

Public (1897) Department.

ORDINARY MS.

G.O., No. 1269-70

DATED 27. 9. 97

INDEXED.

27/9

[Despatch Abstract.]

Enquiring of the G.O. from what date the furlough granted to Mr. Thorburn J.C.S. Dr. Judge, Fudnool, who fell ill at Cotacaimund while spending his vacation there and sailed for England without taking up his duties on the reopening of the Court, should run.

20/9/97

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Furness Co.	4136	197					

Public Department.

C. No.

TELEPHONE MESSAGE

From

Chief Secy

CHIEF SECRETARIAT,

To

Sing. Maj. Browning

Int. Home

Dated 28/6/ 1897.

Thorburn has gone but no ~~and~~^{I suppose}
application ^{in leave}, medical cert^y care
or medical certificate have been
received. As you attended him will
you please refer to those bonif sent
in ~~clear~~^{form}. Article 89 of the C. S.
It would govern his case.

2016/2

28/6/97

16/17

(1897) Department.

D. O. No.

From

H. A. Sim Esq. D.C.S.

D. O.

Telephone

to Surgeon Major Browning.

No.

~~My telephonic message
of yesterday. Sim has sent a
D.O. from Thorburn. I suppose
you will file to the medical case.~~

Dated 28 June 1897.

Received 29 — — —

Registered 29 — — —

Enclosures one

Spare copies

Please let me have an early
reply to my telephonic message
of yesterday regarding Thorburn

SUBJECT.

Forwarding Mr. W. M. Thorburn's
D.O. for leave and stating that
his formal application will
come in soon and that leave
can then be granted officially.

no 29/6/97

500

BLACK PAPERS.

Vol. N. 1870

Date.

FURTHER PAPERS

[illegible]

Roswood.
18th June 97.

My dear Sir

I am to start on Monday morning. It occurs to me that I have made no definite application for leave for a certain term from a certain date either formally or informally. I asked Browning about writing ~~out~~ the usual formal application to the Chief Secretary, but he said that it would be unnecessary. I suppose however that I ought at least to tell you now that what I ask is leave for one year from 25th June. I believe that a few days more are due to me. So that I am safe in asking for a year.

Ottawa
28 June 7

My dear Price,

Thorburn sent me the enclosed before he left. I suppose his formal application will come in soon and then leave can then be granted officially. It will have to date from the end of his recess, I suppose and not from the 25th June as he suggests.

Yours sincerely
L. M.

FURTHER PAPERS			
G.O.	No.	Department.	Date

GOVERNMENT HOUSE.
OOTACAMUND.

30 June 1897.

CHIEF-SECRETARY
30 JUN. 1897
GOVERNMENT OF MADRAS

My dear Price,

Thorburn as you know
has written privately to say
that he means to take one
year's leave. His Excellency
wishes you to gazette him
accordingly for ordinary
furlough for this period, to
begin from the end of his
recess. His Excellency does
not think it necessary to

[26]
[1903-5-21]

D.O. No. 5324541

SUBJECT.

Mr. Mr. M. Thorburn, D.O.

I. E. THE GOVERNOR.

~~THE HONBLE MR. BLISS, C.I.E.~~~~THE HONBLE MR. GROSE, C.I.E.~~FOR ORDERS.

In his D.O. flagged Mr. Thorburn asks for one year's leave from the 25th June, but in D.O. 180541 the Private Secretary says that Mr. Thorburn's leave should be gazetted from the end of his recess. The recess of the Kinnaird District Court ended on the 5th June -

From G.O. No. 239 Sub 8, 24th March 1893 it will be seen that furlough or special leave out of India cannot be combined with recess, but leave on medical certificate can ^{perhaps} ~~apparently~~ be ^{vide} § 346 (a) (ii).

