

extended, his joints rigid, knees contracted to his chest ; that he had an hiccup, and was speechless ; and inquired what you would have done ? as the means required were not to be obtained.

While this letter was gone, the man becoming rapidly worse, and verging towards immediate dissolution, being without other means, I immediately availed myself of the most powerful stimulus attainable, and used Ol. M. Pip. externally as well as internally ; and I had the unspeakable satisfaction of witnessing its happy effects, in an almost immediate recovery.

Some time after this, your reply came, stating you had procured and sent some *Tinct. Opii*, and expressing your concern to hear so many complaints, and your surprise that servants should disobey positive orders ; adding, that as to any great benefit to be derived from Ol. M. (I said Ol. M. Pip.), you thought that either Vol. Lint. or Ol. Terib. would be better : but there was no notice whatever taken of the question I had asked respecting the patient.

Feeling as I did, at the man's unexpected recovery, and presuming you might do the same, I instantly communicated to you the intelligence, stating that I was happy to inform you the man had been completely relieved, by the Ol. M. P. applied externally ; and the superior strength of which, to either the Linimt. or Ol. Terib., was, I thought, evinced in its own nature, as an essential oil, and every day, practically, by the failure of the other two articles, especially the Linimt. That I equally lamented such cause for complaint, should continue to exist, as I had found in every urgent case I had yet witnessed.

It was this cause only, which made me feel it a duty to represent what was of so perpetual a recurrence, and so essentially affected the hospital duties : and which, as they so materially prevented the proper discharge of them, I had

evinced to your inspection; not supposing they could, after that, be made referable to any other cause, as your letter appeared to me to imply. Your reply placed me in a situation—without means procurable at the hospital, where they ought to be always ready; without direction as to what you would wish to be done—for I instantly determined upon what I saw to be indispensable;—and, without either attending yourself in such a case, or meeting the difficulty, you blamed me for what was unavoidable, unless I had let the man die unassisted. This, therefore, I beg to say, cannot be passed unnoticed.

At this time, also, another case, of as great (or greater) severity, was brought to the hospital in a dooly, in which I was naturally led to employ the same means which had, to my conviction, so completely succeeded in the former case: and when you came, at the usual visiting time, and more than an hour after the above-named patient had recovered, you found me employing those means; and, to my surprise, immediately renewed the expressions of your disapprobation, in a manner so violent, and in terms which appeared to me so very improper in a public ward, and before a large number of men from other wards, assembled round the patient, attracted by his screams, and endeavouring to hold him during his violent contortions from excess of pain, that I must beg leave to notice them, in order that they may be retracted in the same public manner.

After you had descanted, at some length, with much apparent violence, on the means which had been employed, (though you had avoided directing any other, much less the contrary,) and saw their good effect, by the then quiescent state of the patient, compared with that violence which, the surrounding men informed you, had required the force of six persons to restrain; you did, before these men, loudly and violently reprobate those means, and repeated, that “Camphor Lint., or

Ol. Terib., would have answered as well," though you knew what my answer had stated, and I now repeat, that we had hourly experience of the failure of the former article ; and of the latter, there was not (as you also knew) any in the hospital.

' It was at this time, that an orderly serjant came to say the warm bath was ready, *i. e.* three hours after being ordered, and wanted for a dying patient. You thought it was ready, but did not ascertain the fact ; and when I went to do so, suspecting its truth from experience, I found there was not more than half the quantity of water required. And *had* it been otherwise, this bath would only have been ready for use, some time after the patient would (and, I think, inevitably *must*,) have been in the dead-house, if not relieved by the very means you was, at that moment, condemning, and the only ones procurable at all.

After this interruption, you adverted to my use of the Cabob Chenee ; and, with the same violence of manner, was pleased to call it "quacking ;" and to say that you would take the men from me : all which, you will recollect, was before the same assembled multitude, whose confidence must naturally be thus withdrawn from me, for which purpose it appeared to me to be expressly designed ; because the same sentiments, unfounded as, I trust, they are, had been previously communicated *to me*, in your letter to me individually ; therefore, they must have been needless, then and there.

I beg leave, therefore, with all due respect, hereby to call upon you to prove, that such practice is what you denominate "quacking ?" and I will take care that the question shall be fully and fairly met on my part, as I consider it an epithet most unjustifiable in its application to myself, as I know it to be wholly untenable, in whatever way it can be considered, either by historical documents, or the living testimony of regular and well-informed practitioners. You then told me, that " I was

finding fault with many things ;" as if I had not shewn you their existence, and proved how essentially they frustrated the effect of the hospital duties : and I accordingly replied, that I had mentioned each particular to you so frequently, in addition to your daily opportunities of witnessing them, that I must now beg to have them referred to Dr. Keys ; and that the only reason why I had not altered them, while in charge, during your illness, (as I had been desired to do,) was from delicacy towards yourself, as I can prove. Your reply to this was, in matter and manner, what appeared to me to be most improper, in every respect, where you then was, in a full and crowded ward of the hospital ; and where I had a natural and official right to look for your support, in *every sense* of the word.

You immediately added, with the same apparent violence, that " I was going on in the same way as I did below : " and when I asked you the nature of the allusion, which I did not understand, you replied, " Luxmore's business." Now, I must here observe, although I abstained from any comparison between the hospital and Mr. Luxmore's Dispensary . although my cause of complaint, in both cases, had been the total impossibility of procuring essentials, when required ; wrong medicines having been given, &c. : yet, I believe, the Most Noble the Marquis of Hastings's opinion of that business, was evinced, by his favorable determination, to be nowise inimical to me, when the very reference of the court was pronounced, by the Most Noble Marquis, to be " the decision itself." Singular, as I understand, this circumstance is allowed to be, and, of course, equally gratifying to me ; and, I believe, I can have no reason to suppose, (judging from one general opinion of every individual, and the congratulations I had the pleasure to receive,) that I, in any way, induced the Marquis's disapprobation. Yet, I would beg leave to

ask, by what rule of right or propriety (exclusive of every other decorum) you had to name a circumstance so irrelevant? for I did not follow this public example, nor should I have thought of thus publicly insulting you, by drawing any invidious comparison with any hospital of yours.

Lastly; you concluded by saying, as I beg you to recollect, that it was in public, and before those very men whose confidence in me was thus destroyed, that "you would take the men from me, and that you would *make me* do my duty;" though how two such extremes were to be thus united, you did not explain to me. My reply was, "Do, Sir." But you have never had the opportunity of *making me* do my duty, because I have always done more than my duty could require; and this, I beg leave to add, was only from inclination, because I saw that, unless I did more than my duty, those who did less would leave the patients unsupplied with what I knew to be so essential, that their very existence depended upon it.

Here, then, I beg leave to observe, that, as your conduct and expressions have thus, and so repeatedly, been calculated to deprive me of all confidence in the patients, and authority over the servants, where I had every just reason to expect your support and assistance,—and were, on that account, I presume, most unjustifiable; under such circumstances, I must beg leave to say, that unless that confidence, and that authority. are as completely and satisfactorily restored to me, I must request the superintending Surgeon will submit the subject to his Excellency the Most Noble the Commander in Chief.

2dly, I shall now briefly mention some of those daily occurrences adverted to, as impeding the execution, and frustrating the design, of hospital duties; viz.—The general and uniform absence of the hospital attendants, almost to a man, as soon as the medical officers leave it, (though I understand they are

paid to remain there); thus leaving the patients without the assistance they require; and, as I have often experienced, to the total impossibility of procuring aid, and what has been required, for such as were sent to the hospital in a dying state,—such men having lain there some time unaided. In one instance, (Private Logan,) on Sunday the 2d instant, I found the patient lying on a bedstead, where he had been for half an hour at least, not only without help, dying as he was, but without his admission being even known, except to those who were in the ward in which he was placed; *nor was any one person whatever* to be found in attendance, for some time, much less could I procure such means as were ordered to be always ready (by Dr. Keys,) for instant use, in all such urgent cases. This I stated to you; and at the same time observed, that the simple remedy of ordering the bearers to report the patient, as they passed the apothecary's at the gate, would effectually prevent one part of the evil: for there was no attendant to do it, on the patient's arrival in the ward. The same general neglect, and difficulty in procuring attendants, for such patients as required them individually, and who were unable to assist themselves, prevailed. Some of these, (as Sutherland, who afterwards threw himself out of the upper window in delirium,) I have seen fall down in going to the close-stool; and others, (as M'Claverty, &c. &c.) unable to leave the bed for that purpose, on this account; although I have understood that the number of these attendants can be increased at pleasure, as required.

When I named this to you, your answer was, “there were enough;” although I then enumerated several, for whom they were wanted at that time. In the same manner, when such several cases were received daily, and many of them required fomentations to be long continued, and frequently repeated, there were only two men to attend the whole hospital, then

containing about 160 patients; and these two men had also to supply all the poultices then wanted, great ~~as~~ that number was also; and I saw (and named) it to be impossible for two men to perform those duties, then required night and day: neglects were incessant and unavoidable. Nor was this all; water not being kept ready heated, was often brought worse than useless, and without any proper cloth or flannel to apply it. I saw two men fomented with their own flannel jackets, for want of other: this I also mentioned to you *at the time*. And, on more than one occasion, when I have gone to the cook-house, to see why the hot water, said to be ready, was not brought, as I was waiting to see it applied in some extreme cases of spasm, I have found that the water was neither ready, nor any attendants to bring it when it was.

