(1) Number of pages 32

(2) Date of repair 8-87

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judicial DEPARTMENT

G.O. No. 1116 Press.
~~B.P. No.~~ ~~Mis.~~

(B. No: 36-38)

Dated 2-5-1877 —198—.

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Not to be folded or roughly handled

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GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

2nd May 1877, No. 1116.

Letters Patent.

Read the following paper:—

No. 36. *From J. SHAW, Esq., Registrar of the High Court, Madras, Original Side, to the Chief Secretary to Government, dated 17th July* 1876.

I am directed by the Chief Justice to acknowledge receipt of the Proceedings of Government, dated 10th January 1876, No. 33, forwarding a copy of the Letters Patent granted to Sir R. B. Comyn, Chief Justice of the late Supreme Court, in 1835, and also of the subsequent Letters Patent granted to the same gentleman in 1838, and to state that though the Chief Justice is much obliged to the Government and the Secretary of State for their attention to his request conveyed in my letter to you of the 7th September last, he regrets to find that the copy Letters Patent forwarded are not those which are required.

2. The error has no-doubt arisen from my having stated in my letter of the 7th September that the Letters Patent asked for were probably found necessary in consequence of the alterations made in the law by the Statutes 2, William IV, C. 51, and 3 and 4 William IV, C. 41, which would make the supposed date of the Letters Patent about 1835; but I have now learned that a Vice-Admiralty Commission was issued to the Chief Justice of Bengal on the 19th July 1822, (3rd Geo. IV,) and it seems probable that one was issued at or about the same date to the Chief Justice of Madras. If so, that must be the one in question, as we have none later than that granted to Sir Thomas Strange in 1808.

3. I am directed therefore to request that Government will be good enough to apply again to the India Office for a copy of this Court's Vice-Admiralty Letters Patent, or Commission, the date of which is now believed to be in or about the year 1822.

4. I am directed at the same time to bring to notice the inconvenience to which the Court is put by not having copies in a convenient form of the Charters of the Supreme Court and its predecessors the Recorder's Court and Mayors' Courts. The original Charters of the Supreme Court, the Recorder's Court and the Mayor's Court of 1753 are in the Record-room, but they are from their form ill-adapted for reference. If half a dozen printed copies could be supplied, they would be of great use not only upon the hearing of cases in which questions of construction arise, but to newly appointed Judges who have at present much difficulty in making themselves acquainted with the extent of their own powers and duties.

5. The Supreme Court Charter has been printed on several occasions, but the number must have been very limited, as, until the publication of Mr. Cunningham's "Statutes, Acts and Regulations in force in the Madras Presidency," it was only occasionally that a copy could be obtained. The only complete copy belonging to the Court is in the Supplement to Strange's Notes of cases at Madras.

6. It is believed that the Charter of the Recorder's Court has never been printed, but possibly the Government or the Secretary of State may be in possession of some copies. A manuscript copy on paper would be more convenient for reference than the Parchment original and copy which are among the Court's Records.

7. The Mayor's Court Charters of 1726 (13 Geo. I) and 1753 (26 Geo. II) are printed in a collection of "Charters granted to the East India Company from 1601; also the Treaties and Grants made with, or obtained from, the Princes and Powers in India from the years 1756 to 1772," which is referred to in the Preface to

Smoult and Ryan's Rules and Orders of the Supreme Court at Fort William. A copy of this collection of Charters would be a valuable and useful addition to the Court's library. The original Charter of 1726, is not among the Court's Records. It is probably in the possession of Government together with the Charter, dated 30th December 1687 (3rd James II), by which the first Mayor's Court was established at Madras. The latter not being a Charter granted by the Crown is not included in the collection above noticed, and a copy of it is not likely to be required for any practical purposes, but would be of considerable interest and possibly of use in elucidating questions of law that appear to depend on long-established usage.

No. 37. ORDER THEREON, 2nd May 1877, No. 1116.