Now if Mr. Thorburn's furlough is, as requested by him, gazetted from the 25th June it is not clear

See below.

how the period between the
5th & 25th June is to be
accounted for

Mr. Thorburn's case is not altogether covered by the G. O. ruling in G. O. No. 239 dated 24 March 1893. The G. O. then stated that § 359 of the C. S. R. ^{provides} continuation of leave of furlough. Article 359 lays down that saving as provided in article 354 (b) [for a case which might arise in connection with furlough on m. c. but which cannot arise in ~~other~~ connection with ordinary furlough] furlough out of India begins on the day of the departure of the vessel in which the officer sails. The case dealt with in the above order was that of a Lt. Tude who wished to spend the vacation out of India. Mr. Thorburn's case is different but it is complicated by the ^{contingency} ~~fact~~ that he has not handed over charge of the Lt. Court. Had he done this, his subsidiary leave would have run from the date of his handing over and could have been extended up to the 25th inst. The only thing

to be done now is to get the act.
to see things in their proper (?)
light. If he ^{won} ~~is~~ fraction the
difficulties will probably end in
a reference to India. He has
^{the subd.} better be approached so. The
following is submitted for approval.

Notarum
3^d July 1897.

My dear Harrison,

There is a difficulty
in regard to the gazetting of
Thorburn's burrough. It is eligible,
I understand, for one year's ordinary, 1877

Burlington, but the date from
 which it should run is ^{a matter of some} ~~possibly~~
^{about} ~~late~~ ^{into} and leave to ask ^{you} ^{kindly}
 assistance & advise ^{me} ^{on this point.} ~~in the matter.~~

He sailed on the 25th June
- you will know if this date
is correct - but the Harrold Court
opened ^{after the war} on the 9th idem and, so
far as I can make out, he did
not formally hand over charge -
this also you will know better
than I do. - He was really too
ill to attend to these formalities
but cannot Gov. condone the
omission, if ~~mere~~ omission there
was, and hold him to have handed
over the ship to the Government.

In many ways it was
 just a faint hint
 to the all powerful
 divine voice of the
 Church. Christ was
 just so weak.

and the will be
equal to him

Harding took over charge? If so, his
 l. Subsidiary leave would run from
 this latter date ^{if necessary,} ~~the~~ could ^{be}
 extended on the ground that he
 was too ^{ill} ~~sick~~ to sail earlier [SS
 355 and 199 of the C.S.R.]. The
 for I put in in f.d. No 239 Pub.
 of 24 March 1893 does not seem
 to cover this case as Thorburn
 did not spend the vacation
 out of India ^{as well in the case "sent out"} ~~and~~ article 359 which India quoted as opposed to
 of the C.S.R. ^{combination of necessity of full length,} ~~so far from~~
 prohibiting the course I have
 suggested above, seems to
 necessitate its adoption. If you
 think my way out of this difficulty
 is feasible, please don't trouble
 to reply (do) ~~but send in~~, it will
 suffice if you send in an official
 report that Thorburn is eligible
 etc etc.

CMB
 2.7.92

J. E. Harrison Esq
 2.7.92

[61]
 500-11-2-97.

(1897) Department.

D. O. No.

From

J. E. Harrison Esq Secy

D. O.

No.

Dated 6th July 1897

Received 7th — — —

Registered 8th — — —

Enclosures

Spare copies

SUBJECT.

(Regarding Mr. Thorburn's eligibility)

BACK PAPERS.

G.O.	No.	Department.	Date.
20	3/8		7-97
10	28	Enrol	2-97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

ACCOUNTANT GENERAL'S OFFICE,
FORT GEORGE,
CHIEF SECRETARY
GOVERNMENT OF MADRAS
-7 JUL 1897

the

My dear Sir,

Thonbarn's furlough

St Thonbarn returned to Kurnool after the vacation. I see no difficulty in the case for we do not enquire the extent of the work he was able to do and would accept any date as the date on which he relinquished charge and commenced his subsidiary leave. But I state it that he never returned to Kurnool. In this case the period after the expiration of vacation cannot be considered as subsidiary leave preparatory to furlough out of India for such furlough cannot be combined with vacation. The only way is to treat the period of absence after vacation as furlough in India - Article 251 Civil Service Regulations. This is however of very doubtful propriety.

and the point was referred to the
Government of India through you
in my letter P 408 dated the 10th
February '97 relating to M. R. R.
Sudhakar Chetty

Have you an answer yet from
the Government of India.