As to the warm bath apparatus, though ordered to be ready, and declared fit for use, I have never seen it procurable yet, although it was impossible to have had cases of greater danger, than required it, than such as were then occurring, and dying, and expected daily; yet the reasons urged by the steward for this, or the water not being ready, when wanted, was never pleaded, by him, to the superintending surgeon, as impediments to the execution of his orders. Also, medicines being put into broken bottles, and half bottles; and, when they *were* whole, being left without corks, or any kind of stopper; as I have seen delivered to the patients, and named it to you; thus rendering inert and useless any of the Vol. Aromatic medicines, (*Æther, Camphor, Vol. Alkali, &c.*) which were then in daily use. This I showed you; and also suggested, that the mess-table alone would furnish more corks, (by dividing each) than were required; and, for bottles, to procure such earthen ones as I did for the bazar hospital.

The general inattention that prevails in giving the medi^s

cine, in its being wholly omitted, or delayed for hours beyond the proper time; or improper medicine being given; which, at one time, I hardly ever failed to find the case, with from one patient to four, each time. It was the practice to fill up the bottles with *water*, instead of renewing the medicines; for which purpose, a supply of water was kept in the bottles, at the end of the ward; and when I had noticed such inattentions in my journals, I found (and shewed it to you,) that some person had dared to add, what implied the very reverse. I beg to have its author ascertained. These circumstances I was led to detect, from tasting the medicines,—from not finding those effects produced, which experience assured me, they would secure; and it was not till after I had *repeatedly* named these particulars and proved them, that another Compounder was procured, though one was then wanting

In one case of cutaneous disease, the patient was kept four days, without the medicine ordered for him: it was named to you at the time.

These are some of the reasons which induced, and so far compelled, me to volunteer so much more exertion than is enjoined by the Honorable East India Company's orders for medical service; which led me to the hospital, at all hours in the night and day; on one occasion, fifteen hours out of the twenty-four; another, gave me only two hours rest in the same space; another occasion, left me no leisure from six, A. M. to nine, P. M., even to change my clothes, and ultimately obliged me to discontinue them, from lameness, &c. though I would not do so, till such a general amendment took place, as to enable me to discharge, from my own wards, thirty patients, in two days, and to retire for unavoidable rest, with more satisfaction than I could do before. This (which I believe others would attest,) is thus only extorted in proof that I gave you no opportunity to make me do my duty;

or I need not have become the very apothecary of the hospital, to witness and carry remedies into effect, instead of only prescribing them.

I must further beg leave to add, that I have been deprived of the means that appeared to me essentially necessary, because most conducive to the benefit of the patient: and when Dr. Keys ordered the medicines, which I was unable to procure by prescription, on naming them to you, they were forbidden by yourself; as in the case of the late Private Glaynes, who so repeatedly urged to you, before me, to let him have the medicine I had ordered for him, to be made with Syr. Z Z. as the only one that relieved his cough; and you forbade its being supplied.

In the same manner, when Dr. Keys ordered the Tincture Catechu to be made, you immediately forbid the apothecary preparing it.

In the Cabob Chenee, also, which I ordered for several patients from its experienced advantage, you would not allow of their having it, when it was to be purchased: on account of this refusal, some of these patients were kept in the hospital from the latter end of last month, to the ninth of this, (when over-exertion obliged me to cease my attendance,) and who would otherwise have been well in half that time: how much longer they remained there I know not.

Another circumstance I must mention, is, that when you had reason to find fault with the violent action of the Empr. Lyttæ, so as to occasion very large and deep, serious and extremely painful wounds, you immediately came to me, and before the men, asked of me in a tone of surprise, what was the reason of all this? as if I had been to blame, or was the person concerned in making it. although it was, as you knew, under your own exclusive direction to inspect, and for want of which, this accident could alone possibly have

happened ; thus leading the men to suppose, that I, who was no further concerned, than to prescribe its application when required, was the entire cause of their unnecessary pain and ulcers, as your surprise appeared to indicate ; and accordingly one of them (Maley) told me the next day, that I had given him a blister, only fit for a horse. At the same time you might have known, that there were other patients, (as Roberts, &c.) whom I had previously named, upon whom the same Empr. had not produced any effect ; the cause of which appeared to be easily explained---its faulty preparation.

In another case, the remedy which I was obliged to order for the relief of its severe action on Whitman, was so much neglected by the dresser, (as was the case, also, with the late Private Rowe,) that its effects were procrastinated with so much pain, and loss of time, that to this day the wound remains unhealed ; though I have been obliged to renew the man's exemption from duty, three times for six days each, in addition to the many days he remained in the convalescent ward, for that purpose only.

This charge and imputation upon me, I beg leave to say, must be therefore retracted. At the time, also, when the hospital was so full, with such a great number of dysentery patients, the offensive effluvia in some wards was almost intolerable, as I convinced you the night I sent for you to the man in the spasms, who died ; and which, as most writers assert dysentery to be contagious, rendered the necessity for fumigation, self-apparent, and was repeatedly named to you, but never carried into effect. And this necessity became still greater, if, as Dr. Cleghorn experienced, "intermitting fevers are contagious," for they also abounded at the same time ; and the opinions of Dr. Cleghorn are always received with respect and attention by others

I must also beg leave to add, you appear to be desirous of reserving to yourself the opportunity of blaming me; that you often *have* done so for cases, that I *have* frequently desired you to notice, without effect, both in the upper and lower wards, as Cooper, Hayes, &c.

In the same manner, you have blamed me for letting patients take certain medicines, which, after having heard your objections, and I have reminded and shewn you, were by *your own* order, the day before, you have immediately added "ah, very right, very right; true, nothing could be better."

In the convalescent ward, I must beg leave to notice another particular, in order to its being remedied, viz:—Your blaming me up stairs, "for not discharging the men in the ward below;" and when I have shewn you by the book, that they have not remained the time *you* had allowed them, on going with you to those men, you have (after thus blaming me for letting them remain,) told them, before me, "*not to go*;" and, with much apparent commiseration, desired them to stay longer and take care of themselves; and though I had accompanied you for the express purpose of discharging them, at your desire, was told before them, that I "must not turn out the poor fellows;" thus indicating to them that I wished to do so.

This is so contradictory in itself, and so utterly subversive of my authority over the men, that I would beg leave to decline all interference, until *such* circumstances are remedied for the future, as I must expect it to be remedied for the past. And I would also add, that on one such occasion, you put the men on *low diet*, after having told them "they were to go into this ward to have what they pleased, and to eat as much as they would." One of these men, (M'Dermott,) was so much emaciated and reduced, by a long preceding disease.

that I was *compelled* to make an exception in his favor, immediately upon my visiting the ward, after your leaving it.

Again I must, on the same account, mention another instance of inconsistency, from the effects of which I beg leave to be exempted in future, viz—The contrary and contradictory sentiments you deliver to Dr. Keys and me, respecting the *same practice* to be pursued. When Dr. Keys proposed the Ol. Terib. being given in cases of spasm, with the addition of Tinct. Opii, at my suggestion, you acquiesced and approved of the design; but, in his absence, you soon afterwards declared to me your total disapprobation of it, and forbade my adopting of it, as “you disliked such practice;” and this was the cause that placed me in the situation before enumerated. Yet, when Dr. Keys did again, latterly, order the general adoption of the same medicine, you repeated your *approbation* of it to him. So that I would request that your objections may be made to him, in the *first* instance, and not to me as an interdiction, after having expressed to *him*, that you fully approved of it as a plan to be followed generally, in all future cases.

Lastly, I have to express my regret, that the particulars stated having existed so long, and been as repeatedly neglected by, as mentioned to you,—from whom, I must again declare, I had confidently expected to have received every official support and encouragement in the discharge of my duty,—now compel me to request that they may, in this letter, with yours, as causing the correspondence, be submitted to the superintending surgeon; and this for the express purpose of their being remedied and counteracted, *immediately* and effectually, in the same *public* manner, before the *same* persons, and in the same ward, where I was so essentially, and, I hope, undeservedly injured. That I never neglected my duty, I can appeal to others: that I must be supported in it,

none, I trust, will deny: without this, I would willingly decline all charge, even when I am able to resume it, as I hope to be in a few days; but in the event of its refusal, I will sacrifice every private feeling to the public service of the government, until the superintending surgeon can submit my statement to the Most Noble the Marquis of Hastings, where I should before have referred it, but from delicacy towards you.

I have the honor to be,

Sir,

Your obedient Servant,

(Signed)

C. PEARS, M. D.

Senior Assistant Surgeon, H. C. E. R.

Berhampore Hospital,

29th Nov. 1817.

No. II.

TO MR. ASSISTANT-SURGEON PEARS,
H. C. E. Regiment.

