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दि. 99/3/002

**MAHARASHTRA STATE  
LAW COMMISSION**

**FIRST REPORT**

**ON**

**THE MAHARASHTRA CODE VOLUME NO. I**

**MARCH 2002**

प्रधान सचिव व विधी परामर्शी यांचे कार्यालय  
विधी व न्याय विभाग, मंत्रालय, मुंबई ४०० ०३२  
क्रमांक : १२६६  
दिनांक : ५/३/०२  
सा.सं./व.सं./व.सं. Say. 6.5.64

महाराष्ट्र  
97/3/02  
मंत्री  
विधी व न्याय, पुनर्वसन व पर्याय  
भाजी सेनिकांचे कल्याण  
महाराष्ट्र शासन  
संचालक, मुंबई ४०० ०३२

CR-9002/230  
31.1.2002  
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28-3-02  
महाराष्ट्र शासन  
३०/३/०२

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5/c



Maharashtra State Law Commission  
Govt. Barrack No.13,  
Free Press Journal Road,  
Opp. Mantralaya,  
Mumbai - 400 021.

nan

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Ref.No.MLC-436/2002

Date : 7<sup>th</sup> March, 2002

Dear Sir,

I have great pleasure in forwarding herewith the First Report of the Law Commission on the repeal of the State Laws contained in Volume No.1 of the Maharashtra Code.

After I was appointed as a Chairman of the Law Commission, it took a long time to become the Commission functional for want of the Office accommodation, appointments of the Members of the Commission, appointments of the staff on the Commission and providing various facilities to it. Once it became functional, the Commission started its work vigorously and initially decided to report on the references made by the State Government. Such references were four in number. The Law Department sent us the Reports of the Central Law Commission for examination. In fact, we examined some of them, but we were always in doubt as to whether these Reports of the Central Law Commission were again required to be examined by the State Law Commission. Therefore, the subject was discussed in one meeting of the Law Commission, when all the Members unanimously decided that the State Government has to examine the Reports of the Central Law Commission and inform its views to the Union Government. We therefore, returned all those references (13 in number) back to the State Government (some with our observations), informing them that they may examine these Reports at their level and send their Report to the Central Government.

Thereafter, the Maharashtra Law Officers (Appointment, Conditions of Service and Remuneration) Rules, 1984 were sent to us for revision/repeal. We examined them with the help of the Advocate General and in several meetings with the Members of the Committee appointed by the Law and Judiciary Department. We also sought the views of different District Bar Associations and High Court Bar Association. Finally, we sent our Report to the State Government.

One reference containing 4 Central Laws, viz.

1. The Central Provinces Act, 1875,
2. The Absorbed Areas (Laws) Act, 1954,
3. The Merged States (Laws) Act, 1949 and
4. The Laws Local Extent Act, 1874

Continued...





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Govt. Barrack No.13,  
Free Press Journal Road,  
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Mumbai - 400 021.

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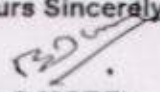
was also made to us. The Central Government wanted the opinion of the State Government as to whether those Laws so far as they relate to our State should be repealed. We examined all the above 4 Laws in detail and submitted our Report to the State Government, advising them that these 4 Laws as they relate to the State of Maharashtra may be repealed.

Thereafter, the Report of the Jain Commission on the review of the Administrative Laws was referred to us. It contained Appendix A-5 of 114 Laws relating to the State Governments. The Central Government wanted the State Governments to repeal these Laws. We examined all the 114 Central Laws and found that out of them 44 were applicable to the State of Maharashtra. On examination of each and every Act applicable to Maharashtra, we came to the conclusion that some of them were already repealed, some were required to be repealed and the rest were required to be retained. Accordingly, we submitted our Report to the State Government.

The State Government of Karnataka had appointed one-man Commission to suggest repeal of its State Laws and accordingly their Commission suggested that 1017 Laws enacted by that Government during the period 1957 to 1998 should be repealed. Our State Government also desired that such exercise should be taken up by this Commission as early as possible. We therefore, decided to examine all the Laws contained in the various Volumes of the Maharashtra Code and accordingly we have great pleasure in submitting our 1<sup>st</sup> Report on the Volume-I which contains in all 50 Regulations and Acts. This Report with the Annexures was placed before the Commission. It was thoroughly discussed and the Commission approved it unanimously. The method adopted by the Commission for drawing its conclusion is mentioned in detail in the Report. We hope to send subsequent Reports at short intervals and finish this task as early as possible.

With kind regards,

Yours Sincerely,

  
(B.G.MORE)

Hon'ble Shri Vilasrao Balkrishna Patil  
Minister,  
Law and Judiciary,  
Mantralaya,  
Mumbai-400 032.