Yours sincerely

H. Harris

71
10
15

D

CS

DO

Ootacamund
13th July 1897

My dear Harrison

Many thanks for y^r

LD. of the 6th regarding Thosurni
furlough. I do not quite follow
the bearing of Visvanatha Aiyar's
case on Thosurni and would feel
much obliged if y^r would
enlighten me. Iudai has not yet
replied to the ref: on the former.

Ans.
B. V. R.

13/7/97

J. C. Harrison Esq. E.C.S. Des/29
13/7/97.

CHIEF
SECRETARIAT,

D. O.

No. 338

Dated, 13.7.1897.

Checked
N. K. Panamini
13/7/97

(189 7) Department.

D. O. No. 504

From

F. L. Harrison Secy. D. C. A.

No.

Dated 15 July 1897.

Received 17 — — —

Registered 17 — — —

Enclosures

Spare copies

SUBJECT.

Re Mr. Thompson's funeral.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

D.O. No. 584
ACCOUNTANT GENERAL'S OFFICE.
PORT ST. GEORGE.
15th of July 1897

SECRETARY

by despatch

The point is whether
whether vaccination is an 'authorized'
policy. If it is so for purposes
of article 257 then the Porters can
be vaccinated in India on the
operation of vaccination without
joining.

Yours sincerely
H. Harrison

22.7.97
22.7.97

Public Dept:



D.O.No.584

SUBJECT.

H. E. THE GOVERNOR.

~~THE HONBLE MR. BLISS, K.P.I.E.~~

~~THE HONBLE MR. GROSE, C.I.E.~~

Mr. Thorburn's Furlough

FOR ORDERS.

Please see notes flagged **E**.

In D.O.No.318, d/ 3rd July '97

Mr. Harrison was asked to advise ~~Govt.~~ as to the manner in which Mr. Thorburn's furlough should be gazetted. The difficulty arises from the facts that Mr. Thorburn did not formally hand over charge of the Kurnool Court on its reopening on the 7th June after the summer recess, and that he did not leave India before the 25th June.

The Acct. Genl. has expressed the opinion that the period between the 7th and 25th June may, in Mr. Thorburn's case, be considered as furlough in India if the vacation can be considered as an "authorized holiday" within the meaning of article 251 C.S.R.. This point had been referred to the Govt. of India in letter No.284 Judl., d/ 26th Feb. 1897, in connection with the case of ^{Justice Murray} Visvanatha Aiyar. The Govt. of India has not yet replied to that letter.

The best course appears to be to

gazette

gazette Mr. Thorburn as having been granted furlough for one year, after making certain from the Acct. Genl. that he is eligible for this leave. The date from which the furlough is to run can be settled finally when India replies to letter No.284 Judicial.

*Cons
20/7/97*

*18
21/7/97*

Memorandum No. 1617 of 30-7-97

The A.G. is requested to be so good as to report, at an early date, whether Mr. W. M. Thorburn Esq. is eligible for furlough for one year under § 54 of the C. S. A.

*Cues
21/7/97*

*18
30/7/97*

As per memo of 21/7/97

*See memorandum of 21/7/97
on subject of Mr. W. M. Thorburn
and also letter of 21/7/97
from the A.G. to the Secy. to Govt.*

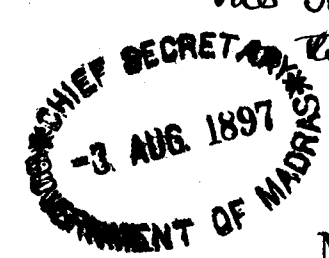
Public (1897) Department.

CURRENT No. 2872

G

Order

From The Accountant General
The Govt of Madras



No. *A. 0. 243*

Dated 2 August 97

Received 3. 8. 97

Registered 3. 8. 97

Enclosures -

Spare copies

SUBJECT.

*Stating that Mr. W. M. Thorburn will
on production of medical Board's
certificate be eligible for one year's
furlough.*

CURRENT No. 2872

No. 221
243

Mr. H. M. Shoburn with production
of Medical Board's Certificate be eligible
for purchase of medical Certificate for
one year under article 340 (a) of the
Civil Service Regulations, 2nd Edition.