SIR,

THE superintending surgeon having laid before the commanding officer, a correspondence between you and himself, respecting the public letter of Mr. Surgeon Browne, he has attentively perused the same, and has directed your attendance this morning, for the purpose of hearing his opinion and decision thereon.

I am directed, in the first place, to state to you, that the commanding officer considered your public letter to Mr. Browne so irregular in its transmission, so improper in its style, and so *unwarranted* in the accusation it preferred, not only against Mr. Browne, but every person connected with the hospital---from the superintending surgeon to the lowest cooly, and the whole system upon which it is regulated; that he was only withheld, by the preparations for an immediate march, the precarious state of Mr. B.'s health, and your presumed ignorance of all military usages and customs, from trespassing, even at that important period, upon his Excellency the Commander-in-Chief; and submitting that you might be made to answer for such irregularities before the tribunal of a general court-martial: at the same time, the commanding officer was fully sensible of the propriety of Dr. Browne's apologizing for his conduct towards you, in making use of the unwarrantable language complained of.

These opinions Dr. Keys was requested to make known to you, when he undertook to adjust the difference subsisting

between Mr. Browne and yourself; and it was with pleasure, the commanding officer saw that Mr. Browne had readily come forward with a handsome apology, in a public letter, to the address of the superintending surgeon; and that you had as readily accepted it, and desired to withdraw your former letter. In this public communication, on your part, no conditions were mentioned, nor any stipulations made and the commanding officer, CONCEIVING the matter at rest, directed Dr. Keys to destroy the two letters, as he did not think any credit could accrue to either party by the preservation of documents relating to such a personal dispute.

It is not, therefore, without sentiments of the utmost surprise and displeasure, that the commanding officer finds you, after an interval of three weeks, and Mr. Browne's departure from the station, attempting to revive the discussion,—and that, in a tone and manner the most unbecoming and improper to adopt towards your superior officer. You demand the restoration of a document, of whose destruction you admit that you were previously informed; you presume to question the authority of the commanding officer to order that document to be destroyed, and the propriety of Dr. Keys obeying such an order; and you challenge, as your exclusive “PRIVATE PROPERTY,” a letter addressed to the superintending surgeon, which, six lines after, you designate as “a public document, on service.” Had you refused, at the time, to accept the written apology of Mr. Browne, as a sufficient atonement for the injury you consider yourself to have received, it would then have been for the commanding officer to decide upon what measures should be adopted: but having once received that apology, and acted upon it, the commanding officer denies your right to recall your assent, and cannot but view, with feelings of strong suspicion, as to its object, the importunity with which you persist in demanding a similar document. (C-

pecially in Mr. Browne's absence,) and the pertinacity with which you evade a disclosure of the "specific purpose" for which you assert the demand to be made.

Finally, the commanding officer denies you, as far as his authority is concerned, the document you demand; and instructs me to assure you, that if he is further troubled with this affair, he shall not hesitate to lay the whole correspondence, together with this paper, before his Excellency the Most Noble the Commander in Chief.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) M. S. Hogg, Lieut.

Acting Station Staff.

Berhampore, 29th January, 1818.

TRUE COPY.

(Signed) M. S. Hogg, Lieut.

Acting Station Staff.

Berhampore Cantonment Staff Office,

Jan. 30th, 1818.

No. III.

TO LIEUTENANT COLONEL JAMES NICOL,
Adjutant General of the Army,
HEAD QUARTERS.

SIR,

It is with much regret that I feel compelled to intrude upon your time and attention, for the purpose of soliciting his Lordship's attention, against a threat which has been held out to me, because I have presumed to require another copy of an apology made by Mr. Surgeon Brown to myself, for a special purpose in the hospital, but destroyed by Major Broughton and Dr. Keys without either my knowledge or consent, immediately on my having acceded to their proposal of withdrawing a letter of complaint, on receiving such apology for the remedy of certain existing evils which interfered essentially with the welfare of the patients, and the official discharge of my hospital duties; and which letter being thus destroyed, before its specific design could be effected, as Dr. Keys knew when procuring it, immediately under the pledge of a safe and speedy return; so that I am not only deprived of it altogether, but forbidden to presume any further in noticing the subject.

I do, therefore, most respectfully submit the correspondence which has been thus occasioned, together with such an introductory recapitulation as may be necessary to elucidate that I have done all in my power to avoid intruding upon your important avocations, or to solicit one moment of his Lordship's attention to any circumstance, of such an individual nature, respecting myself.

My official duties at the hospital, having led me to notice several particulars, which interfered very materially with the proper discharge of them, and which were no less essential to the welfare of the patients under my charge, (obvious as, I think, many of them must have been to every individual entering the hospital,) I felt it my duty to name them to my immediate superior officer; and, with this view, did so privately to Mr. Surgeon Browne, for the purpose of their being immediately remedied, and at the same time pointing out to his own observation, every particular named, that it might not depend upon my assertion only. But as the evils continued to exist and increase, notwithstanding my daily representation, I named them in the same manner to the next superior officer, Dr. Keys, superintending surgeon, who told me I must address Mr. Surgeon Browne, on service, before he could notice the affair: and, as I was anxious to avoid this, on every account, I continued to make such representations, and point out to Dr. Keys, as I had previously done to Mr. Surgeon Browne, the nature and dangerous tendency of the evils complained of and shown, without receiving any other reply, than his repeating, "I have told you what to do, and why don't you do it; put it on paper; send him a public letter, referring it to me, and then I will notice it; but I cannot in any other way." At length the reiteration of this sentiment, repeated at every application I made to Dr. Keys, and the evils increasing, obliged me to adopt the mode thus enforced and urged, as the only one left me to adopt; and I stated the whole in a public letter, addressed to Mr. Brown, of which a copy accompanies this, for the purpose of reference, if required.

Mr. Surgeon Browne's subsequent illness induced me to let the subject remain dormant, until I heard he was to leave the station, and the regiment was under marching orders; I then

applied to the superintending Surgeon, for the apology mentioned in that letter, as essentially requisite, after Mr. Surgeon Browne's conduct and expressions towards me publicly in the hospital, as therein stated.

In a few days, Dr. Keys desired I would call at his house respecting the letters, and he then stated that the commanding officer, Major Broughton, having read my letter to Mr. Browne, had told him it was his opinion, that the existence of such circumstances as were therein stated, rendered both him (Dr. Keys,) and Mr. Surgeon Browne, unfit for the situations they held; and that, if my letter went to government, it would fall severely upon each of them. He therefore had it to propose to me, from the Major and himself, as their joint opinion, that I should accept an apology from Mr. Surgeon Browne, which they both thought he ought to make, and withdraw my letter. My reply was, that I had no wish for altercation, beyond what justice demanded, and especially if such serious consequences were to arise to himself (Dr. Keys,) and Mr. Surgeon Browne; and he knew I had done all that I could to prevent its becoming public, by having stated and shewn each particular so repeatedly to Mr. Surgeon Browne and himself;—that it was only in consequence of his (Dr. Keys,) own express order, that I had written that letter, and sent it direct to Mr. Surgeon Browne, referring it to him as superintending surgeon, as the only way in which he would notice it;—that, therefore, I could not dispense with an apology equal to the insult, and fully adequate to do away the effects of Mr. Surgeon Browne's conduct and expressions before the men in the hospital;—and that now it must be done in the same manner, *especially* as he (Dr. Keys) now stated, that 'Mr. Browne had left the regiment altogether.

Dr. Keys replied, that, as Mr. Surgeon Browne was now ill, he could not do this; and, also, the regiment was about to

march, and the men dispersing. I answered, it was these very circumstances which made it the more essential for me to have the confidence of the men restored, as the journals would prove his injurious assertions to be groundless; and that the essentials required in hospital practice, for the men, should be fully granted: that I was so far from having any personal enmity against Mr. Browne, as I trusted my endeavours to prevent this altercation must evince, that I was now ready and willing to visit him, to sit up with him, or render him any service in my power, as I had before named to the Major, when I heard his illness was so severe; and that I would not, on any account, cause any annoyance to his feelings, now he was ill: but his delay, before his last illness, in retracting what he had said, and acknowledged to be so improper, was no excuse for an entire omission; and I had no alternative now left, but the letter being forwarded to the Most Noble the Commander-in-Chief.

