

East India, (Case of three medical officers).

Copies of, or Extracts from, Correspondence
Relating to the Case of Three Assistant Surgeons
Dismissed from the Bengal Establishment."

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EAST INDIA (CASE OF THREE MEDICAL OFFICERS).

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RETURN to an Address of the Honourable The House of Commons,
dated 28 July 1890; —for,

COPIES of, or EXTRACTS from, CORRESPONDENCE relating to the Case
of THREE ASSISTANT SURGEONS dismissed from the BENGAL ESTABLISHMENT.

India Office,
1 August 1890.

A. GODLEY,
Under Secretary of State for India

(Mr. Bradlaugh.)

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COPIES of, or EXTRACTS from, CORRESPONDENCE relating to the Case of
THREE ASSISTANT SURGEONS dismissed from the BENGAL ESTABLISHMENT.

Political Department, No. 4 A—5—2, from *R. W. Carlyle, Esq.*, Officiating Chief Secretary to the Government of Bengal, to the Secretary to the Government of India, Home Department; dated Calcutta, 23 July 1889.

Sir,

I AM directed to submit, for the consideration and orders of the Government of India, the accompanying letter from the Inspector General of Civil Hospitals, No. 6107, dated the 19th instant, and of its enclosures, regarding the conduct of the three assistant surgeons named in the margin.*

2. The assistant surgeons appeared at the septennial examination held in May last, and at the conclusion of the examination their papers were sent to the Inspector General of Civil Hospitals. On going through the papers, the Inspector General found great similarity in the answers of the three candidates, and that portions of the answers in some branches of the examination seemed to be in some cases verbal reproductions of the text books bearing on those subjects, while in other cases the arrangement of the sentences and subject matter were identical with those found in the books. This led the Inspector General to suspect that unfair means had been resorted to at the examination, and in order to test this point he drew up a few more questions and sent them to the Principal of the Medical College in a sealed cover, with the request that the assistant surgeons might be called on to answer them, and that precautions should be taken to guard against their deriving any assistance from books or from any other source. The assistant surgeons, however, refused to submit to any further examination. The Inspector General thereupon sent a memorandum, of which a copy is annexed, to the Principal of the Medical College, explaining his reasons for desiring to test the knowledge of the assistant surgeons by a few more questions, and pointing out that it was a distinct order that they should answer them. But the assistant surgeons still persisted in their refusal. The Inspector General then gave orders to suspend them from duty for wilful disobedience of orders, and called upon them to submit any explanation they might have to offer of their conduct.

3. The explanations submitted by the assistant surgeons are annexed to the Inspector General's letter quoted above, and are substantially as follows :—

(1.) That they believed that they had satisfied their examiners, and that the Inspector General was going beyond his authority in subjecting them to another examination.

(2.) That it was optional with them to appear at the septennial examination.

(3.) That their honour had been impugned.

4. The question for consideration seems to be whether the order which the assistant surgeons disobeyed was one which the Inspector General of Civil Hospitals was competent to pass, and whether the assistant surgeons had any justification for refusing to obey it. The Lieutenant Governor agrees with Dr. Hilson in thinking that it is a part of the duty of that officer to see that all medical subordinates in the Province keep up their professional knowledge, and if he feels dissatisfied with their answers at any examination he has full authority to subject them to further examination, which must be conducted in accordance with the Home Department Circular, No. 480,

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dated 13th October 1880. The assistant surgeons apparently acknowledge that the Inspector General of Civil Hospitals would have had full authority to put additional questions (as one of them observed) to fill up gaps in the test proposed by the examiners, but not to test what they call the fairness of the examination, and they expressed their willingness to submit to further examination on its being declared that it was not meant for the latter purpose. The conduct of the assistant surgeons in disobeying the orders of the Inspector General of Civil Hospitals is so subversive of discipline that whatever their motives may have been, the Lieutenant Governor cannot pass it over, and he is constrained therefore to support the recommendation of the Inspector General of Civil Hospitals that they should be dismissed from the service of Government for wilful disobedience of the orders of the head of the department.

I have, &c.
(signed) *R. W. Carlyle,*
Officiating Chief Secretary to the Government
of Bengal.

(No. 6107.)

From the Inspector General of Civil Hospitals, Bengal; to the Chief Secretary to the Government of Bengal, dated Calcutta, 9 July 1889.

Sir,

I REGRET to have to bring to your notice an instance of flagrant disobedience of orders on the part of three assistant surgeons of the Bengal establishment, whose names are given on the margin.

2. These medical officers appeared at the last septennial examination held in May last, in order that it might be ascertained whether they had kept up their professional knowledge, and had thereby become entitled to promotion to a higher grade in the service.

3. At the conclusion of the examination their papers were sent on by the Principal of the Medical College of Calcutta to me in my official capacity of Inspector General of Civil Hospitals, and on glancing over them, I was at once struck by the great similarity in the answers of the three candidates. On carrying the investigation further, it was found that large portions, whole paragraphs in fact, of the answers in practice of medicine, midwifery, and medical jurisprudence, were word for word the same as in the text books on these subjects; and where the wording was different the arrangement of the sentences and subject matter were often identical with that found in the books. This was particularly observable in the papers of assistant surgeons Pratap Chandra Kerr and Asoke Krishna Shaha, and less so in those of assistant surgeon Kali Krishna Bagchi and although it is well known that some Bengali students have very retentive memories and often learn by heart long passages from medical books previous to examinations, it did not appear to me possible that all the three candidates could have committed to memory the contents of four large volumes such as Guy's "Forensic Medicine," Playfair's "Midwifery," and Roberts' "Practice of Medicine." It may here be remarked also, that one of the written questions in medical jurisprudence put to them was rather uncommon. Nevertheless the answers given to it bore a close resemblance to the words used in Guy's work on that subject.

4. In short, I felt convinced that unfair means had been used at the examination in answering the questions, but, before taking any action in the matter, I showed the papers to Sir Alfred Croft, the Director of Public Instruction, who examined them carefully and compared them with the text books. This officer, while agreeing with me that there were very strong grounds for my opinion, suggested that all doubts should be removed by putting a few more questions to the candidates.

5. This was accordingly done. A few questions were drawn up by myself and sent to the Principal of the Medical College in a sealed envelope, with a request

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request that they should be answered by the assistant surgeons, and at the same time precautions taken to guard against their deriving assistance from books or from any other source; but they one and all refused to be further examined. *Vide* extract from the Principal's letter, dated the 20th June 1889, annexed, and marked A., and the assistant surgeons' letters appended in original, and marked B., C., and D.

6. Thinking that their refusal might have been caused by some misapprehension on their part, I sent to Dr. Coates, the Principal of the Medical College, a memorandum explaining my motive in desiring to test their knowledge by a few more questions, and pointing out that it was a distinct order that they should answer them. This memorandum, which is appended, and marked E., was read to them by Dr. Coates six days after their first refusal, but they again declined to be examined. *Vide* telegram from Dr. Coates, dated 26th June 1889, appended in original, and marked F.

7. I therefore suspended the three assistant surgeons from all duty, and called upon them for any explanation of their conduct which they might have to offer. This explanation is given in the letters which they have submitted, and which are herewith appended in original, and marked G., H., and I.

8. The reasons given by them for their misconduct amount to this :—

1st. That they had grounds for believing they had satisfied the examiners, and that I was going beyond the limits of my authority in subjecting them to another examination.

2nd. That it was optional with them to appear at the septennial examination.

3rd. That their honour had been impugned by the action I took.

9. With regard to the first excuse, it may be stated that they had received no official intimation of the result of the septennial examination, and it is well known that no candidate is declared to have passed until his name appears in the Gazette, under the authority of the Inspector General of Civil Hospitals. It is a part of my duty to see that all medical subordinates in the province keep up their professional knowledge, and if I felt dissatisfied with the written answers which they had given, I was acting quite within my powers in applying a further test of their capabilities. This will be seen by referring to letter No. 727, dated the 6th April 1881, from the Surgeon General with the Government of India, copy annexed, and marked J., and Bengal Government, Municipal Department, No. 1424, dated 19th December 1884.

10. As regards their assertion that they voluntarily went up to the septennial examination, thereby implying that it is optional with them to appear at such an examination or not, it may be remarked that they could not have been ignorant of the orders issued by Government, declaring that it is imperative on every assistant surgeon to pass the authorised septennial examination and, failing to do so, dismissal from the service may ensue, as Home Department, No. 2—27—38, dated 23rd January 1884, was issued as a circular warning to all assistant surgeons serving in Bengal.

11. It only remains to notice the third reason they have advanced, viz, that their honour was impugned by being subjected to a second examination, instituted with a view to ascertain whether they had used any improper means to pass the first. When they were first directed to answer the additional questions, nothing was said to them regarding my object in putting them, and they made no complaint of any imputation on their integrity, as will be seen from their letter, which they gave at the time of their first refusal. It was their disobedience of my first order that induced me to disclose my motive in wishing to have a further test applied.

12. A fourth reason, which they have not put forward, readily suggests itself, and I have not the slightest doubt they knew well that a second examination would furnish indisputable evidence that unfair means had been used in trying to pass the first.

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13. These excuses are, to my mind, most unsatisfactory, and no other conclusion can be arrived at, except that they have most wilfully and deliberately disobeyed a lawful order of their superior officer, and if such glaring insubordination be permitted, it will be impossible to enforce discipline or to carry on the administration of the Medical Department. The assistant surgeons are all over seven years' standing, and cannot plead youth, inexperience, or ignorance of the rules of the service, as an excuse for their misbehaviour, and their offence being a most serious one, calling for severe and exemplary punishment, I recommend that they be all dismissed from the service of Government.

I have, &c.
(signed) *A. Hilson, M.D.,*
Inspector General of Civil Hospitals, Bengal.

A.

EXTRACT from Dr. Coate's Letter No. 288, 20 June 1889.

I DIRECTED the three assistant surgeons to appear at 12 o'clock to-day at the large theatre of the college for re-examination, Kerr having turned up yesterday.

They now appear and give me these letters which I enclose in original, and say they will not go in for examination.

(True Extract.)
(signed) *J. A. Wight,*
Personal Assistant.

B.

To the Principal, Medical College, Calcutta, 19 June 1889.