W. H. George
Deputy Secy. Office
2nd August 1917

Whitchell
Deputy Secy. Office
for Offy. Secy. Office

20

The Chief Secretary to Govt,
Public Dept. with
reference to Offy. memorandum from
Govt. No. 1617 Public Dept. 23rd July 1917.

161 259 24 22

SECRET

L. O.

No. 358

Dated, 8-8-1897.

Ottawamund
5th August 1897.

My dear Harrison,

With reference to your 22nd 24th 27th August 1897, I write to say that Memo No. 1617 of 30th July should have asked for a report as to Thorburn's eligibility for furlough under article 340 (a) and not 340 (b) of the C.S. Will you please let me have an official report as to 340 (a) by the earliest opportunity. You might at the same time let me know the effect of India's ruling in Finance and Commerce No. 3130 of 20th July 1897 on the date from which Thorburn's furlough should run. An early reply would much oblige.

Yours sincerely
(Ed) J. F. Piller

20

J. C. Harrison 20th J.C.S. Dec/22
7/8/97.

(1897) Department.

D. O. No. 614

From

W. M. Thornton Esq.

O.

No.

Dated 22nd July 1897

Received // August a-

Registered — " — "

Enclosures

Spare copies

SUBJECT.

Re his case.

St Andrews,
Westcombe Park Road,
Blackheath, S.E.

22^d July/97.

12
11/8/97

My dear Mr Price

There was no
notification of my leave in
the last Gazette which I
have seen; June 30th. I hope
that the matter has not been
overlooked. In the Civil List
for May the leave granted to
me in January is entered
as if still available. But, as
I informed Mr Sim before starting

BACK PAPERS.

the

the delay has made a somewhat longer period admissible: a year and five or six days I think. If the starting of a steamer in the afternoon makes any difference the leave will run from the 26th instead of the 25th.

Yours sincerely
D. M. Thorburn

Hon. Mr J. F. Price C.S.I.
Chief Secretary to Government
Madras.

Cotacambus

August 11th 1891.

My dear Thornton.

The question of your leave has not been overlooked.

The delay in the regards to notifying it is entirely the result of your having - as you should not have done - written to the Private instead of the Chief Secretary who is the proper officer to deal with such matters.

The consequence of what you did has been an utter meddle involving much reference to the Accountants General and extra work and trouble to me and my office.

When the trouble which you have caused has been set right your leave will be gazetted.

Your ~~leave~~ wish to take as much leave as you can has been noted.

Yours sincerely
(Sd) J. F. Price.

82
M. M. Thornton Esq^r

S. F. & Co. Ltd. 100, Lambeth Palace Road, S. E.

[61 -]
9 -
591-15-2-07.

(1897) Department.

D. O. No.

D. O.

From

J. C. Harrison Esq. J. C. S.

No.

Dated 10th August 1897

Received 12th _____

Registered 13th _____

Enclosures one

Spare copies

SUBJECT.

Stating that the whole question
re Mr. Thorne's leave &c
should be referred to the
Secret of India for their
consideration.

CHIEF SECRETARY
12 AUG 1897
GOVERNMENT OF MADRAS

No 424
2444

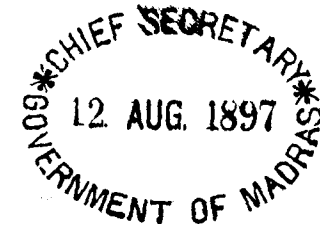
Mr. H. M. Shoburn was eligible for furlough
without medical certificate for eleven months and
fifteen days on the 5th April 1897 the date on
which the recess of his Court commenced, under
article 340(b) of the Civil Service Regulations.

For George
District Office
11 August 1897

Offg. District General

2

The Chief Secretary to Government,
Public Dept with reference
to District Office 5th Aug 1897



Fort St. George,
Accountant General's Office
10th August 1897.