Dr. Keys then said, if I would withdraw my letter, he would procure an apology, and communicate it to me. This I declined, as being a private apology for a public insult---not relating to myself only, or I would accept of it---but if it was any other way than public, it would be ineffectual, and depend upon my assertion only. He said he should be present, and could vouch for it. I observed, I must have a voucher that would be always accessible and at my own command, and indisputable, whenever required: that as all the men knew of the insult, they must know of its retraction. Dr. Keys said, Mr. Surgeon Browne was fully sensible of being wrong, from having heard so much from others. I replied, then it must be done satisfactorily and in writing. Dr. Keys here repeated his *pledge*, to procure and send a written apology, and have every evil remedied in the hospital, if I would withdraw the letter. I told him I had no objection to this, to prevent altercation, but it must be on two conditions only:---1st, That

the apology should be fully adequate to answer the purpose intended, and perfectly satisfactory to myself, as the men must know it. 2d, That all the existing evils I had named, and shown so repeatedly to him, should be remedied for the men : this was required by justice to myself, and to them, on which account I must beg leave to decline any other mode. Dr. Keys then said, I must withdraw my letter, and write to him to that effect, begging the commanding officer's permission to withdraw it: which I said I would readily consent to do, as I had no wish to injure others, but to secure myself and those of whom I had charge. He then urged me to do it immediately: which I declined until I had seen whether the apology was satisfactory, and adequate to its design. Dr. Keys then renewed his pledge to procure, and send me this ; and when I urged its being done immediately, as Mr. Surgeon Browne was going away, he instantly asked me (with a corresponding tone and aspect,) if I suspected his word, when he had pledged it. I said, I had no opportunity but the present, and could not regain it if lost ; he repeated his pledge, and I left his house. Yet, notwithstanding this, Dr. Keys took no further notice of it, till I heard that Mr. Brown was gone to his boat, and leaving the station ; when I immediately wrote a letter to Dr. Keys, and soon after, going to his house, was told that Mr. Browne was not going for two hours. Dr. Keys then produced the apology in question—a letter, written by himself, and signed by Mr. Surgeon Browne, apologizing for his expressions, &c., read it to me, and afterwards put it into my hands ; when I observed to him, it was not “ on service,” and unless it was public, I could not receive it, as he knew I wanted it for a public use, as my letter had been, and my withdrawing it was to be ; and therefore I could not accept or receive it in any other way. He immediately made it a public letter before me, and giving

APPENDIX, C.

it into my hands, said it was now mine, and at my own disposal. I replied, he knew it must be public, or it would be useless; and I could not accept it in any other way, on account of the men, and all who knew of the insult.

I then left Dr. Keys, with the apology as my own, and only so accepted, and sent him the letter requesting to withdraw my letter to Mr. Surgeon Browne, as promised to Dr. Keys. But having occasion to call on the Doctor officially, soon afterwards, he requested me as a favor, to oblige him with ~~my~~ letter, (as he then called the apology he had given me,) to show Major Broughton, as commanding officer, and he would safely and speedily return it. I replied, "you know, Sir, the men have not seen it yet, and no use has been made of it;" adding, "that he could tell the Major the object of it." He then asked me, in apparent displeasure, if I doubted his promise to return it; and that he only wished me to *lend* it him, to shew *that*, and my reply together, and he would pledge himself to return it. I observed the Major would have one, and he (Dr. Keys) knew the other, and could tell the Major: but, as he evinced greater displeasure, and again said, I could not doubt his word after he had pledged it, I reminded him that he had not procured the apology itself, till I had applied for it again on Mr. Surgeon Browne's departure. But on his saying, "have I not given you my pledge to return it you soon, and perfectly safe?" I trusted it to him, and fully expected to receive it in two or three days. But as it was not noticed at the end of the time, (the 8th inst.) I called on him, and asked him if he was not done with my letter? He said he had not yet let the Major see it, and now he was going on a shooting party, just setting off, for about a week. On his return to the station, in eight days, I expected my letter; but not receiving it, and believing that my application would be construed by Dr. Keys, as doubting

his word, I declined calling till after three or four days, when I wanted it, and was excessively astonished to hear him tell me very deliberately; and with much indifference, "that himself and the Major had destroyed it;" upon which, I asked him how any person could take upon himself to destroy a letter that was mine, without my permission, or even knowledge?—a letter, also, procured by himself, for a specific purpose, according to a stipulated condition on my part, and given for that end, which he knew was not answered when he requested me to lend it to him, under the express pledge of a safe and speedy return. He very coolly replied, "Oh, the Major and I thought it of no use, and so it was destroyed, and there was an end of it." I replied, that he was well aware the end was not answered; for he had procured it from me, under a pledge of safety, before he knew it could possibly be so, and was displeased at what he called my doubting his word to return it. I then left the house; and scarcely believing it possible, applied for the letter officially, to procure an acknowledgment of a fact which appeared to me so very extraordinary.

The next morning, when Dr. Keys came to the hospital, he began a conversation with me on the subject of my last letter, and said I had not answered his question. I replied, that I must beg leave to avoid all conversation on the subject; the whole must now be in writing, and on service; but I believed I had fully answered his question, although he was well aware of the end to be answered by the apology, as he had both proposed and procured it; that I presumed he would not, on a re-perusal of my letter, say that I had not answered his question; but, if he would read it again, and then say on paper that I had not answered it, I would certainly reply; although I could have no conversation on the subject, after the correspondence and my letter being torn, without my

consent or knowledge, after his pledge to return it : upon which Dr. Keys interrupted me, and raising his hands, exclaimed, " it was not me ; it was none of my doing ; it was all the Major ; it was all his fault I assure you. I had nothing to do with it."

After having thus declined a conversation, Dr. Keys sent me a letter, which begins as if *I* had commenced, and he had declined it ; to which *I* replied. After this, *I* waited for a reply, but received no notice whatever, for six days ; thus arriving at the 29th inst., three weeks after the date of Mr. Surgeon Browne's departure on the 5th, including my three days' waiting before Dr. Keys's absence to the 8th, his absence of eight days to the 16th, and my three days' waiting afterwards, to the 29th inst., at which time *I* sent a letter, when *I* received the order from the acting staff, which *I* obeyed accordingly ; and having heard a paper read by the acting staff, (Lieut. Hogg,) in the presence of Dr. Keys, superintending surgeon, Mr. Surgeon Smith, and Mr. Assistant Surgeon Wray, late assistant surgeon in the Hon. Company's European Regiment,---the same afternoon, *I* addressed a letter to the acting staff, requesting a copy of the document *I* had just heard read to me, and on the 31st inst. received his reply, stating that *I* should be furnished with such copy, which was accordingly sent : and thus concluded the correspondence ; and against which, *I* here beg leave, most respectfully, to protest, as being inapplicable to me.

But, as this last document holds out a threat towards me, if *I* presume to reply,---and, from the whole of the proceedings, *I* conceive myself to have been most harshly and unjustly treated, by Major Broughton and Dr. Keys,---*I* do not, on that account, think it right, in justice to myself, to reply in any other way than by such observations upon it, as, *I* now most respectfully solicit, may meet the eye of his Excellency the

Most Noble Marquis, the Commander-in-Chief, to evince the mis-statements it contains, respecting which, NO PREVIOUS APPLICATION WHATEVER was made to me by the Major ; and that none of the displeasure it avows, was ever indicated towards me in any way, until I had previously stated my determination to refer the case to his Excellency. And I am the more induced to do this, because I conceive myself to have been equally hardly used by Dr. Keys and the Major, in being deprived of a right which the service allowed me, as senior assistant, when the regiment was under marching orders, at which time the assistant who accompanied the regiment was to have charge of it---the junior assistant, I understood, was to go, and I was to remain at the station. But, when Mr. Surgeon Smith, of the 14th N. I. was appointed to the regiment, in the room of Mr. Surgeon Browne ; and the assistant-surgeon who remained was to have charge of his battalion, 14th N. I. and the station also, then I was to go with the regiment, and the junior assistant was to continue here. And, also, when an express came to forward Mr. Assistant-Surgeon Pigott to Cuttack, by Dauk, as he was absent, I was put in orders for that service, though Dr. Keys prevented my going before, and I was the senior assistant of the only two at the station, where there was most ample employment for both, and when it was not my turn to go, being senior assistant. Mr. Superintending Surgeon Keys then wrote to government, to name this, and an arrangement (as stated) was made, against which I remonstrated, with Dr. Keys and the Major, in vain ; and when Mr. Pigott returned in time, and actually did proceed to Cuttack, I naturally expected that the usual course of the service would then be complied with, and I requested Dr. Keys and Major Broughton to let it do so, but without effect. I then solicited the Major to forward a letter from me, stating those particulars, which he declined doing ; and, at his

request, I altered it, which was sent. I, also, again remonstrated with Dr. Keys, to inform the government that such arrangement as had been made, for the then expected exigency, did not now exist; and that, by the continuance of such arrangement, I was deprived of a right allowed to the senior assistant-surgeon by the Honorable Company. But he refused to do this, and assured me that he had not recommended any alteration, (reading to me his letter on that occasion,) and said, that it all lay with the Major. I then requested of him to forward, for me, a letter to the Medical Board, which he did; and, as Mr. Leny's answer fully evinced the matter to be wholly misunderstood, I requested Dr. Keys to send my explanation, that I might not stand committed to the Board; but this he positively refused to do, and did not do it—although merely an explanation; and, since the occurrence which has occasioned this letter, he has incessantly annoyed me, officially, that I must represent it to the Medical Board.

I humbly beg leave to submit these, as some of my reasons for thus intruding, Sir, upon your valuable time, and requesting the favor of your indulgence, to allow of this being submitted to his Excellency the Most Noble the Commander-in-Chief, as due to myself; because I cannot help feeling, that the series of annoyances I have continued to experience, from my having first pointed out to my immediate superior, Mr. Surgeon Browne, the particulars named in my letter to him, and which, I think, from their frequent recurrence, could not have escaped the cognizance of the most superficial observer, have now gone on to the further evils of misrepresentation and injury, in the particulars stated; although I can readily evince, by witnesses, that I have never shrunk from personal duty, or made any complaint, either without cause, or proving the facts by showing them to my superiors, as directed by the service.