Sir,

WITH reference to your memo. No. 284 of the 19th June 1889, I beg most respectfully to state that I went up for the last septennial examination, not from any pecuniary interest, but simply to show that I have been keeping up my professional knowledge. This I have already done in the last examination held in May 1889, and I do not see any reason for my going up for the same again.

I have, &c.
(signed) *Kali Krishna Bagohi,*
Assistant Surgeon in charge
Park-street Dispensary.

C.

From Assistant Surgeon *A. K. Shaha*, House Surgeon, Medical College Hospital, to the Principal, Medical College Hospital, Calcutta, 19 June 1889.

Sir,

WITH reference to your No. 283 of to-day's date, I have the honour to state that I appeared at the last septennial examination, held on 1st May 1889, and I understand that I passed in all the subjects both written and *vivâ voce*.

I will, therefore, request the favour of your kindly informing me the reason of my appearing again for the same examination.

I have, &c.
(signed) *Asoke Krishna Shaha,*
Assistant Surgeon.

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D.

To the Principal, Medical College; dated Calcutta, 19 June 1889.

Sir,

WITH reference to your verbal order of the 19th instant I have the honour to state that as I already appeared in my septennial examination, held on the 1st May 1889, I am quite at a loss to understand why I should submit myself to re-examination.

I have, &c.
(signed) *Pratap Chandra Kerr*,
Assistant Surgeon.

E.

Office of the Inspector General of Civil Hospitals, Bengal; dated Darjeeling, 22 June 1889.

MEMORANDUMS to be read to Assistant Surgeons, Kali Krishna Bagchi, Pratap Chandra Kerr, and Asoke Krishna Shaha.

The written answers given by the above-mentioned assistant surgeons to the professional questions put to them at the last septennial examination held in May last do not appear to the Inspector General of Civil Hospitals to represent accurately their own knowledge of the subjects of examination; he has therefore drawn up a few questions which he wishes the assistant surgeons to answer in order to test this point. The assistant surgeons will understand that this is a distinct order from the Inspector General of Civil Hospitals, that they are to re-assemble and answer the written questions which he has now asked Dr. Coates to put to them.

(signed) *A. Hilson*,
Inspector General of Civil Hospitals.

F.

TELEGRAM from Calcutta, *J. M. Coates*, to Darjeeling, *Dr. A. Hilson*, Inspector General, Civil Hospitals, dated 26 June 1889.

Bagchi, Shaha, and Kerr have refused the examinations.

G.

From Assistant Surgeon *Kali Krishna Bagchi*, to the Principal, Medical College; dated Calcutta, 2 July 1889.

I HAVE the honour to acknowledge the receipt of your memorandum, No. 339, of the 29th ultimo, communicating to me the order of the Inspector General of Civil Hospitals, Bengal, asking for an explanation of my conduct in having wilfully disobeyed his orders calling on me to answer certain questions which the Inspector General had sent to test my professional knowledge; and, in reply, beg to state as follows:—

On the 3rd April last I voluntarily applied for being examined under the rules applicable to assistant surgeons who had served more than seven years, and on obtaining permission appeared at the written and *vidæ roce* examinations held under rules promulgated by the Government of India in their Order No. 15, of 15th September 1868, and I have reason to believe that I was declared passed by the examiners who conducted the examinations under those rules.

On the 17th June last I received your order calling on me to be ready for written re-examination, and on the 19th I was directed to appear for the purpose on the 20th at 12 o'clock. This I respectfully declined doing, as no such re-examination was contemplated in the above rules, and as the result of the recent examination I had undergone, had, as I had reasons to believe,

already proved favourable to me. On the 25th June you were pleased to invite me to a conference, when a memorandum recorded by the Inspector General was read out to me, in which it was stated that as the answers given by me at the last examination did not appear to him to represent accurately "our own knowledge of the subjects of examination," the Inspector General had, therefore, drawn up a few questions which he wished me to answer "in order to test this point." This at once struck me as questioning my integrity in the examination room, where I underwent the examination under proper safeguards, and under the immediate supervision of Drs. Coates, Jameson, Maher, and others, and as my honour was thus at stake, I naturally came to the conclusion that by submitting to re-examination I would be giving a handle to the supposition that the above suspicion bore at least some semblance of truth, and being of this opinion I thought it would be best humbly to decline to undergo the re-examination rather than give rise to an idea however unfounded, of my having done anything improper in the examination. This was the sole reason why I held myself aloof from the re-examination, and it was only from a strong feeling of saving my reputation from unjust and undeserved imputations that I was compelled to take a step, which I am exceedingly sorry to find the Inspector General has construed into an act of disobedience.

If the re-examination is permissible under the rules, and intended to be supplementary to that already held in order to fill up some gap in the test proposed under these rules by the professors of the Medical College to which I had been already subjected in May last, I am perfectly willing, as at all times I should be, to undergo it. Only I respectfully wish it to be declared that it is not in consequence of any suspicion of the fairness of the last examination that I am being subjected to this supplementary test, but solely for the purpose of answering a few questions which the Inspector General has considered it proper to put to me in addition to those set by the professors of the Medical College under the rules laid down by the Government of India.

After this explanation I humbly hope that the Inspector General will be pleased to exonerate me from the charge of disobedience to his orders, as it was only from a sense of saving my character from unfounded aspersions that I was compelled to adopt the course which has unfortunately for me drawn on me his displeasure.

H.

From Assistant Surgeon *Pratap Chandra Kerr*, to the Principal, Medical College, Calcutta; dated Calcutta, 2 July 1889.

WITH reference to your Memorandum, No. 341, dated the 29th June 1889, forwarding Inspector General of Civil Hospitals, Bengal's No. A., dated Darjeeling, the 27th June last, asking me for an explanation for having willfully disobeyed an order of the Inspector general of Civil Hospitals, calling upon me to answer certain questions which he had sent to you, in order to test my professional knowledge, I beg, most respectfully to submit the following explanation:—

I voluntarily applied to the Inspector General of Civil Hospitals to obtain his permission for my appearing in my promotion examination. Under his permission I appeared at both written and *viva voce* examination on the 1st of May 1889, and I have reason to believe that the examiners passed me, who conducted the examination under the rules laid down in the Indian Government Circular No. 50, dated the 15th September 1868. On the 18th June last I was directed by the civil surgeon of Moorshabad, under instruction from the Inspector General of Civil Hospitals, Bengal, to proceed at once to Calcutta to report myself to you. On reporting to you my arrival on the 19th you verbally ordered me to appear for a written re-examination to be held on the 20th June at 12 o'clock. I respectfully asked you the reason for compelling me to appear at a re-examination, as I already appeared at the last promotion examination, held on 1st May, the result of which, as I had reason to believe, already proved favourable to me. On the 25th June you directed me to call at your office on the 26th at noon, when a memorandum recorded by the Inspector General was read out to me in which it was stated that the written answers given by me to the professional questions put to me at the last septennial examination, did not appear to the Inspector

General

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General of Civil Hospitals to represent accurately my own knowledge of the subjects of the examination. The Inspector General, therefore, had drawn up a few questions which he wished me to answer in order to test this point. I was both sorry and surprised to hear that the Inspector General suspected my conduct at the last examination, which was conducted under proper safeguards. I am a poor subordinate of the Inspector General, and I am bound to carry out his order, and I am loyally prepared to do so; but in this case, as my honour was at stake, I thought that if I would be unfortunately subjected to re-examination, as ordered by the Inspector General in his memorandum, it would undoubtedly put a most undeserved stain on my character as a public servant, and, being of this opinion, I thought it would be best humbly to decline to undergo the re-examination, in order to save my reputation from unjust and undeserved imputation. I never meant to show any disrespect to his order, or to question his authority to test my professional knowledge. I refused to undergo the written re-examination, because I regarded it as a test to former examination, and not as a test of professional knowledge. I humbly pray to the Inspector General that if the answers I gave at the last examination did not show sufficient knowledge of the subject, the rules of the service, as regards examination, might be enforced on me.

In conclusion, I pray that the Inspector General will be pleased to take this explanation into his kind and favourable consideration, and that he will be pleased to exonerate me from the charge of disobedience to his orders, as it was from a motive of saving my conduct from undeserved slur that I was compelled to adopt a course which brought on me his displeasure.

I.

From Assistant Surgeon *Asokr Krishna Shaha*, to the Principal, Medical College, Calcutta; dated Calcutta, 2nd July 1889.

I HAVE the honour to acknowledge the receipt of your memorandum, No. 340, dated the 29th ultimo, forwarding Inspector General of Civil Hospitals of Bengal's letter, No. A., dated Darjeeling, the 27th June, in which I am informed that the Inspector General has been pleased to suspend me from duty until further orders. In the same communication I am also called upon to offer an explanation for "wilfully disobeying" the Inspector General's order in not answering certain questions which he had sent to you in order to test my professional knowledge; and, in reply, I beg most respectfully to submit the following explanation for his kind consideration.

In accordance with the departmental rules laid down by the Government of India, I voluntarily applied for the final septennial examination after having completed 14 years of service, and I obtained permission from the Inspector General on the 11th of April last to appear for the same. I appeared at the written and *vivá voce* examination which was held on the 1st, 2nd, 3rd, and 4th May 1889, in consistence with the rules laid down by the Government of India on the subject. To the best of my belief the examination in question was a fair one, and I went through the ordeal, both in the written and oral part, with success. I was given to understand by the examiners that I passed in all the subjects of examination, and I naturally awaited the usual result of such examination, namely, promotion.

On the 17th June last I was directed by you to hold myself in readiness for a written re-examination, and on the 19th I received an intimation to appear for the same on the noon of the 20th. I have the highest respect for any orders of the Inspector General, and am most willing under any circumstances to carry out the same, but in this instance I am extremely sorry to say that I was compelled to decline most humbly and respectfully, as I was declared fit for promotion by the president and other members of the examining committee, as well as no such re-examination was contemplated in the rules quoted above.

On the 25th June I received an order from you to call at your office on the 26th, and, on my arrival there at the specified time, you kindly read out a memorandum recorded by the Inspector General, in which it was stated "that

the answers given by the assistant surgeons at the last septennial examination did not appear to the Inspector General to represent accurately their own knowledge of the subjects of examination. The Inspector General had therefore drawn up a few questions which he wished us to answer in order to test this point." In other words, I understood that I was suspected to have used dishonest means in the examination which I underwent under proper safeguards, in the usual place of the Medical College, under your able presidency, when and where unfairness in any form was absolutely out of the question.