**MAHARASHTRA LAW COMMISSION**

(Constituted under Government Resolution No. LAC-1093/566/(122)-19 dated 30.09.1996 and Resolution No.MLC-1400/P.K.39/DESK-19, dated 21.12.2001)

Shri B.G. More	...	Chairman
Shri A.S. Bobde	...	Member
Shri Rajabhau Gawande	...	Member (Resigned)
Shri K.M. Dhakephalkar	...	Member
Shri Shrihari Aney	...	Member
Shri Vijay Savant	...	Member
Shri V.B. Bedre	...	Member
Shri J.D. Jaybhav	...	Member
Shri V.G. Munshi	...	Principal Secretary & R.L.A. Law & Judiciary Dept. (Ex-officio Member)
Smt. P.M. Umarji	...	Principal Secretary (Legislation) Law & Judiciary Dept. (Ex-officio Member)
Shri N.B. Bhagwat	...	Member-Secretary (Resigned)



**MAHARASHTRA LAW COMMISSION**

After the Commission became functional it decided to take up first certain references made by the Government for its advice. These references were –

1. Repeal or revision of the Maharashtra Law Officers (Appointment, Conditions of Service And Remuneration) Rules, 1984;
2. Repeal or otherwise of the 4 Central Laws referred by the Central Government to the State Government; and
3. Repeal of 114 Acts relating to the State Governments mentioned in Appendix A-5 in the Report of Jain Commission on review of the Administrative Laws.

The State Law Commission of Karnataka had advised its Government to repeal about 1017 State Laws enacted from the year 1957 to 1998. Our Government desired that such exercise should be taken up by this Commission also as early as possible. Therefore, after the Reports on the earlier references made by the State Government were sent, the Commission decided to take up the State Laws contained in various Volumes of the Maharashtra Code for consideration of repeal. There are 9 Volumes of the Maharashtra Code containing the Laws passed by the State Government from time to time. It was decided that the Acts should be considered Volume-wise and a separate Report for each Volume should be sent to the Government. Accordingly, this Report is being sent on the Acts contained in Volume No. 1 of the Maharashtra Code.

There are in all 50 Regulations and Acts shown to be in force in the 1<sup>st</sup> Volume. They are mentioned in Annexure-I of this Report. The Office of the Commission examined each and every enactment and prepared its notes. While examining the Regulations or the Acts, the Office considered whether those Regulations or the Acts should be repealed or retained looking to their present day utility. The repeal was suggested whenever it was found that the Act had spent itself or that it had become outmoded or it had become obsolete or in the present day circumstances its existence on the Statute Book was not necessary. As against this, the enactments which were found useful even today, were decided to be retained. While making this study, the Office consulted various Administrative Departments from Mantralaya, which were administering these Laws. Such consultations were made on oral and written references. When the Office was clear in its views, such reference to Administrative Department was avoided because the reference and consultation necessarily took a considerable time. After these notes were prepared, they were put up before the Hon'ble Members of the Commission in its various meetings. The Hon'ble Members expressed their views and when they came to an unanimous conclusion as to whether the Acts should be retained or repealed, a final decision was taken.

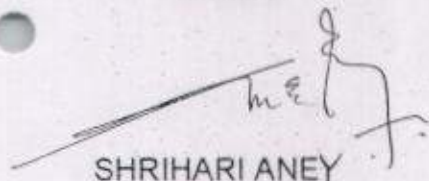


While examining these enactments, it was found that some of them were already repealed, but they continued to be on the Statute Book because a separate repealing Act was not passed. Some Acts were not repealed, but the Commission found that these Acts should now be repealed and some Acts were required to be retained even in the present circumstances. Therefore, the Commission decided to send its Report by attaching 3 Annexures to it. One Annexure gives names of the Acts which are already repealed, the 2<sup>nd</sup> Annexure gives names of the Acts which are required to be repealed and the 3<sup>rd</sup> Annexure gives names of the Acts which are required to be retained. The method adopted is to mention the name of the Act serially followed by reasons for its repeal or retention.

The Jain Commission in its Report had advised that eventhough Pre-Constitution Laws were required to be retained, they should be reviewed in order to bring their provisions in line with the present day requirements. It also suggested that the retained Laws should, as far as possible, be simplified. The Commission decided that this exercise of review and simplification of retained laws should be taken up after all the laws contained in the various Volumes of the Maharashtra Code are examined.

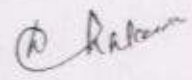

  
(B.G.MORE)  
CHAIRMAN

A.S. BOBDE  
Member



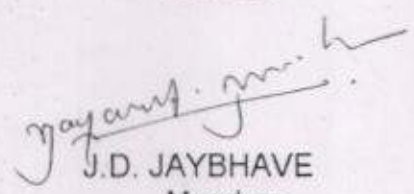
SHRIHARI ANEY  
Member

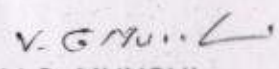
K.M. DHAKEPHALKAR  
Member

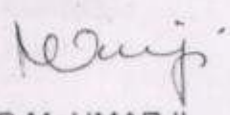
  


VIJAY SAVANT  
Member

  
V.B. BEDRE  
Member

  
J.D. JAYBHAVE  
Member

  
V.G. MUNSHI  
Ex-officio Member

  
P.M. UMARJI  
Ex-officio Member



MAHARASHTRA LAW COMMISSIONANNEXURE - INAMES OF THE REGULATIONS AND THE ACTS CONTAINED IN VOLUME - I  
OF THE MAHARASHTRA CODE CONSIDERED BY THE COMMISSION FOR  
REPEAL.