And in the hope, therefore, that I may be protected by his Excellency, from the effects of what I can only avoid by such an appeal and statement, I am alone induced to make it ; and which, indeed, only the exigencies of the service prevented my doing before, to escape what I foresaw, and have since experienced ; by soliciting his Lordship's gracious permission, and kind indulgence, to return to the quiet retirement of my civil station, from which I was removed, at twenty-four hours' notice, to accompany a detachment of recruits, for the Honorable Company's European regiment, to this place---totally unprovided with any one accommodation, or even a single servant, excepting one accidentally procured, as I was entering the boat to proceed.

Lastly : That I cannot be justly charged with any degree of neglect, or inattention to my official duties,---and that I do not indulge in useless complaints, or such as are not proved to my superiors, when they are reported,---I trust I can confidently appeal to those who have had the best opportunity to form a judgment---under whose direction I am more immediately placed---and who have been pleased to express the entire satisfaction afforded at the discharge of those duties, both as to the attention, and nature of the practice required, and which the duty of self-defence thus calls upon me to adduce.

With an apology, Sir, for so long an intrusion, which is as disagreeable to my feelings, as the necessity which enforces it upon me, and most respectfully soliciting your attention,

I have the honor to be,

Sir,

With great respect,

Your obedient servant,

(Signed)

C. PEARCE, M. D.

Senior Assistant-Surgeon, H. C. E. Regt.

Berhampore, March 7, 1818.

No. IV.

TO MAJOR-GENERAL WOOD,
Commanding at the Presidency

SIR,

I HAVE the honour to receive and lay before the Most Noble the Commander-in-Chief, your letter of the 19th ultimo, and the voluminous papers to which it gave cover, relative to a series of disputes, which have arisen at Berhampore, between Assistant Surgeon Pears, of the European regiment, and his superior officers. In reply, I am directed to convey to you the Commander-in-Chief's sentiments, in the following brief decision, upon the conduct of the assistant surgeon, who has so wantonly obtruded himself upon his Excellency's notice. The Commander-in-Chief has no intention of entering into any consideration of the various occurrences alluded to in Assistant Surgeon Pears's letter to Surgeon Browne, which, when considered as an address from an inferior to a superior officer, touching points of duty, performed under the eye of the head of the department, Dr. Keys, seems so preposterous a production, as to occasion doubts of the writer's being in his sound mind. The points to which his Excellency deems it necessary to advert, in passing his decision, are:

1st, Assistant Surgeon Pears's conduct in arraigning the management of the hospital of the European regiment.

2d, His behaviour in regard to the apology made to him by Surgeon Browne.

3d, His insubordinate conduct, in not abiding by the decision of the commanding officer and the superintending surgeon, on all points of duty.

4th, The expediency, or otherwise, of submitting Assistant Surgeon Pears's conduct to investigation by a general court-martial.

5th, The desire of Assistant Surgeon Pears to be re-appointed to a civil station, which you recommended, as the only alternative to the formal investigation of his complaints.

His Excellency desires me to premise his observations, by signifying, that, upon consideration of the whole matter, the Commander-in-Chief does not deem it expedient to adopt either of those alternatives.

The appointment of medical officers to civil stations, is not in the province of the Commander-in-Chief; nor could his Excellency recommend Assistant Surgeon Pears's removal to that branch of the service; because that officer might, at any future period, be thrown back upon the military, when his superior standing on the list would render his ignorance of his duty and relations, as an army medical officer, still more inconvenient to the public service than at present. It is requisite, his Excellency desires me to say, that Mr. Pears, if he be desirous of continuing in the service, and expects to rise in it, should now acquire a knowledge of his duties as a military surgeon, and learn to comport himself with due deference and respect, to the superior officers set over him by the government, whether in his own immediate department, or the military officers under whose authority he is placed. But the Commander-in-Chief has the further objection to suffering the return of Mr. Pears to a civil station:---his Excellency cannot be without suspicion, that Doctor Pears has sought those peevish quarrels, in the hope, that the impatience of the medical officers under his teasing litigiousness, might induce them to use interest for his removal, and consequent liberation from a controul which his disposition renders so necessary. The Commander-in-Chief will not let any

such speculation succeed, and is prepared to visit, with decisive severity, any perseverance in the attempt.

If the assembly of a general court martial at Berhampore, were less inconvenient than it is, his Lordship would not think it proper to submit to a judicial enquiry, such a confused mass of ill-grounded and vexatious complaints; not against Surgeon Browne only, but the superintending surgeon, and commanding officer of the regiment; both of whom (if Dr. Pears's assertions have any foundation, which is not believed,) would be more culpable than Mr. Browne. Having premised thus far, I now proceed to intimate his Excellency's decision on the first point above noticed.

Assistant Surgeon Pears is to be called upon to make an ample apology to Surgeon Browne, for the *highly offensive, and indecorous letter* addressed to him, the assistant surgeon's superior officer: the apology is to be dictated by the commanding officer of the regiment, and approved by the officer commanding the station,—in whose presence, attended by Major Broughton, the superintending surgeon, and staff of the station, and the two senior captains of the regiment, the apology is to be read and tendered to Mr. Browne, by Dr. Pears, and then lodged with the commanding officer of the corps. You will cause it at the same time to be signified to Assistant Surgeon Pears, that if he hesitates to comply, or shews any disposition to give farther trouble, his Lordship is prepared to recommend to government, that Mr. Pears may be suspended from the service, as a person wholly disqualified, by his obstinate disregard of all order and subordination, and by his irritable and litigious temper, for any duty.

With respect to the apology made to Mr. Assistant Surgeon Pears, by his superior officer, Mr. Browne, for a *hasty word*, uttered in a moment of irritation, the Commander in Chief desires it may be signified to the former officer, that

the atonement made for the offence given, was ample in every respect,—both in the terms, and in the manner of its communication to Mr. Pears, through the chief medical officer of the place. The demand made, and so indecently persisted in, by the assistant surgeon, to have Mr. Browne's letter to Dr. Keys given up to him, was not less unwarrantable, than the motives which induced him to urge that demand, were unjustifiable and mischievous.

The conduct of Mr. Assistant Surgeon Pears, in presuming to address Head-quarters, instead of referring any difference of opinion, or supposed grievance, to the officer commanding the station, or the general officer of the division, is not only highly improper and disrespectful to those authorities, but a direct breach of the standing orders of the army. His Excellency cannot refrain from seizing this occasion of pressing upon yourself, as well as Colonel Pine, the propriety of restraining such unwarrantable intrusions on his Excellency's time, by enforcing a strict observance of the rules of discipline and subordination, in those respectively under the immediate controul of each.

Finally, I have to signify to you, the Commander-in-Chief's pleasure, that Assistant Surgeon Pears shall not be allowed to hold the separate or distinct charge of an hospital, or detachment, until he shall have evinced his contrition for the past, by a zealous and conciliating discharge of his duty assigned to him, in the regimental hospital, as well as by a becoming and respectful deportment towards his superior officers. Assistant Surgeon Pears is, accordingly, to be immediately removed from the charge of the female hospital,* which is to be given to the next officer eligible by the regulations.

* See "Letter to the Society for the Suppression of Vice," for the particulars of this hospital.

The above restrictions are to continue until the commanding officer of the regiment shall be enabled to report that the general behaviour and deportment of Assistant Surgeon Pears, is such as to entitle him to the favor and confidence of his superiors.

I have the honor to be,

Sir,

Your obedient servant,

JAMES NICOL,

Adjutant General of the Army.

Head Quarters, Gorruckpore,

10th May, 1818.

TRUE COPY.

(Signed)

J. DUNDAS, M. B.

TRUE COPY.

(Signed)

J. ARROW.

No. V.

APOLOGY TO DR. BROWNE.

His Excellency the Most Noble the Commander in Chief, having conveyed, through the medium of the general officer commanding at the Presidency, his disapprobation of my letter of the 29th November, to your address, and his opinion that it was, in its style and tenor, offensive and indecorous, I beg leave, in obedience to his Excellency's commands, to apologize to you for the same; and to add a hope, that my inexperience in all military matters may be received as the real cause of my error.

C. PEARS.

June 1st, 1818.

No. VI.

To JOHN BROWNE, Esq.

Surgeon of the Honorable Company's European Regiment.

SIR,

THE kind indulgence of the commanding officer, in granting my request to re-peruse, at leisure, the letter from Head Quarters, transmitted through General Wood, having enabled me to form a more accurate opinion and determination respecting its nature and contents, than could possibly be done when I read it ~~once~~ yesterday in public; and conceiving, as I then stated, that I was only to apologize for a military indecorum, though ignorantly committed, I hesitated not to evince my ready obedience to the injunctions of his Excellency the Commander-in-Chief.