My dear Sir,

Mr. Thorburn's case is governed by Article 251. The question is first whether he can leave his charge at commencement of vacation and then take leave in India. Now the rule says this may be done in the case of a "Sunday" or "gazetted holiday". I do not think vacation is a "Sunday" or "gazetted holiday". The case referred to in the Government of India letter N^o 3130 P Financial dated 22nd July '97 is, if anything, in favour of my view. The Government of India in paragraph 3 say, "the joining time was exceeded. Now if vacation was an 'authorized holiday' the joining time was not exceeded. And if vacation is not an 'authorized holiday', it is probably not a 'gazetted holiday'".

It is true that the Government of India gave the concession, but the concession is not the same as is sought here in Mr. Thorburn's case.

But I see nothing in the rules to prevent

Mr. Thorburn being considered as on duty ~~vacation~~
the vacation then if government allow him to
give over charge at other than his head quarters,
he can go on furlough ^{at the end of vacation} on giving over charge. This
latter course was adopted in Mr. Campbell's case, but
government should definitely declare that he was
allowed to give over charge at other than his
head quarters. This has not been done and should
now be done. I am, however, very doubtful whether
the government of India do not consider this
an evasion of ~~their~~ ^{its} rules, for Article 306 ii for-
bids privilege leave to be combined with vacation.
and in its telegram of March 1893 recorded in
Madras Government Order No 239 Public dated 24
March '93, it declared that furlough or special leave
out of India could not be combined with vacation.
It may be that the government of India only
objected to the vacation being spent out of India
(but this is not likely as the prohibition about
privilege leave does not refer to 'out of' or 'inside'
India). I think therefore the whole question
should be referred to the government of India for
final decision.

Yours sincerely
 H. E. The Governor

01-08-1907
 1000-14-12-96

Public DEPARTMENT

C. No. 2072

SUBJECT.
 Mr. Thorburn's leave

H. E. THE GOVERNOR.
 THE HON'BLE MR. BLISS, C.I.E.
 THE HON'BLE MR. GROSE, C.I.E.

FOR ORDERS.

Please see the note from
 T and the A's do. signed S.
 The A's reports that Mr. Thorburn
 was eligible for furlough without
 medical certificate for 11 months
 & 15 days on the 5th April 1892
 the date upon which the record
 of the Madras Govt. commenced
 but he considers that if Mr.
 Thorburn is to be granted his
 furlough from a later date the
 whole case should be reported
 the G. of I.

Orders are solicited.

If it is decided to address
 India perhaps it might be
 best to gazette Mr. Thorburn
 the leave from the 5th April
 1892 subject to alteration of
 the date if permissible and

The Govt. of India should be addressed, - in
 writing, I think, as the case is rather new
 he explained more clearly in a letter than
 in a telegram. I think Mr. Thorburn is
 not in need of money, and there can come.

the decision of the Govt. of India
The whole point ~~is~~ which is
whether a Judge who leaves his
District for the vacation spends
the latter in India & then is
obliged to apply for furlough out
of India can take the furlough
in extension of the vacation -
might ^{however} be put to India in a
telegram. This or? Some time
the India Office is likely to
ask about Mr. Thorburn's last
Pay certificate which cannot
go until the leave is gazetted.

Cus I agree. My view is that Mr.
17/8/97 Thorburn's furlough must run from
the 5th April. All the trouble

& correspondence has arisen from Mr.
Thorburn's having written to the D.S. about
his leave & from Mr. [unclear] saying
the any [unclear] and [unclear]
his letter not having been sent
some weeks some time after his
leave. He however will be the
chief sufferer for his irregular
proceedings