<u>SR.NO.</u>	<u>NAME OF THE ACTS</u>
1.	BOMBAY REGULATION II OF 1827
2.	BOMBAY REGULATION IV OF 1827
3.	BOMBAY REGULATION V OF 1827
4.	BOMBAY REGULATION VIII OF 1827
5.	BOMBAY REGULATION XXII OF 1827
6.	BOMBAY REGULATION XXIX OF 1827
7.	BOMBAY REGULATION I OF 1831
8.	THE BOMBAY RENT FREE ESTATES ACT, 1852
9.	THE SHORE NUISANCES (BOMBAY & KOLABA) ACT, 1853
10.	THE BOMBAY HIGH COURT (LETTERS PATENT) ACT, 1866
11.	THE BOMBAY CIVIL COURTS ACT, 1869
12.	THE CORONERS ACT, 1871
13.	THE BOMBAY REVENUE JURISDICTION ACT, 1876
14.	THE BOMBAY MUNICIPAL DEBENTURES ACT, 1876
15.	THE CITY OF BOMBAY MUNICIPAL (SUPPLEMENTARY) ACT, 1888
16.	THE MARKETS AND FAIRS ACT, 1862
17.	THE EXEMPTIONS FROM LAND REVENUE (NO.1), 1863
18.	SATARA, SOLAPUR AND SOUTHERN MARATHA COUNTRY LAWS ACT, 1863
19.	THE GAS COMPANIES ACT, 1863
20.	THE EXEMPTIONS FROM LAND-REVENUE (NO.2) ACT, 1863
21.	THE ACT FOR AVOIDING WAGERS (AMENDMENT) ACT, 1865
22.	THE BOMBAY HINDU HEIRS RELIEF ACT, 1866
23.	EDULABAD AND WARANGAON PARGANAS LAWS ACT, 1866
24.	THE BOMBAY FERRIES AND INLAND VESSELS ACT, 1868



- 25. CIVIL JAILS ACT, 1874
- 26. THE BOMBAY HEREDITARY OFFICES ACT, 1874
- THE BOMBAY HEREDITARY OFFICES (AMENDMENT) ACT, 1886
- 27. THE TOLLS ON ROADS AND BRIDGES ACT, 1875
- 28. THE BOMBAY ABKARI ACT, 1878
- 29. THE BOMBAY LANDING AND WHARFAGE FEES ACT, 1882
- 30. THE BOMBAY PUBLIC AUTHORITIES SEALS ACT, 1883
- 31. THE PROTECTION OF PILGRIMS ACT, 1887
- 32. THE BOMBAY PREVENTION OF GAMBLING ACT, 1887
- 33. THE BOMBAY MUNICIPAL CORPORATION ACT, 1888
- 34. THE BOMBAY VILLAGE SANITATION ACT, 1889
- 35. THE BOMBAY MUNICIPAL SERVANTS ACT, 1890
- 36. THE PEINT LAWS ACT, 1894
- 37. AN ACT TO AMEND ACT VIII OF 1870 (AN ACT FOR THE PREVENTION OF THE MURDER OF FEMALE INFANTS) AS TO THE PRESIDENCY OF BOMBAY (BOM. ACT NO.III OF 1897)
- 38. THE CITY OF BOMBAY MUNICIPAL INVESTMENT ACT, 1898
- 39. THE BOMBAY GENERAL CLAUSES ACT, 1904
- 40. THE BOMBAY COURT OF WARDS ACT, 1905
- 41. THE MAMLATDAR'S COURTS ACT, 1906
- 42. THE PRINCE OF WALES MUSEUM ACT, 1909
- 43. THE SOCIETIES REGISTRATION (AMENDMENT) ACT, 1912
- 44. THE BOMBAY RACE-COURSES LICENSING ACT, 1912
- 45. THE BOMBAY SMOKE-NUISANCES ACT, 1912
- 46. THE BOMBAY ABKARI (AMENDMENT) ACT, 1912
- 47. THE BOMBAY DISQUALIFICATION OF ALIENS ACT, 1918
- 48. THE BOMBAY PUBLIC CONVEYANCES ACT, 1920
- 49. THE CITY OF BOMBAY PRIMARY EDUCATION ACT, 1920
- 50. THE BOMBAY PLEADERS ACT, 1920

→ Repealed  
 vide Mah.  
 XXV of 2012  
 Sec. 3



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MAHARASHTRA LAW COMMISSION

ANNEXURE - II

NAME OF THE ACT FROM VOLUME NO. I OF THE MAHARASHTRA CODE  
WHICH IS ALREADY REPEALED.