But, after having now read that letter four times, with the deepest attention I could command, my mind is incontrovertibly impressed with the conviction, that it contains so many points which I am totally unable to apply to myself;—and as clearly perceiving that the “Apology,” required by that document, is particularized to be for “*the letter*” sent to Mr. Browne, though only in obedience to my superior officer, and already containing an apology for any improper expressions that might have escaped, in my ignorance of military affairs: I cannot, consistently with my duty, apologize for known facts.

And as that document stated, respecting my letter, that it might be supposed “the writer was not in his sound mind,” and that the facts named “are not believed,”—two points which must necessarily invalidate an apology,—I do most

respectfully, and with all due submission, beg leave to say, that I cannot, consistently with my duty, apologize for the letter itself, (sent in the discharge of my official duty,) or find it compatible with those principles which I feel to be superior to every other consideration.

And, in the same respectful manner, I do therefore beg leave to disclaim the apology as mine; and aver, that I am thus compelled to declare, as I now do, with an equal degree of respect, conviction, and decision, that I am unable to make or to avow it as my deliberate and final act: that, alone, being so, which I thus particularize.

I have, therefore, to request the favor, that you will be pleased to communicate to the commanding officer, for its regular transmission to the appointed authority, this, my *deliberate*, final, and, at the same time, most respectful determination.

I have the honor to be,

Sir,

Your most obedient servant,

C. PEARS, M. D.

Assistant-Surgeon, E. Regt.

Berhampore, June 2, 1818.

No. VII.

PROCEEDINGS
OF AN
EUROPEAN GENERAL COURT-MARTIAL,

ASSEMBLED at Fort William, on the 26th of November, 1818, pursuant to general orders, and in virtue of a warrant under the hand and seal of his Excellency the Most Noble Marquis of Hastings, K. G. Commander-in-Chief of all the forces in India, for the trial of Mr. Assistant Surgeon C. Pears, and all such prisoners as may be brought before it.

President :

Major-General JOHN GORDON, 5th N. Cavalry.

Assistant Surgeon Charles Pears, M. D. doing duty with the Hon. Company's European regiment, placed in arrest by order of his Excellency the Most Noble the Commander-in-Chief, on the following charges :--

CHARGE 1. For forwarding to his Excellency the Commander-in-Chief, a letter, or the copy of one, addressed by him, Doctor Pears, to the deputy-adjutant-general, dated the 2d of January, 1818, presumptuously arraigning, and calling in question, the justice of an arrangement made by government, for the medical service at Berhampore, which letter he agreed to suppress, and did suppress, and to substitute for it another, actually sent, upon the improper tendency of the first being pointed out to him by his commanding officer.

CHARGE 2. For arraigning, and complaining of the hardship inflicted on himself by the measures of government, in a letter, addressed to the secretary of the Medical Board, dated the 4th January, 1818 ; and, subsequently, calling in question

the decision of that Board, in the fragments of a letter, refused to be forwarded through the regular channel; and transmitted by himself, Doctor Pears, to the Commander-in-Chief.

CHARGE 3. For having written a letter, dated the 8th of June last, disclaiming an apology, made by him to Mr. Surgeon Browne, after he had, in the presence of the commanding officer and staff of the station of Berhampore, and other officers assembled, agreeable to the orders of the Commander-in-Chief, signed, read, and delivered, the said apology; and under the false pretence that time had not been afforded to him to peruse at leisure the letter of the adjutant-general, conveying the Commander-in-Chief's decision upon his reference, and his Excellency's orders for him to make the apology in question.

Such conduct being unworthy of an officer and a gentleman, ---insubordinate, contumacious, and disrespectful; and subversive of good order and military discipline.

By order of his Excellency the Most Noble the
Commander-in-Chief.

(Signed)

JAS. NICOL,

Adjutant-General of the Army.

TRUE COPY.

J. BRYANT,

Judge-Advocate-General.

*Adj.-General's Office,
Presidency of Fort William,
the 21st Sept. 1818.*

ADDITIONAL CHARGE.

For having, in a letter under date the 15th ultimo, to the address of the Adjutant-General, made the following assertion *

"I could have summoned nearly the whole regiment, instead of such only (meaning one hundred and three witnesses) ~~as~~ have volunteered, without my solicitation." Such assertion (that the individuals specified volunteered to give their testimony) being a positive and deliberate falsehood, disgraceful to the character of a gentleman.

By order of his Excellency the Commander-in-Chief,

(Signed)

JAS. NICOL,

Adjutant-General of the Army.

TRUE COPY.

J. BRYANT,

Judge-Advocate-General.

*Adj.-General's Office,
Presidency of Fort William,
the 20th Nov. 1818.*

PROTEST.

Mr. President, and Gentlemen of the Court,---Before the proceedings commence, I would very respectfully beg leave to enter the following protest:—

I, Charles Pears, M. D. in the service of the Honorable East India Company, do hereby respectfully, but most solemnly protest against being tried on the charges now exhibited against me,---BECAUSE they are founded upon a complaint of mine, made in strict conformity with the first article of the twelfth section of the articles of war, under the head of "redressing wrongs;" but which complaint has not yet been inquired into, nor have any of the allegations therein contained, been proved by a competent tribunal to be

false or groundless; nor has any other notice whatever been taken of such, my complaint, than naming a prosecutor to prefer charges against me; contrary to the rule and discipline of war;—such a proceeding doing away with every means of REDRESS for an officer, whatever ill usage he may have received.

(Signed)

C. PEARS, M. D.
Assistant Surgeon.

Fort William, Calcutta,
2d Nov. 1818.

COURT CLEARED.

COURT RE-OPENED.

JUDGE A.-G.—You may be allowed to withdraw the protest, Dr. Pears.

PRISONER.—By no means, Sir I give it by legal advice, and I leave it as a legal document.

JUDGE A.-G.—To the charges :—Guilty, or not guilty?

PRISONER.—Not guilty, on the general issue.

EXTRACTS

From Dr. Pears's Defence.

“ I WOULD now beg leave, Mr. President and Gentlemen of the Court, most respectfully to direct your attention. When I made the apology to Mr. Surgeon Browne, I did it, as my

letter states, 'to evince my ready obedience to the injunctions of his Excellency the Commander-in-Chief;' but at the same time, as I also stated, that I was only to apologize for a military indecorum, though ignorantly committed, and in obedience to a superior officer, I made no concession of facts: I could not do so. I made no apology for having stated to Mr. Browne, those public and universally known abuses existing at the hospital, which, by the positive order of Doctor Keys, as I then stated before Doctor Keys and Mr. Surgeon Browne, I had made to Mr. Surgeon Browne. Facts which I then stated, I was willing and ready to prove; and which I beg leave now to repeat, Mr. President and Gentlemen, I am now ready and willing to prove: and I request that this may be noticed accordingly. It is true, Mr. President and Gentlemen, I was no soldier: I never had been. I was taken from a civil station, at twenty-four hours' notice, and sent with a detachment to join the European regiment. Perfectly ignorant of all military matters, in every sense of the word, I had yet to learn that what I saw superiors do, I must see in silence. I acted with those common feelings which ought to influence every professional man, who is anxious for the welfare and safety of his patients; and I thought, when I saw them in want of what that safety and that welfare made indispensable, I had only to represent to my immediate superiors, and all would be well. I stated, that men were coming in dying with cholera morbus, and no medicines to give them—that water was given for medicine, and numberless other abuses; but all in vain. Repeatedly, daily, I shewed the abuses—pointed out particulars; but all in vain. Then to my next superior, the superintendant surgeon, Doctor Keys, who, though unknown to me, being at variance with the surgeon, would pay no attention, and told me I must complain publicly; and that, unless I did so, he would not

notice them. Long I declined this, to avoid the quarrel I foresaw, till I was absolutely goaded to do what I at length did, (as I will prove by a witness,) and Doctor Keys then compelled me to effect by a public letter, stating the abuses and the personal insult I had received from Mr. Browne, in the public hospital before the men,—even calling my practice “quacking,” though with his own sanction, and never while I continued to pay for the medicine, which was Cabob Chenée, for the treatment of the gonorrhœa, and which removed that disease in four days, instead of keeping men four and five weeks on the common treatment; thus depriving me of that confidence which was essential amongst the men. But no sooner did Doctor Keys perceive that he was equally implicated with Mr. Surgeon Browne, than he came to me, and stated, from Major Broughton, that if my letter was forwarded, both himself and Mr. Browne would lose their situations; and that, if I would withdraw it, he would undertake to procure me an apology from Mr. Browne, for the public insult in the hospital. This I consented to, to avoid injuring Doctor Keys and Mr. Browne, if the apology was equally public with the insult, and the abuses towards the men rectified,—all of which Doctor Keys promised; but had no sooner procured the apology, than he, under the pledge and positive promise of its safe and speedy return, took it away to the Major’s, where it was torn and destroyed, without my knowledge or consent, as I can prove by Doctor Keys’s own letter. Being thus deprived of what was expedient to me, I remonstrated—was severely reprimanded by the Major, in a letter which contained much of what was totally inapplicable, and even unintelligible to me; and threatened by him, that if I presumed to agitate the matter again, I should be brought to a court martial. Of this I therefore complained to the Governor General, whose protection I felt myself obliged to solicit against

such a threat and injury ; and since that time I have ever been exposed to misrepresentation and injury.