The interpretation of the Inspector General struck me, rightly or wrongly, that he suspected the fairness of such examination, and the proposed re-examination was meant as a test to that procedure, and not as a separate examination for the purpose of testing our professional knowledge. On this impression I therefore humbly declined, as my honour was at stake. It was only from a strong feeling of saving my reputation from unjust and undeserved imputation that I was obliged to take a step which I am extremely sorry to find the Inspector General has construed into an act of disobedience.

I am and always have been ready and willing to be examined by the Inspector General with reference to my professional knowledge. If the answers I gave at the last examination did not show sufficient knowledge of the subjects, the rules of the service as regards examination might be enforced on me. If the re-examination is permissible under the rules, I am perfectly willing at all times to undergo it; only I respectfully wish it to be declared that it is not in consequence of any suspicion of the fairness of the last examination that I am subjected to this supplementary test, but solely for the purpose of answering a few questions which the Inspector General has considered it proper to put to me, in addition to those set by the professors of the Medical College.

Lastly, permit me to disavow absolutely any wilful insubordination on my part. My long unblemished service of 15 years, as well as each and every report, without a single exception, on my character and qualifications by my various immediate superiors, will show, at any rate, that I have always been inspired by a true spirit of obedience to authority, and that insubordination in any shape has never been my rule of conduct; on the contrary, I have ever humbly striven to do my duty whenever called upon to do so by the voice of authority.

I hope the Inspector General will take this explanation into his kind consideration, and I pray that he may be pleased to exonerate me from the charge of disobedience, as I never meant to show any disrespect to his order, or to question his authority to test my professional knowledge. I humbly and respectfully declined to submit to the re-examination, as it would certainly cast an undeserved stain on my character as a public officer when I conducted myself honourably in the examination hall.

In conclusion, I solicit the favour of your kindly forwarding this explanation to the Inspector General, with such remarks as you may be pleased to make.

J.

(No. 727.)

From the Surgeon General with the Government of India to the Surgeon General, Bengal; Simla, 6th April 1881.

Sir,

1. IN reply to the several questions put in your letter, No. 1188, dated 28th ultimo, I have the honour to state as follows:—

A. Assistant surgeons were provincialised under orders of the Government of India, in the Home Department, No. 2, of 5th January 1881. Copy annexed.

B. All assistant surgeons will be shown in the quarterly returns prescribed, all those on the provincial list being shown under the heading "Provincial," and all others under the heading "Imperial," but reports of casualties, &c., of those on the provincial list, need not be submitted to this office.

C. All

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C. All matters connected with provincial men should be dealt with locally.

D. All matters connected with men on the imperial list should be forwarded to this office for disposal.

E. Assistant surgeons in Bengal, whether of the imperial or provincial establishment, should be examined under arrangements made by you, and the examination conducted strictly in accordance with Home Department, No. 480, dated 13th October 1880. The result so far as provincial men are concerned will be notified in the local gazette, and in respect of imperial men the papers should be forwarded to this office for disposal.

F. All pay bills should continue to be passed by you. With reference to the change, I would suggest that the Bengal Government should address the Government of India.

2. It should further be remembered that the strength of the assistant surgeon class should not be reduced or increased, except under the orders of the Government of India in the Home Department.

3. On casualties occurring among provincial men, application should be made to this office to complete the provincial list.

I have, &c.
(signed) *J. M. Cunningham, M.D.,*
Surgeon General.

(True Copy.)

(signed) *J. A. Wight,*
Personal Assistant.

(No. 542.)

To the Chief Secretary to the Government of Bengal ; Simla, 26th August 1889.

Sir,

I AM directed to acknowledge the receipt of your letter, No. 4, A. 5, 2, dated the 23rd ultimo, and enclosures, regarding the conduct of three assistant surgeons, named Kali Krishna Bágchi, Pratáp Chandra Kerr, and Asoke Krishna Sháhá.

2. In reply, I am to say that the Governor General in Council accepts the recommendation made by his Honour the Lieutenant Governor, that the assistant surgeons in question should be dismissed from the service of Government, for wilful disobedience of the orders of the head of their Department.

I have, &c.
(signed) *J. P. Hewett,*
Under Secretary to the Government of India.

(No. 543.)

COPY forwarded to the Surgeon General with the Government of India, for information, and for the issue of the further necessary orders.

By order,
(signed) *J. P. Hewett,*
Under Secretary to the Government of India.

From *Rajkumar Sarvadhikari*, Esq., Secretary, British Indian Association, to the Secretary to the Government of India, Home Department; dated Calcutta, 3rd December 1889.

By direction of the managing committee of the British Indian Association, I have the honour to submit, for the consideration and orders of his Excellency the Governor General in Council, the following representation regarding the question of dismissal of officers from the public service, with special reference to the case of three assistant surgeons, Kali Krishna Bagchi, Pratap Chandra Kerr, and Asoke Krishna Shaha, of the Bengal Subordinate Medical Service, who have been recently dismissed for "wilful disobedience of the orders of the head of the Department."

Since the honourable the Court of Directors complained, in the celebrated Despatch of 6th August 1851, that "native officers of Government are frequently dismissed from their situations, not for proved delinquency, or any tangible matter, or substantial charge, but in accordance with the opinions of their immediate superiors, taken up against them sometimes hastily," the tenure of office of native public servants has received a constitutional stability which is beneficial in its effects alike to the Government and members of the service. Heads of departments have been warned not to dismiss officers "upon light grounds," and, in order to enable a dismissed servant to exercise his right of appeal, it has been authoritatively provided that "the charge against him, his defence, and the order thereon, should be reduced to writing" (*vide* Government Resolution, dated 29th July 1879). In November 1883 the Government of India further circulated to the different Local Governments a Resolution of the Government of Bombay, dated the 16th October 1883, pointing out that not only should the charges brought against an official be clearly recorded, but "the motives which are supposed to have influenced him" should be also considered. The conviction has, therefore, gradually gained ground that the extreme punishment of dismissal is not to be awarded to a public officer unless, to use the words of the honourable the Court of Directors, he is guilty of "fraud and dishonesty, continued and wilful negligence," or, of an "offence involving moral disgrace."

The committee of the British Indian Association venture to submit that too much care cannot be taken in giving practical effect to the noble policy enunciated above in the matter of dismissal of public servants. The committee feel that they would subserve the true interests of Government by submitting, for the consideration of Government, any case in which that policy has been deviated from, and they feel emboldened, therefore, to solicit the attention of his Excellency the Governor General in Council to the case of the three assistant surgeons who have been recently dismissed.

The committee do not desire to justify, or even to extenuate, the offence of wilful disobedience by a subordinate officer of the orders of a superior authority. The very machinery of administration would be at a standstill if a subordinate officer were suffered to decide upon the rights of a question, or act upon his own view of it, in opposition to the views of the head of his department. The case of the three assistant surgeons, however, is not, my committee submit, one of wilful disobedience. With a view to get promotion to a higher grade of the service they volunteered to undergo the required examination, they passed the examination conducted by a regularly-constituted board of examiners, and it was when the Inspector General of Hospitals questioned their honesty in the examination room, and desired to examine them himself, that they submitted, through one of their number, that "if the examination is permissible under the rules, and intended to be supplementary to that already held, in order to fill up some gap in the test proposed under those rules by the professors of the Medical College, to which I have been already subjected in May last, I am perfectly willing, as at all times I should be, to undergo it, only I respectfully wish it to be declared that it is not in consequence of any suspicion of the fairness of the last preceding examination that I am being subjected to this supplementary

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supplementary test." After this representation was made, the assistant surgeons heard nothing from the authorities until they received the intimation from the Inspector General that they have been dismissed by Government.

The committee do not venture to discuss whether, even if the assistant surgeons had wilfully declined to undergo an examination on the ground that the Inspector General could not constitute himself an examiner contrary to the express rule of the Department, which provides that none but professors of the College should be appointed to form a board of examiners, and that they could not be re-examined after having been once examined by a properly constituted board, their conduct would have amounted to a wilful disobedience of the orders of the head of the Department. What the committee respectfully beg to submit is, that the assistant surgeons not having been told with reference to their representation that they should have in any case to pass the examination, there is what seems a most material defect in the elements which would constitute wilful disobedience of authority. This, the committee submit, would have been doubtless cleared if they were called upon to submit a defence to the charge of wilful disobedience; but no such procedure, the committee are informed, was adopted in the present instance. In their case, therefore, the procedure as to written charge and written defence, on which both the Government of India and the honourable the Court of Directors lay so much stress, has been entirely overlooked. As this is a matter of grave importance, affecting the general question of dismissal of public servants, the committee venture to hope that his Excellency in Council will not be loth to take into consideration the facts in connection with the order of dismissal of the three assistant surgeons named above.

(No. 4050.)

From Sir *John Edgar*, K.C.I.E., C.S.I., Chief Secretary to the Government of Bengal, to the Secretary to the Government of India, Home Department; dated Calcutta, 20th December 1889.

Sir,

I AM directed, with reference to your No. 542, dated the 26th August 1889, to submit herewith memorials from assistant surgeons Asoke Krishna Shaha and Kali Krishna Bagchi, asking that they be exonerated from the charges brought against them and restored to service. As the memorials are very similar, it will be convenient to consider them together. Sir Stuart Bayley does not think it necessary in doing so to examine the question whether the assistant surgeons were guilty of dishonesty at the septennial examination in May last. The fault for which they were dismissed was grave insubordination, and the question of their behaviour at the examination was not under consideration when their disobedience to the orders of the Inspector General of Civil Hospitals was dealt with.

2. They give the following reasons for disobeying the order of Dr. Hilson, the Inspector General of Civil Hospitals, to submit to examination: (1) That Dr. Hilson's order was in contravention of the rules, and in excess of his authority; in this connection they refer to Circular Memorandum, No. 50, dated 15th September 1868. (2) That their disobedience was an enforced act of self defence against an unjust accusation. Asoke Krishna Shaha adds that, as Dr. Hilson had addressed to Dr. Coates a series of questions insinuating that he had recourse to bribery and corruption in the examination, he could not submit to the indignity of an examination merely to test the truth of Dr. Hilson's suspicions. Asoke Krishna Shaha also urges, as an additional reason for disobeying Dr. Hilson's order, that it was offensive, as it imputed to him dishonesty and gross misconduct in connection with the septennial examination.