The Secretary of State will be requested to furnish copy of the Vice-Admiralty Letters Patent, or Commission, adverted to in paragraphs 2 and 3 of the Registrar's letter.

2. Thirty copies of the "Letters Patent, establishing new Courts of Judicature at Fort St. George and Bombay" of 1798, will be reprinted in the Government Press, in the same size and type as the Charter of the Supreme Court in the Honorable Mr. Cunningham's compilation, of the Acts.

3. A similar number of copies and in the same form will be struck off of the Charters of the Mayor's Court of 1726 and 1753.

4. The original Charters of the Mayor's Court of 1687 and 1726 are not amongst the Government records. Extracts from Consultation, dated 9th August 1688, and 17th August 1727—which will be sent to the Honorable the Judges of the High Court for information—state that the Charter of 1687 was delivered to the Judge Advocate and Recorder, and the Charter of 1726 to the Mayor

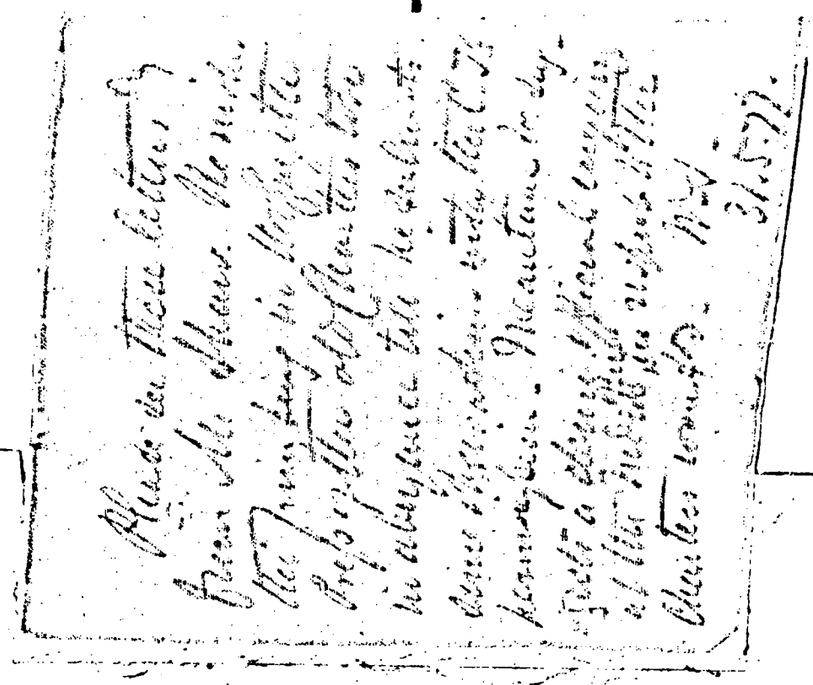
(True Extract)

D. F. CARMICHAEL,
Offg. Chief Secretary.

Assistant Secy. to Govt.

To the Registrar of the High Court,
with copies of papers.
" Superintendent of the Government Press,
with Letters Patent and Charters of the Mayor's Court.

Exd. T. O'Connor.



Cal. of 1877 Folio

JUDICIAL

To

THE SUPREME HIGH COURT

Original Side.

&c, &c, &c.

Dated 20th Cal.

Issued

Paid Seal

C.C., 20th Sep 1877, No. 3115.

MAY.

May 28th—CC.

Letters Patent—Secretary of State to be requested to furnish copy of the High Court's Virtually Letters Patent, or Commission, granted to Sir L. P. Cowan, Chief Justice of the late Supreme Court, Madras.