SR.NO.1

THE CORONERS ACT, 1871  
(ACT NO. IV OF 1871)

This Act has been repealed by The Coroners (Maharashtra) Repeal Act,  
1999 (Maha. VIII of 2000) with effect from 26<sup>th</sup> July 1999.



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MAHARASHTRA LAW COMMISSION

ANNEXURE - III

NAMES OF THE REGULATIONS AND THE ACTS FROM VOLUME NO. I OF  
THE MAHARASHTRA CODE WHICH ARE REQUIRED TO BE REPEALED

SR.NO.1                      BOMBAY REGULATION II OF 1827

The First Regulation found printed on Page No. 1 of Volume No. I is Bombay Regulation II of 1827. On examination of this Regulation it is found that all the Sections of this Regulation except Section 21 and Sections 47 to 56 were repealed.

Section 21 is regarding Jurisdiction of Civil Court. This Section (except Caste Question) is repealed by Act No. 10 of 1861 and Act No. 14 of 1869. The Sections 47 to 56 were repealed by Bombay Act No. 17 of 1920. This Act, in turn, is repealed by the Advocates Act, 1961 (25 of 1961).

Thus, it will be seen that all the provisions (except Caste Question) now stand repealed by various enactments. However, Caste Question remains. In respect of this Caste Question what is mentioned in Section 21 is "it is being understood that no interference on the part of Court in Caste Question is hereby warranted, beyond admission and trial of suit instituted for recovery of damages on account of an alleged injury to the caste and character of the plaintiff, arising from some illegal act or unjustifiable conduct of the other party."

Looking to the present conditions this portion of the clause related to the Caste Question is now irrelevant and therefore, this portion may also be repealed. Thus, the entire Bombay Regulation II of 1827 would stand repealed.

SR.NO.2                      BOMBAY REGULATION IV OF 1827

Only one Section namely Section 26 of this Regulation remains in force now. It is about law to be observed by Courts which says that which section of law to be observed in trial of suits shall be Acts of Parliament of the United Kingdom and Indian Laws applicable to the case, in the absence of such Acts and Laws, usage of the country in which suit arose; if none such appears, the law of the defendant; and in the absence of specific law and usage, justice, equity and good conscience alone.

This provision appears to be unnecessary now because while trying suits, Courts are governed by the Code of Civil Procedure and other special local laws. They contain what is mentioned in this section. The Supreme Court under Article 141 of the Constitution has also laid down the Law of the Land covering this field. Therefore, this regulation may be repealed.

SR.NO.3                      BOMBAY REGULATION V OF 1827

Only two Sections of this Regulation appear to be in force now. Section 9 Clause 1 deals with conclusive nature of written acknowledgement of debt and clause 2 is also of the written acknowledgement not being conclusive where a Creditor might reasonably expect to possess other proof of the amount besides such written acknowledgement. Section 14 deals with interest ceasing on the amount tendered by the creditor to the debtor.

Since the substantial provisions of this Regulation have been covered and controlled by other Statutes, it is now not necessary to continue the same and hence, this Regulation may be repealed.



SR.NO.4BOMBAY REGULATION XXII OF 1827

This Regulation is to declare and define Military Authority in its relation to the Civil Power and to the Community at large. Sections 1 to 39 of this Regulation are repealed by Act 13 of 1889 and only 4 Sections namely 40 to 43 are in force. The remaining Sections 44 to 55 are again repealed by the same Act 13 of 1889. The above-mentioned four Sections are in Chapter 7 and they relate to aid which may be furnished by Civil Authorities to expedite march of military force and compensations to individuals for damage caused by the troops on such occasions. The march of the military force mentioned in those Sections is of Infantry and cavalry. On some occasions, they were required to march through a territory and then required aid from Local Authorities. This is no longer in vogue now. The members of the infantry and cavalry do not march through territory and also do not require any aid from the Local Authorities. In the circumstances, these provisions have now become obsolete and therefore, the State Government can safely repeal this Regulation.

SR.NO.5BOMBAY REGULATION XXIX OF 1827

The provisions of this Regulation show that it is based mainly for trial of suits of high ranking persons from Dekkhan & Khandesh Districts (Pune, Ahmednagar and Khandesh Districts). These areas were then conquered by British Government from Peshwas. The above persons were excluded from the jurisdiction of the ordinary courts and their suits were to be tried by the Agents of the State Government. Such a procedure for trial of the suits of a particular person is no longer in vogue now. The agents mentioned in these sections were probably the political agents then appointed by the Crown. It clearly appears that these provisions have now become obsolete and therefore this Regulation can be repealed by the State Government.

SR.NO.6BOMBAY REGULATION I OF 1831

This Regulation may also be repealed for the same reasons as given for repeal of Regulation No. XXIX of 1827.