“ I cannot but feel particularly hurt at the manner in which it appears to me the whole of the proceedings against me have been conducted ; in which the forms, commonly observed on such occasions, have been departed from, with a view, as it has seemed to me, to injure and distress my feelings, from the first intimation of my arrest, which was put into public orders,---not, I believe, usual on such occasions.

“ The confinement I have experienced for more than two months, which has so materially added to the general ill health I have experienced for more than two years ; the manner in which *official* communications have been worded, with what appeared to me a peculiar degree of harshness ; some of them not transmitted till two days after their being written, as in the Advocate General’s letter, dated the 13th of October, but not delivered to me until the afternoon of the 15th, although calling upon me to answer ‘ without delay’---to name the specific purpose for which each of the witnesses named in my letter was required, that he, the Judge Advocate General, ‘ might be enabled to judge of the expediency of summoning them :’ nor can I omit to mention, that to me, in the several charges exhibited against me, my leave to consult my legal adviser, which was made on the day the prosecution closed, and was then discussed in this honourable Court, has never been noticed at all, or have I received *any* answer, or had permission to leave the Fort for that purpose, though usually and generally allowed to others : all which circumstances, I cannot but feel as personal hardships, not usually exercised on such occasions, independently of that most material and essential one, by which the great cause of complaint has been withheld, and I have been prevented from justifying myself by referring to it, while charges are preferred against me,

precluding me from that advantage, as well as the witnesses I required being withheld, and thus every advantage taken to exclude me from the means of justification, while it almost unavoidably involved me in what was wholly inapplicable to me, by every means of fair and honorable construction.

SENTENCE.

The Court having maturely considered the evidence brought before them, are of opinion that the prisoner, Doctor Pears, is not guilty of forwarding to his Excellency, the Commander in Chief, a letter (or the copy of it) addressed by him, Doctor Pears, to the Deputy Adjutant, dated the 2d of January, 1818, presumptuously arraigning and calling in question the justice of an arrangement made by Government for the medical duties of Berhampore; but the Court are of opinion, the prisoner is guilty of irregularly forwarding the letter, as further described in the charge.

On the second charge, the Court are of opinion that the prisoner is not guilty, and do acquit him.

On the third charge, the Court are of opinion that the prisoner is guilty of disclaiming an apology made by him to Mr. Surgeon Browne, after he had, in the presence of the commanding officer and staff of the station of Berhampore, and other officers assembled, agreeable to the orders of the Commander in Chief, signed, read, and delivered the said apology; and of the remaining part of the charge the Court acquit him.

On the additional charge, the Court are of opinion, that the prisoner, Doctor Pears, is not guilty, and do fully and honourably acquit him.

The Court having found the prisoner guilty of part of the first charge, and part of the third charge, do adjudge the said Doctor Pears to be reprimanded in such manner as the Most Noble the Commander in Chief may be pleased to direct.

(Signed)

J. GORDON,

Major-General and President.

J. BRYANT,

Judge Advocate General.

(Confirmed)

HASTINGS.

GENERAL ORDERS,

BY THE COMMANDER-IN-CHIEF.

Head Quarters, Calcutta,

14th Dec. 1818.

The Commander-in-Chief confirms the above sentence, from observing, on perusal of the proceedings, that the quality of the transgression, of which Doctor Pears was found guilty by the Court, is only generally stated in the exposition of the charge against him, and is not explained by evidence of the fact which gave it its particular character. Had it been substantiated to the Court, that Doctor Pears formally disclaimed, after a lapse of time, an apology which he had made, rather than have his suspension from the Honorable Company's service moved in council, (the alternative left to his option,) the Court would assuredly have regarded very differently, the attempt to disavow a confession of impropriety, by which

Doctor Pears had purchased impunity on the occasion. As the case stands, the Commander-in-Chief deems a reprimand altogether inapplicable, as an amount of punishment, to the offence, and will therefore not order it to be pronounced. Doctor Pears is to return forthwith to his duty.

J. NICOL,
Adjutant General of the Army.

APPENDIX, D.

AT AN EUROPEAN GENERAL COURT-MARTIAL,

ASSEMBLED at Bhaugulpore, on Saturday, the 4th day of December, 1819---Major William Joseph Mathews, of the 9th regiment of native infantry, and commanding the Bhaugulpore hill rangers, was arraigned on the following charges; viz.

1st, That Major Mathews, commanding the hill rangers, did, from on or about the commencement of the year 1818, down on or about to the end of June, of the same year, appropriate to himself the sum of six hundred and eleven rupees, two annas, (611,2) or nearly that amount, by withholding from certain Hindoostanee sepoy's of his corps, then newly enlisted, their full pay, as authorized and drawn by him; he, Major Mathews, having, in lieu of the same, only paid to those persons the daily sum of four pice each,* during the time of their being employed in acquiring, at drill, their usual exercises.

2d, That Major Mathews, about the same period, and under the same circumstances, appropriated to himself the sum of rupees, 1,709—8, or about that amount, by withholding from certain newly enlisted hill sepoy's their full authorised pay.

3d, That Major Mathews appropriated to his own use, during the period of about eighteen months, ending about June, 1819, the sum of sicca rupees, 1,125-6, or nearly to that

Two-pence a-day for six months †

amount, being the authorized pay, by him drawn, for 25 Hindoostanee sepoy, the pretended names of whom were inserted by Major Mathews in his muster rolls; no such sepoy, however, at the time, being entertained, and such names, or a part of them, being wholly fictitious, and inserted to defraud the government.

4th, That Major Mathews appropriated to himself, about the same period, the sum of sicca rupees, 4,188, or nearly to that amount, by inserting in his muster-rolls, and drawing for, the pay of about 61 hill sepoy not entertained in the corps.

5th, That Major Mathews, by withholding from the bugle men actually entertained, a portion of their full authorised pay, and by entertaining one less than the proper complement, and the number inserted in his muster rolls and abstracts, appropriated to himself, during the period of ten months, ending about June, 1819, the sum of rupees, 240, or nearly to that amount, out of the sum total of pay drawn by him on account of the bugle men of his corps.

6th, That Major Mathews, during the period of eighteen months, ending about June, 1819, having, on different dates, discharged six classes, continued, notwithstanding, their names in his muster rolls, and thereby appropriated, within the period mentioned, for his own benefit, the sum of rupees, 619, or about that sum, drawn for by him on account of the said classes.

7th, That Major Mathews, during the period of eighteen months, ending June, 1819, appropriated to his own benefit the sum of rupees, 270, or about that sum, by not entertaining, but drawing the pay of the following workmen authorized on his establishments; viz. 1 Lohar, 1 Siculgur, and 1 Moochee; fictitious names, or the names of individuals who had filled those offices, who had died or been dismissed, continuing, notwithstanding, to be inserted by Major Mathews in his muster rolls.

8th, That down to the end of June, 1819, Major Mathews appropriated to himself the sum of rupees, 60, or about that sum, out of the pay authorized and drawn for by him, on account of a bazar chowdree, by retaining, monthly, a portion of the fixed salary, previously to his discharging the individual who lately filled the office; and by receiving the whole salary for three months subsequently to the dismissal of that person; Major Mathews, notwithstanding, still continuing to record, as entertained, the discharged chowdree.

9th, That, during the period of about eighteen months, ending about June, 1819, Major Mathews, under similar circumstances, and in the same way, appropriated the sum of rupees, 25, out of the authorized pay, drawn for by him on account of a bazar mutsuddy.

10th, That Major Mathews appropriated to himself the sum of rupees, 117, or nearly that amount, being the amount of salary for about thirteen months, ending about June 1819, drawn for by him, on account of three Jhunda Wallas, authorized for his bazar establishment, no individuals inserted as such by Major Mathews, in his muster rolls, having been actually entertained, or having received the fixed allowance.

11th, That, during the period of about eighteen months, ending about June, 1819, Major Mathews has occasioned, for his own fraudulent purposes, a loss to government of rupees, 459, (being the amount over-drawn by the surgeon of the corps, on account of his monthly allowance of 6 as. per man,) by certifying on the different monthly bills of that person, the complement of sepoy and others attached to the corps, as actually entertained and present, greater than it really was, at the different times for which those bills were prepared.

12th, That Major Mathews appropriated to himself rupees 519--19--1, or about that sum, out of the total of additional half batta, due to, and by him drawn, for detachments of his

corps employed in escorting treasure, during the months of April, May, and June, 1819.

13th, That Major Mathews withheld, totally, the pay for June, 1819, from the sircars of his establishment.

Upon which charges the court came to the following decision ;

FINDING AND SENTENCE.—The court having fully considered the evidence adduced before them, are of opinion :

With respect to the fourth charge: that Major Mathews is guilty of retaining on the muster rolls, during several months, the names of men who had not been entertained, or who had deserted, or died ; but from the confused manner in which the muster rolls are drawn up, the court cannot find the precise number of names, and sums embezzled.