30.5.11

Grays Inn
Common Ty
20 May 1911

Dear Sir Schuster

I have my today
seen the Proceedings of
2nd inst. No 1116 ad
the letter dated 7th
the High Court Judicature
Imp. I am desired
write with the finish
of the Chancery 1726,
1853 and 1860 and
I have time to subm
to the examination of
the Chief Justice some
observations as to the
form of the computation
I have given the date
giving letter & Journal
[illegible] a copy apparently
belonging to Sir Thomas
Stanyan of the Chancery
Accounts & the S.J. Cary
from 1801 with the Accounts

and formation which I believe to be nearly my own. but Mr Justice Johnson had in hand a much more copy of which I have spoken to Mr Hodgson to secure book from him by the Officer in his appointed to Madras. - He intended it does not seem to have extended much beyond Madras and I only heard of it as shortly before his departure. I have not been able to get a sight of it - but might the Governor which however to ascertain whether there is not one at Madras Office or other of printed copies of the Charters which Government may purpose to attach to copies - I hope there is not -

for

with the collection which I have seen there is much that is not wanted and some material omissions and I think a useful book might now be got up with an introduction & notes (Mr Justice Holloway has a great objection to notes) but I am sure some that he would consider sufficient to explain the language of himself & his predecessors to the high Court.

I have an interesting pleasant weather here - a good deal of rain during the day that fell in the morning & evening. I started on a visit this evening to Mr Chamier Collector of Tanjore & Trichy - Mr Chamier seems to have had heavy rain - Trichy Tanjore which were inundated a day or two ago owing

Yours

Gray Hotel 6
London
29 May 1833

Dear Sir Charles

I do not know whether it is of any consequence but there is a Writ at the Docquet on 20 May 1833 No 1116 S. C. Vice Admiralty Commission in Cotton's patent which was signed in blank & was issued in 1824 when Sir Edmund Stanley was Chief Justice Sir W. B. Compton was appointed C J Dec 1835 and it was the latter patent only that expired and I think therefore if on the execution of the Decree that writ was not issued the Marshal of Vice Admiralty would have no authority to act under the Commission of 1836 No 33. I should like to have your opinion upon this point as the Charter of 1683 & the Proclamation

The Company's General Letter to the President and Council at Fort Saint George dated London the 12th October 1687.

Para 16. Our Governor and Deputy Governor have had the honor of discoursing very fully with his Majesty concerning our designed Incorporation of our City of Madras and that of Fort Saint George which his Majesty according well approved of as being a further approach towards the full exercise of that Sovereign Power or Jura Regalia which his Majesty finds us with in India and is very sensible, that without the full extent of such power delegated to us and exercised by us as the Dutch Company have and exercise in India we can't hold up the English interest in a time of trouble or war, but the said Scheme being long is not yet read in the Cabinet Council, and for abundance of Novelty if it may administer some debate at the reading of it, which may retard our sending it you enclosed under our Seal by this Ship, but his Majesty will have it passed and we shall undoubtedly send it you by Captain Heath, for which purpose we have bespoke two Maces to be carried before our Mayor, and a larger Mace and Sword to be carried before our Generall with a Silver Oar to be carried before

before our Judges Advocate, which we shall be ready to do, but you will observe, that in which there will be nothing now for you to correct or alter, because it will come to you engrossed with his Majesty's royall signature, as well as under our larger Seal, but if there be Exceptions we will be ready to add any Supplymentall Powers to the said Corporation, which we do not foresee it we can do that by some additionall Clause hereafter.

The Copy of a Letter to Sir Edm. Andros Knt. Capt. Generall and Governor dated London the 12th of December 1687.

The Governour and Deputy were commanded last night being Sunday to attend his Majestie at the Cabinet Council where an intended Charter for incorporating Portsmouth Borough in to a Body Politick consisting of a Mayor Aldermen and Burgesses was largely debated before his Majestie. One of the Council (being a Lawyer) seemed to be of opinion that it was best the Charter should pass immediately by the King under the great Seal of England, his Majestie asked the Governour his opinion, who replied that what his Majestie thought best he conceived that would always think all, but if his Majestie

his Majestie expected their Governours private opinion, he said he had ever been of opinion that no person in India should be employed by immediate Commission from his Majestie, because if they were at home would be prejudiciall to our Service, by their arrogancy, as prejudiciall to themselves, because their Mind of extraordinary honour in their heads would probably make them so haughty and over-bearing that in a little time, we should be forced to remove them and we instanced particularly in Sir Josiah Wyborne and Sir St. John, the conclusion his Majestie did so apprehend it as to think it best that the Charter should go under our own Seal, because the Corporation must be always in some measure subject to the controul of our President and Council and so at length it was agreed the Charter is now engrossing, and you will have it by Captain Heath.

