegation of powers.

(2) ⁵[The Provincial Government] may also, by notification in the ⁶[Official Gazette] authorise any person to exercise in respect of panchayats any of the powers conferred on a district local board under the provisions of this Act, when such district local board shall have been dissolved or superseded.

(3) Subject to rules made in this behalf, the District Judge may delegate to a Subordinate Judge the powers exercisable by the District Judge in regard to suits under sub-section (1) of section 87 in respect of a village bench in a village within the jurisdiction of the said Sub-ordinate Judge.

(4) Subject to rules made in this behalf, the Collector may delegate to—

(a) a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Criminal Procedure Code the powers exercisable by the Collector in regard to cases under sub-section (1) of section 87 in respect of a village bench in a village within the said jurisdiction of the said Magistrate;

(b) an officer not below the rank of a Deputy Collector, powers other than the powers under sub-section (1) of section 87 exercisable by the Collector in regard to cases under the provisions of this Act.

113. It shall be the duty of every panchayat to inquire and report in any of the following cases:— Local inquiry and reports by panchayat.

(a) any case where a magistrate has directed that a previous local investigation be made by a panchayat under section 202 of the Code of Criminal Procedure, 1898, and the words "such other person" in sub-section (1) of the said section shall be deemed to include a panchayat;

¹ Subs. by the A. O. 1937, for "Govt."

² Subs. 161d, for "B. G. O."

³ Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 13, for "Commissioner".

(b) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the panchayat in whose village either the wife or child for whose maintenance the application is made or the husband or parent respectively or such wife or child resides, a report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable, and such report shall be evidence in such inquiry : V of 1898.

Provided that no member of the panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate may, in his discretion, call for a further report.

114. Every member of a panchayat or village bench and every officer and servant maintained by or employed under a panchayat or village bench shall be deemed to be a public servant within the meaning of section 21 of the [Pakistan] Penal Code. XLV of 1860.

115. (1) * * * * *

(2) During such time as this Act and the rules and by-laws shall be in operation in any village, the [enactment] mentioned in the Schedule shall, to the extent specified in the third column of the Schedule, ceased to have any operation in the said village.

SCHEDULE.

(See section 115.)

No. and year of enactment.	Subject or Title.	Extent of repeal.
4[Sind] Act VII of 1867 ..	The 4[Sind] District Police Act, 1867.	Sections 33 and 34.

1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w. e. f. 30th May 1955), for "Indian".

2 Sub-section (1) rep. *ibid.* s. 6, Sch. II.

3 Subs. *ibid.* s. 7, Sch. III, for "enactments".

4 Subs. *ibid.* s. 3 (i) (w. e. f. 30th May 1955), for "Bombay".

Members,
etc., of
panchayats
or village
benches to
be public
servants.

Repeal and
Savings.