

L. & M.
2,000-1-3-98.

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 743 m

DATED 5-4-48

INDEXED.

[Despatch Abstract.]

Bill to repeal Madras act I of 1880

Recording G. O. Legislative Department, direct
publication of a Bill to repeal Madras Act
I of 1880, and requesting the Hon'ble Mr. A.
Arundel, chief Secretary, to take charge
of it.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1898} of Madras. LEGISLATIVE.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 1149/m.

Recd.

Enclosures

Regd.

1898.

Spare copies 5. will follow.

G.O., No. 15, 19th March 1898.

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Muni Order No. 743 Muni & 5/4

Recorded

MARCH.

18
4/4/98

S.A.R.

4.4.98

Directing publication of a Bill to repeal Madras Act I of 1880, and requesting the Hon'ble Mr. A. T. Arundel, Chief Secretary, to take charge of it.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

Read—again the following paper:—

G.O., No. 12, Legislative, dated 11th March 1898.

Read—the following paper:—

G.O., Mis. No. 477 M., dated 2nd March 1898.

Read—the following letter from the District Magistrate, Madura, to the Chief Secretary to Government, dated 6th October 1897, R.O.C. No. 1234-Magl.:—

Referring to the Government Notification, No. 290, prescribing the rules for regulating the manufacture, possession and sale of explosives and published in the *Fort St. George Gazette* of 10th August 1897, I have the honour to suggest that Madras Act I of 1880, an Act for regulating the storing, sale and packing for conveyance of gunpowder, may be repealed or at least that Government Notification, No. 144, dated Fort St. George, November 18, 1882, extending that Act to (among others) the Municipality of Madura may be withdrawn.

Endorsement of the Judicial Department, No. 2218, dated 29th October 1897.

Transferred to the Local and Municipal Department.

(Signed) A. T. ARUNDEL,
Chief Secretary.

Order—Mis. No. 477 M., dated 2nd March 1898.

The Government considers that the notifications extending the Madras Act I of 1880 to the Municipalities in this Presidency should now be cancelled. The following notification will accordingly be published in the *Fort St. George Gazette*:—

NOTIFICATION.

His Excellency the Governor in Council is pleased to cancel Financial Notification, No. 76, published at page 434 of the *Fort St. George Gazette*, Part I, dated 16th August 1881, and so much of Financial Notification, No. 144, published in the *Fort St. George Gazette*, Part I, dated 28th November 1882, as has not been already cancelled.

2. The propriety of repealing Madras Act I of 1880 will be considered in the Legislative Department.

(True Extract.)

(Signed) A. EDGINGTON,
for Ag. Secretary to Government.

To the District Magistrate of Madura.
" Legislative Department.

Order—Mis. No. 12, Legislative, dated 11th March 1898.

A draft Bill to repeal Madras Act I of 1880 together with a Statement of Objects and Reasons therefor will accordingly be prepared and referred to the Advocate-General for remarks at an early date.

(True Extract.)

(Signed) H. TREMENHEERE,
Ag. Secretary to Government.

To the Local and Municipal Department.
" Judicial Department.
" Government Solicitor.

Read—also the following paper:—

From the Government Solicitor, Madras, dated 14th March 1898, No. 149.

ABSTRACT.—Forwarding the following remarks of the Hon'ble the Advocate-General, with reference to G.O., No. 12, Legislative, dated 11th March 1898:—

REMARKS.