The two Maces to be carryed before the Mayor, we have desired Mr. Rodrigues to pay for, not doubting but the Corporation will be so just and ingenious as to reimburse him, but the great Mace, and Sword which is to be carryed before the Generall, or the President for the time being, in absence of the Generall

Generall, and the Salmon Nets to be carryed
to Jersey our Judge Advocate will be paid
for by the Company.

Diary dated 4 August 1688.

This morning arrived the Ships the
new Prince Capt.n William Heath
Commander and the Sancta Capt.n
Graham Roberts Commander from
Europe into this road.

Consultation dated 9 August 1688.

The Chest with Mace Sword and
Silver Oar were brought ashoar, order'd
the delivery of it to Mr. John Biggs as also
the Schedule for him to peruse and Copy
and draw a Supplimentall Schedule
agreable to the circumstances of this place
if there be occasion, and to give us an
account of Laws contended therein and
to prepare it necessary for the Setting
in Corporation at the time appointed.

Consultation dated 29 September 1688.

According to this days appoint
ment, the President Mayor Recorder,
Aldermen, Burgesses and Chief of the
Inhabitants met at the Fort Hall
before whom the Rt. Honble Company's
Charter

Schedule for this Corporation was publickly
read by the Secretary, after which the President
administered Oaths to the Mayor, and Recorder
for their due performance of their Places, and
then the Mayor and Recorder did the like
to the Aldermen, and Burgesses in their
Several manner and formes, a while after
ment to a Stand from dinner and about three
in the evening the whole Corporation marched
in their Scarlett Robes with the Maces
before the Mayor to the Town Hall.

Public Consultation 17th August 1727.

This being the day that the ... Cobb President and Council had appointed for putting in execution the new Charter and the ... Town having received notice accordingly; the Gentlemen appeared on the Parade on horseback with the Guards Lions and Kettle Music and about nine in the morning proceeded to the Governors Garden House in the following manner.

Major John Roach on horseback at the head of a Company of Foot Soldiers with Kettle drum Trumpet and other Musick.

The Dancing Girls with the Country Musick

The Pedaigue on horseback at the head of the Lions

The Marshall with his Staff on horseback.

The Court Attorneys on horseback.

The Registir carrying the old Charter, on horseback.

The Serjeants with their Maces on Horseback.

The Old Mayor on the right hand and the New on the Left. } See Letter Lists.

The Aldermen two and two all on horseback } See Letter Lists.

The Company's Chief Lion on horseback with his Lions.

The Sheriff with a White Wand, on horseback.

The Chief Gentry in the Town, on horseback.

In this manner they proceeded from the Parade thro Briddle Gate Street into the Black Town

Town and so out at Armenian Bridge gate through the Peddanaiques Fields, to the Companys garden, where the President and Council were mett to receive them.-

At a Consultation at the Gardens.-

This being the day appointed for Consultation for putting in execution his Majistys Royal Charter and the old and new Mayors being come to the Companys Garden House, in the Form mentioned in the preceeding Diary, they were admitted where the President administred the Oath of Allegiance and the Mayors Oath to John Powney Esqr. and the Oath of allegiance and the Aldermans Oath to Messieurs Abraham Mosses Francis Rous Luis de Medeiros Thomas Mayson William Monson and Edward Bradstone being all the aldermen that could attend on this occasion after which the President having received the old Charter from Mr. Francis Rous returned him thanks in the name of himself and the rest of the Council for his careful and faithfull discharge of the Trust that had been reposed in him and expressed the great Satisfaction he promised himself from the known abilities and Integrity of the present Mayor John Powney Esqr. to whom he delivered the new Charter —