With respect to the fifth charge : that Major Mathews is not guilty of entertaining one less than the proper complement of buglers, but guilty of the rest of the charge.

With respect to the sixth charge : that Major Mathews is guilty of continuing on the muster rolls, fictitious names of 6 classes, and of appropriating to his own use, the pay drawn for them, being about 619 rupees.

With respect to the seventh charge : that Major Mathews is not guilty.

With respect to the eighth and ninth charges : that Major Mathews is guilty of retaining part of the bazar chow-dree's and mutsuddy's pay, up to the date of their discharge.

With respect to the tenth charge : that Major Mathews is guilty.

With respect to the eleventh charge : that Major Mathews is guilty of occasioning a loss to government, to the extent found on the third and fourth charges.

With respect to the twelfth and thirteenth charges, that Major Mathews is guilty.

The court do therefore adjudge Major Mathews to be dismissed the service.

REVISED SENTENCE.

THE Court having, in obedience to the orders of the Most Noble the Commander-in-Chief, re-considered their proceedings, adhere to their finding on all the charges; and, with respect to the eighth charge, having found Major Mathews guilty of retaining a part of the bazar chowdree's pay, they acquit him of the latter part of the charge.

The Court now adjudge Major Mathews to be cashiered, though they cannot divest themselves of an opinion, that their present adjudication essentially coincides in all respects with their former one.

Approved.

(Signed)

HASTINGS.

The Commander-in-Chief remits the penalty of being cashiered; but his Lordship must hold it unfit that Major Mathews should remain in the active line of the army, and the expediency of removing that officer to the pension list will be submitted to the consideration of counsel.

As it appears that Serjeant-major Morley wilfully connived at, if he did not actively encourage, the irregularities, the Commander-in-Chief is pleased to order his being displaced from his situation in the hill rangers.

Major Mathews is released from arrest.

The General Court Martial, of which Colonel Pine is president, is dissolved.

J. NICOL,

Adj. Gen. of the Army.

APPENDIX, E.

LETTER

From the Honorable the Court of Directors to the Governor General in Council, at the Presidency of Fort William, in Bengal, dated London, 9th Nov. 1814.

JUDICIAL DEPARTMENT.

WE have already forwarded to you a copy of our letter, in this department, to the Presidency of Fort St. George, of the 29th April last, in regard to a modification of the systems established within our possessions on that side of India, for the administration of justice, and the maintenance of the police. The existing systems of judicature and police under your presidency, being founded on the same principles, and regulated by the same rules, as those in force within the territories of Fort St. George, we feel ourselves, on the present occasion, relieved from the necessity of entering so much at length on many of the leading points connected with the subject of this address, as might otherwise have been requisite.

CIVIL JUSTICE.

The great objects which Lord Cornwallis had in view, in forming the Judicial Code of Bengal, consisted, not only in the desire of providing for an upright distribution of justice, but also in that of securing a promptitude and facility in the means of obtaining it, in a country where, as it has been truly stated

by Lord Teignmouth, "short injustice is proverbially said to be preferable to protracted justice."

Upon a reference to the state of arrears before the different judicial tribunals, on the 1st of January, 1807, it appears that the number of depending suits, as exhibited in the report of the Sudder Dewanny Adawlut, was 121,453, although the attention of the government seems to have been particularly directed, for several years antecedently, with a view to effectuate a more speedy adjustment of civil causes; and that, on the 1st January, 1813, to which your latest returns received by us extend, notwithstanding all the additional expedients which you had, in the mean time, resorted to, for lessening their amount, the state of arrears, at that time, compared with that on the 1st January, 1807, shows an increase of no less than 20,953, and this, though every exertion of which they were capable appears to have been made, by those to whom the administration of justice is confided.

We should, however, form but a very confined and imperfect idea of the insufficiency of the existing provisions for administering justice, within the extensive and popular range of territory under your government, and of the public inconvenience thence resulting, were we to look no further than to the actual number of depending suits in the courts, and to the length of time the parties, who have instituted them, must have to wait for a decision. We are persuaded, that those whose names stand on the files of the courts, and whose causes remain to be heard and decided, form but a very small number, compared with the individuals who, in every year, stand in need of judicial protection, but who are either unable, or deterred from seeking it.

We would here particularly refer to those injuries to which the ryots are exposed, which come under the head of complaints for excess of collection, or undue exactions made by

the zemindars and their under-tenants, and to the disputes respecting the right to land, boundaries of land, crops, and water-courses.

The repeated failure of the zemindars in satisfying the demands of government, and the extensive sales of their estates which took place in consequence, induced the government to pass a Regulation, in 1799, allowing the zemindars, in all cases of alleged arrears due to them, to proceed immediately to the distraint of the defaulter's property, leaving the latter, if he felt himself agrieved by the act of the zemindar, *afterwards* to seek for judicial redress. The power thus vested in the zemindars, for enforcing their claims on the ryots, had the effect of relieving them from those impediments to the realization of their collections, to which they were before subject, under the formal mode of process, by which they could alone recover their dues; but it left the cultivators at large very much at their mercy. This subject was particularly brought under your notice, by Sir Henry Strachey, the judge and magistrate of Midnapore, and by Mr. Ernst, the collector of the same zillah, so long ago as the year 1802. Sir Henry Strachey observes, that the effect of the Regulation of 1799, had been, "to enable the zemindars, by means of attachments and sales, to realize their rents; but that the frequency of these attachments and sales in the mofussil, would alone serve to prove that the revenues were not collected, without extreme misery to the ryots; and that a consideration of the expense and delay of prosecution, satisfied him, that the dewanny adawlut did not afford the sufferers effectual redress against the abuse of the powers entrusted to the zemindars, by the 7th Regulation of 1799."

By Mr. Ernst, it is stated, that it "bore hard enough upon the ryot, to be put to the trouble and expense of instituting a suit to try a demand, very likely to be vexatious and unjust."

that this trouble and expense were sufficient to deter most ryots from having recourse to such a remedy ; and that the trouble, the delay, and the enormous expense of carrying on suits in the adawlut were such, that the people who gained a mere subsistence from their labour, which was the case of nine-tenths of the ryots, were absolutely precluded from resorting to it."

The judge and magistrate of Dinagapore (Mr. Leycester), in his report of the 24th July, 1810, urged the expediency of "modifying the legal powers of distraint exercised by the zemindar, on the ground that the ryot, when reduced to poverty by its exercise, could not spare his time in the pursuit of justice;" and stated, "that a general system of rack-renting, hard-heartedness, and exaction, through farmers, underfarmers, kutkunadars, and the whole host of zemindary omlah, obtained in that district." And he adds, "Even this rack-renting is unfairly managed. We have no regular leases executed between the zemindar and his tenants; we do not find a mutual consent and unrestrained negotiation in their bargains: nothing like it. But instead of it, we hear of nothing but arbitrary demands, enforced by stocks, duress of all sorts, and battery of their persons."

We have also before us the declaration of Mr. Colebrooke, in his minute, recorded on your proceedings of Council of the 30th June, 1808, that "it was known to every judicial officer in Bengal, that the provisions for preventing undue exactions from dependent talookdars, have proved totally nugatory, though the courts of justice are open to them for redress."

We are informed by Mr. Blunt, the superintendant of police in the lower provinces, in his report, dated the 15th June, 1811, that, in order to ascertain, in the provincial division of Moorshedabad, what description of complaints was most prevalent, he had exposed in his cutcherry-tent, a box for the purpose of receiving petitions,—a practice which we find to have been enjoined by the orders of 1772,—and that of some hundreds

which were thus prepared at Rungpore, *by far the greatest proportion related to matters of rent, and undue exactions on the part of the zemindars.* He was induced, from the number of petitions presented to him, to enquire into the state of the business pending before the native commissioners and munsiffs appointed for the trial of civil suits, which, as he declares, he found “so heavily in arrear, or in such a state of irregularity, as almost entirely to defeat the objects of the appointment of those officers.” He adds, “a ryot can entertain little hope of redress against the oppressions of a zemindar, or temporary farmer, *where there are the number of two thousand civil suits pending for trial before the munsiff,* to whom his plaint is to be preferred; and which,” Mr. Blunt was informed by one munsiff, “was the number depending before him for trial; and that ten causes were the average number of his monthly decisions.”* He goes on to observe, that “the ryot, therefore, seeing no prospect of redress, by the institution of a suit before the munsiff, and not possessing the means of defraying the expense of a suit before the judge, where also an equal delay often attends the hearing and decision of such suits, has recourse to the criminal department; and, by means of a false and misrepresented charge, robbery or breach of the peace, to the truth of which he makes oath, and becomes gradually insensible to the crime of perjury, hoping to deceive the court, and, if not to obtain restoration of his property, at least to have the gratification, in his turn, of molesting his oppressor: and, failing in these objects, dispossessed of his lands, or of the means of their cultivation, he is finally driven to acts of theft or of robbery for his support.” The superintendant then adverts to the necessity of having recourse to some more simple and expeditious method of settling suits respecting undue exactions, in the

* Seventeen years before a cause would be heard, according to this calculation.