17/8/97

THORBURN'S FURLOUGH

NOTE for the PRIVATE SECRETARY

On looking into the papers
again, it appears to be clear that the
Asst. Genl. will raise objections if Mr.
Thorburn's furlough is granted from the
end of the recess of the Kurnool Dt.
Court without a reference to the Govt. of
India. Please see his D.O. of the 6th
July 1897, where he suggested that the
only way was to treat Mr. Thorburn's
period of absence after the vacation as
furlough in India. He stated ^{however} that this ^{was}
^{be} however of very doubtful propriety and
that the question as to whether this
could be done hinged on the Govt. of
India's decision in the case of
Visvanatha Aiyar, the point being (vide
his D.O. of the 15th July 1897) whether
vacation is an authorized holiday. The
Govt. of India's decision on Visvanatha
Aiyar's case is contained in Fin. & Com.
Dept. letter No. 5150-P, d/ 32nd July 189
and after receipt of this and on a fur-
ther reference Mr. Harrison (vide his D.O.
of the 10th August 1897) ^{stated} pointed out
that the question was ~~whether~~ whether Mr.
Thorburn could leave his charge at the
commencement of the vacation and then
take leave in India; that this might be
done in the case of a "Sunday" or
"gazetted holiday"; that vacation was not
in his opinion a "Sunday" or "gazetted
holiday"; ^{and} that this view was strengthened
by the Govt. of India's decision in
Visvanatha

Curb.
17.9.92

62
18/9/92

108. The Fremont.
The Hon'ble Sir HODGKIN. K.C.B. &

Don't that the
increased in clime
the same. And

60
27/5/97

Read D.O's Nos. 541, 561,
584, 644 & 656
" C.No.2872

ORDER

W. 1269827 Sep 97

/From orders/

LETTER

W. 12708 27 Sept 97

20

The Secretary to the Govt. of India,
Min. and Com. Dept.

Sir,

The annual vacation of the Murnool District Court extended this year from the 1st April to the 1st June inclusive, ^{but} ~~and~~ Mr. W. M. Thorburn, I.C.S., the District Judge, who was spending his recess at Octacamund ^{having fallen down} ~~fell~~ ^{being} ill there, and ~~was~~ unable to take up his duties on the reopening of the Court on the 7th June, ^{as} ~~no~~ ^{was} officer ^{being} appointed to act as Pt. Judge in his place. Mr. Thorburn was unable to sail ^{for England} before the 28th June 1897.

2. I am directed to request that you will be so good as to inform me from what date the furlough which this Govt. intends

intends to grant Mr. Thorburn should
run. In your telegram d/ 2nd March 1897
which was reply to Mr. Galton's letter
No. 194, Pub., d/ 9th idem, it was inti-
mated that a Pt. Judge could not combine
vacation with furlough or special leave
out of India, as such a procedure was
prohibited by Art. 309 of the G.S.R.
Art. 309 (b) (ii) forbids Pt. & Sessions
Judges ~~from~~ combining priv. leave with
vacation. Art. 301 of the G.S.R. admits
under certain conditions, of an officer
leaving his charge ~~at the commencement of~~ ^{immediately} before
~~on~~ a Sunday or gazetted holiday and then
taking leave, ~~but~~ ^{however,} it is doubtful whether
the vacation of a Pt. Court can be con-
sidered as a gazetted holiday. ~~para~~ ^{note from}
of Mr. Gamble's letter No. 3130 P, d/
22nd July 1897, it would appear that the
Govt. of India do not regard court recess-
es in this light. It is to be observed,
~~that~~ that no officer was appointed
to act as Pt. Judge of Murnool during
the vacation and if a vacation is an
authorised holiday, it would be possible
to consider Mr. Thorburn, under Art. 37
of the G.S.R., as having handed over
charge of the Pt. Court from the date on
which the officer appointed to act for
him took over charge ~~to extend his sub-~~
~~sidary leave if necessary under Articles~~
~~309 & 310 of the G.S.R. on the ground~~
~~that he was to sail earlier and~~
to count his furlough as having commenced
from ~~the 2nd June, the date on which he~~ ^{that date}
sailed, thus conforming to the rule in
Art. 309 of the G.S.R. The Acct. Genl.,

I am to say, reports that Mr. Thorburn was
eligible for 11 months and 15 days furlough
on the 5th April 1897, the date upon which
the recess of the Murnool Court commenced.
I am to request ^{the former of} very early orders on the
question raised in this letter.

I have &c.

(From Orders)

Curb.
23.8.97

23/8/97

When given for copying /
When copied / 29/9 } 1897.
When examined /
When signed /

READ AGAIN, G.O., No.
189 ..

DATED

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 MEANT FOR DESPATCH
IN ORIGINAL.

N.B.

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.