SR.NO.7THE BOMBAY RENT FREE ESTATES ACT, 1852  
(ACT NO. XI OF 1852)

(Sr.No.13 : THE EXEMPTIONS FROM LAND REVENUE (NO.1) ACT, 1863  
AND Sr.No.15 : THE EXEMPTIONS FROM LAND REVENUE (NO.2) ACT,  
1863)

It appears from the reading of the Object Clause as well as the Preamble of the Acts that they were intended to govern pending matters concerning specific claims of Land Revenue. Furthermore, these Acts related to certain areas, which were earlier not in the erstwhile State of Bombay or in the present State of Maharashtra. The Commission is of the view that it is highly improbable that any pending claims to which these Acts apply i.e., claims prior to 1852 or 1863 yet remain to be adjudicated or are pending any appeal, notwithstanding the fact that subsequent thereto by the abolition of Inams & Jagirs by various enactments there may not be of importance relating to payment of revenues of such personal grants. Today, assuming though not admitting that any such problem relating to payment of revenue, including exemptions therefrom, does arise after coming into the force of Maharashtra Land Revenue Code, it shall necessarily be governed by the said Code and not the aforementioned three enactments.



The Commission feels that the Government may, at its end, verify whether there are any pending proceedings or appeals yet undecided relating to these three Acts. If there are no such proceedings pending, the repeal of these three Acts will not cause any prejudice and they can be safely repealed. Assuming for the sake of arguments that there are some proceedings which are pending, the repeal of these Acts would not make any difference because those proceedings could continue under the existing Land Revenue Code or any appropriate Civil Codes whose jurisdiction these three Acts have sought to bar. It may also be noted that when such a repeal is effected it would only operate prospectively and not retrospectively under Section 8 of the General Clauses, pending proceedings would nonetheless be governed by these enactments. Only new proceedings have to be started under the Maharashtra Land Revenue Code.

The Commission is, therefore, of the opinion that these three Acts can be safely repealed.

**SR.NO.8**                    **THE SHORE NUISANCES (BOMBAY & KOLABA)**  
**ACT, 1853**  
**(ACT NO. XI OF 1853)**

To be repealed for the reasons given by the Commission in Jain Commission Report to the Government.

**SR.NO.9**                    **THE BOMBAY HIGH COURT (LETTERS PATENT),**  
**ACT, 1866**  
**(ACT NO. XXIII OF 1866)**

The amending Act is intended for correcting the clerical error by substituting the Section itself and by coming into operation of this amending Act this substituted section has become part and parcel of the Parent Act and now the amending Act has become unnecessary and superfluous and hence may be repealed.

**SR.NO.10**                    **THE BOMBAY REVENUE JURISDICTION ACT, 1876**  
**(ACT NO. X OF 1876)**

The Commission has already taken a decision to repeal this Act and accordingly advised the State Government to repeal it while sending its report relating to Jain Commission.

**SR.NO. 11**                    **THE BOMBAY MUNICIPAL DEBENTURES ACT, 1876**  
**(ACT NO. XV OF 1876)**

The Commission has already taken a decision to repeal this Act and accordingly advised the State Government to repeal it while sending its report relating to Jain Commission.

**SR.NO. 12**                    **THE CITY OF BOMBAY MUNICIPAL (SUPPLEMENTARY)**  
**ACT, 1888**  
**(ACT NO. XII OF 1888)**

The Commission has already taken a decision to repeal this Act and accordingly advised the State Government to repeal it while sending its report relating to Jain Commission.

**SR.NO. 13**                    **THE EXEMPTIONS FROM LAND REVENUE (NO. 1), 1863**  
**(ACT NO. II OF 1863)**

Please refer comments against Act at Sr.No.7 above.



SR.NO. 14      SATARA, SOLAPUR AND SOUTHERN MARATHA  
COUNTRY LAWS ACT, 1863  
(ACT NO. III OF 1863)

This Act may be repealed as its provisions have now become obsolete.

SR.NO.15      THE EXEMPTIONS FROM LAND-REVENUE (NO.2)  
ACT, 1863  
(ACT NO. VII OF 1863)

Please refer comments against Act at Sr.No.7 above.

SR.NO.16      EDULABAD AND WARANGAON PARGANAS LAWS  
ACT,1866  
(ACT NO. XIV of 1866)

This Act will have to be repealed as its provisions have become obsolete.

SR.NO.17      THE TOLLS ON ROADS AND BRIDGES ACT, 1875  
(BOM. ACT NO.III OF 1875)

Section 3 of this Act enables the Provincial Government to fix the rates of tolls to be levied and it says that such rates shall not exceed the rates mentioned in the Schedule. The Schedule mentions the vehicles, animals or persons on which the tax is to be levied. Section 20 of The Bombay Motor Vehicles Tax Act, 1958 (LXV of 1958) debars the State Government and any Local Board from levying and collecting the tax on any vehicle, animal or person. This Act further allows the State Government to levy the tax on Motor Vehicle. Thus, the provisions of The Bombay Motor Vehicles Tax Act, 1958 virtually repeal the provisions of The Tolls on Roads And Bridges Act, 1875 and therefore, this Act can safely be repealed now.