3. As regards the first point, the assistant surgeons also urge that Dr. Hilson should, if he suspected them of misbehaviour, have held an inquiry under Act XXXVII. of 1850. The circular on which they rely is altogether obsolete. It was published before assistant surgeons were provincialised under the orders of the Government of India, Home Department, No. 2, of January 1880; and at the time when it was issued the examining committee was convened by the Officer Commanding. When some of the assistant surgeons were provincialised, it was laid down in the Home Department's Resolution of the 31st August 1881 that assistant surgeons belonging to the provincial list should be subject to the orders of the Local Government in all matters, excepting as regards resignations and dismissals; and in a letter from the Surgeon General with the Government of India to the Surgeon General, Bengal, No. 727, dated 6th April 1881, it was laid down that assistant surgeons should be examined under arrangements to be made by the local Surgeon General, now designated Inspector General of Civil Hospitals. It thus appears the assistant surgeons are in error in quoting the circular of 1868 as laying down the rules by which the Inspector General of Civil Hospitals has to be guided in dealing with the septennial examinations. No rules have been prescribed; and, the conduct of examinations being left to the Inspector General of Civil Hospitals, it would require express rules to fetter his discretion in matters connected therewith. It may be noted here that the suggestion made by the assistant surgeons in their memorials, that they had been adjudged fit for promotion by competent authority, is incorrect, as the adjudication is finally made by the Inspector General of Civil Hospitals. With regard to their contention that if Dr. Hilson was not satisfied as to their behaviour at the examination he should have set on foot an inquiry under Act XXXVII. of 1850, it is, perhaps, hardly necessary to point out that Dr. Hilson had no power to set on foot such an inquiry, and that, even had he moved Government in the matter, an inquiry of this nature would certainly have been refused under the powers vested in Government by Section 25 of the Act.

4. As regards the second point, it does not appear clear how the assistant surgeons thought they could dispel an unjust imputation by refusing to submit to an examination which would have shown whether it was justified or not. It is possible indeed, supposing the charges against them had been unfounded, that they might, acting on the spur of the moment, incensed by a charge they knew to be utterly groundless, have foolishly resented it and refused to clear themselves of the charge. In this case, however, they had time to reflect. They had already been called on once to submit to examination, and it appears clear from paragraph 14 of his memorial that Aushoke Krishna Shaha, at all events, was aware before the 26th of June, the day fixed for the second examination, of the reasons which had induced Dr. Hilson to issue the order.

5. One of the reasons given by Asoke Krishna Shaha for disobeying the order is that its terms were offensive, inasmuch as it imputed dishonesty and gross misconduct, while it showed a want of common consideration on Dr. Hilson's part. The assistant surgeon omits to notice that Dr. Hilson did not record his reasons until induced to do so by the first refusal of the assistant surgeons to submit to examination. As Dr. Hilson explains, he sent his memorandum to Dr. Coates for communication to the assistant surgeons, thinking they might be under some misapprehension; and he worded his memorandum as inoffensively as was possible, consistent with making intelligible his motives for ordering the examination.

6. The present memorials display in a marked way the same spirit of insubordination, or, perhaps, it would be more correct to say, that total absence of any sense of discipline, which led to the dismissal of the assistant surgeons. Sir Steuart Bayley would have been ready to reconsider the question of the punishment to be inflicted on them had they shown any inclination to admit or express regret at their error; but their memorials, far from doing this, show that they maintain they were acting strictly within their rights, and as
matters

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matters stand the Lieutenant Governór can see no ground for taking a lenient view of their case.

I have, &c.
(signed) *John Edgar*,
Chief Secretary to the Government
of Bengal.

To His Excellency the Most Noble *Henry Charles Keith Petty Fitzmaurice*,
Marquess of *Lansdowne*, G.M.S.I., G.C.M.G., G.M.I.E., &c., &c., Viceroy and
Governor General of India in Council.

The humble Memorial of *Asoke Krishna Shaha*, late House Surgeon, Medical
College Hospital, Calcutta,

Most respectfully sheweth, —

1. THAT your Excellency's memorialist, having completed 14 years' service under Government in the Medical Department, applied for, and received, permission to appear at the septennial examination for promotion held in May 1889 under the standing orders of Government.

2. That the said examination, your Excellency's memorialist has reason to believe, from information received from the examiners, that he successfully passed in all the subjects of examination, both *vivá voce* and written.

3. That on the 17th June 1889 your Excellency's memorialist received a memorandum from Brigade Surgeon J. M. Coates, M.D., Principal, Medical College, Calcutta (*vide* Appendix A.), directing him to hold himself "in readiness for a written re-examination any day he might be called for;" and that on the 19th June he received a further memorandum from the said officer (*vide* Appendix B.), ordering him "to appear for his promotion examination at the large college theatre on the following day at 12 o'clock."

4. That your Excellency's memorialist was quite surprised at receiving the last-mentioned order, and immediately on receipt thereof applied to Dr. Coates for information as to the reason of his being called upon to undergo another promotion examination, when he had already, in May last, successfully passed the same.

5. That on the 25th June 1889, apparently in reply to his said application, your Excellency's memorialist received an order from Dr. Coates (*vide* Appendix C.), written under instructions from Dr. A. Hilson, Inspector General of Civil Hospitals, Bengal, to call at his (Dr. Coates') office the following day at noon.

6. That, in compliance with the said order, your Excellency's memorialist waited upon Dr. Coates at the appointed hour, when that officer read to him and two other examinees who had been similarly ordered to attend, a memorandum from Dr. Hilson (*vide* Appendix D.), stating that their written answers to the professional questions put to them at the last septennial examination "did not appear to the Inspector General to represent accurately their own knowledge of the subjects of examination," and further directing them to reassemble and answer a few questions which he (Dr. Hilson) had drawn up and asked Dr. Coates to put to them.

7. That, thereafter, Dr. Coates, on behalf of Dr. Hilson, called upon your Excellency's memorialist to state whether he was willing or not to undergo the said re-examination. As the reasons given for the course adopted by Dr. Hilson appeared to your Excellency's memorialist to seriously compromise his character, Dr. Coates was asked to kindly explain what Dr. Hilson meant by the passage in his memorandum, quoted in the preceding paragraph, whereupon Dr. Coates said that there could be no doubt that Dr. Hilson suspected foul play at the septennial examination held in May last.

8. That your Excellency's memorialist then asked Dr. Coates for a day's time, and, on this being refused, for a couple of hours' time, to enable your Excellency's memorialist to consider the answer he should give; but even this small concession was denied to him, and he was required, then and there, to give his answer. In these circumstances, deeply pained by Dr. Hilson's unjust suspicions and want of common consideration, your Excellency's memorialist expressed his unwillingness and inability to comply with an order couched in terms that greatly wounded his susceptibilities, by casting an undeserved imputation on his character. He begged at the same time to be permitted to submit a written explanation in defence of his refusal to Dr. Hilson, and he (your Excellency's memorialist) further begged that the Inspector General would be pleased to postpone any orders on the case pending the submission of of such explanation.

9. That, unfortunately, the said request of your Excellency's memorialist was not acceded to, and on the 27th June Dr. Hilson telegraphed to Dr. Coates to suspend your Excellency's memorialist from all duty. The order of suspension was, however, not communicated to him till the 29th June, when he was directed to submit any explanation he might wish to offer (*vide* Appendix E.). It is, of course, for the Government to decide whether, in suspending a gazetted officer, without previously obtaining its orders in that behalf, Dr. Hilson did not act contrary to the rule laid down in paragraph 6 of the honourable Court of Directors' Despatch, No. 42, dated 6th August 1851. But your Excellency's memorialist may be permitted to remark that, in the present case, punishment preceded the defence, Dr. Hilson having, it would seem, from his precipitate action, already committed himself to a decision adverse to your Excellency's memorialist.

10. That on the 2nd July 1889 your Excellency's memorialist submitted the said explanation (*vide* Appendix F.), in which, while regretting the unhappy necessity that had forced him to assume an attitude which was not in consonance to the wishes of his official superiors, he excused his conduct on the ground of the re-examination he had been asked to undergo, after being adjudged fit for promotion by competent authority, not being warranted by the rules of the Department, and also because it seemed to him compliance with Dr. Hilson's order, impeaching, as it unjustly did, the honesty of your Excellency's memorialist in connection with the septennial examination, would practically amount to self-condemnation, which it was not obligatory on him to incur.

11. That with feelings of deep mortification your Excellency's memorialist received, on the 3rd September 1889, under docket from Dr. Coates, orders of the Government of India, Home Department, No. 542, dated the 26th August 1889 (*vide* Appendix G.), dismissing him from the service of Government "for wilful disobedience of the orders of the head of his Department." Apprehending that the real merits of his case have been overlooked, and the order of dismissal is the result of an erroneous view thereof, he ventures most respectfully to approach your Excellency with this memorial, in the humble hope that his case will be kindly reconsidered for the reasons set forth below.

12. That the standing orders on the subject of the septennial examination of assistant surgeons for promotion to higher grades are contained in Government of India, Home Department's No. 3537, dated 31st August 1868, No. 2158, dated 10th May 1869, and No. 480, dated 13th October 1883, and in Circular Memorandum, No. 50, of 15th September 1868, and No. 19, of 19th October 1880, issued by the head of the Medical Department. The examinations are held bi-annually on the 1st May and 1st November, and the procedure laid down is as follows:—

CIRCULAR MEMORANDUM, No. 50, of 15th September 1868.

"It having been decided by the Government of India, upon a representation from this office, that for the future sub-a-sistant surgeons shall be examined for promotion to the higher grades on the completion of the seventh and fourteenth years of their service, by questions to be prepared by the professors of the Medical College,

College, in their own hand, the Deputy Inspector General of the — Circle is requested to be good enough to call upon each sub-assistant surgeon serving in his division, to give him early information of the approaching expiry of the period when he should present himself for examination.