After Swearing the Mayor and aldermen they proceeded on the same manner back through the Black

Black Town and in at Chultry Street to the Mayors Court the Register carrying the new Charter and the new Mayor taking the right hand of the old —

From

John Shaw Esquire

Registrar High Court Madras

Original Side

To

The Chief Secretary to Government

Fort Saint George

Honorable Sir

I am directed by the Chief Justice to acknowledge receipt of the Proceedings of Government dated 10th January 1876 No 33 forwarding a copy of the Letters Patent granted to Sir Walter Morgan Chief Justice of the late Supreme Court in 1835, and also of the subsequent Letters Patent granted to the same gentleman in 1838 and to state that though the Chief Justice is much obliged to the Government and the Secretary for their favorable attention to his request surveyed in my letter of the 4th of Sept last that the copy Letters Patent forwarded were not those which are required.

2 The error has no doubt arisen from my having stated in my letter of the 4th September last that the Letters Patent asked for were practically necessary in consequence of the alterations made in the law by the Statutes 2 William IV C 51, 3 and 4 William IV C 41, which caused the supposed date of the Letters Patent of 1838

Title Letters Patent

Chief Justice Considered

Dated 15th August 1835

Registered 18th August 1876

Chandler & Co

but I have now learned that a Vice admiralty Commission was issued to the Chief Justice of Bengal on the 19th July 1822 (3d Geo. IV) and it seems probable that one was issued at or about the same date to the Chief Justice of Madras. If so that must be the one in question as we have none later than that granted to Sir Thomas Strange in 1808.

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I have the honor to be
Sir
Your obedient humble Servant
John Shaw
Registrar

Supreme Court Madras original side
Registrars Office 17th July 1876

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Registrar of the High Court, dated 17th July 1876.

Order thereon 2nd May/77 No 1116.

The Secretary of State will be requested to furnish copy of the Recd Admiralty Letters Patent, or Commission, adverted to in paras 2 & 3 of the Registrar's letter.

2. Thirty copies of the Letters Patent, establishing new Courts of Judicature at Fort St. George & Bombay of 1798, will be reprinted in

No 1116/77

Registrar's letter dated 17th July 1876 in reply to Govt. Order dated 2nd May 1877 No 1116

Read Registrar's letter dated 17th July 1876 in reply to Govt. Order dated 2nd May 1877 No 1116

Ordered that a copy of the Recd Admiralty Letters Patent or Commission adverted to in paras 2 & 3 of the Registrar's letter be furnished to the Secretary of State with a request that he will furnish copies of the Letters Patent establishing new Courts of Judicature at Fort St. George & Bombay of 1798 which will be reprinted

No 1116/77

No 36

in the Govt. keep, in the same size and type as the Charter of the Supreme Court in the Hon^ble Mr Cunningham's Compilation of the Acts-

3. A similar number of copies and in the same form will be struck off of the Charters of the Mayor's Court of 1726 & 1753-

4. The original Charters of the Mayor's Court of 1687 & 1726 are not amongst the Govt records. Extracts from Consultation dated 9th August 1688 and 17th August 1727- which will be sent to the Hon^ble

Hon^ble the Judges of the High Court for information, whether the Charter of 1687 was delivered to the Judge Advocate and Recorder, and the Charter of 1726 to the Mayor-

To
Rs - Register of the
High Court with copies
of papers - } dated 16/5
- Supt Govt Rec^s -
with Letters Patent -
Charters of the Mayor Court -

Judl. Letter to Engd.
2d Feby 1877 Madras

Govt of 1877 Madras.

Lr. No. V

To

Dated 2nd Feby. 1877, No. 116
Recd.

Nos. 34-38

Letters Patent &c. &c. &c. of Madras to be registered & for-
-ward copy to the High Court
Vice Admiralty Letters Patent
& Commissions granted to
Sir R. P. Collier, Chief
Justice of the Late Supreme
Court, Madras.