SR.NO.18      THE BOMBAY LANDING AND WHARFAGE FEES  
ACT, 1882  
(BOM. ACT NO.VII OF 1882)

Section 2 of this Act mentions the Local Extent and it says that it shall extend to any ports in Bombay area of the State of Maharashtra to which Government may from time to time, by notification in the Official Gazette extend the Act. The major ports being the subject matter of Union List this Act obviously must apply to the minor ports only. By Section 117 of The Maharashtra Maritime Board Act, 1996 (Maharashtra Act No.XV of 1997) the provisions of The Bombay Landing and Wharfage Fees Act, 1882 in relation to minor ports are repealed. Thus, this Act stands virtually repealed. However, a repealing Act will have to be passed to repeal the same.

SR.NO.19      THE BOMBAY VILLAGE SANITATION ACT, 1889  
(BOM. ACT NO. I OF 1889)

This Act applies to Bombay area of State of Maharashtra and Greater Bombay and is applicable to areas named as villages. It mainly relates to the purpose of improving the sanitary condition of villages. This Act still appears to be in force as is not shown to be repealed by any other Act including Bombay



Village Panchayats Act, 1958. The examination of the latter Act shows that there is no provision made in that Act for the purpose of sanitation. However, the Sanitary Committees and the Sanitary Boards contemplated by this Act do not appear to be in existence in any of the villages of the State of Maharashtra. The Hon'ble Members considered this position and came to the conclusion that this Act may be repealed.

SR.NO.20                      THE BOMBAY MUNICIPAL SERVANTS ACT, 1890  
(BOM. ACT NO.V OF 1890)

This Act applies to the Municipal Officers or Servants or other persons employed by, or on behalf of, the Corporation or a Municipality to perform any of the duties specified in the Schedule. The Schedule shows their duties connected with the public health and with the public safety. Thus, it will be seen that this Act applies to only two categories of Servants. Section 2 ( 2 ) says that this Act shall be read with the City of Bombay Municipal Act, 1888 and The Bombay District Municipal Act, 1873 and 1884. It means that these are the supplementary provisions to those main Acts. It appears to us that the provisions of this Act may be incorporated in those main Acts by carrying out amendments and this Act may be repealed by the amending Act.

SR.NO.21                      THE PEINT LAWS ACT, 1894  
(BOM. ACT NO. II OF 1894)

The provisions of this Act show that the enactments which are in force in District of Nasik should be brought in force in the territory of Peint and those applicable to territory of Peint but not applicable to District of Nasik should be repealed. The provisions of this Act appear to be obsolete and therefore, it may be repealed.

SR.NO.22                      THE CITY OF BOMBAY MUNICIPAL INVESTMENT  
ACT, 1898  
(BOM. ACT NO. I OF 1898)

There are only 3 Sections remaining in this Act, viz. 1, 4 and 5. Section 4 applies to the debentures of the Corporation issued prior to the enactment of this Act. Those debentures may not now be in force and therefore, this Act has become obsolete. It may therefore, be repealed.

SR.NO.23                      THE BOMBAY COURT OF WARDS ACT, 1905  
(BOM. ACT NO. I OF 1905)

The Commission has already advised the State Government that the new unified law applicable to the entire State of Maharashtra regarding Court of Wards should be enacted, so that the Central Provinces Court of Wards Act, 1899 and Court of Wards Act, 1350 Fasli (Hyderabad) may be repealed.

SR.NO.24                      THE BOMBAY SMOKE-NUISANCES ACT, 1912  
(BOM. ACT NO. VII OF 1912)

Administrative Department (Environment Department) recommended this Act for repeal. The Hon'ble Members of the Commission also discussed the provisions of this Act and came to the unanimous conclusion that this Act may be repealed.



31/c

**SR.NO.25 THE BOMBAY ABKARI (AMENDMENT) ACT, 1912**  
**(BOM. ACT NO.XII OF 1912)**

Sections 1 to 41 are already incorporated in the Principal Act so also the Excise (Spirits) Act, 1863 is repealed. The purpose of the amending Act is achieved and it has become unnecessary and therefore, this Act may be repealed.

**SR.NO.26 THE BOMBAY DISQUALIFICATION OF ALIENS ACT, 1918**  
**(BOM. ACT NO.VI OF 1918)**

This is an Act to disqualify certain aliens from being members and from voting at election of members to certain Local Authorities in the Presidency of Bombay. The main Section is Section 3 and it says that "save as hereinafter otherwise provided", no aliens shall be qualified to be a member of any of the Local Authorities specified in the Schedule or to vote at any election of a member of any of the said Authorities. These Authorities, as mentioned in the Schedule, are the Trustees of the Port of Bombay, the Municipal Corporation of the City of Bombay, and the Trustees for the improvement of the City of Bombay. This provision about the alien made in this Act is no longer necessary now, because Section 16 of the Representation of People Act, 1950, clearly disqualifies a person for registration in the Electoral Roll if he is not a citizen of India. The alien as defined in the Bombay Act VI of 1918 is "a person who is not a citizen of India". Thus, an alien cannot register himself as a voter and therefore cannot vote. The voters list prepared under The Representation of People Act is used by these Authorities for election. Thus, this Act may safely be repealed.