“The Deputy Inspector General will then transmit the sub-assistant surgeon’s name to this office, when the Principal of the Medical College will be instructed to request the professors of the respective subjects of examination to prepare the necessary questions. These will then be forwarded under the seal of the Principal to the Deputy Inspector General, who will transmit them (unopened) with his docket, to the president of the examining committee, which will be convened (as usual) under the orders of the officer commanding. The papers will be opened by the president of the committee, in whose presence the answers will be written by the candidate. The questions, together with the replies, will be returned to the Deputy Inspector General (who will forward them to the Principal of the Medical College), together with the result of the committee’s own *viva voce* examination of the candidate. It is expected that the committee will satisfy itself in this way of the candidate’s general intelligence, and report accordingly.

“Should the report of the professors and of the examining committee be favourable, the promotion of the sub-assistant surgeon will be notified in Government orders, and he will receive the salary of his new rank from the day succeeding the date on which he may have completed his last septennial period.

“Should the report of the professors and of the examining committee on the other hand be unfavourable, the sub-assistant surgeon will continue in the lower rank and on its allowances, for the period for which the committee may deem fit to remand him to his studies, and the more diligent discharge of his duties.

“Should the sub-assistant surgeon still fail, at the close of that probationary period, to afford to the examining committee and the professors satisfactory proof of proficiency and diligence, his case will be submitted in the manner prescribed in Rule 8 (Bengal Medical Regulations, Schedule XL.), for the consideration and orders of Government, as to his removal or otherwise from the rank of sub-assistant surgeon, or from the public service.”

13. That it will be seen from the above procedure that only the professors of the Medical College are empowered to frame questions for the septennial examination, and they and the examining committee are alone competent to decide on the fitness of an examinee for promotion. It is not competent, therefore, to any other authority to impeach their decision, to frame questions for purposes of a re-examination, or to require any successful examinee to undergo the same. To prevent the possibility of interference with the examination, or with the constituted body of examiners, it is laid down that the local head of the medical department, on receiving the questions prepared by the professors of the Medical College under the seal of the Principal “will transmit them (unopened) with his docket to the president of the examining committee,” and in like manner all his subsequent intervention is restricted to the function of merely forwarding papers till the assistant surgeon is declared fit for promotion. Hence, your Excellency’s memorialist submits, Dr. Hilson’s action in over-ruling the decision of the examining committee, in framing a fresh set of questions himself, and in requiring your Excellency’s memorialist to answer them, under the circumstances hereinbefore stated, was clearly irregular and in excess of his authority.

14. That Dr. Hilson’s order being in contravention of the standing rules and in excess of his authority, your Excellency’s memorialist humbly submits that it was not obligatory on him to comply therewith. The order was further characterised, as has been already mentioned, by a most objectionable feature, in that it imputed to one holding high certificates of honour in the several subjects of examination, dishonesty and gross misconduct in connection with the septennial examination; and this consideration, coupled with the fact that Dr. Hilson had addressed a series of questions to the Principal of the Medical College insinuating that your Excellency’s memorialist had recourse to bribery and corruption in order to ensure a successful result at the said examination, rendered it impossible for him to submit to the indignity of undergoing another

ordeal, intending to merely prove the justice or otherwise of Dr. Hilson's personal suspicions on that point. Besides, even if your Excellency's memorialist underwent the said ordeal, his success or failure at the same would, he humbly submits, be no proof of his guilt or innocence, which could only be established, not on such haphazard principles, but by the testimony, favourable or otherwise, of the officers charged with the duty of conducting the septennial examination.

15. That your Excellency's memorialist craves leave to solicit that the said questions, together with the replies of the Principal of the Medical College and of the other officers concerned, may be called for to enable your Excellency to see that every precaution was taken and every safeguard provided to ensure the integrity of the said examination. He is also firmly persuaded that your Excellency will find therein sufficient justification of his conduct to entitle him to a complete exoneration from the charge of "wilful disobedience" of the orders of his departmental chief; for it will be seen that his disobedience was an involuntary or rather enforced act of self-defence against an unjust imputation, which, as a public servant conscious of his own rectitude, and especially as a member, however humble, of a most honourable profession, he could not by any means allow to rest upon his character.

16. That if, rightly or wrongly, Dr. Hilson really believed that your Excellency's memorialist was guilty of culpable misbehaviour at the septennial examination, the proper course, he respectfully submits, which that officer should have adopted, was to set on foot an inquiry under Act XXXVII. of 1850 for regulating inquiries into the behaviour of public servants not removable without the sanction of Government. But, either from impatience of delay, or possibly from ignorance, but actuated, doubtless, by an excessive zeal for the public interests, Dr. Hilson thought proper to assume the responsibility of making such inquiry himself, thereby constituting himself at once prosecutor and judge; but he failed to conduct the inquiry in judicial form, and, indeed, in strict conformity with the rules prescribed by Government, inasmuch as the whole of the proceedings were conducted by correspondence from Darjeeling, and your Excellency's memorialist was not brought before him in person in accordance with the principle recognised in paragraph 6 of the Bombay Government's Resolution No. 7170, dated 16th October 1883, circulated to the Local Government with Home Department's No. 50—1682, dated the 13th November 1883.

17. That the informality of the said inquiry held by Dr. Hilson misled your Excellency's memorialist into thinking that nothing very serious was intended beyond, perhaps, a mere reprimand or a warning to him; and hence he did not enter into his defence so fully as he should have otherwise done in the explanation that he submitted on the 2nd July (*vide* paragraph 10 of this memorial), but confined himself to a respectful statement of the motives which had influenced him in declining to undergo the re-examination ordered by Dr. Hilson. Unfortunately this insufficient explanation was taken for his full and complete defence, and thus, judgment went against him as it were by default.

18. That your Excellency's memorialist is fully sensible that it is the duty of public servants to yield loyal and implicit obedience to their official superiors; but he is equally persuaded (and this will be conceded by the most rigid disciplinarian) that even the humblest servant of Government has the right of refusing compliance with unlawful orders, and of protecting himself against unjust attacks on his character. Your Excellency's memorialist, therefore, respectfully submits that he was within his rights in acting as he did; and he further submits that, while public interests demand the exemplary repression of breaches of discipline, the effect of encouraging an unworthy spirit of blind obsequiousness in the lower ranks of the public service must, by demoralising them, be ultimately injurious to those interests.

19. That, in preparing this appeal, your Excellency's memorialist has laboured under the disadvantage of not knowing fully the case against him as reported by Dr. Hilson, his applications for a copy of that officer's report having been refused, both by Dr. Hilson and the Local Government; and he has, therefore, confined his observations mainly to the charge of wilful disobedience of the orders of superior authority. He understands, however, that Dr. Hilson
has

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has suggested that some of the answers given by your Excellency's memorialist to the written questions put to him at the septennial examination were unfair reproductions from books. In reply to this he would merely remark that if any of the answers embodied the language of the text books, they prove, not his dishonesty or foul play at an examination conducted under proper safeguards, but diligence and close application on his part in mastering the text-books in question.

20. That the rules laid down by Government with the view of safeguarding the interests of its Indian servants against the exercise of caprice and passion, severity and indignity on the part of their European superiors, distinctly enjoin on the latter the duty of showing forbearance and a just consideration towards the former. The rules further provide that when charges are brought against an official, not only the evidence supporting those charges, but the "motives which are supposed to have influenced him," should be taken into consideration; and that "a good character and acts of good service would stand subordinates in real stead when their conduct is exposed to question." Your Excellency's memorialist, however, deeply regrets to observe that, in dealing with his case, not only was the motive which had influenced him, as disclosed in his explanation of 2nd July not taken into account, but his claims to consideration on account of his good character and excellent service were entirely ignored.

21. That your Excellency's memorialist ventures to submit, for your Excellency's kind perusal, a brief statement of his service (*vide* Appendix II.), from which it will be seen that in the service of the State he spent some years in Port Blair and Nicobar, far away from home and civilized society, regardless of caste prejudices and all fear of social ostracism. On a more recent occasion, he was posted as medical officer to His Honour the Lieutenant Governor and suite on their river tour through the interior; but although suffering from fever and rheumatism at the time, and unable to get on board the state yacht "Rhotas" without assistance (a fact noticed by his Honour himself at the time) he readily and cheerfully accepted the post under a strong sense of duty. He may be also permitted to mention that, during his fourteen years' service he was continually in harness, and never had throughout that period any leave whatever beyond two months' privilege leave in 1878. This humble record of a faithful service will, he trusts, show your Excellency that he has always been inspired by a genuine spirit of loyalty to constituted authority; and if, in one unhappy instance, he departed from his usual line of conduct, that was due, he respectfully submits, to circumstances over which he had no control.

22. That Government has laid it down as an established principle, "that when persons are appointed to permanent situations in any department, they should not be dismissed upon light grounds. Fraud and dishonesty, continued and wilful negligence, and all offences involving moral disgrace meet with their appropriate punishment in dismissal." But your Excellency's memorialist exceedingly regrets to observe that the heavy punishment of dismissal has been inflicted on him not for any proved moral delinquency, but simply for an act involving an enforced breach of discipline, as to the culpability of which considerable divergence of opinion exists.

23. That your Excellency's memorialist ventures most respectfully to appeal to your Excellency to consider the grave consequences to a person in his position of his dismissal from the service of Government with an undeserved stigma attaching to his character. It will not only deprive him of the fruits of a long and honourable service by excluding him from the pension to which, under the beneficent rules of Government he is already entitled, but operate as a serious bar to his earning his livelihood by the practice of his profession; for the public would scarcely feel inclined to repose confidence in a medical man whom the Government has thought proper to remove from its service with disgrace.

24. That your Excellency's memorialist humbly but most earnestly prays that, on view of the case as above set forth, your Excellency will be graciously pleased to exonerate him from the charge brought against him,

and restore him to the service in which the best part of his life has been honourably spent.

And your Excellency's memorialist as in duty bound will ever pray.

(signed) *Asoke Krishna Shaha.*

Calcutta, 10, Radha Madhub Shahas Lane,
Chorebagan, 26 November 1889.

APPENDIX.

(A.)

MEMORANDUM No. 271, dated Medical College, 17 June 1889.

ASSISTANT Surgeon Asoke Krishna Shaha is directed to hold himself in readiness for a written re-examination any day he is called for.