Section 2 of Madras Act I of 1880 declares that the Act shall come into force in the town of Madras, and it also empowers the Local Government to extend the Act by notification to any municipal town in the mufassal from such date as may be specified in such notification. There is no power given in the Act to withdraw from the operation of the Act any town to which the Act has by notification been extended. In chapter III of the Madras General Clauses Act, which chapter applies to all Acts passed by the Local Legislature whether prior or subsequent to the said General Clauses Act (*vide* section 12), it is provided by section 22 that unless a contrary intention appears in an Act (*vide* section 12) any order extending such Act to any place from any date specified in such order may be postponed or cancelled, but that after the Act has actually come into force in any such place, no order postponing or cancelling such former order can be made. The notification proposed in G.O., Mis. No. 477 M., dated 2nd March 1898, cancelling previous notifications which extended Madras Act I of 1880 to certain municipal towns in the mufassal cannot be legally issued, if by such notification it is intended to withdraw from the operation of the Act the towns to which the Act has been extended by prior notifications. An order or notification extending an Act to any particular place expires and becomes spent as soon as by virtue of such order or notification the Act actually comes into force in such place, and a subsequent cancellation of such order or notification is nugatory as it amounts to no more than the repeal of something which has already spent itself. Unless power is given, and such power is exercised, to withdraw from the operation of an Act any place to which by its own force it applies, or to which it is extended by an order or notification, as the case may be, the Act will remain in force until such Act itself is repealed. And even when such power is given, it can be effectually exercised only by the issue of a notification withdrawing from the operation of the Act any town or place to which the same had been extended by a prior notification.

2. If Madras Act I of 1880 is itself to be repealed, I do not see why it is proposed to issue the notification in question, even if such notification can at all be operative.

3. As regards the draft Bill to repeal Madras Act I of 1880, I observe it is stated in the Statement of Objects and Reasons that the Indian Explosives Act, 1884, and the rules made thereunder, provide for all the matters dealt with in Madras Act I of 1880. This statement does not appear to be quite accurate. There does not seem to be anything corresponding to sections 3 and 4 of Madras Act I of 1880 in the Indian Explosives Act, 1884, or in the rules made thereunder. Further, section 16 of the Indian Explosives Act, 1884, expressly saves the operation of other laws dealing with any of the matters comprised in that Act, or the rules framed thereunder. If the Government, however, considers it unnecessary that any municipality should be burdened with the duty of providing and maintaining a magazine for the

deposit and storage of gunpowder as required by Madras Act I of 1880, and that the rules already framed or which may hereafter be framed under the Indian Explosives Act will be sufficient for all practical purposes, then I see no objection to the repealing of Madras Act I of 1880 as proposed in the draft Bill.

ORDER—No. 15, Legislative, dated 19th March 1898.

His Excellency the Governor having approved of the draft Bill and the Statement of Objects and Reasons printed as an appendix to these proceedings under rule 33 of the rules for the conduct of business at meetings of the Council of the Governor of Fort St. George for making Laws and Regulations, directs its publication in English alone.

2. The Hon'ble Mr. A. T. Arundel, Chief Secretary, will be requested to take charge of the Bill.

3. A copy of the Bill with connected papers will be transmitted with a despatch to Her Majesty's Secretary of State for India.

(True Extract.)

S. S. Roberts

for Ag. Secretary to Government.

To the Local and Municipal Department. ✓

„ Judicial Department.

„ Hon'ble Mr. A. T. Arundel.

„ Government Solicitor.

„ Superintendent, Government Press.

APPENDIX.

A Bill to repeal Madras Act I of 1880 (An Act for regulating the storing, sale and packing for conveyance of gunpowder).

WHEREAS it is expedient to repeal Madras Act I of 1880 (An Act for regulating the storing, sale and packing for conveyance of gunpowder); It is hereby enacted as follows:—

1. Madras Act I of 1880 (An Act for regulating the storing, sale and packing for conveyance of gunpowder) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

It is considered that the Indian Explosives Act, 1884, and the rules already framed or which may hereafter be framed under that Act will be sufficient for all practical purposes, in the matter of regulating the possession, sale and transport, &c., of explosives, and it is unnecessary that any Municipality should be burdened with the duty of providing and maintaining a magazine for the deposit and storage of gunpowder as required by Madras Act I of 1880. It is therefore proposed to repeal the local enactment, Madras Act I of 1880.

When given for copying _____
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When signed _____

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READ AGAIN G.O., No. _____, DATED _____

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CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING WANT FOR DESPATCH
IN ORIGINAL.

N.B.—

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