**SR.NO.27 THE CITY OF BOMBAY PRIMARY EDUCATION ACT, 1920**  
**(BOM. ACT NO. XV OF 1920)**

This Act extends to City of Bombay only and provides for primary education in Bombay and is to be construed as a part of supplementry to the City of Bombay Municipal Act, 1888. There is one more Act by name The Bombay Primary Education Act, 1947. This latter Act extends to the whole Province of Bombay except City of Bombay. Thus, it is clear that today there are two acts on the same subject prevailing in State of Maharashtra. Both are the old Acts. It, therefore, appears that the provisions of both these Acts should be amalgamated and a new Act should be enacted making it applicable to the entire area of the State of Maharashtra. These two old Acts may safely be repealed by the amending Act.

**SR.NO.28 THE BOMBAY PLEADERS ACT, 1920**  
**(BOM. ACT NO.XVII OF 1920)**

Various Sections of this Act have been repealed by the Advocates Act, 1961 at different stages. When the whole Act, namely The Advocates Act, 1961 comes into force, all the provisions of the Bombay Pleaders Act, 1920 stand repealed. Hence, no separate repeal is necessary.



MAHARASHTRA LAW COMMISSIONANNEXURE - IVNAMES OF THE REGULATIONS AND THE ACTS FROM VOLUME NO. I OF  
THE MAHARASHTRA CODE WHICH ARE REQUIRED TO BE RETAINEDSR.NO.1                      BOMBAY REGULATION VIII OF 1827

This Regulation was considered by the Hon'ble Members of the Commission. They were of the opinion that it is still useful and recourse is taken to it in the Court of Law. Therefore, it should be retained. Further, it should be reviewed with a view to simplify and satisfy the present day needs.

SR.NO.2                      THE BOMBAY CIVIL COURTS ACT, 1869  
(ACT NO. XIV OF 1869)

The Hon'ble Members of the Commission are of the view that this Act should not be repealed and Law and Judiciary Department has also not recommended for repeal of this Act.

SR.NO. 3                      THE MARKETS AND FAIRS ACT, 1862  
(ACT NO. IV OF 1862)

This Act cannot be repealed as it has been extended to the remaining parts of present State of Maharashtra to which it formerly did not apply, by The Bombay Act No. 84 of 1958. This Act is extensively amended by the above mentioned Act. However, the Administrative Departments (U.D. and R.D.D.) recommended for repeal, but the Government may take a decision.

SR.NO.4                      THE GAS COMPANIES ACT, 1863  
(ACT NO. V OF 1863)

It appears that this Act will have to be retained because it applies not only to Bombay Gas Company but the Companies which are or may hereafter be registered and incorporated for the purpose of manufacturing and supplying Gas. The Administrative Department has also informed that this Act should not be repealed.

SR.NO.5                      THE ACT FOR AVOIDING WAGERS (AMENDMENT)  
ACT, 1865  
(ACT NO. III OF 1865)

It appears that this Act will have to be retained as its provisions have been extended to all the areas of the State of Bombay by Act XXI of 1959 and they appear to be useful even today.

SR.NO.6                      THE BOMBAY HINDU HEIRS RELIEF ACT, 1866  
(ACT NO. VII OF 1866)

This Act confers substantial statutory rights to certain heirs permanently. They cannot be destroyed. Section 288 of Hindu Law is not the codified law and cannot prevail over the Statute. It lays down mere proposition of law based on decided cases. Therefore, this Act should not be repealed.



NO.7      THE BOMBAY FERRIES AND INLAND VESSELS ACT, 1868  
(ACT NO. II OF 1868)

This Act will have to be retained as its provisions have been amended from time to time and by its Section 19 inserted by Bombay Act No.60 of 1959, the other similar Laws applicable to Hyderabad areas of Bombay, and the Vidarbha Region of State of Bombay are included in the State of Bombay and the Law as applicable to the Kutch area is repealed. However, the Administrative Department (H.D.) recommended for repeal, but the Government may take a decision.

SR.NO.8                      CIVIL JAILS ACT, 1874  
(ACT NO. II OF 1874)

It appears that this Act will have to be retained because by The Bombay Act XXIII of 59, the provisions of this Act have been made applicable to the whole State of Bombay and corresponding provisions applicable to the areas included in the State of Bombay have been repealed. The other provisions of this Act are also amended.