J. M. Coates, M.D.,
Principal, Medical College.

(B.)

MEMORANDUM No. 283, dated Medical College, Calcutta, 19 June 1889.

UNDER instructions from the Inspector General of Civil Hospitals, Bengal, Assistant Surgeon Asoke Krishna Shaha is directed to appear for his promotion examination at the large college theatre to-morrow at 12 o'clock.

J. M. Coates, M.D.,
Principal, Medical College.

(C.)

MEMORANDUM No. 314, dated Medical College, 25 June 1889.

UNDER instructions from the Inspector General of Civil Hospitals, Bengal, Assistant Surgeon Asoke Krishna Shaha is directed to call at my office to-morrow at noon.

J. M. Coates, M.D.,
Principal, Medical College

(D.)

MEMORANDUM, dated Darjeeling, 22 June 1889. *See page 7 of this Return.*

(E.)

From Deputy Surgeon General *A. Hilson, M.D.*, Inspector General of Civil Hospitals, Bengal, to Brigade Surgeon *J. M. Coates*, Principal, Medical College, Calcutta; No A., dated Darjeeling, 27 June 1889.

I HAVE the honour to acknowledge the receipt of your telegram of the 26th instant, to which I replied on the 27th as follows:—Your telegram of yesterday. Suspend at once from all duty and until further orders Assistant Surgeons Kali Krishna Bagchi, Asoke Krishna Shaha, and Pratap Chandra Kerr, relieving them by supernumerary assistant surgeons.

2. I beg

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2. I beg to request you will now call upon Assistant Surgeons Kali Krishna Bagchi, Asoke Krishna Shaha, and Pratap Chandra Kerr to give any explanation they may have to offer for having wilfully disobeyed an order of the Inspector General of Civil Hospitals, communicated to them through you, calling upon them to answer certain questions which he had sent to you in order to test their professional knowledge.

Endorsed by the Principal, Medical College, Calcutta, No. 340, dated Calcutta 29 June 1889.

Copy forwarded to Assistant Surgeon Asoke Krishna Shaha for any explanation he may wish to offer.

(F.)

From Assistant Surgeon *Asoke Krishna Shaha* to the Principal, Medical College, Calcutta, dated Calcutta, 2 July 1889. See page 9 of this Return.

(G.)

From *J. P. Hewett, Esq.*, Under Secretary to the Government of India, Home Department, to the Chief Secretary to the Government of Bengal; No. 542, dated Simla, 26 August 1889. See page 11 of this Return.

(H.)

SYNOPSIS of Service of Assistant Surgeon *Asoke Krishna Shaha*.

Admitted into the service 1st May 1875. On supernumerary duty till 27th December 1875 in the Campbell Hospital, Calcutta. In temporary charge of Doolie Charitable Dispensary (Pubna) from 28th December 1875 to 28th March 1876. Resident medical officer, Campbell Hospital, from 1st April 1876 to 31st March 1878. Privilege leave from 2nd April 1878 to 31st May 1878. On duty at the Medical College Hospital from 1st June 1878 to September 1878. Medical charge, Demagree, Chittagong Hill Tracts, from 2nd October 1878 to 1st January 1879. On supernumerary duty, Medical College Hospital, from 21st January 1879 to 21st September 1879. In charge of Cutwa Charitable Dispensary and Lock-up from 25th September 1879 to 20th January 1880. On duty at the Mayo Native Hospital from 26th January 1880 to 15th April 1881. Services placed at the disposal of Chief Commissioner Andaman and Nicobar, and posted as 3rd medical officer, Port Blair, from 21st May 1881 to 10th September 1881, on 250 rupees. Officiating 2nd medical officer, 11th September 1881 to 10th December 1881, on 450 rupees. Reverted to 3rd medical officer from 11th December 1881. Promoted to 2nd grade on 1st May 1882, on 375 rupees. Continued as medical officer, Port Blair and Nicobar, in that grade till 1st January 1886. On duty at the Medical College Hospital. Appointed house physician to the 1st Physician, Medical College Hospital, in March 1886. Posted as medical officer to his Honour the Lieutenant Governor and suite on their river tour in 1887. Held medical charge of the civil station of Julpaiguri from 18th September 1887 to 22nd December 1887. Appointed house surgeon to the 1st Surgeon, Medical College Hospital, in January 1888, and continued till 30th June 1889.

22 CORRESPONDENCE RELATING TO THREE ASSISTANT

To His Excellency the Most Noble *Henry Charles Keith Petty Fitzmaurice*,
Marquess of Lansdowne, G.M.S.I., G.C.M.G., G.M.I.E., &c., &c., Viceroy and
Governor General of India in Council.

The humble Memorial of *Kali Krishna Bagchi*, late Resident Surgeon, Park
Street Dispensary, Calcutta.

Most respectfully sheweth,

1. THAT your Excellency's memorialist having completed seven years' service in the Government Medical Department, appeared, under the standing orders of Government, at the septennial examination for promotion of assistant surgeons, held in May 1889, in the premises of the Calcutta Medical College, under the presidency of Brigade Surgeon J. M. Coates, M.D., Principal of the said College.

2. That your Excellency's memorialist has reason to believe that he passed the said examination successfully; but, for some reason or other, Dr. A. Hilson, Inspector General of Civil Hospitals, Bengal, suspected the integrity and fairness thereof, and addressed a series of questions to the Principal, insinuating misconduct against the examinee, amongst others to your Excellency's memorialist. The replies of the Principal are understood to have been to the effect that every safeguard had been provided by him against foul play, and the examination conducted (as it was in fact) under adequate supervision, precluding any chance of tampering on the part of the examinees.

3. That your Excellency's memorialist nevertheless received, on the 17th June, a memorandum from Dr. Coates directing him "to hold himself in readiness for a written re-examination any day he might be called for;" and this memorandum was followed by another, dated the 19th June, ordering him "to appear for his promotion examination at the large college theatre," on the 20th at 12 o'clock. On your Excellency's memorialist representing that he had already passed the said examination in the preceding May, he received an order, dated the 25th June, from Dr. Coates, directing him to call at his (Dr. Coates') office the following day at noon.

4. That, in obedience to the said order, your Excellency's memorialist called at Dr. Coates' office at the appointed time, when the following order from Dr. Hilson was read to him and two other examinees :—

"MEMORANDUM by the Inspector General of Civil Hospitals, Bengal, dated Darjeeling, 22 June 1889 (to be read to Assistant Surgeons *Kali Krishna Bagchi*, *Asoke Krishna Shaha*, and *Pratap Chandra Kerr*). See page 7 of this Return.

Dr. Coates then asked your Excellency's memorialist to state whether he was willing or not to undergo the said re-examination, whereupon he inquired what Dr. Hilson meant by saying that the written answers of the above-named examinees did not appear to him "to represent accurately their own knowledge of the subjects of examination;" and the reply was to the effect that Dr. Hilson doubtless meant that there was foul play at the septennial examination. Your Excellency's memorialist then asked for a little time to enable him to consider his answer, but this was refused, and he was then reluctantly obliged to give an answer in the negative. At the same time, however, he requested that he might be permitted to submit a written explanation to Dr. Hilson, of the motives which had influenced him in taking that step.

5. That, on the 28th June, Surgeon-Major R. C. Sanders, M.D., Superintendent of Mayo Native Hospitals, informed your Excellency's memorialist that, under Dr. Hilson's instructions, he had to perform the painful task of suspending your Excellency's memorialist from all duty, adding, however, that the question of the retention of your Excellency's memorialist as resident surgeon, Park-street Dispensary, was under the consideration of the governors of the
said

SURGEONS DISMISSED FROM THE BENGAL ESTABLISHMENT. 23

said hospitals. Subsequently, on the 29th June, he also received, under Dr Coates' endorsement, the following order from Dr. Hilson :—

“ From Deputy Surgeon General *A. Hilson*, M.D., Inspector General of Civil Hospitals, Bengal, to the Principal Medical College, Calcutta, No. A., dated Darjeeling, 27 June 1889.” See page 20 of this Return.

6. That, on the 2nd July, your Excellency's memorialist submitted his explanation (*vide* Annexure I.), in which he stated that, on account of the unjust and undeserved imputation on his character contained in Dr. Hilson's order, he could not, without deep self-humiliation, comply therewith; but at the same time he expressed his perfect willingness to submit to any test that might be imposed upon him, provided such test was ordered on other grounds than the objectionable ones on which Dr. Hilson's order had been based. He remained, however, in charge of the Park-street Dispensary till relieved on the 29th July.

7. That, unfortunately for your Excellency's memorialist, his explanation was disregarded, and on the 1st September, under orders of the Home Department, No. 542, dated the 26th August 1889 (*vide* Annexure II.), he was dismissed from the service of Government for “ wilful disobedience of the orders of the head of his Department.” As the order of dismissal seems to have been made under a misconception of the facts of the case, he ventures to solicit a reconsideration of the same on the following grounds.

8. That your Excellency's memorialist respectfully submits that, in overruling the decision of the examining committee, in framing a set of questions, and in requiring your Excellency's memorialist to undergo a re-examination after he had passed his septennial examination, Dr. Hilson exceeded his authority, his proceedings in these respects being contrary to the Standing Orders of Government (*vide* Annexure III). Under these Orders, the control of the septennial examinations, it will be seen, is vested only in the examining committee, and the local head of the Department is forbidden even to open the cover containing the questions framed by the professors of the Medical College, much less to initiate an examination himself in the way of testing the decision of the constituted body of examiners. It is also a question for the Government of India to decide whether, under the existing regulations, it was at all competent to Dr. Hilson to suspend your Excellency's memorialist “ from all duty ” without first obtaining the sanction of that Government.

9. That, if the above view of the matter be correct, then your Excellency's memorialist humbly submits that the charge of wilful disobedience of the orders of his departmental chief cannot be justly sustained against him. Great as is the obligation of a public servant to yield implicit obedience to his official superiors, his obligation to observe with strict fidelity, and, so far as it lies in his power, to maintain the integrity of, the orders of Government, is, your Excellency's memorialist submits, infinitely greater; and he, therefore, relies on this widely recognised principle for his justification in not complying with an order of his official superior, which appeared to him to be in direct conflict with the orders of Government.