SR.NO.9                      THE BOMBAY HEREDITARY OFFICES ACT, 1874  
(BOM. ACT NO.III OF 1874)

THE BOMBAY HEREDITARY OFFICES  
(AMENDMENT) ACT, 1886  
(ACT NO.V of 1886)

In view of large-scale abolition of several watans by virtue of several abolished Acts, the importance and efficacy of the Hereditary Offices Act has been substantially reduced. However, the said Act still covers balance of watans, for which continuance of this Act is necessary till the wholesale Act, abolishing all kinds of watans is enacted.

SR.NO.10                      THE BOMBAY ABKARI ACT, 1878  
(BOM. ACT NO.V OF 1878)

Section 1 to 29 and 30 to 67 of this Act are repealed by section 148 and Schedule I of The Bombay Prohibition Act, 1949. Section 29A of this Act, however, still remains in force. It says that until provision to the contrary is made by the Parliament by Law, the State Government may continue to levy any duty to which this section applies which it was lawfully levying immediately before the commencement of the Constitution under this Chapter as then in force. On search, no law made by the Parliament contrary to the provisions of this Act is found. This position was considered by the Hon'ble Members of the Commission and they agreed for continuance of this Act.

SR.NO.11                      THE BOMBAY PUBLIC AUTHORITIES SEALS  
ACT, 1883  
(BOM. ACT NO. V OF 1883)

Since there are independent separate provisions in respect of Judges' seals and court seals like Civil Courts Act etc. and since this Act covers the seals of Public Authorities also, the continuance of this Act would be beneficial and therefore, need not be repealed.



NO.12                    THE PROTECTION OF PILGRIMS ACT, 1887  
(BOM. ACT NO. II OF 1887)

It extends only to the city and port of Bombay and it appears to be applicable to the Muhammadans who are about to proceed from the port of Bombay on a Pilgrimage to the Hedjaz. The provisions in this Act are applicable till this date. The Hon'ble members of the Commission agreed that this Act may be retained.

SR.NO.13                    THE BOMBAY PREVENTION OF GAMBLING ACT,  
1887 (BOM. ACT NO. IV OF 1887)

This Act appears to be still in force, the latest amendment being made on 1.11.1976 by Maharashtra Act No.XXXIII of 1976. Therefore, this Act will have to be retained.

SR.NO.14                    THE BOMBAY MUNICIPAL CORPORATION ACT,  
1888 (BOM. ACT NO. III OF 1888)

This Act is still in force. The latest amendment as shown in Volume No.I is by Maharashtra Act No.XV of 1994. This Act will have to be retained.

SR.NO.15                    (BOM. ACT NO. III OF 1897)

AN ACT TO AMEND ACT VIII OF 1870 (AN ACT FOR THE PREVENTION OF  
THE MURDER OF FEMALE INFANTS) AS TO THE PRESIDENCY OF  
BOMBAY

By this Amending Act, the main Act of 1870 is made applicable to the Presidency of Bombay. The main Act is a special provision to take care of female infants. There is no similar provision anywhere else and therefore this Act will have to be retained. However, the Government may consider as to whether a new Act should be enacted containing these provisions so that the old Act may be repealed.

SR.NO.16                    THE BOMBAY GENERAL CLAUSES ACT, 1904  
(BOM. ACT NO. I OF 1904 )

This Act is still in force and is useful for interpretation of Bombay and Maharashtra Laws. Therefore, it will have to be retained.

SR.NO.17                    THE MAMLATDARS' COURTS ACT, 1906  
(BOM. ACT. NO.II OF 1906)

This Act is still in force. Its provisions are useful even now and they are being used. Therefore, this Act will have to be retained.

SR.NO.18                    THE PRINCE OF WALES MUSEUM ACT, 1909  
(BOM. ACT. NO.III OF 1909)

The Prince of Wales Museum Act, 1909 (Bom. Act. No.III of 1909) and the Prince of Wales Museum (Amending) Act, 1913 (Bom. Act No.VII of 1913) will have to be retained as they relate to the Prince of Wales Museum, Bombay.



SR.NO.19 THE SOCIETIES REGISTRATION (AMENDMENT) ACT, 1912 (BOM. ACT NO.II OF 1912)

This is an amendment which creates independent rights and which stands alongwith the parent Act as applicable to Maharashtra though not specifically incorporated as a particular section. The repeal may have the effect of destroying the rights conferred. Therefore, the amending Act need not be repealed.

SR.NO.20 THE BOMBAY RACE-COURSES LICENSING ACT, 1912 (BOM. ACT NO.III OF 1912)

This Act is still in force and is amended as late as 20.10.1974. Therefore, it will have to be retained.

SR.NO.21 THE BOMBAY PUBLIC CONVEYANCES ACT, 1920 (BOM. ACT NO. VII OF 1920)

This Act will have to be retained. This Commission has advised the State Government to repeal the Stage Carriages Act, 1861 (XVI of 1861) mentioned in the Jain Commission's Report by extending the Bombay Public Conveyances Act, 1920 to the entire area of the State of Maharashtra outside Greater Bombay.

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