10. That your Excellency's memorialist entirely denies having had recourse to any improper means to ensure success at the septennial examination, and he humbly solicits a reference on this point to the principal and professors of the Calcutta Medical College, whose evidence, by proving the guilt or innocence of the examinees, can only establish the justice or otherwise of Dr. Hilson's order of the 22nd June. Meanwhile, your Excellency's memorialist respectfully craves leave to submit, for your Excellency's kind perusal, copies of a few of his testimonials (*vide* Annexure IV.) showing the estimation in which he is held by some of the most distinguished officers of the Department. These testimonials, together with his academic honours (which may be ascertained by a reference to the authorities of the Calcutta University) will also show your Excellency whether his professional attainments are so poor, indeed, as to have rendered it necessary for him to resort to any unworthy means for passing a comparatively easy examination.

CORRESPONDENCE RELATING TO THREE ASSISTANT

11 That if Dr. Hilson really believed that there was foul play at the septennial examination, his proper course, your Excellency's memorialist most humbly submits, was either to have instituted a departmental inquiry in judicial form, or to have set in motion Act XXXVII. of 1850. Dr. Hilson did, indeed, institute an inquiry, but it was informal, because conducted, not on the spot as is required by the rules, but by correspondence from Darjeeling, and it was, moreover, open to the grave objection, that the inquiring officer, that is, Dr. Hilson himself, was both prosecutor and judge; and hence there was no guarantee that his judgment would be absolutely free from bias, prejudice, or passion, in conducting an inquiry which was the outcome of his own personal suspicions. The result was the order of the 22nd June, prescribing a singular mode of trying a supposed moral delinquency by a professional ordeal. The order, your Excellency's memorialist humbly submits, was a two-edged sword cutting both ways; if he failed to comply with it on account of its objectionable character, he would be held guilty of a breach of discipline; if, on the contrary, he submitted thereto, his submission would practically amount to a confession of guilt; to an admission of the supposed misconduct that constituted the ostensible basis of the order. In this dilemma he felt it to be his duty, both as a man and as a member of a most honourable profession, to decline complying with the order; and in doing so he was firmly persuaded that his action would meet with the generous forbearance of Government, seeing that it has always recognised the right even of its meanest servant to defend himself against an imputation on his character.

12. That your Excellency's memorialist observes with deep sorrow and mortification that, in dealing with his case, not only the motive which had influenced him, an important element in the case, but his good character and good service have not been taken into account, although Government itself has ruled that these should stand public servants "in real stead, when their conduct is exposed to question."

13 That your Excellency's memorialist humbly submits that, even on the most unfavourable view of his conduct, his fault, if any, was but an enforced act of insubordination, or at worst, an error of judgment due to inexperience, and therefore it did not merit the extremely severe punishment of dismissal from the public service, usually reserved for "fraud and dishonesty, continued and wilful negligence, and all offences involving moral disgrace."

14. That your Excellency's memorialist ventures to appeal most earnestly to your Excellency to consider the serious consequences to him of his summary dismissal from the service of Government. It not only excludes him from the benefits and advantages that are guaranteed by Government to those who enter its service, but sends him forth into the world with a deep brand of disgrace on his character, thereby seriously injuring his prospects of success in the practise of his profession.

15. That your Excellency's memorialist most humbly prays that, upon reconsideration of his case as above set forth, your Excellency will be graciously pleased to absolve him from blame, and to order his restoration to the service of Government, to which he so long belonged with every credit to himself.

And your Excellency's memorialist as in duty bound will ever pray.

(signed) *Kali Krishna Bagchi, M.B.*

Calcutta, 36, College-street,
3 December 1889.

ANNEXURE.—(I.)

From Assistant Surgeon *Kali Krishna Bagchi* to the Principal, Medical College; dated Calcutta, 2 July 1889. (See page 7 of this Return.)

SURGEONS DISMISSED FROM THE BENGAL ESTABLISHMENT. 25

(II.)

From *J. P. Hewett, Esq.*, Under Secretary to the Government of India, Home Department, to the Chief Secretary to the Government of Bengal; No. 542, dated Simla, 26 August 1889. (See page 11 of this Return.)

(III.)

CIRCULAR MEMORANDUM No. 50 of 15 September 1868. (See page 16 of this Return.)

(IV.)

Babu Kali Krishna Bagchi began medicine in 1877; got my medal and took other certificates of honour. He passed in 1882 and took his degree of M.B. Since then he has been five years in the Medical College Hospital as house physician to me and as ophthalmic house surgeon. He has held the Berhampore and North Suburban Dispensary charges, and under all has worked willingly and admirably. Dr. Hilson gave him exceptional praise in that, both in number and character, the operations he performed were far beyond any among the assistant surgeons of Bengal. Mr. Bagchi has thus had the best training possible, and proved his efficiency in all the charges he has held. No more satisfactory worker has been under me in all my time at this college. I therefore strongly recommend him for an appointment in one of the Mayo Institutions in Calcutta, where there is a real field for such practical qualities as he possesses, and to which I feel sure he will do all the credit that can be required.

Medical College, Calcutta,
16 January 1889.

J. M. Coates, M.D.,
Principal, Medical College.

I have known Assistant Surgeon Kali Krishna Bagchi both as a student and later on as a house surgeon in the Medical College Hospital. I thus have had ample opportunity of becoming acquainted with his work and character. It affords me much pleasure to be able to state that the conduct, industry, and qualifications of Assistant Surgeon Bagchi have all along been superior. He has a thorough knowledge of his profession, and from his long experience in the hospital has had unusual opportunities of practical work. He can, therefore, be depended on as qualified to fill with credit any medical post.

Calcutta, 17 January 1889.

O. C. Raye,
Professor of Anatomy.

Dr. Kali Krishna Bagchi is known to me as a good student and competent medical practitioner. I have much pleasure in testifying to his character and attainments.

Calcutta, 16 January 1889.

K. McLeod, M.D., F.R.C.S.E.

Assistant Surgeon Kali Krishna Bagchi, M.B., has been known to me ever since he was a student at the Medical College Hospital. He held the appointments of house surgeon in the ophthalmic wards, and house physician, and has thus had considerable professional experience. Lately he has been serving under me as officiating medical officer to the North Suburban Hospital at Cossipore, and has discharged his duties very satisfactorily. He is well qualified to hold the charge of any municipal or other dispensary, and I can recommend him for any such appointment without hesitation.

Calcutta, 16 January 1889.

J. F. P. McConnell, M.D.,
Civil Surgeon, 24-Pergunnahs

From Sir *John Edgar*, K.C.I.E., C.S.I., Chief Secretary to the Government of Bengal, to the Secretary to the Government of India; No. 4153 P., dated Calcutta, 24 December 1889.

IN continuation of the letter from this office No. 4050, dated the 20th instant, I am directed to submit, for the orders of the Government of India, the accompanying memorial addressed to His Excellency the Viceroy and Governor General by Babu Prataap Chandra Kerr, late assistant surgeon in charge of the Jiagunge Dispensary in Moorshedabad, praying for restoration to the service of Government. I am to say that the remarks made by the Lieutenant-Governor in submitting the memorials of the two dismissed assistant surgeons, Asoke Krishna Shaha and Kali Krishna Bagchi, apply generally to the present case.

To His Excellency the Most Noble *Henry Charles Keith Petty Fitzmaurice*, Marquess of Lansdowne, G.M.S.I., G.C.M.G., G.M.I.E., &c., &c, Viceroy and Governor General of India in Council.

The humble memorial of *Pratap Chandra Kerr*, late assistant surgeon in charge of Jiagunge Dispensary, Moorshedabad.

Most respectfully sheweth,

1. THAT your Excellency's memorialist appeared at his first septennial examination held in the Calcutta Medical College in May 1889, and believes he passed the same with success.

2. That on the 18th of June your Excellency's memorialist was directed by the Civil Surgeon of Moorshedabad to proceed at once to Calcutta to report himself to Brigade Surgeon J. M. Coates, M.D., Principal of the Medical College. This he did on the 19th, when he was verbally ordered by Dr. Coates to appear at a written examination to be held at the Large College Theatre on the 20th at 12 o'clock. Having already passed his septennial examination, he was naturally surprised at the call, and asked the reason thereof. On the 25th June he received an order directing him to call at Dr. Coates' office the following day at noon. He waited upon Dr. Coates at the appointed time, when that officer read to him and two other examinees the following order from the Inspector General of Civil Hospitals, Bengal:—

“Memorandum by the Inspector General of Civil Hospitals, Bengal, dated Darjeeling, 22 June 1889. (To be read to Assistant Surgeons *Kali Krishna Bagchi*, *Asoke Krishna Shaha*, and *Pratap Chandra Kerr*.) (See page 7 of this Return.)

3. That whereupon Dr. Coates was asked to kindly explain what the Inspector General meant by saying that the answers of the examinees did not appear to him “to represent accurately their own knowledge of the subjects of examination,” and the reply was that there could be no doubt that the Inspector General meant that there was foul play at the septennial examination. Your Excellency's memorialist was then pressed to state whether he was willing or not to undergo the re-examination. No time was allowed him to consider his answer. As the grounds of the Inspector General's order appeared to your Excellency's memorialist to involve an impeachment of his character, he was reduced to the painful necessity of expressing his inability to comply with the order. He, however, solicited permission, along with the other examinees, to submit an explanation of his conduct to the Inspector General.

4. That on the 29th June your Excellency's memorialist received the following order from the Inspector General, under Dr. Coates' docket:—

“From Deputy Surgeon General *A. Hilson*, M.D., Inspector General of Civil Hospitals, Bengal, to the Principal, Medical College, Calcutta, No. A., dated Darjeeling, 27 June 1889. (See page 20 of this Return).

5. That

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5. That your Excellency's memorialist submitted his explanation on the 2nd July (hereto annexed) disclaiming all idea of wilful disobedience, and respectfully explaining that his unwillingness to undergo the re-examination was due to a solicitude for his character, as he feared that submission thereto would be practically acquiescing in the imputation which formed the basis of the order.

6. That your Excellency's memorialist, to his infinite mortification, received on the 23rd September, under an endorsement from the Civil Surgeon of Moorshedabad, Home Department orders No. 542, dated the 26th August, dismissing him from the service of Government for wilful disobedience of the orders of the head of his Department.

7. That your Excellency's memorialist most respectfully submits that he does not merit the severe punishment that has been meted out to him, inasmuch as he was within his rights in refusing to comply with an order that was based on an unjust suggestion of dishonesty on his part. He denies having used any improper means at the examination hall to secure a good result, and he is firmly persuaded that he will be borne out in this by the Principal of the Medical College and the guards under whose supervision the septennial examination was conducted. The Government has always generously conceded to its servants the right of defending themselves against imputations on their character; and as no opportunity of defending himself against the imputation of dishonesty was afforded to your Excellency's memorialist, he had no alternative but to make the step he did by way of a protest against the unfounded suspicion which had led to the issue of the order in question. That order, he humbly submits, was not warranted by the standing orders of Government regulating the septennial examination of assistant surgeons, as will be seen from Medical Department Circular No. 50 of 15 September 1868, given below:—

“ CIRCULAR MEMORANDUM No. 50 of 15 September 1868.

(See page 16 of this Return.)

8. That under the above rules the control of the septennial examinations is vested only in the professors of the Calcutta Medical College and the Examining Committee, no other authority being empowered to interfere with those examinations. This being so, the inspector general's order was *ultra vires*, and your Excellency's memorialist submits that he was not bound to obey it as being a personal, instead of a constitutional order.

9. That your Excellency's memorialist ventures to submit that if he was mistaken in holding the standing orders of Government to be the substantive law of the department, binding alike on the highest and lowest officers belonging to it, his error was on the right side, and it was all the more entitled to forbearance, because, in the absence of anything in the rules to that effect, he had no means of knowing in what circumstances the head of his department could act beyond such law.

10. That your Excellency's memorialist most humbly submits that, in dealing with his case, the inspector general was influenced, at least unconsciously, by bias and passion arising from a sense of offended dignity. Under the influence of those feelings Dr. Hilson acted hastily and harshly; (1), in suspending your Excellency's memorialist before hearing his explanation; (2), in recommending his summary dismissal from the service of Government without taking into account the real motive of his conduct. That motive, as he has already shown, was a becoming regard for his own character, which he thought would be compromised by his submission to Dr. Hilson's order, and not, as that officer holds, a wanton spirit of defiance of constituted authority.

11. That your Excellency's memorialist craves leave to submit herewith copies of his certificates, from which it will be seen that his conduct as a public servant has always met with the approbation of his official superiors. The severe punishment of dismissal is ordinarily inflicted on public servants guilty of moral delinquencies, and as his fault, if any, does not come under the

category of moral offences, his punishment, he most humbly submits, is wholly unmerited.

12 That under these circumstances, your Excellency's memorialist most earnestly prays that your Excellency will be graciously pleased, in consideration of his good conduct and good service, to restore him to the service of Government.

And your Excellency's memorialist, as in duty bound, will ever pray.

Pratap Chandra Kerr.

Berhampore, 21 December 1889.

From Assistant Surgeon *Pratap Chandra Kerr* to the Principal, Medical College, Calcutta; dated Calcutta, 2 July 1889. (See page 8 of this Return.)

Certified that Assistant Surgeon Pratap Chandra Kerr served in the Shahabad District under my supervision for about three months. He performed his duties in a careful and entirely satisfactory manner.

J. O'Brien, M.D.,
Civil Surgeon.

Arrah, 16 February 1884.

Assistant Surgeon Pratap Chandra Kerr acted as my house surgeon for the 19 months during which I officiated as 2nd surgeon of the Medical College Hospital. It gives me much pleasure to testify to the care and ability with which he conducted his duties. He was at all times most attentive to the sick under his charge, and in all serious cases I found his watchful care of great help and value. I regard him as a thoroughly well-qualified and skilful surgeon and entirely trustworthy.

J. O'Brien, M.D.,
Officiating 2nd Surgeon,
Medical College Hospital.

Calcutta, 26 October 1885.

Babu Pratap Chandra Kerr, assistant surgeon, has been in charge of the duties of house surgeon, to the 2nd surgeon, Medical College Hospital, for the past two years. During that time I had daily opportunity of seeing his work and conduct. I have much pleasure in being able to testify to his care and attention. His practical knowledge of surgery is extensive, and he has performed some major operations skilfully in my presence. I have every confidence in recommending him as a painstaking and well-instructed officer.

O'Connell Raye,

2nd Surgeon, Medical College Hospital.

1 April 1886.

(No. 127.)

From *A. P. MacDonnell, Esq., c.s.i.*, Secretary to the Government of India, to the Secretary, British Indian Association, Calcutta.

(Home Department.—Medical.)

Sir,

Calcutta, 25 February 1890.

I AM directed to acknowledge the receipt of your letter, dated the 3rd December last, submitting, for the consideration and orders of his Excellency

SURGEONS DISMISSED FROM THE BENGAL ESTABLISHMENT. 29

lency the Governor General in Council, a representation by the managing committee of the British Indian Association, regarding the dismissal of officers Babu Kali Krishna Bagchi. from the public service, with special reference to the
" Pratap Chandra Kerr. case of the three assistant surgeons who have been
" Anoke Krishna Shaha. recently dismissed the service for wilful disobedience of the orders of the head of the department to which they belonged.

After recapitulating the orders on the subject of the dismissal of public servants, you say that the committee "do not desire to justify or even to extenuate the offence of wilful disobedience by a subordinate officer of the orders of his superior authority. The very machinery of administration would be at a standstill if a subordinate were suffered to decide on the rights of a question or act upon his own view of it in opposition to the views of the head of his department."

As regards the case of the three assistant surgeons, the committee on the information before them say that, with a view to get promotion to a higher grade, they volunteered to undergo the required examination, and the committee submit "that the assistant surgeons not having been told with reference to their representation that they should have in any case to pass the examination, there is what seems a most material defect in the elements which would constitute wilful disobedience of authority."

2. In reply I am to state, for the information of the association, that the Governor General in Council entirely adheres to the policy enunciated in the orders referred to in your letter under reply, but considers, as the Managing Committee apparently also does, that wilful disobedience of a direct order justifies dismissal.

3. In the case under notice, I am to say that the examination at which the assistant surgeons appeared was a compulsory and not a voluntary one, inasmuch as all assistant surgeons are required by Home Department Resolution No. 2—27-38, dated 23rd January 1884, to submit themselves for examination on the completion of the septennial periods of service, to test their fitness for advancement to the higher grades, and they become liable to dismissal from the service if they fail to pass this examination on the second opportunity.

The assistant surgeons appeared at the septennial examination held in May last, and, at the conclusion of the examination, their papers were sent to the Inspector General of Civil Hospitals, who in this matter represented the Government. The Inspector General of Civil Hospitals, having inspected the papers in question, doubted whether the assistant surgeons' professional knowledge as displayed in them was such as to justify him in recommending that they should be declared as having passed the examination, and he therefore, with a view to satisfying himself as to the true state of their knowledge, drew up a few more questions and sent them to the Principal of the Medical College in a sealed cover, with the request that the assistant surgeons might be called on to answer them. They, however, refused to submit to any further examination. The Inspector General thereupon sent a memorandum to the Principal of the Medical College, explaining his reasons for desiring to further test the knowledge of the assistant surgeons, and pointing out that it was a distinct order that they should answer the written questions which were to be put to them. The assistant surgeons still persisted in their refusal to submit to further examination, and the Inspector General then gave orders to suspend them from duty for wilful disobedience of orders, and called upon them to give any explanation they might have to offer for having wilfully disobeyed his order.

4. It will thus be seen that the assistant surgeons were distinctly told, before the submission of their representation, that they would have to undergo a further examination. It cannot be for a moment contended that the Government, acting in accordance with the principle laid down in the Resolution of the Home Department, dated 23rd January 1884, referred to above, was not competent to test the knowledge of the assistant surgeons in any way that it thought reasonable and proper; or that the assistant surgeons were not bound to comply with the orders given to them in that connection. The Inspector General of Civil Hospitals is the proper officer to give these orders on the part of the

30 CORRESPONDENCE:—THREE ASSISTANT SURGEONS, &c.

Government; and to orders given by him the assistant surgeons were bound to render immediate and unquestioning obedience. But they deliberately and persistently refused to obey, and in their explanations they advanced no facts or arguments which could excuse or palliate their conduct. They were accordingly dismissed the service for wilful disobedience of orders. As the association very properly states, "the very machinery of administration must come to a standstill if a subordinate is suffered to decide on the rights of a question in opposition to the orders of the head of his department." It was impossible to retain the assistant surgeons in Government service consistently with the maintenance of this principle.

5. Under these circumstances, I am to say that the Governor General in Council, in the interests of discipline, must maintain the orders of dismissal passed in the case of the three assistant surgeons for their wilful disobedience of the distinct order of the head of their department.

I have, &c.
(signed) *A. P. MacDonnell*,
Secretary to the Government of India.

EXTRACT-LETTER from the Secretary to the Government of India to the Chief Secretary to the Government of Bengal; No. 128, dated Calcutta, 25 February 1890.

I AM directed to acknowledge the receipt of your letters marginally noted, No. 4050, dated 20 December 1889. forwarding for orders memorials from the three No. 4153, dated 24 December 1889. assistant surgeons, Babus Kali Krishna Bagchi, Pratap Chandra Kerr, and Asoke Krishna Shaha, who were recently dismissed from the service, praying that they may be exonerated from the charge of wilful disobedience brought against them, and that they may be restored to the service of Government.

In reply, I am to forward, for the information of his Honour the Lieutenant Governor, a copy of correspondence which has passed between the Managing Committee of the British Indian Association and the Government of India, and to say that the Governor General in Council concurs in Sir Steuart Bayley's view, that the present memorials display in a marked way the same spirit of insubordination which led to the dismissal of the assistant surgeons. I am to request that the assistant surgeons may be informed that His Excellency in Council declines to modify the order of dismissal which was passed after a careful consideration of all the circumstances of the case.

EAST INDIA (CASE OF THREE
MEDICAL OFFICERS).

COPIES of, or EXTRACTS from, CORRESPONDENCE
relating to the Case of THREE ASSISTANT SUR-
GEONS Dismissed from the BENGAL ESTABLISH-
MENT.

(*Mr. Bradlaugh.*)

Ordered, by The House of Commons, to be Printed,
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